

HOUSE AND SENATE COMMITTEE ON JUDICIARY

June 09, 2005
1:00 P.M.

Hearing Room 357
Tapes 161 - 164

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

MEMBERS VISITING: Rep. Wayne Krieger, Chair
Rep. Greg McPherson, 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
Dale Penn, Committee Assistant

MEASURES/ISSUES HEARD:
HB 2485 – Public Hearing
SB 907 – 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 161, A		
003	Chair Krieger	Calls the meeting to order at 1:18 p.m. and invites testimony from witnesses on the methamphetamine package bill. Opens a public hearing on HB 2485 and SB 907. Accepts written testimony from Bruce Bishop on SB 907 and HB 2485 (EXHIBITS A & B). Opens up a joint public hearing on SB 907 and HB 2485.
HB 2485 & SB 907 – PUBLIC HEARING		
011	Hardy Meyers	Oregon Attorney General. Submits testimony and testifies in support of SB 907 and HB 2485 (EXHIBIT C). Talks about the necessity for prevention in battling the meth epidemic.
050	Meyers	Discusses pseudoephedrine and its use in the production of meth: the need for regulating its uses.
084	Steven Briggs	Chief Counsel, Department of Justice. Testifies in support of HB 2485 and suggests that there might be an aspect of the bill that is overly broad. Talks about a proposed amendment addressed in

		their testimony (Exhibit C).
106	Chair Burdick	Commends the witnesses on finding a loophole in the bill and stresses the need to fix the possible problem. Asks about the precursor control issue: banning pseudoephedrine tablets in order to combat meth production.
125	Meyers	Discusses the report from the Drug Enforcement Administration that declares that liquid, gel, and tablet forms of pseudoephedrine can all be used for meth production: articulates the possibility that the state is heading towards an outright ban on all forms of the chemical.
146	Chair Krieger	Inquires about making the hard tablets prescription only.
158	Meyers	Agrees with the method discussed.
167	Chair Krieger	Comments on the alternative drugs taking the places of pseudoephedrine-based pharmaceuticals.
191	Una Swanson	Department of Human Services. Commends the work of the Meth Task Force. Submits testimony and talks about the -3 amendment for SB 907 (EXHIBIT D).
224	Chair Burdick	Asks about if a child who was exposed to the fumes in a meth lab would be covered under this bill.
232	Swanson	Replies that they believe it would be covered under the criteria of the bill.
243	Sue Abrams	Children, Adults, and Families, Department of Human Services. Testifies on their concerns over possible conflicts and drafting language choices in HB 2485.
284	Chair Krieger	Wonders about the frequency of food stamp suspensions due to violation of parole, agreements, or recovery programs.
292	Abrams	Stresses that it is most likely occurring infrequently. Talks about the repercussions that are possibly handed out because of this offense.
313	Rep. Wirth	Inquires what is the single largest demographic for food stamps.
319	Abrams	Replies that the largest demographic is most likely single mothers.
347	Craig Durbin	Oregon State Police, Drug Enforcement Division. Submits a testimony packet on the meth epidemic and testifies in support of SB 907 and HB 2485 (EXHIBIT E).
370	Durbin	Talks about the telltale signs of meth production and meth waste dump sites.
410	Durbin	Addresses the waste problem resulting from the meth epidemic.
TAPE 162, A 012	Durbin	Discusses the abuse of pseudoephedrine products being a law enforcement support issue. Declares that the border counties have residents who are exiting the state to purchase the banned-pseudoephedrine products.
053	Durbin	Talks about the website addressed in his testimony that posts different recipes for meth production.
078	Durbin	States that gel caps can now be properly ‘cooked’ to produce 68% pseudoephedrine.
120	Durbin	Discusses the drafting choices for SB 907 that might not apply to some meth-super lab techniques.
157	Sen. Prozanski	Inquires about the purity of pseudoephedrine from the liquid medication form.
162	Durbin	Declares that he is not sure about the purity of pseudoephedrine in the liquid forms. Talks about the process of gathering pseudoephedrine from the liquid forms.

