

HOUSE JUDICIARY COMMITTEE

April 29, 2005 Hearing Room 357

8:30 A.M. Tapes 39 - 41

Corrected 10/13/05

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: Heidi Moawad, Counsel

Sam Sears, Counsel

Elizabeth Howe, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2892 – Work Session

HB 2207 – Work Session

HB 2221 – Work Session

HB 2359 – Work Session

HB 2373 – Work Session

HB 2524 – Work Session

HB 2662 – Work Session

HB 2730 – Work Session

HB 2831 – Work Session

HB 3158 – Work Session

HB 3352 – Work Session

HJR 31 – Work Session

HM 3 – Work Session

HB 2156 – Work Session

HB 2224 – Work Session

HB 2233 – Work Session

HB 2322 – Work Session

HB 2360 – Work Session

HB 2361 – Work Session

HB 2568 – Work Session

HB 2569 – Work Session

HB 2966 – Work Session

HB 2968 – Work Session

HB 2976 – Work Session

HB 2977 – Work Session

HB 3370 – Work Session

HB 3457 – Work Session

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 39, A

003	Chair Krieger	Calls the meeting to order at 9:17 a.m. Opens a work session on HB 2892, which expands authority of Port of Portland peace officers.
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HB 2892 – WORK SESSION

008	Rep. Olson	MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 2892.
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VOTE: 9-0-0

017	Chair Krieger	Hearing no objection, declares the motion CARRIED.
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019	Rep. Olson	MOTION: Moves to RECONSIDER the vote by which HB 2892 was sent to the floor with a DO PASS recommendation.
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VOTE: 9-0-0

027	Chair Krieger	Hearing no objection, declares the motion CARRIED.
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028	Chair Krieger	Closes work session on HB 2892. Opens a work session on HB 2207.
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HB 2207 – WORK SESSION

030	Sam Sears	Counsel. Provides background on HB 2207, which provides that administrative rule is not valid unless adopted in substantial compliance with statutory procedural requirements that are in effect on date that notice of intent to adopt rule is delivered to Secretary of State for purpose of publication.
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045	Rep. Ackerman	MOTION: Moves HB 2207 to the floor with a DO PASS recommendation.
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VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

052 **Chair Krieger** **The motion CARRIES.**
REP. ACKERMAN will lead discussion on the floor.

054 Chair Krieger Closes work session on HB 2207. Opens a work session on HB 2221.

HB 2221 – WORK SESSION

056 Sam Sears Counsel. Provides background on HB 2221, which establishes Child Abuse Multidisciplinary Intervention Program in Department of Justice.

062 **Rep. Ackerman** **MOTION: Moves HB 2221 to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

073 **Chair Krieger** **The motion CARRIES.**
REP. ACKERMAN will lead discussion on the floor.

074 Chair Krieger Closes work session on HB 2221. Opens a work session on HB 2359.

HB 2359 – WORK SESSION

075 Sam Sears Counsel. Provides background on HB 2359, which revises laws governing judgments.

084 **Rep. Flores** **MOTION: Moves HB 2359 to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

090 **Chair Krieger** **The motion CARRIES.**
REP. FLORES will lead discussion on the floor.

092 Chair Krieger Closes work session on HB 2359. Opens a work session on HB 2373.

HB 2373 – WORK SESSION

093 Sam Sears Counsel. Provides background on HB 2373, which eliminates civil liability of seller or manufacturer of firearm or ammunition for damages resulting from unlawful use of firearm.

099 Rep. Garrard MOTION: Moves HB 2373 to the floor with a DO PASS recommendation.

103 Rep. Ackerman States his opposition due to potential unconstitutionality.

112 Rep. Barker States his support of the bill.

119 Chair Krieger Comments on a similar federal bill.

VOTE: 6-3-0

AYE: 6 - Barker, Flores, Garrard, Olson, Thatcher, Krieger

NAY: 3 - Ackerman, Macpherson, Wirth

127 Chair Krieger The motion CARRIES.
REP. GARRARD will lead discussion on the floor.

130 Chair Krieger Closes work session on HB 2373. Opens a work session on HB 2524.

HB 2524 – WORK SESSION

131 Sam Sears Counsel. Provides background on HB 2524, which provides that security deposit or prepaid rent held by residential landlord is not garnishable property. Introduces -3 amendments (**EXHIBIT A**), and explains why the -2 amendments were not adopted.

