

HOUSE COMMITTEE ON RULES AND PUBLIC AFFAIRS

July 31, 2003 Hearing Room E
1:30 PM Tapes 105 -107

MEMBERS PRESENT: **Rep. Dan Doyle, Chair**
 Rep. Linda Flores, Vice-Chair
 Rep. Laurie Monnes Anderson, Vice Chair
 Rep. Vic Backlund
 Rep. Phil Barnhart
 Rep. Betsy L. Close
 Rep. Joanne Verger

STAFF PRESENT: **Cara Filsinger, Administrator**
 Janet Adkins, Administrator
 Rick Berkobien, Administrator
 Ray Kelly, Administrator
 Annetta Mullins, Committee Assistant

MEASURE/ISSUES HEARD: **HB 3654 – Public Hearing and Work Session**
 SB 751 A – Work Session
 SB 912 A – Public Hearing and Work Session
 HB 2356 A – Work Session
 SB 918 – Public Hearing and Work Session
 HB 3587 – 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 105, A 004	Chair Doyle	Calls meeting to order at 1:34 p.m., announces order agenda items will be considered, and opens a public hearing on HB 3654.
<u>HB 3654 – PUBLIC HEARING</u>		
015	Sen. Vicki Walker	District 7. Testifies in support of HB 3654. Explains that HB 3654 is the same as SB 785 that passed the Senate by a unanimous vote in May. States she has worked on this bill to get the right language and has buyoff by the insurance lobby in the building. Submits copies of Title IX, Women's Health and Cancer Rights Act of 1998 (EXHIBIT A) and reviews the requirements for coverage under the federal law, and history in Oregon of the required coverage. Reviews provisions of HB 3654 and gives examples of covered procedures under the provisions of HB 3654.
080	Amy Hanlon	A breast cancer survivor, Portland. Testifies in support of HB 3654 (EXHIBIT B).
123	Rep. Diane Rosenbaum	District 42. Testifies in support of HB 3654 (EXHIBIT C). Explains that she and Sen. Walker were co-chairs of the Oregon Women's Health and Wellness Alliance, a bi-partisan group of legislators and advocate promoting issues that will benefit women's health and safety.
164	Rep. Rosenbaum	States that the Patients' Protection Act of last session was not in effect when Hanlon had her surgery. The Act requires

		independent review of insurance companies' decisions and that will help people like Hanlon if they feel their treatment is inappropriately denied by an insurance company. Thinks the bill is a true bi-partisan effort.
201	Marcia Kelley	Women's Rights Coalition of Oregon. Testifies in support of HB 3654. States that the bill will be a comfort for women as they are going through decisions about breast cancer and breast cancer treatment to know if they have to have surgery they won't have to keep jumping through hoops. Hopes the bill will help Oregon women in making those medical decisions with their doctors.
222	Chair Doyle	Closes the public hearing and opens a work session on HB 3654.
<u>HB 3654 – WORK SESSION</u>		
224	Rep. Flores	MOTION: Moves HB 3654 to the floor with a DO PASS recommendation.
		VOTE: 6-0-1
		AYE: In a roll call vote, all members present vote Aye.
		EXCUSED: 1 - Rep. Close
	Chair Doyle	The motion CARRIES.
		SPEAKER MINNIS will lead discussion on the floor.
224	Chair Doyle	Closes the work session on HB 3654 and opens a work session on SB 751 A.
<u>SB 751 A – WORK SESSION</u>		
250	Chair Doyle	Comments that the SB 751-A14 amendments (EXHIBIT D) are slightly different than the SB 751-A9 (SEE EXHIBIT A OF JULY 24, 2003 COMMITTEE MINUTES) on remedial actions definition to that which is currently in statute, and the Governor's designee has been removed.
283	Sen. Rick Metsger	District 26. Comments that Chair Doyle has done an excellent job in providing a composite of the issues he and Sen. Carter brought forth in their previous amendments and he supports the SB 751-A14 amendment.
298	Chair Doyle	Explains the reason for the SB 751-A14 amendments.
317	Rep. Monnes Anderson	Asks for clarification of representation on the committee.
	Sen. Metsger	Responds that the amendments do not change the membership.
331	Chair Doyle	Notes that Rep. Hansen had offered the SB 751-A10 amendments (EXHIBIT B OF COMMITTEE MINUTES DATED JULY 24, 2003).
344	Rep. Flores	MOTION: Moves to ADOPT SB 751-A14 amendments dated 7/31/03.
348		VOTE: 7-0-0
	Chair Doyle	Hearing no objection, declares the motion CARRIED.
352	Rep. Flores	MOTION: Moves SB 751 A to the floor with a DO PASS AS AMENDED recommendation.
356	Rep. Monnes Anderson	Comments she hopes the Willamette River cleanup will progress more rapidly with this bill.
364	Rep. Barnhart	States he agrees with the comments by Rep. Monnes Anderson, and that he still has some concern about the construction of the membership, which Rep. Hansen raised but will not oppose the bill.
390	Chair Doyle	Comments that he shares the concerns about Oregon having to stand behind the federal government to find out when our harbor