188	Rep. Thatcher	Comments on the statement “abuse and statement data are not encouraging” on page 3 of the report from the Oregon High Intensity Area, an Executive Summary, and the statement of how “the Oregon medical marijuana law creates” difficulty in law enforcement methods against the meth epidemic.
194	Durbin	Clarifies the statement and agrees that the medical marijuana exemptions make it more difficult to enforce the laws.
212	Rep. Thatcher	Inquires if illegal aliens are trafficking the drugs and if the federal government can be used to assist Oregon’s law enforcement.
225	Durbin	Talks about the methods used by Oregon law enforcement and how the relationship with the federal government is utilized.
253	Rep. Thatcher	Inquires about the inability of Oregon to enforce the immigration laws.
259	Durbin	Replies that this particular problem is facing the entire nation; it is not specific to Oregon.
270	Chair Burdick	Wonders if meth has always been made from pseudoephedrine.
273	Durbin	Responds that it has not always been created by pseudoephedrine; discusses the earlier methods of production (1970’s in California).
283	Rob Bovett	Legal Counsel, Oregon Narcotics Enforcement Association. Clarifies the methods and terms used in relation to meth production.
287	Chair Burdick	Asks if there are other methods, besides using pseudoephedrine, which might be employed to create new batches of meth.
299	Durbin	Replies that there is always the chance of another designer drug becoming available (from other base chemicals/materials).
326	Durbin	Talks about the crystal form of meth. Stresses that law enforcement is very scared of this particular form due to its effects on children (going from smoking cigarettes to smoking crystal meth is a small step).
339	Chair Burdick	Inquires if the meth is pre-made in Mexico and carried across the border.
340	Durbin	Responds yes.
348	Bovett	Submits testimony and testifies in support of HB 2485 with the proposed amendments (EXHIBIT F). Talks about the latest student-produced/directed anti-meth commercials.
380	Bovett	States that Oregon ranks number 49 in treatment resources for meth addiction while ranking number 4 in meth addiction. Talks about the problems with losing 45% of the narcotics officers because of budget problems over the past few years.
419	Bovett	Discusses the legislative actions taken by the United States Congress (led by Oregon delegates) to combat meth.
440	Bovett	Continues his discussion on pseudoephedrine and the meth epidemic PowerPoint presentation.
TAPE 161, B		
017	Bovett	Talks about the difference between the small “mom and pop” labs and the super labs.
035	Bovett	Comments on the urban myths relating to meth production only coming from certain types of pseudoephedrine products: it can come from <i>any</i> of them (liquid, tablet, gel caps, time-released, etc.).
062	Chair Burdick	Inquires if he is advocating for a total ban.
064	Bovett	Talks about his stance on the issue: there is no justification for