143 Rep. Garrard MOTION: Moves to ADOPT HB 2524-3 amendments dated 4/27/05.

VOTE: 9-0-0

- 146 Chair Krieger Hearing no objection, declares the motion **CARRIED**.
- 148 Rep. Garrard **MOTION: Moves HB 2524 to the floor with a DO PASS AS AMENDED recommendation.**
- VOTE: 9-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 157 Chair Krieger **The motion CARRIES.**
- 158 Chair Krieger Closes work session on HB 2524. Opens a work session on HB 2662.

HB 2662 – WORK SESSION

- 161 Sam Sears Counsel. Provides background on HB 2662, which provides that individual who is victim, or parent or guardian of minor child who is victim, of domestic violence, sexual assault or stalking may not be disqualified from receiving unemployment benefits if individual leaves work place or avoids available workplace to protect individual or minor child from further domestic violence, sexual assault or stalking at workplace or elsewhere.
- 185 Rep. Garrard **MOTION: Moves HB 2662 to the floor with a DO PASS AS AMENDED recommendation.**
- 191 Rep. Ackerman Mentions Rep. Holvey’s work on HB 2662. Requests that he be assigned as a co-carrier.
- VOTE: 9-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 202 Chair Krieger **The motion CARRIES.**
- REP. GARRARD AND REP. HOLVEY will lead discussion on the floor.**
- 208 Chair Krieger Closes work session on HB 2662. Opens a work session on HB 2730.

HB 2730 – WORK SESSION

209	Sam Sears	Counsel. Provides background on HB 2730, which provides civil immunity for radio or television broadcaster participating in Amber Plan.
222	Rep. Garrard	MOTION: Moves HB 2730 to the floor with a DO PASS AS AMENDED recommendation.
226	Rep. Macpherson	Inquires if the issue on retroactivity has been resolved.
231	Sears	Responds affirmatively.
236	Rep. Wirth	States her opposition due to right to a trial or a jury.
245	Rep. Ackerman	States his opposition due to potential unconstitutionality and bad policy.
257	Rep. Garrard	Explains the intent of the broadcaster of the Amber Alert system who relies on law enforcement information.
270	Rep. Barker	States that HB 2730 protects broadcasters from law suits that they should not be involved in for helping with Amber Alert.
280	Rep. Olson	Reiterates that involvement in the Amber Alert is voluntary, and law enforcement must follow protocols before broadcasting to local media.
292	Rep. Macpherson	States that HB 2730 is well-intentioned. Suggests that a blanket civil immunity is not the most appropriate remedy to this issue.
		VOTE: 6-3-0
		AYE: 6 - Barker, Flores, Garrard, Olson, Thatcher, Krieger
		NAY: 3 - Ackerman, Macpherson, Wirth
320	Chair Krieger	The motion CARRIES. REP. GARRARD will lead discussion on the floor.
321	Chair Krieger	Closes work session on HB 2730. Opens a work session on HB 2831.

HB 2831 – WORK SESSION

322 Sam Sears Counsel. Provides background on HB 2831, which allows municipal courts to assign judgments in criminal actions to Department of Revenue.

334 Rep. Ackerman **MOTION: Moves HB 2831 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.**

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

351 Chair Krieger **The motion CARRIES.**

354 Chair Krieger Closes work session on HB 2831. Opens a work session on HB 3158.

HB 3158 – WORK SESSION

356 Sam Sears Counsel. Provides background on HB 3158, which requires that certain causes of action related to improvement to real property be commenced within six years after substantial completion or abandonment of construction, alteration or repair.

373 Rep. Macpherson Comments on the situation regarding HB 3158 and the amendment. States that the amendment will not be moved forward, and he will oppose the bill due to the statute of repose that is less than ten years.

TAPE 40, A

019 Rep. Macpherson **MOTION: Moves HB 3158 to the floor with a DO PASS recommendation.**

023 Rep. Garrard Recalls testimony stating that 80 percent of construction issues were leaks, and six years should be enough to find a leak.

027 Rep. Wirth States her opposition to the bill without the amendment.

031 Rep. Flores

Comments that leaks can cause significant issues, but she will not oppose the bill.