will become a priority for funding. Believes it would make sense to pursue other alternatives if they are available. States he thinks the authority is a good idea to try to accomplish that and that is why he was interested in removing the Governor's designee as one of the members. If this is going to have the punch needed to clean up the river in a more expeditious manner than what we are currently experiencing, the Governor and the legislators have to be there.

415

Chair Doyle

VOTE: 7-0-0

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

REP. MONNES ANDERSON will lead discussion on the floor.

426

Chair Doyle

Closes the work session on SB 751 A and opens a public hearing on SB 912 A.

SB 912 A – PUBLIC HEARING

438

Mark Nelson

Glass Packaging Institute. Explains that this bill was originally HB 3144 and passed the House with four negative votes. It would have eliminated the requirement for 50 percent recycling content. Reviews history of the issues in SB 912 in previous legislative sessions. States that Oregon and California are the two states that had a requirement for 50 percent recycled content; California repealed their requirement because they did not have the cullet to get to the 50 percent level. The City of Portland has gone to a mixed cullet which makes it more difficult. States they wanted to delete the 50 percent requirement effective on January 1, 2003, but have worked with the recyclers and the Department of Environmental Quality (DEQ) and have agreed to the postponement of the 50 percent requirement until 2008 on the chance that there will be technology that will make the separation of the cullet easier.

TAPE 106, A

027

Doug Meyers

Association of Oregon Recyclers. Testifies in support of SB 912 A. States they are in support of extending the deadline for four more years.

033

Chair Doyle

Closes the public hearing and opens a work session on SB 912 A.

SB 912 A – WORK SESSION

039

Rep. Flores

MOTION: Moves SB 912 A to the floor with a DO PASS recommendation.

044

Rep. Barnhart

Comments that the lack of other witnesses leads him to believe that this is also agreed to by other interested parties and he will support it.

046

Chair Doyle

Comments that SB 912 A is a remake of HB 3144 which passed the House by a vote of 48-4 vote.

054

Chair Doyle

VOTE: 7-0-0

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

057

Chair Doyle

MOTION: Moves SB 912 A be placed on the CONSENT CALENDAR.

058

Chair Doyle

VOTE: 7-0-0

Hearing no objection, declares the motion CARRIED.

059 Chair Doyle Closes the work session on SB 912 A and opens a public hearing on SB 918.

SB 918 – PUBLIC HEARING

060 Bill Linden Representing Linn County. Explains that SB 918 was HB 3274 that came from the General Government Committee on a unanimous vote, passed the House with one no vote, was caught in issues in the Senate committee, and reintroduced by the Senate Rules Committee. Asks that Rick Partipilo from Linn County describe the bill.

072 Rick Partipilo Environmental Health Program Manager, Linn County, and testifying for the Linn County Board of Commissioners. Testifies in support of SB 918. Explains that the Linn County Board of Commissioners requested this legislation out of concern for food safety in the hope of correcting an apparent oversight in the existing statute relating to inspection of mobile food units. Mobile food units are the only food service establishments that may operate in Oregon without an assurance of regular inspections. Explains that operators of these units obtain a license from one county and operate in many other counties throughout the state, most in the Valley, without notice to the county in which they are operating in. SB 918 would require that operators of these units provide notice to the local health department of the county they are operating in. The county health office would then have the option of making an inspection.

