

## SENATE COMMITTEE ON JUDICIARY

June 13, 2005  
3:00 P.M.

Hearing Room 343  
Tapes 165 - 166

Corrected 10/26/05

**MEMBERS PRESENT:** Sen. Ginny Burdick, Chair  
Sen. Charles Starr, Vice-Chair  
Sen. Roger Beyer  
Sen. Floyd Prozanski  
Sen. Charlie Ringo  
Sen. Vicki Walker  
Sen. Doug Whitsett

**STAFF PRESENT:** Bill Taylor, Counsel  
Joe O'Leary, Counsel  
Heidi Moawad, Counsel  
Sam Sears, Counsel  
Elizabeth Howe, Committee Assistant

**MEASURES/ISSUES HEARD:**  
HB 2518 – Public Hearing and Work Session  
HB 2499 – Public Hearing  
HB 2359A – Work Session  
SB 65 – Work Session  
SB 1041 – Work Session  
HB 2268A – Public Hearing and Work Session  
HB 2742A – Public Hearing  
HB 2599A – Public Hearing  
HB 2667 – Public Hearing  
HB 2156 – Public Hearing

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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.

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TAPE/#	Speaker	Comments
<b>TAPE 165, A</b>		
002	Chair Burdick	Calls the meeting to order at 1:15 p.m. Opens a public hearing on HB 2518.
<b><u>HB 2518A – PUBLIC HEARING</u></b>		
006	Sam Sears	Counsel. Provides background on HB 2518A, which allows the Public Safety Memorial Fund Board to extend time for an applicant for benefits to file a request for reconsideration and for the board to notify the applicant of the board's decision on reconsideration.
014	Rep. Mitch Greenlick	House District 33. Testifies in support of HB 2518A, and explains the background of the bill.
041	Chair Burdick	Closes public hearing and opens a work session on HB 2518A.
<b><u>HB 2518A – WORK SESSION</u></b>		
045	Sen. Starr	<b>MOTION: Moves HB 2518A to the floor with a DO PASS recommendation.</b> <b>VOTE: 6-0-1</b> <b>EXCUSED: 1 - Ringo</b>

048	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
050	Chair Burdick	<b>SEN. PROZANSKI will lead discussion on the floor.</b>
<b><u>HB 2499 – PUBLIC HEARING</u></b>		Opens a public hearing on HB 2499.
052	Sam Sears	Counsel. Provides background on HB 2499, which removes the requirement that certain children attending high school and receiving child support maintain the equivalent of a C average or better.
064	Sen. Prozanski	Relates that Rep. Schaufler supports HB 2499, and that this bill may be included in a different bill.
077	Shani Fuller	Oregon Child Support Program, Department of Justice. Testifies in a neutral stance on HB 2499 and relates that another bill encompasses this bill.
090	Chair Burdick	Inquires about schools that have no grades; systems of pass or no pass.
092	Fuller	Responds that passing is at least a C grade average.
096	Sybil Hebb	Oregon Law Center. Testifies in support of HB 2499.
102	Chair Burdick	Inquires about other bills working their way through the process with similar effects.
104	Fuller	Relates that SB 1050 is the other bill being considered that encompasses the content on HB 2499.
109	Sen. Prozanski	Comments on SB 1050.
112	Chair Burdick	States that she will wait on the bill. Closes public hearing on HB 2499. Opens a work session to reconsider the vote on HB 2359 A.
<b><u>HB 2359 A – WORK SESSION</u></b>		
120	Sen. Starr	<b>MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote on HB 2359A.</b>
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 - Ringo</b>
128	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
130	Sen. Starr	<b>MOTION: Moves to RECONSIDER the vote by which HB 2359A was sent to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 - Ringo</b>
137	Sam Sears	Counsel. Explains that the bill has conflict amendments. Introduces the –A2 amendment ( <b>EXHIBIT I</b> ).
138	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
139	Sen. Starr	<b>MOTION: Moves to ADOPT HB 2359A-A2 amendments dated 6/6/05.</b>
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 - Ringo</b>
143	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
145	Sen. Starr	<b>MOTION: Moves HB 2359A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 - Ringo</b>
149	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WALKER will lead discussion on the floor.</b>
151	Chair Burdick	Closes work session on HB 2359A and opens a work session on SB 65.
<b><u>SB 65 – WORK SESSION</u></b>		
155	Bill Taylor	Counsel. Provides background on SB 65, which authorizes the