VOTE: 7-2-0

AYE: 7 - Ackerman, Barker, Flores, Garrard, Olson, Thatcher, Krieger

NAY: 2 - Macpherson, Wirth

041 Chair Krieger The motion CARRIES.

REP. GARRARD will lead discussion on the floor.

042 Chair Krieger Closes work session on HB 3158. Opens a work session on HB 3352.

HB 3352 – WORK SESSION

045 Sam Sears Counsel. Provides background on HB 3352, which provides that surviving parent of decedent does not inherit by intestacy if decedent lacked capacity to make will for at least five years before death, and parent failed to provide support for decedent for period of 10 years or more before decedent attained 18 years of age. Introduces -4 amendments (EXHIBIT B).

066 Rep. Flores MOTION: Moves to ADOPT HB 3352-4 amendments dated 4/20/05.

VOTE: 9-0-0

069 Chair Krieger Hearing no objection, declares the motion CARRIED.

071 Rep. Flores MOTION: Moves HB 3352 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

076 Chair Krieger The motion CARRIES.

REP. GARRARD will lead discussion on the floor.

085 Chair Krieger Closes work session on HB 3352. Opens a work session on HJR 31.

HJR 31 – WORK SESSION

087 Sam Sears Counsel. Provides background on HJR 31, which proposes amendment to Oregon Constitution to allow House of Representatives to impeach certain elected or appointed state officials.

093 Rep. Flores MOTION: Moves HJR 31 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.

096 Rep. Ackerman Commends the well-intentioned and involved proponents, but feels that HJR 31 is inconsistent and defective. States that he will be voting no.

130 Rep. Macpherson Concurs with Rep. Ackerman's comments.

132 Rep. Barker Comments on the mischief this would welcome, and will be voting no.

154 Rep. Flores States that HJR 31 is unfair, as it does not include legislators.

156 Rep. Flores MOTION: WITHDRAWS MOTION that HJR 31 be sent to the floor with a BE ADOPTED AS AMENDED recommendation.

163 Chair Krieger Closes the work session on HJR 31. Opens a work session on HM 3.

HM 3 – WORK SESSION

165 Sam Sears Counsel. Provides background on HM 3, which requests that Congress enact legislation to protect firearms and ammunition manufacturers, distributors, dealers and importers from abusive and ill-conceived tort actions.

173 Rep. Flores MOTION: Moves HM 3 be sent to the floor with a BE ADOPTED recommendation.

177 Rep. Ackerman States his opposition to HM 3 as a vast intrusion on states' rights.

VOTE: 6-3-0

AYE: 6 - Barker, Flores, Garrard, Olson, Thatcher, Krieger

NAY: 3 - Ackerman, Macpherson, Wirth

191 Chair Krieger The motion CARRIES.

REP. FLORES will lead discussion on the floor.

192 Chair Krieger Closes work session on HM 3. Announces that HM 4 will be held over to another time. Opens a work session on HB 2156.

HB 2156 – WORK SESSION

200 Heidi Moawad Counsel. Provides background on HB 2156, which ratifies National Crimes Prevention and Privacy Compact.

206 Rep. Thatcher MOTION: Moves HB 2156 to the floor with a DO PASS recommendation.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

213 Chair Krieger The motion CARRIES.

REP. THATCHER will lead discussion on the floor.

215 Chair Krieger Closes work session on HB 2156. Opens a work session on HB 2224.

HB 2224 – WORK SESSION

217 Heidi Moawad Counsel. Provides background on HB 2224, which requires appellate court, after reversing some but not all counts on appeal, to remand case to trial court for resentencing on remaining counts.

241 Rep. Macpherson MOTION: Moves HB 2224 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

250 Chair Krieger The motion CARRIES.

REP. THATCHER will lead discussion on the floor.

253	Chair Krieger	Closes work session on HB 2224. Opens a work session on HB 2233.
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HB 2233 – WORK SESSION

255	Heidi Moawad	Counsel. Provides background on HB 2233, which provides that judgment in criminal action containing award of restitution does not expire until 50 years after entry of judgment.
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276 Rep. Macpherson **MOTION: Moves HB 2233 to the floor with a DO PASS AS AMENDED recommendation.**

280 Rep. Macpherson Explains the reasoning behind amending interest rate.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

298 **Chair Krieger** **The motion CARRIES.**

REP. MACPHERSON will lead discussion on the floor.