		treating any pseudoephedrine product any differently because they're all being used to produce meth.
075	Chair Burdick	Brings up the issue of an allergy sufferer who lives 45 minutes away from the store.
078	Bovett	Discusses the problems and solution with such an issue. Stresses that the entire Sudafed line is switching from pseudoephedrine to another, safer, chemical (meth is impossible to be derived from this product).
104	Bovett	Talks about the Methamphetamine Awareness Product (MAP) that produced the videos.
128	Bovett	Begins showing the different Meth videos.
176	Chair Burdick	Commends the students who created these great videos on meth prevention.
189	Rep. Arnie Roblan	House District 9. Testifies on the meth epidemic issue. Details his personal family story involving meth abuse.
221	Rep. Roblan	Addresses section 9 of HB 2485 relating to the meth task force. Talks about a recent large meth bust in his district (Highway 101).
274	Gary Schnabel	Executive Director, Oregon Board of Pharmacy. Submits personal testimony, written testimony from Blake Rice, President of the Oregon Board of Pharmacy, and testifies in support of HB 2486 and SB 907 (EXHIBITS G & H).
330	Schnabel	Continues his discussion on the meth epidemic. Talks about the most recent Board of Pharmacy meeting where liquid and gel cap pseudoephedrine production into meth was discussed.
372	Chair Burdick	Asks how long it would take to place all the products that could be used to produce meth behind the counter.
376	Schnabel	Replies that such an act could be done within a month or two but possibly even less if an emergency was declared.
381	Chair Burdick	Inquires if these new chemicals used in allergy and cough medications have fewer side effects than pseudoephedrine.
386	Schnabel	Replies yes. Continues his testimony on the meth epidemic along with the Oregon Board of Pharmacy's recommendations.
TAPE 162, B		
022	Schnabel	Stresses that the Oregon Board of Pharmacy does not support a full ban, and lists the reasoning behind such a stance. Declares that all chemicals should be treated the same by law (liquid, gel caps, etc.).
034	Sen. Walker	Explains her hesitance to support a total ban of these medications. Asks about the different controlled substance schedules.
043	Schnabel	Details the scheduling system for controlled substances. States that there is one meth drug on the market used for Attention Deficit Disorders.
071	Chair Burdick	Asks what schedule pseudoephedrine would be under.
073	Schnabel	Replies that the Board has not made a decision, but declares that it would be either a Schedule 2, 3, or 4.
088	Schnabel	Talks about Vicadin in the scheduling system.
121	Sen. Walker	Discusses the dangers of Vicadin.
111	Rep. Thatcher	Inquires about when these meth cooks might begin making their own pseudoephedrine.
130	Schnabel	Stresses that law enforcement has to keep up with the newer methods and address them as they arrive. Declares that the newer chemicals cannot be converted to pseudoephedrine.

154	Nancy Miller	Deputy State Court Administrator, Oregon Judicial Department. Submits testimony from Chief Justice Wallace P. Carson and testifies in support of SB 907 and HB 2485 (EXHIBIT I). Talks about the drug courts and their usefulness in halting recidivism rates and the meth epidemic.
190	Miller	Continues reading the testimony from Chief Justice Wallace P. Carson on the necessity of the drug court system.
220	Sen. Walker	Talks about testimony from Ron Saxton who believes that Measure 11 should be applied to individuals who abuse meth. Clarifies the idea that Drug Courts get people off drugs with over a 90% success rate.
239	Rep. Thatcher	Inquires about a perpetuating payment schedule for drug court graduates.
248	Miller	Dictates the importance of requiring as much payment as possible from drug court graduates who can afford to pay for it.
261	Craig Prins	Executive Director, Criminal Justice Commission (CJC). Talks about the drug court grants that may become available.
292	Miller	Comments on page 23 of HB 2485 relating to the grant language.
316	Miller	Testifies in SB 907 relating to a court modifying parenting time if the parent is abusing an illegal substance.
339	Rep. Flores	Discusses past testimony relating to the asset forfeiture bills passing through the Legislature that would set aside funds for the courts system.
346	Miller	Relates that she is neutral on asset forfeiture.
353	Prins	Expresses support for the asset forfeiture legislation, and mentions that the CJC also serves as the asset forfeiture oversight committee.
390	Paul Snider	Association of Oregon Counties (AOC). Testifies in conceptual support of the SB 907 and HB 2485 with amendments, though AOC has not been able to fully review the amendments.
454	Kevin Mannix	Attorney in Salem. Testifies in support of SB 907 and HB 2485. Stresses the importance of relief nurseries.
TAPE 163, A		
020	Mannix	Talks about possible scenarios and methods that could assist the battle against meth.
049	Mannix	Argues for the hiring of 25 District Attorneys whose main purpose is to attack the meth epidemic by being sworn in as Special Assistant US Attorneys who can prosecute in federal courts.
070	Sen. Walker	Declares her support for the idea of taking those 25 District Attorneys and swearing them as Assistant United State Attorneys in order to access resources.
084	Mannix	Urges the committee to not wait for federal money but instead demand the money from the general funding.
096	Sen. Whitsett	Argues that this state government has a budget of 12.4 billion and such a small figure cited by the witness (\$5 million) is easily accomplished.
115	Mannix	Talks about the difficulties in preventing the meth epidemic from spreading.
130	Rep. Barker	Wonders how the federal government would agree to take these cases.
137	Mannix	Replies that the personnel would be provided by the state and how the federal government would like that aspect.
151	Sen. Whitsett	Talks about how the rural District Attorneys have been utilizing

