

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

July 29, 2005 Hearing Room 357

9:00 A.M. Tapes 51 - 54

MEMBERS PRESENT: Rep. Rep. Wayne Krieger, Chair

Rep. Rep. Jeff Barker, Vice-Chair

Rep. Brian Boquist, Vice-Chair

Rep. Linda Flores

Rep. Greg Macpherson

STAFF PRESENT: Janet Adkins, Committee Administrator

Patrick Brennan, Committee Administrator

Joe O'Leary, Counsel

Sandy Thiele-Cirka, Committee Administrator

Louann Rahmig, Committee Assistant

MEASURES/ISSUES HEARD:

SB 152A – Public Hearing and Work Session

SB 1085A – Public Hearing and Work Session

SB 1072A – Public Hearing and Work Session

SB 1016B – Public Hearing and 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

TAPE 51, A

003 Vice-Chair Barker Calls the meeting to order at 9:07 a.m. and opens a public hearing and work session on SB 152A.

SB 152A – PUBLIC HEARING AND WORK SESSION

008 Jan Adkins Committee Administrator. Explains SB 152A which authorizes issuance of up to \$10 million of lottery bonds for grants to finance construction of a passenger terminal at the North Bend Airport, funds to be split between the 2005-07 and 2007-09 biennia. Advises of a subsequent referral to the budget committee.

021 Rep. Wayne Krieger House District 1. Testifies in support of SB 152A. Reports on meetings with the airport manager on the need for the project and the positive impact for the south coast. Believes the airport project is an integral part of the infrastructure that drives the economy of the south coast. Cites statistics on employment and visitor use in the south coast area. Explains that the Bandon Dunes Golf Course is known worldwide. Outlines their plans for expansion.

106 Vice-Chair Barker Expresses appreciation to Rep. Krieger for his efforts on this bill.

116 Sen. Joanne Verger Senate District 5. Testifies in support of SB 152A. Thanks several legislators for their work on the bill. Reports on the support of the people on the south coast.

143 Rep. Arnie Roblan House District 9. Testifies in support of SB 152A. Provides history on the cooperation of the communities on the south coast to speak with one voice. Explains the formation of the Coos Bay-North Bend Airport District. Notes that the Bandon Dunes development is ahead of schedule. Cites need for expansion of the airport. Expresses appreciation to Rep. Krieger for giving the project priority.

200 Sen. Jeff Kruse Senate District 1. Testifies in support of SB 152A. Reports that issues have been worked on continually since 1997 to benefit all of southern Oregon, including the infrastructure. Continues that a new terminal is needed to comply with homeland security rules.

291 Claire Jones Chairman, Coos County Airport District. Testifies in support of SB 152A.

310 Sue Richardson Vice-Chair, Coos County Airport District. Testifies and submits written testimony in support of SB 152A (**EXHIBIT A**). Explains that the transportation infrastructure is currently a limiting factor for south coast economic development. Adds that the airport project has had serious support in the community. Advises that funding is coming from a variety of sources.

TAPE 52, A

004 Gary Executive Director, Coos County Airport District. Is available to
Letillier answer technical questions.

011 Chair Krieger Thanks all who testified in favor of SB 152A, especially those who traveled. Expresses appreciation to those who traveled to view the proposed airport project.

035 Rep. Barker Comments that there appears to be more cooperation among legislators to move Oregon forward as opposed to concentrating on their specific areas.

046 Rep. Macpherson Believes this is a great project. Comments on another set of transportation projects called Connect Oregon which benefits the entire state that also needs attention.

055 Rep. Boquist MOTION: Moves SB 152A to the floor with a DO PASS recommendation and BE REFERRED to the committee on budget.

VOTE: 5-0-0

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

060 Chair Krieger The motion CARRIES.

063 Chair Krieger Closes the public hearing and work session on SB 152A and opens a public hearing and work session on SB 1085A.