		Department of Public Safety Standards and Training to impose a civil penalty on public safety agencies for the violation of statutes prohibiting the employment of uncertified employees. Introduces the -3 amendment ( <b>EXHIBIT H</b> ).
169	Sen. Whitsett	Comments that the bill may make it difficult for small police agencies to work effectively and fund the training (small, rural communities). Suggests that an under trained officer is better than none at all. Expresses opposition to the bill.
182	John Minnis	Director, Department of Public Safety Standards and Training (DPSST). Comments on the vicarious liability of an officer who is under trained or not certified not being someone a city, small or large, wants in their jurisdiction.
201	Sen. Whitsett	Suggests that small jurisdiction may not be able to afford these certifications.
208	Sen. Prozanski	Inquires how the fine will be figured.
216	Minnis	Responds that the intent of the agency is to get organizations to comply, not to hammer down on police departments. Relates that a private agency has the greatest compliance issue; it is infrequent.
243	Sen. Starr	Comments on the small communities that contract with other jurisdictions to find full-time trained officers. Inquires if this method is commonly employed.
250	Minnis	Responds affirmatively.
258	Sen. Beyer	Comments on the private security force; the bill speaks of public safety.
261	Minnis	Describes an instance with a private security force that comes out of the public safety domain.
270	Sen. Beyer	Inquires if the DPSST has the authority to police private, but not public, security.
273	Minnis	Responds affirmatively.
279	Sen. Starr	<b>MOTION: Moves to ADOPT SB 65-3 amendments dated 3/17/05.</b>
		<b>VOTE: 6-0-1</b>
		<b>EXCUSED: 1 - Ringo</b>
284	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
285	Sen. Starr	<b>MOTION: Moves SB 65 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2-1</b>
		<b>AYE: 4 - Prozanski, Starr C., Walker, Burdick</b>
		<b>NAY: 2 - Beyer, Whitsett</b>
		<b>EXCUSED: 1 - Ringo</b>
296	Chair Burdick	<b>The motion CARRIES.</b>
		<b>SEN. BURDICK will lead discussion on the floor.</b>
299	Chair Burdick	Closes the work session on SB 65 and opens a work session on SB 1041.
<b><u>SB 1041 – WORK SESSION</u></b>		
304	Bill Taylor	Counsel. Provides background on SB 1041 relating to creating civil action for custodial interference in any degree. Introduces the -4 amendments ( <b>EXHIBIT A</b> ).
327	Chair Burdick	Inquires about the criminal conviction prejudice and your ability to use that defense.
329	Taylor	Responds that it would not be usable.
340	Chair Burdick	Inquires about the difference in the -4 amendment.
342	Taylor	Describes the -4 amendment; focuses on the differences between

360	Sen. Whitsett	the -4 and -3 amendments. Inquires about causes of action in section 2 of the -4 amendment, and if it would apply retroactively.
364	Taylor	Explains causes of action, and stresses that it would apply retroactively.
381	BeaLisa Sydlik	Oregon Law Center Policy Analyst. Expresses their support for the policy considerations of SB 1041. Relates the concerns they have with the amendments.
<b>TAPE 166, A</b>		
011	Chair Burdick	Inquires if the retroactive aspect would help or hinder the fiscal.
012	Sydlik	Responds that it would help to remove the retroactive effect, but the fiscal effect would still be quite high.
022	Sen. Starr	Comments that there is a real problem. Inquires how justice can be reasonably provided to the parents who have been subjected to this offense.
030	Sydlik	Explains the existing statutes for relief; temporary custody orders, writs/orders of assistance, etc.
052	Sen. Starr	Comments on the inadequacy in how custodial interference is currently handled.
069	Sen. Whitsett	Expresses his opposition to SB 1041. Suggests that this is not the right vehicle for the issue.
079	Chair Burdick	Inquires about the action being taken on the issue.
082	Sydlik	Explains the action taken on parental abduction from many different perspectives.
092	Chair Burdick	Inquires if legislative proposals will come out of these groups.
094	Sydlik	Declares that it is a possibility. Comments on the lack of awareness education.
101	Sen. Prozanski	Requests that we look at models of other states' solutions. Stresses that SB 1041 does not get to the issues needed to be addressed.
114	Chair Burdick	Closes work session on SB 1041. Opens a public hearing on HB 2268A.
<b><u>HB 2268A – PUBLIC HEARING</u></b>		
122	Bill Taylor	Counsel. Provides background on HB 2268A which modifies the rules governing appraisal exchanges in condemnation actions.
148	Wendy Johnson	Deputy Director, Oregon Law Commission. Explains HB 2268A.
164	Chair Burdick	Closes public hearing and opens a work session on HB 2268A.
<b><u>HB 2268A – WORK SESSION</u></b>		
167	Sen. Starr	<b>MOTION: Moves HB 2268A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 5-0-2</b>
		<b>EXCUSED: 2 - Ringo, Walker</b>
170	Chair Burdick	<b>Hearing no objection, declares the motion CARRIED.</b>
		<b>SEN. WALKER will lead discussion on the floor.</b>
173	Chair Burdick	Closes work session on HB 2268A and opens a public hearing on HB 2742A.
<b><u>HB 2742A – PUBLIC HEARING</u></b>		
177	Joe O'Leary	Counsel. Provides background on HB 2742A relating to establishing a Safe Routes to Schools Fund.
203	Troy E. Costales	Manager, Transportation Safety Division, Department of Transportation. Submits written testimony ( <b>EXHIBIT B</b> ) and testifies in support of HB 2742 A.
237	Chair Burdick	Questions if bill has been through budget process.