096 Rep. Close Notes that the original bill came out of Business, Labor, and Consumer Affairs Committee and did have wide support.

108 Rep. Barnhart Comments he is appreciative of having this bill because he eats food that has been produced in these mobile units.

113 Rep. Monnes Anderson Partipilo Asks if this is a problem for the mobile units that travel the state.

Responds that they don't have data on how many units travel. Estimates that about 10 percent are nomadic and would be affected by this bill.

122 Chair Doyle Closes the public hearing and opens a work session on SB 918.

SB 918 – WORK SESSION

124 Rep. Flores **MOTION: Moves SB 918 to the floor with a DO PASS recommendation.**

126 **VOTE: 7-0-0**

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

Chair Doyle

129 Chair Doyle **MOTION: Moves SB 918 be placed on the CONSENT CALENDAR.**

130 **VOTE: 7-0-0**

Hearing no objection, declares the motion CARRIED.

Chair Doyle

130 Chair Doyle Closes the work session on SB 918 and opens a public hearing on HB 3587.

HB 3587 – PUBLIC HEARING

137 Ted Hughes Motion Picture Association of America. Testifies in support of

		HB 3587(EXHIBIT E) with the HB 3587-2 amendments (EXHIBIT F).
	Chair Doyle	Asks why this needs to be considered a Class C felony because trespass is a misdemeanor under most circumstances.
	Hughes	Responds this goes beyond trespass; it is theft of personal property and believes most of that is in the felony area. States that one of the concerns about this bill was by the Department of Justice. Phil Lemman was concerned initially about how much prosecution would take place. Believes there no more than one or two cases a year would be brought in Oregon. The idea is the law is there and sends the message the industry wants to send.
175	Rep. Barnhart	Asks if there is a fiscal impact.
195	Chair Doyle	Notes the Fiscal Impact Statement on the HB 3587-2 amendments that says the fiscal impact is expected to be minimal (EXHIBIT G).
211	Chair Doyle	Comments that new CELL phone technology has the capability to take photographs, and asks how to draw the line when someone records the movie while in the theater to send to the black market.
223	Hughes	Responds he does not know the answer. States that the Department of Justice asked the Motion Picture Association of America’s general counsel the question. Believes this is a bill that will send a message and will be there in case it happens.
218	Andrea Meyer	Legislative Director, ACLU of Oregon. States they are concerned about this bill. Stats that the penalty for a C felony is five years. Trespassing is normally a C or B misdemeanor. Criminal trespass in the second degree (ORS 164.245) is a C misdemeanor and six months maximum. There is a huge difference between what is normally trespass in the second degree and entering a premise.
254	Chair Doyle Meyer	Asks how they reconcile trespass with theft. States that ORS 164.875 says it is already unlawful to do video tape recordings. If someone tapes and sells or offers to sell, it is a B misdemeanor.
258	Rep. Barnhart Meyer	Asks if it is already a crime to tape a movie in the manner HB 3578 contemplates. Responds that she does not practice criminal law and has not been able to review the entire statute to be able to inform the committee.
271	Rep. Barnhart Meyer	Comments that if it is already a crime to tape or attempt to tape a movie in a situation like that, then the person has committed a burglary by going there for the purpose of taping the movie. Asks if that is a Class C felony. Responds that she cannot tell this committee that going in and taping is already a crime. If someone goes in and tapes and attempts to sell the tape, that is clearly a crime. Adds that there is a flaw in Section 1 of the bill. It only says one commits the crime while the person is in possession of a device—if the person knowingly carries the device into the facility—it doesn’t require that they turn it on, that they record, or have any intent to subsequently obtain that motion picture. Suggest that if the committee wishes to proceed with the bill, she urges the

314 Chair Doyle committee to require that there be an intentional intent to tape. Comments he also has concerns about the issues Meyer brings up, and others. States that the bill relates to firearms and assures everyone that the bill is not being considered for anything except the subject of the proposed amendments.

334 Chair Doyle Closes the public hearing on HB 3578 and opens a work session on HB 2356 A.

HB 2356 A – WORK SESSION

339 Chair Doyle Notes that the committee has HB 2356–A3 amendments **(EXHIBIT H)** and that there is no expenditure impact. Because the amendments are different than what the committee has seen before, he wants to have additional discussion on the record.