SB 1085A – PUBLIC HEARING AND WORK SESSION

074 Sandy Thiele-Cirka Committee Administrator. Describes SB 1085A which modifies the amount of medical marijuana for authorized persons or designated

primary care givers who may possess medical marijuana under certain circumstances. Explains the -A3 amendments (**EXHIBIT B**). Continues that the -A4 amendments (**EXHIBIT C**) provide that employers are not required to accommodate for the use of medical marijuana regardless of whether or not it is used at the work place.

- 108 Sen. Bill Morrisette Senate District 6. Refers to an upcoming Supreme Court hearing on an issue similar to the -A4 amendments. Comments that if the -A4 amendments pass, he doubts there will be concurrence in the Senate. Suggests dealing with the -A4 amendments in a separate bill.
- 129 Sen. Jeff Kruse Senate District 1. Testifies in support of SB 1085A and the -A3 amendments which are a technical “fix.” Reports on the extensive work on the bill. Supports in concept the -A4 amendments but it is not a finished product. Expresses need to clearly define issues.
- 190 Rep. Steve March House District 46. Testifies in support of SB 1085A with the -A3 amendments. Comments on the vagueness of current law. Continues that an issue similar to the -A4 amendments is before the Supreme Court, and they will determine which direction should be taken.
- 213 Rep. Macpherson Comments that there appears to be a collision between two public policies: (1) a desire by people suffering from pain needing management and finding that medical marijuana is helpful; and (2) employers wanting a drug free work place. Continues that the legislature needs to decide which policy prevails in work place drug testing.
- 228 Rep. March Responds that several medications can impair. Continues that nothing prohibits rational employer policies to reassign employees if performance is inhibited.
- 252 Rep. Macpherson States that an employer can choose to accommodate but is not required to accommodate.
- 264 Rep. March Answers reasonable accommodation comes under a variety of state and federal laws. Asks if one particular medication should be different than other medications, as that is what the -A4 amendments do. Believes that is a decision for the courts.
- 283 Sen. Kruse States that marijuana is one of the standard drugs looked for in a drug screen. Is concerned about losing the main bill because of the -A4 amendments.

- 310 Rep. Barker Cites an example of routine testing in the work place following an accident. Asks the effect without the –A4 amendments.
- 326 Sen. Kruse Responds that is a real issue. Is not sure of the solution.
- 350 Sen. Morrisette Suggests the possibility of using the administrative rule process. Discusses the different positions by medical marijuana patients. Comments on the interim work group. Urges the committee to pass the –A3 amendments and further consider the –A4 amendments.
- 409 Leland Berger Attorney, Portland, Oregon. Testifies in opposition to SB 1085A.

TAPE 51, B

- 022 Berger Advises that he participated in the compromise resulting in the –A3 amendments. Points out the positive areas in SB 1085A most of which are already happening. Discusses the administrative advisory committee to the medical marijuana program. Objects to the repeal of affirmative defense for card holders which law enforcement supports.
- 087 Berger Refers to testimony provided on HB 2693 which is where the -A4 amendments came from. Points to specific sections in SB 1085A to which he objects. Discusses the amount of marijuana that can be legally grown.
- 159 Berger Advises that he participated in drafting the medical marijuana act. Comments on a court of appeals decision that changed the application of “choice of evils” defense to medical marijuana patients in a way that functionally denies it to people who are cultivating.
- 215 Erin Hildebrandt Parents Ending Prohibition. Testifies in opposition to SB 1085A. Cites personal circumstances. Doesn’t feel the real problem is being addressed. Urges letting the bill die in committee.
- 292 Sandee Burbank Director, Mothers Against Misuse and Abuse. Testifies and submits written testimony in opposition to SB 1085A (**EXHIBIT D**). Informs of work on medical marijuana initiatives.
- 360 Burbank Talks about the current law which has affirmative defense. Refers to booklet *Cannabis Yields and Dosage* (**EXHIBIT E**). Discusses the amount of marijuana that one can legally possess at one time. Comments that SB 1085A is unclear on how many patients for whom a care giver can grow plants.