238	Costales	Explains that the referral to Ways and Means was removed; fiscal is indeterminate as they do not know how much Congress will allot.
249	Chair Burdick	Inquires if it is federal funds that they are discussing.
251	Costales	Responds affirmatively, and adds that other grants may be used/acquired for use in this Safe Routes to Schools Fund.
260	Sen. Prozanski	Inquires about the authority to gather and disperse grants: does authorization need to be given by Ways and Means.
267	Costales	Responds that they do have the statutory authority.
273	Sen. Beyer	Inquires if a bill is needed to apply for these grants.
277	Costales	Responds that the US Department of Transportation grants can be applied for by the Oregon Department of Transportation.
279	Sen. Beyer	Asks where this money goes if the bill does not pass. Inquires if other agencies can apply for these federal grants.
284	Costales	Explains what would happen if the bill does not pass. Responds that grant funds usually flow through the state.
308	Sen. Whitsett	Inquires if this would affect land use planning, restrict community, commercial, or industrial development, alter automobile access or parking, or create authorization for imminent domain action.
317	Costales	Responds that it must be determined locally.
345	Sen. Whitsett	Questions whether decisions on these plans are made by stakeholders, officials, or the Transportation Safety Committee (TSC).
351	Costales	Responds that local transportation authority will determine the safe routes.
359	Sen. Whitsett	Inquires if this is a parent, stakeholder, or public official.
366	Costales	Replies that the school district, and local authority, city, county, or state would make those decisions.
373	Scott Bricker	Bicycle Transportation Alliance/Willamette Pedestrian Coalition. Submits written testimony <b>(EXHIBIT C)</b> and testifies in support of HB 2742A.
439	Julie Warncke	Transportation Manager, Salem Public Works Department, City of Salem. Testifies in support of HB 2742 A.

**TAPE 165, B**

033	Chair Burdick	Closes public hearing on HB 2742A and opens a public hearing on HB 2599A.
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**HB 2599A – PUBLIC HEARING**

040	Heidi Moawad	Counsel. Provides background on HB 2599A which exempts from public disclosure personal information about customers of a public body providing water, sewer, or storm drain services. Introduces the -A4 <b>(EXHIBIT D)</b> and -A5 <b>(EXHIBIT E)</b> amendments to HB 2599A.
064	Chair Burdick	Relates that she would like to focus on the –A4 amendment and the body of the original bill.
069	Sen. Starr	Suggests that the –A4 amendment is in violation of the ‘relating to’ clause.
077	Moawad	Responds that counsel has spoken to Legislative Counsel who approved the amendments with this relating clause.
085	Chair Burdick	Questions whether the original content of the bill needs to be kept.
086	Moawad	Responds that the original bill does not need to be retained.
088	Sen. Starr	States that he is okay with the bill at this time.
101	Genoa Ingram	Oregon Special Districts Association. Requests that the original