169	John Hummel	federal resources for prosecution. Oregon Criminal Defense Lawyers Association. Submits testimony and testifies in a neutral stance on both SB 907 and HB 2485 (EXHIBIT J). Declares their support for the bills <i>as drafted</i> .
210	Hummel	Continues his discussion on meth prevention and the epidemic.
240	Hummel	Comments on the effectiveness of the drug court system.
278	Heidi Moawad	Counsel. Talks about the precursor substance issue in the bill and the possibility of including drafting that would seek to address children inside the home of a meth abuser.
301	Hummel	States that they would support such an amendment. Goes on to discuss their support for the enhanced penalties in the bill.
330	Hummel	Stresses that there is no evidence to suggest that enhanced sentencing reduces recidivism.
375	Hummel	Talks about the legal drafting problem where, if a first time offender separates meth in any fashion (placing a scoop in another bag), then they have just committed the act of manufacturing meth.
TAPE 164, A		
011	Chair McPherson	Inquires about the repackaging element of the drafting.
017	Moawad	States that the repackaging aspect of the drafting was meant to deal with situations where chemical reactions had taken place.
031	Rep. Flores	Comments on the use of food stamps to barter for meth products.
041	Hummel	Stresses that if someone commits theft, they should suffer the consequences of such an action, but that food should not be denied to them.
049	Rep. Flores	Wonders about the balance between punishment and making sure these people can still get food.
060	Hummel	Talks about the possible punishments for dealers who have the food stamps/Oregon Trail Cards in their possession.
071	Rep. Wirth	Comments on the high rate of meth use by women.
082	Hummel	Discusses the possibility of taking children away from addicted mothers, and how they struggle to find methods of weaning the women off meth without taking their children.
105	Rep. Wirth	Continues her analysis of women who are being affected by the meth epidemic: stresses the need for advanced methods of attacking the problem.
128	Hummel	Discloses the importance of battling the meth addiction primarily before any headway can be made in other programs.
153	Rep. Wirth	Inquires about the numbers of women in drug courts as opposed to men.
165	Hummel	Comments on drug courts for women and mothers.
182	Rep. Shields	House District 43. Testifies in support of SB 907 and HB 2485.
220	Rep. Shields	Continues his discussion on the meth epidemic.
250	Andrea Meyer	American Civil Liberties Union. Testifies on their concerns on HB 2485.
290	Meyer	Continues her discussion relating to their hesitance to support a bill where personal and legal information is contained of Oregonians.
308	Chair Burdick	Inquires about the possibility of pseudoephedrine becoming prescription only.
316	Meyer	Replies that such an action would alleviate their concerns. Goes on to discuss protected health information.
357	Chair Burdick	Asks about limiting the language to focus on protecting the