TAPE 52, B

- 030 Burbank Concludes with comment that limiting the number of patients and disallowing real costs will leave more patients without medicine.
- 042 James Greig Activist with Americans for Safe Access. Testifies and submits written testimony in opposition to SB 1085A (**EXHIBIT F**). Reads from written testimony.
- 087 David Fidanque Executive Director, American Civil Liberties Union of Oregon. Testifies in opposition to the -A4 amendments to SB 1085A. Discusses a pending court of appeals decision. Comments on the reasonable accommodation issue.
- 121 Katie Suver Oregon District Attorneys Association. Testifies in support of SB 1085A. Discusses the work to establish the number of plants and amount of marijuana that a person can have. Comments that affirmative defense still exists if a defendant can prove by a preponderance of evidence that they suffer from a debilitating medical condition. Responds to a concern raised about the number of ounces allowed in ones possession. Has no issue with the -A3 and -A4 amendments. Urges approval of SB 1085A.
- 176 Craig Durbin Lieutenant, Oregon State Police. Represents also the Oregon Chiefs of Police Association and the Oregon Sheriffs Association. Testifies in support of SB 1085A and the -A3 amendments. States that law enforcement needs “bright lines.” Comments that counties had different policies on the number of plants allowed. Describes the circumstances that would force card revocation. Asserts the need for cleanup of the program which was being used as a guise by some to further their activities in controlled substances.
- 253 Durbin Explains the growing cycles for marijuana plants.
- 274 Jerry Wade Stormy Ray Cardholders’ Foundation. Testifies and submits written testimony by Stormy Ray in support of SB 1085A with the –A3 amendments and in opposition to the –A4 amendments (**EXHIBIT G**). Points out that the bill specifies that all the marijuana plants are the property of the patient. Refers to *The Register Guard* newspaper article (**EXHIBIT H**) on a group that charges a “membership fee” to obtain free medicine. Submits written testimony by Dr. Richard Bayer in support of SB 1085A and the –A3 amendments (**EXHIBIT I**).

383 Rep. Boquist MOTION: Moves to ADOPT SB 1085A-3 amendments dated 7/12/05.

VOTE: 3-0-2

EXCUSED: 2 - Flores, Macpherson

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

392 Rep. Boquist MOTION: Moves to ADOPT SB 1085A-4 amendments dated 7/22/05.

VOTE: 3-0-2

EXCUSED: 2 - Flores, Macpherson

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

397 Rep. Boquist MOTION: Moves SB 1085A to the floor with a DO PASS AS AMENDED recommendation.

VOTE: 3-0-2

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

EXCUSED: 2 - Flores, Macpherson

409 Chair Krieger The motion CARRIES.

REP. FLORES & REP. BARKER will lead discussion on the floor.

The following written material is submitted for the record without public testimony:

Alice Ivany Submits written testimony in opposition to SB 1085A (EXHIBIT J).

415 Chair Krieger Closes the public hearing and work session on SB 1085A and opens a public hearing and work session on SB 1072A.