301 Chair Krieger Closes work session on HB 2233. Opens a work session on HB 2322.

HB 2322 – WORK SESSION

305	Heidi Moawad	Counsel. Provides background on HB 2322, which expands assault in the first degree to include intentionally or knowingly causing serious physical injury to child under 14 years of age.
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330 Rep. Olson **MOTION: Moves HB 2322 to the floor with a DO PASS AS AMENDED recommendation.**

336 Rep. Wirth Questions whether this bill could potentially extend to domestic violence against a pregnant woman.

345 Moawad Responds negatively.

353 Rep. Wirth States strong support for HB 2322.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

363 Chair Krieger The motion CARRIES.

REP. OLSON will lead discussion on the floor.

366 Chair Krieger Closes work session on HB 2322. Opens a work session on HB 2360.

HB 2360 – WORK SESSION

368 Heidi Moawad Counsel. Provides background on HB 2360, which imposes fine and mandatory imprisonment for person convicted of driving while under influence of intoxicants if person had 0.20 percent or more by weight of alcohol in blood of person at time of offense.

415 Rep. Barker **MOTION: Moves HB 2360 to the floor with a DO PASS recommendation.**

420 Rep. Macpherson Inquires about portion of HB 2360 that gives the court discretion for where the sentence will be served.

TAPE 39, B

011 Moawad Points to page three, lines 3-5 of HB 2360, regarding alternative sentences.

019 Rep. Macpherson States that his concerns are addressed by the provision in the bill giving the court discretion to sentence the offender to an alternative program.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

032 Chair Krieger The motion CARRIES.

REP. BARKER AND REP. THATCHER will lead discussion on the floor.

036 Chair Krieger Closes work session on HB 2360. Opens a work session on HB 2361.

HB 2361 – WORK SESSION

038 Heidi Moawad Counsel. Provides background on HB 2361, which requires revocation of driving privileges of persons convicted of misdemeanor driving under influence of intoxicants for third or subsequent time.

055 Rep. Barker MOTION: Moves HB 2361 to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

062 Chair Krieger The motion CARRIES.

REP. BARKER will lead discussion on the floor.

065 Chair Krieger Closes work session on HB 2361. Opens a work session on HB 2568.

HB 2568 – WORK SESSION

066 Heidi Moawad Counsel. Provides background on HB 2568, which requires circuit court in Gresham to transfer proceedings to court facility in Portland if accused is in custody of county sheriff or Department of Corrections or if circuit court issues arrest warrant for accused in pending criminal action.

091 Rep. Macpherson MOTION: Moves HB 2568 to the floor with a DO PASS recommendation.

094 Rep. Flores Questions if there are any other cities that have satellite courthouses.

100 Moawad Believes Lane County has a satellite courthouse.

103 Rep. Ackerman Relates that Florence has a satellite courthouse.

105 Moawad Explains why the Gresham satellite court is specifically requesting this authority.

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

117 Chair Krieger The motion CARRIES.

REP. MACPHERSON will lead discussion on the floor.

119 Chair Krieger Closes work session on HB 2568. Opens a work session on HB 2569.

HB 2569 – WORK SESSION

120 Heidi Moawad Counsel. Provides background on HB 2569, which exempts law enforcement officials acting in course of official duty from motor vehicle accident reporting requirements.

142 Rep. Olson **MOTION: Moves HB 2569 to the floor with a DO PASS AS AMENDED recommendation.**

VOTE: 9-0-0

AYE: In a roll call vote, all members present vote Aye.

153 Chair Krieger The motion CARRIES.

REP. OLSON will lead discussion on the floor.

158 Chair Krieger Closes work session on HB 2569. Opens a work session on HB 2966.

HB 2966 – WORK SESSION

160 Heidi Moawad Counsel. Provides background on HB 2966, which broadens class of persons eligible to receive benefits from Public Safety Memorial Fund to include domestic partners.

173 Rep. Barker **MOTION: Moves HB 2966 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.**

VOTE: 9-0-0

AYE: **In a roll call vote, all members present vote Aye.**

185 Chair Krieger The motion CARRIES.

188 Chair Krieger Closes work session on HB 2966. Opens a work session on HB 2968.

HB 2968 – WORK SESSION

190 Heidi Moawad Counsel. Provides background on HB 2968, which modifies crimes of theft in all degrees by increasing value of property that must be taken.