		bill remain intact even if –A4 amendments are included. Submits written testimony ( <b>EXHIBIT J</b> ).
114	Chair Burdick	Relates that it was at the Chair’s direction that the –A4 amendments replace the entire bill. States that it does not have to remain that way.
118	Ingram	Testifies in support of the original bill, and provides background on the bill. Relates that there has been no opposition to the bill.
164	Chair Burdick	Describes her concern for the bill; talked about the Portland Water Bureau.
178	Ingram	Responds that it was the Tualatin Water District. Comments on the policy to protect citizens in order to expose a very few. States that municipal districts are not required to share information.
198	Sen. Prozanski	Suggests an amendment that would allow information relating to how much water is being consumed or used, rather than the personal information of individuals, to be accessed.
211	Chair Burdick	Agrees with Sen. Prozanski’s suggestion.
219	Libby Henry	City of Eugene, Eugene Water and Electric Board. Expresses concerns about the original HB 2599A. Requests an amendment.
249	Ingram	Expresses agreement.
260	Kevin Neely	Office of the Attorney General, Oregon Department of Justice. Expresses support for protecting individuals from identity theft. Relates the provisions for maintaining privacy, and personal identity exemption.
321	Chair Burdick	Requests that he work on the language. Inquires about exemptions in public records law.
327	Neely	Relates the ORS chapter (192.501) where the exemption language is found.
342	Chair Burdick	States that if the meter location was left open there would be no argument making it a conditional decision.
347	Sen. Beyer	Comments that he has never thought to keep these sorts of records private.
357	Neely	Addresses policy issues that would have a blanket policy or not.
372	Scott Taylor	Chief of Community Corrections, Oregon Department of Correction. Testifies in support of HB 2599A, with the –A4 amendments.
397	Pat Schreiner	Oregon Association of Community Corrections Directors/Sex Offender Supervision Network. Testifies in support of HB 2599A with the –A4 amendments.
429	Chair Burdick	Inquires if there are concerns on the –A4 amendments.
432	Sen. Walker	Suggests holding onto HB 2599A. Relates an issue concerning the identity of mandatory reporters.

**TAPE 166, B**

014	Chair Burdick	States that the committee needs to be done by Thursday. Asks for concerns on the –A4 amendments.
021	Sen. Walker	Comments on the special districts issue.
022	Chair Burdick	Asks the –A4 amendment proponents to not replace the original text of the bill.
031	Moawad	States that she will take care of the changes to the –A4 amendments.
034	Chair Burdick	Closes public hearing on HB 2599A. Moves HB 2323 to Tuesday, June 14, 2005 and opens a public hearing on HB 2667.

**HB 2667 – PUBLIC HEARING**

042	Heidi Moawad	Counsel. Provides background on HB 2667 which expands the definition of “sex crime” to include public or private indecency if
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		the person convicted has a prior conviction for public or private indecency.
060	Sen. Whitsett	Inquires how someone can be in trouble for a crime they committed in another state that was not a crime in the state they acted in.
064	Moawad	Clarifies that an out of state act would only apply if they were criminally convicted of a crime outside the state that is a similar conviction. Provides a clarifying example.
095	Sen. Prozanski	Questions an issue in the example.
098	Pat Schreiner	Oregon Association of Community Corrections Directors/Sex Offender Supervision Network. Submits written testimony <b>(EXHIBIT F)</b> and testifies in support of HB 2667.
138	Chair Burdick	Closes the public hearing on HB 2667. Opens a public hearing on HB 2156.
<b><u>HB 2156 – PUBLIC HEARING</u></b>		
143	Heidi Moawad	Counsel. Provides background on HB 2156 which ratifies the National Crime Prevention and Privacy Compact.
156	Patricia Whitfield	Section Director, Oregon State Police, Identification Services Section. Submits written testimony <b>(EXHIBIT G)</b> and testifies in support of HB 2156. Provides information on the bill.
187	Chair Burdick	Inquires if this would increase access to other states' information.
192	Whitfield	Responds that they currently have limited access. Clarifies that the compact, as ratified by statute, would have to make more information available. Explains who would get access to what.
211	Chair Burdick	Inquires why this is necessary if there is already access.
214	Whitfield	Explains that HB 2156 allows Oregon to have a voice in the process of ratifying the Compact.
236	Chair Burdick	Closes the public hearing on HB 2156 and adjourns the meeting at 4:55 p.m.

## **EXHIBIT SUMMARY**

- A. SB 1041, -4 amendment, staff, 3 pp
- B. HB 2742A, written testimony, Troy Costales, 2 pp
- C. HB 2742A, written testimony, Scott Bricker, 3 pp
- D. HB 2599A, -A4 amendment, staff, 4 pp
- E. HB 2599A, -A5 amendment, staff, 9 pp
- F. HB 2667, written testimony, Pat Schreiner, 2 pp
- G. HB 2156, written testimony, Patricia Whitfield, 3 pp
- H. SB 65, -3 amendment, staff, 1 p
- I. HB 2359A, -A2 amendment, staff, 4 pp
- J. HB 2599A, written testimony, Genoa Ingram, 1 p