TAPE 53, A

SB 1072A – PUBLIC HEARING AND WORK SESSION

- 005 Patrick Brennan Committee Administrator. Explains SB 1072A which establishes a state policy with regard to the utilization of forest biomass; directs the State Forester to take actions to increase the use of forest biomass and report to the Governor and Legislative Assembly every three years beginning October 2008 on those efforts; establishes a state policy regarding the relationship between the Department of Forestry and federal forest management; and directs the State Forester to take actions to increase participation in federal forest management issues. Refers to the –A4 amendments **(EXHIBIT K)**.
- 016 Sen. David Nelson Senate District 29. Refers to a concept in the bill that allows the Forest Service and the Bureau of Land Management to enter into stewardship contracts to achieve land management goals for national forests and public lands that meet local and rural community needs. Makes a Power Point presentation **(EXHIBIT L)** on forest land ownership, mill closures and lost jobs. Expresses the need to create jobs in Oregon.
- 105 Sen. Nelson Refers to written testimony by Hal Salwasser, Dean of the Oregon State University College of Forestry, in support of SB 1072 **(EXHIBIT M)**.
- 114 Rep. Chuck Burley House District 54. Expresses appreciation to Sen. Nelson for SB 1072. Points out that the Oregon Department of Forestry (ODF) has done a good job working with federal and non-federal landowners. Continues that SB 1072A helps get the state more engaged in federal land issues. States that the intent of the bill is to encourage development of markets and utilization of biomass. Discusses the –A4 amendments.
- 149 Chair Krieger Asks for a description of the –A4 amendments.
- 157 Rep. Burley Reads the definition of biomass. Offers that the –A4 amendments change the definition of “biomass” to be consistent with other bills.
- 174 Chair Krieger Refers to a section that has been removed.
- 178 Rep. Burley Responds that the –A4 amendments reflect the new definitions of “biomass” and “woody biomass.”
- 185 Rep. Macpherson Asks about the general thrust of the -A4 amendments.

188	Rep. Burley	Explains that the –A4 amendments clean up language to focus on encouraging the biomass markets to utilize this material. Indicates that the –A4 amendments would be consistent with other bills. Believes “uncharacteristic” is hard to define.
208	Rep. Macpherson	Inquires if they are trying to bring a “technician’s” eye to the product.
214	Rep. Burley	Replies that is a fair assessment. Reiterates that they are trying to get consistency with other bills being discussed.
221	Chair Krieger	Reads the portion of the bill that references federal provisions in state statute. Asks if that serves any purpose.
233	Rep. Burley	Believes it does. Elaborates that there are already statutes that govern how the federal land management agencies manage their land but also how they have to involve states, tribes, local governments and the public.
251	Sen. Nelson	Comments on the concern about verbiage “social acceptability.” Believes the federal government will dictate the terms under the stewardship contracts.
271	Rep. Macpherson	Indicates that the biomass definition seems broad.
282	Rep. Burley	Responds that the -A4 amendments offer two definitions, one for biomass and one for woody biomass. States that the ODF will focus on the woody biomass aspect.
297	Rep. Boquist	Reports that the definitions seem to match the verbiage in the biofuels bill.
305	Rep. Burley	Answers that is the intent.
317	Mari Anne Gest	The Wild Salmon Center. Testifies and submits written testimony as neutral on SB 1072A (EXHIBIT N). Reads from written testimony. Opposes the current definition of biomass.
424	Gest	Concludes that SB 1072 is about two issues neither of which requires legislation.

034	Doug Heiken	Oregon Natural Resources Council. Testifies on SB 1072A. Indicates support of biomass utilization if done carefully. Believes the Governor should have the discretion to appoint the appropriate agencies to deal with different issues and not give the responsibility to ODF.
073	Heiken	Discusses the requirement in federal law that the stewardship contracts focus on removal of small diameter trees. Comments on “conservatively scaled” and “social acceptability.” Discusses “catastrophic” vs. “uncharacteristic” fires. Believes conservation groups will oppose SB 1072A if the amendments are adopted.
126	Rep. Macpherson	Asks for the location of “socially acceptable” language.
127	Heiken	Points to the location.
132	Rep. Macpherson	Asks if modifications made in the Senate were to make the bill more acceptable to the natural resource advocates.
137	Heiken	Answers correct.
140	Rep. Macpherson	Inquires about federal lands as opposed to timber lands in general.
143	Heiken	Responds that biomass should be applied appropriately to wherever it occurs and should be used for a variety of purposes not just energy generation.
154	Rep. Macpherson	Refers to the ODF responsibilities that apply to woody biomass wherever it is present.
160	Heiken	Agrees.
172	Chair Krieger	Asks why the negative conditions that we see on the federal lands for the most part are not present on private lands in Oregon.
174	Charlie Stone	ODF. Responds that the major difference in the two ownerships is that private lands are most normally actively managed.