210 Rep. Olson MOTION: Moves HB 2968 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means by prior reference.

VOTE: 9-0-0

AYE: **In a roll call vote, all members present vote Aye.**

220 Chair Krieger The motion CARRIES.

222 Chair Krieger Closes work session on HB 2968. Opens a work session on HB 2976.

HB 2976 – WORK SESSION

224 Heidi Moawad Counsel. Provides background on HB 2976, which modifies crime of criminal non support. Introduces the -1 amendments (**EXHIBIT C**).

253 Rep. Macpherson MOTION: Moves to ADOPT HB 2976-1 amendments dated 4/27/05.

VOTE: 9-0-0

255 Chair Krieger Hearing no objection, declares the motion CARRIED.

258 Rep. Garrard Questions when non-support becomes criminal non-support.

262	Moawad	Defines criminal non-support and describes the practice across the state to use the criminal charge as a last resort.
283	Rep. Ackerman	States that it would be time consuming to charge non-supporters criminally.
288	Rep. Garrard	Inquires if a first-time non-payment could be considered criminal non-support.
299	Moawad	Responds affirmatively, but believes it is not practiced.
317	Rep. Macpherson	Comments on the exception for lawful excuse by a preponderance of the evidence that would keep many of these cases from happening.
347	Rep. Garrard	States that he will support the bill.
357	Rep. Flores	Questions if HB 2976 addresses the self-employed excuse.
366	Moawad	Responds that the lawful excuse issue might help solve the problem, as obvious ability to pay would come up as evidence.
088	Rep. Flores	States that she will support the bill, but hopes the excuses will be reigned in.

TAPE 40, B

010	Rep. Wirth	Believes the amendment makes it easier to prove a lawful excuse, and inquires how it differs from current practice.
021	Moawad	Describes that the bill with amendments shifts the burden on the defendant to prove their lawful excuse.
037	Rep. Wirth	Seeks clarification whether an affirmative defense makes it easier to provide a lawful excuse. Inquires if the bill would be different if the defendant had to prove beyond a reasonable doubt.
046	Moawad	States that the state must prove guilt beyond a reasonable doubt, while it is onerous enough for a defendant to prove his lawful excuse by preponderance of the evidence.

062	Rep. Wirth	Questions whether currently it is easier for a defendant to prove lawful excuse or for the state to prove beyond a reasonable doubt.
078	Moawad	Responds that it is very difficult for prosecution to disprove a negative, as the defendant need not share their alleged excuse in order for it to be disproved beyond a reasonable doubt.
120	Rep. Ackerman	Inquires about the culpable mental state.
128	Moawad	Believes that the law assumes a culpable mental state in these cases.
135	Carl Stecker	Oregon District Attorneys Association (ODAA). States that a knowing or intentional standard has been inferred by the Court of Appeals. Defines the culpable mental state as defined by the Court of Appeals in 1979.
165	Rep. Ackerman	Questions how the court will establish a standard of mental culpability to create a crime under the new statute, which has removed “without lawful excuse” and left only “refusal to pay.”
168	Stecker	States that refusal indicates a culpable mental state of intentionality, while neglect might cause an issue.
174	Rep. Ackerman	Suggests that the criminality of non-payment of non-support may be lost.
179	Stecker	Explains that the statute permits the affirmative defense of lawful excuse, so if a reasonable excuse can be offered, the court could decide that the person did not refuse to pay, but rather, was not able to pay.
191	Rep. Ackerman	Asks if counsel thinks this should move forward today.
201	Rep. Flores	Questions if HB 2976, with an enhanced opportunity to capture non-support, would have any tie to current support matters with conflicting affidavits stating income.
216	Moawad	Defers to ODAA.
223	Stecker	States that subpoenaed loan documents can show conflicting incomes. Explains the purpose of HB 2976.

- 247 Rep. Ackerman Cites statute that states without including a culpable mental state in the definition of the offense, it could be considered a violation only.
- 260 Chair Krieger States that the bill will not be moved today. Closes work session on HB 2976. Opens a work session on HB 2977.

HB 2977 – WORK SESSION

- 271 Heidi Moawad Counsel. Provides background on HB 2977, which establishes Law Enforcement Medal of Honor. States that legislative fiscal has stated that the referral to Ways and Means is not necessary, and the Speaker has approved that the referral be rescinded.