363	Meyer	information from being used or abused.
374	Chair Krieger	Responds that such an action would help.
		Desires a write up from the witness that would address their concerns.
392	Moawad	Talks about Legislative Counsel's expertise on this issue.
412	Meyer	Argues for notification if such information was accessed.
422	Rep. Wirth	Inquires about homes where meth was being manufactured or used, un-known, by the owners.
440	Meyer	States that there would be concerns due to the broad wording of the bills.
TAPE 163, B		
007	Sarah Vasche	Corvallis, allergy sufferer. Testifies in complete opposition to any ban on pseudoephedrine. Stresses that the alternative medications put her to sleep.
037	Tina Koteck	Children First for Oregon. Testifies in a neutral stance on HB 2485.
063	Sybil Hebb	Oregon Law Center. Submits testimony and testifies in support of HB 907 (EXHIBIT K). Talks about the concerns that the Oregon Law Center may have with the bill relating to judicial discretion on controlled substances and other areas (desires clarity on this aspect of the bill).
095	Hebb	Continues the discussion on the importance of contact to remain between parents and children embroiled in the meth epidemic.
115	Rep. Debra Boone	House District 32. Commends the two committees on their work with the meth epidemic.
145	Angela Martin	Oregon Food Bank. Submits a study on hunger, written testimony, and testifies in opposition to HB 2485 (EXHIBITS L & M).
190	Martin	Continues reading testimony in opposition to HB 2485.
233	Rep. Thatcher	Talks about the limitations of suspending food stamps to individuals who break the law. Stresses that she does not see this as a denial of food.
251	Martin	Talks about the penalties already in place dealing with fraudulent activities involving the use of food stamps.
272	Ellen Lowe	Legislative Advocate, Oregon Food Bank. Submits the federal and state regulations on food stamps (EXHIBITS N & O) and testifies in opposition to HB 2485.
322	Lowe	Talks about the lack of treatment options discussed with meth addicts: stresses the need for better communication among all levels.
365	Lowe	Mentions the importance of community and family support for those suffering from the meth epidemic. Stresses that Oregon is number 49 in prevention availability.
429	Rep. Flores	Inquires about the report handed in by Judge Larson in a previous hearing.
TAPE 164, B		
014	Lowe	Talks about the report dealing with meth introduced in a previous hearing.
028	Rep. Wirth	Inquires about how big of an impact this bill would have on the food stamp program.
043	Martin	Talks about the food stamp program.
055	Rep. Wirth	Wonders about the scope of the problem.
063	Martin	Stresses that the trading of food stamps for meth products has not been shown, through evidence, as a major problem.

071	Lowe	Discusses the food stamp program in the state.
097	Sandra Pleasant	Washington County, past meth-addict. Testifies in opposition to HB 2485. Tells her personal story involving the use of meth and other drugs.
140	Pleasant	Continues her personal story of drug addiction.
162	Cindy Finch	Mother of 6 children, past meth-addict. Testifies in opposition to HB 2485. Stresses the importance of treatment in cleaning meth from your life.
186	Rep. Wirth	Asks about documentation or proof that would prove someone used their food stamps for legal purposes as opposed to using the stamps for substance abuse (meth materials, etc.).
198	Finch	Declares that receipts can be used for such things fairly easily.
212	Chair Krieger	Raises some concerns over children being placed in recovery for meth usage.
238	Pleasant	Addresses the cons resulting from taking food stamps from meth addicts.
254	Rep. Flores	Asks about the witnesses personal stories about being in treatment choices.
268	Finch	States that she was forced into treatment and wasn't offered too many choices. Talks about the long waiting lists.
282	Pleasant	Discusses her personal story involving treatment for meth abuse.
300	Chair Krieger	Adjourns the meeting at 4:50 p.m.

EXHIBIT SUMMARY

- A. **SB 907, written testimony, Bruce Bishop, 2 pp**
- B. **HB 2485, written testimony, Bruce Bishop, 2 pp**
- C. **HB 2485, written testimony, Hardy Meyers, 5 pp**
- D. **SB 907, written testimony, Una Swanson, 1 p**
- E. **HB 2485 & SB 907, written testimony, Craig Durbin, 12 pp**
- F. **HB 2485 & SB 907, written testimony, Rob Bovett, 32 pp**
- G. **HB 2485 & SB 907, written testimony, Gary Schnabel, 2 pp**
- H. **HB 2485 & SB 907, written testimony, Gary Schnabel, 1 p**
- I. **HB 2485 & SB 907, written testimony, Nancy Miller, 2 pp**
- J. **HB 2485 & SB 907, written testimony, John Hummel, 4 pp**
- K. **SB 907, written testimony, Sybil Hebb, 3 pp**
- L. **HB 2485 & SB 907, Study on hunger, Angela Martin, 19 pp**
- M. **HB 2485, written testimony, Angela Martin, 1 p**
- N. **HB 2485 & SB 907, Food Stamp Act, Ellen Lowe, 2 pp**
- O. **HB 2485 & SB 907, Federal Food Stamp Statute, Ellen Lowe, 2 pp**