179	Chair Krieger	Inquires what FPFO is. Refers to a vision statement for the department.
189	Stone	Answers that FPFO stands for Forestry Program for Oregon, the Board of Forestry's strategic plan for guiding forest policy in the state. Cites the ODF mission statement. Continues that the forestry program in Oregon provides for sustainability in all areas of economics, the environment and social sustainability.
206	Chair Krieger	Asks about the tools to guide forest management on both private and state lands.
210	Stone	Responds that they follow the Oregon Forest Practices Act which establishes minimum standards for the management of all lands in terms of harvest practices, road construction, required reforestation, use of chemicals and slash disposal.
220	Chair Krieger	Asks if ODF has an open public process.
223	Stone	Replies that their rulemaking is governed by the Administrative Procedures Act but the Board of Forestry goes well beyond those requirements. Continues they hold about eight meetings per year. Describes public involvement which is a key piece of the forestry program for Oregon.
240	Rep. Macpherson	Inquires about the operative language that directs the State Forester to do certain things with respect to all forests of the state including federal forests. Asks about their authority over federal forests.
246	Stone	Answers they have no authority over federal forest land. Advises that the Board of Forestry is given the responsibility to supervise all matters of forest policy in Oregon through statutory mandate. Describes their activities in management of forest lands.
274	Jim Geisinger	Associated Oregon Loggers. Testifies in support of SB 1072A and the -A4 amendments. Compliments Sen. Nelson's presentation which accurately documents the need for this legislation. Expresses their concerns with the previous amendments. Comments on "uncharacteristic wild fire," "uncharacteristic insect and disease infestations," removal of "excessive" biomass and elimination of "large trees" from the definition of biomass.
330	Geisinger	

Cites the amount of federal timber sales being challenged on procedural laws and regulations that the federal land management agencies have been given over decades. Reminds that SB 1072 does not supplant any federal law but supplements and improves upon the management and laws and regulations to which the U. S. Forest Service has to adhere. Encourages passage of SB 1072A with the -A4 amendments.

- 354 Rep. Boquist Asks if there are other key issues that ought to be addressed in addition to those in the -A4 amendments.
- 365 Geisinger Responds that the -A4 amendments address all their concerns.
- 383 Diana Enright Assistant Director, Oregon Department of Energy. Testifies in support of SB 1072A. Refers to the recently released Renewable Energy Action Plan which calls for emphasis on all renewable resource development including forest biomass utilization.
- 401 Lee Hazelwood Senior Advocate. Testifies and submits written testimony in support of SB 1072A and the -A4 amendments (**EXHIBIT O**). Reads written testimony.

TAPE 53, B

- 020 Mike Sullivan Association of Western Pulp and Paper Workers. Testifies in support of SB 1072A and the -A4 amendments. Expresses appreciation to Sen. Nelson for his efforts on the bill.
- 034 Rep. Boquist MOTION: Moves to ADOPT SB 1072-A4 amendments dated 7/29/05.**
- 039 Rep. Macpherson Explains the reason he objects to the -A4 amendments.
- 044 Chair Krieger Notes objection.
- 046 Rep. Boquist States that there is a serious problem getting state, federal and private coordination. Elaborates on a situation. Continues that “social acceptability” doesn’t equate to public input. Believes the Oregon Board of Forestry is one of the most open.
- 079 Chair Krieger Declares the motion CARRIED.**

- 080 Rep. Boquist **MOTION: Moves SB 1072A to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on budget.**
- 084 Rep. Macpherson **VOTE: 4-1-0**
AYE: 4 - Barker, Boquist, Flores, Krieger
NAY: 1 - Macpherson
- 088 Chair Krieger **The motion CARRIES.**

The following written material is submitted for the record without public testimony:

- Jim Welsh Oregon State Grange. Submits written testimony in support of SB 1072 (**EXHIBIT P**).
- 092 Chair Krieger Closes the public hearing and work session on SB 1072A.
- 097 Chair Krieger Opens a public hearing and work session on SB 1016B which establishes the Nursing Workforce Center Fund, a grant program appropriated to and administered by the Oregon State Board of Nursing, to advance innovative solutions to Oregon’s nursing shortage. *Note: The –B5 amendments were previously distributed* (**EXHIBIT Q**).