- 293 Rep. Olson **MOTION: Moves HB 2977 to the floor with a DO PASS AS AMENDED recommendation and the SUBSEQUENT REFERRAL to the committee on WAYS & MEANS BE RESCINDED.**

VOTE: 8-0-1

AYE: In a roll call vote, all members present vote Aye.

EXCUSED: 1 - Barker

- 302 Chair Krieger **The motion CARRIES.**
- REP. BARKER AND REP. OLSON will lead discussion on the floor.**

- 309 Chair Krieger Closes work session on HB 2977. Opens a work session on HB 3370.

HB 3370 – WORK SESSION

- 313 Heidi Moawad Counsel. Provides background on HB 3370, which provides that person commits offense if person refuses to submit to blood test or to take urine test if requested to do so under implied consent law.
- 333 Rep. Macpherson States that he opposed -1 amendments in the subcommittee, and will support the original.
- 353 Rep. Macpherson Explains what the -1 amendments did and why it was of concern.

358	Rep. Garrard	Questions who brought the amendments.
362	Rep. Macpherson	Responds that the proponents, the Pratts, brought the amendments, and after discussing it they are not opposed to reversing amendment.
373	Heidi Moawad	Mentions referral to Ways and Means.
377	Rep. Macpherson	MOTION: Moves HB 3370 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means by prior reference.
387	Rep. Wirth	Explains why she may decide to vote no on the floor, though she will support the bill going to Ways and Means.
		VOTE: 8-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Barker
403	Chair Barker	The motion CARRIES.
405	Chair Krieger	Closes work session on HB 3370. Opens a work session on HB 3457.

HB 3457 – WORK SESSION

409	Heidi Moawad	Counsel. Provides background on HB 3457, which provides that forfeiting agency in civil forfeiture proceedings must prove by clear and convincing evidence that real property constitutes proceeds of prohibited conduct or instrumentality of prohibited conduct.
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TAPE 41, A

033	Rep. Olson	MOTION: Moves HB 3457 to the floor with a DO PASS recommendation.
036	Chair Krieger	States that Senator Burdick supports the bill.
039	Rep. Macpherson	

Questions whether HB 2457 would conflict while waiting for the Supreme Court decision from Ballot Measure 3.

048	Moawad	Explains how the Ballot Measure 3 decision would affect the statute.
072	Rep. Macpherson	Questions the status of Ballot Measure 3 pending the decision. Inquires what happens to the consistent portions and the inconsistent portions until the Supreme Court ruling.
086	Moawad	Responds that inconsistent portions would not go into effect until the Supreme Court decision to throw it out.
096	Rob Bovett	Oregon Narcotics Enforcement Association. Explains how the Oregon Supreme Court decision will affect HB 3457. Explains why Ballot Measure 3 was struck down in the Court of Appeals.
138	Rep. Macpherson	Believes legislating civil forfeiture before the Supreme Court has spoken is unwise. Suggests that current law continue by extending the sunset and getting further guidance from the courts.
159	Chair Krieger	Comments on deceptive campaign materials. Inquires what forfeiture would mean to narcotics teams to help fight meth.
176	Bovett	States that since Measure 3 was passed, narcotics teams have lost funding and suffered. Explains how the campaign was one-sided.
224	Rep. Olson	Comments on the increase of drug crimes since Measure 3.
233	Rep. Garrard	Suggests that a vote is appropriate.
237	Rep. Macpherson	Expresses appreciation for work that went into HB 3457. Comments that funds from civil forfeiture may be needed to fund meth fight.

VOTE: 6-2-1

AYE: 6 - Flores, Garrard, Olson, Thatcher, Wirth, Krieger

NAY: 2 - Ackerman, Macpherson

EXCUSED: 1 - Barker

362 Chair Krieger The motion CARRIES.

REP. OLSON will lead discussion on the floor.

365 Chair Krieger Closes work session on HB 3457. Announces full committee meeting on Tuesday, May 3, 2005. Adjourns the meeting at 11:25 a.m.

EXHIBIT SUMMARY

- A. HB 2524, -3 amendments, staff, 77 pp
- B. HB 3352, -4 amendments, staff, 1 p
- C. HB 2976, -1 amendments, staff, 1 p

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 (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.

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| 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

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| 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**

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**