SB 1016B – PUBLIC HEARING AND WORK SESSION

- 103 Sen. Laurie Monnes Anderson Senate District 25. Testifies in support of SB 1016B. Points out the critical nursing shortage in Oregon. Discusses a strategic plan prepared by the nursing leadership to address the shortage. Refers to the –B5 amendments which provides for a voluntary contribution to a fund used specifically to address the Oregon nursing workforce shortage.
- 128 Marna Flaherty Robb Associate Dean, School of Nursing, Oregon Health and Science University. Testifies and submits written testimony by Kathleen Potempa, President, Oregon Nursing Leadership Council, in support of SB 1016 (**EXHIBIT R**). Reads the written testimony.
- 159 Faye Melius

President, Oregon Center for Nursing Board. Testifies in support of SB 1016B. Requests support for funding the center's efforts to help solve the problems in Oregon due to the changes in demographics and health care. Submits a report on Oregon's registered nurse workforce **(EXHIBIT S)**.

- 185 Brian DeLashmutt Oregon Nurses Association (ONA). Testifies in support of SB 1016B. Comments that the resources needed for this type of endeavor are far beyond any voluntary contributions made. Believes there needs to be a resource allocation from the state.
- 224 Rep. Macpherson Asks for the ONA position on the -B5 amendments.
- 226 DeLashmutt Indicates support for the -B5 amendments.
- 234 Robb Agrees that more substantial funds are needed.
- 250 **Rep. Boquist** **MOTION: Moves to ADOPT SB 1016B-5 amendments dated 7/27/05.**
- VOTE: 5-0-0**
- 256 **Chair Krieger** **Hearing no objection, declares the motion CARRIED.**
- 259 **Rep. Boquist** **MOTION: Moves SB 1016B to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on budget.**
- VOTE: 5-0-0**
- AYE: In a roll call vote, all members present vote Aye.**
- 268 **Chair Krieger** **The motion CARRIES.**

The following written material is submitted for the record without public testimony:

- Jean Weisensee Submits written testimony in opposition to SB 1016 **(EXHIBIT T)**.
- 270 Chair Krieger Closes the public hearing and work session on SB 1016B and adjourns the meeting at 12:12 p.m.

EXHIBIT SUMMARY

- A. SB 152, written testimony, Sue Richardson, 12 pp
- B. SB 1085, -A3 amendments, staff, 1 p
- C. SB 1085, -A4 amendments, staff, 1 p
- D. SB 1085, written testimony, Sandee Burbank, 1 p
- E. SB 1085, booklet on cannabis, Sandee Burbank, 24 pp
- F. SB 1085, written testimony, James Greig, 1 p
- G. SB 1085, written testimony by Stormy Ray, Jerry Wade, 2 pp
- H. SB 1085, newspaper article, Jerry Wade, 3 pp
 - I. SB 1085, written testimony by Richard Bayer, Jerry Wade, 1 p
 - J. SB 1085, written testimony by Alice Ivany, 2 pp
- K. SB 1072, -A4 amendments, staff, 5 pp
- L. SB 1072, Power Point presentation, Sen. David Nelson, 7 pp
- M. SB 1072, written testimony by Hal Salwasser, Sen. David Nelson, 2 pp
- N. SB 1072, written testimony by, Mari Anne Gest, 3 pp
- O. SB 1072, written testimony, Lee Hazelwood, 1 p
- P. SB 1072, written testimony, Jim Welsh, 1 p
- Q. SB 1016, -B5 amendments, staff, 1 p
- R. SB 1016, written testimony by Kathleen Potempa, Marna Flaherty Robb, 2 pp
- S. SB 1016, registered nurse workforce report, Faye Melius, 39 pp
- T. SB 1016, written testimony, Jean Weisensee, 1 p