362 John DiLorenzo Representing Portland General Electric. Testifies in support of HB 2356 A **(EXHIBIT I)** with the HB 2356-A3 amendments **(EXHIBIT H)**.

TAPE 105, B

005 DiLorenzo Continues presentation of his testimony **(EXHIBIT I)**.

048 Rep. Monnes Anderson Asks what would prohibit Enron from distributing their debts.

058 DiLorenzo Responds that ratepayers are only responsible for the rates; Enron cannot distribute its debts to anyone. Explains corporate structure and bankruptcy proceedings considerations.

090 Rep. Monnes Anderson DiLorenzo Asks if PGE has any liabilities

114 Rep. Monnes Anderson DiLorenzo Responds that PGE has contingent liabilities. Explains the liabilities have been reserved for and PGE’s filing with the Securities Exchange Commission make it clear how they have reserved for each of the lawsuits in which they are named as a party.

114 Rep. Monnes Anderson DiLorenzo Asks if it would be best to have PGE remain a subsidiary of Enron.

114 Rep. Monnes Anderson DiLorenzo Responds that PGE is a very well financed, well operated company; it is the jewel of all Enron assets. Comments on how the Enron bankruptcy may be resolved.

135 Rep. Monnes Anderson DiLorenzo Asks if Enron is going to sell PGE.

135 Rep. Monnes Anderson DiLorenzo Responds he cannot answer that question. He does not represent Enron.

145 Rep. Monnes Anderson DiLorenzo Asks if this bill would take the City of Portland out as a perspective buyer.

145 Rep. Monnes Anderson DiLorenzo Responds no. He believes this bill would enhance the bidding process. States many people feel that the saber of condemnation does nothing more than dampen the extent of bids that might be derived from the private sector because who would want to pay a premium for PGE when a city was threatening condemnation of the assets. Believes this bill would focus the City of Portland on other options.

159 Rep. Monnes Anderson DiLorenzo Asks what the reason is for the bill.

159 Rep. Monnes Anderson DiLorenzo States that members of the Portland City Council made it very clear that they intend to keep condemnation of the assets as a viable option. Explains how the bill protects the citizens who are

185	Rep. Barnhart DiLorenzo	<p>served by PGE.</p> <p>Asks if condemnation would be different than acquisition through bankruptcy.</p> <p>Responds that it is his understanding that the city cannot own shares of a corporation. If the city should acquire PGE, it would require the city to engage in some kind of transaction that would result in it possessing the assets. Were PGE to remain an Oregon corporation, then PUC approval would still be required for changes of control and for approval of rates. Were the assets to be owned by the City of Portland, the PUC would have no jurisdiction over rate making because of the municipal nature of the ownership. In that case, some of his points would be applicable and others would not be; it would depend on the nature of the transaction.</p>
216	Rep. Barnhart DiLorenzo	<p>Asks if the same kinds of things apply to property taxes.</p> <p>Responds that it is his understanding that if a municipality owns assets located in another municipality, the assets are exempt from property taxation.</p>
242	Rep. Barnhart	<p>Comments that on page 4 of DiLorenzo's presentation, he talks about thermal plants (coal and natural gas), which cannot be condemned. Asks DiLorenzo to speak about hydro.</p>
224	DiLorenzo	<p>Comments that a statute prohibits the condemnation of thermal assets. Explains requirements for initiation of condemnation of hydro. Cites case of <u>Emerald Peoples' Utility vs. PacifiCorp</u> and comments on the issue of need. State that the court must weigh the greater public good against the least private injury that would result from the condemnation.</p>
279	Rep. Barnhart DiLorenzo	<p>Asks DiLorenzo to explain why the City of Portland cannot figure this our instead of having the legislature do it</p> <p>Responds he believes the City of Portland is reviewing the issues. They have so far spent in excess of \$500,000 on lawyers trying to come up with answers. The issue isn't whether the City of Portland feels that it would ultimately utilize condemnation or not, the issue is whether or not the City's statements and their indication that condemnation remains as a tool is enough to pose a threat to the citizens who are not residents of the City of Portland and who would be left defenseless.</p>
309	Rep. Barnhart	<p>Comments he thinks DiLorenzo has pointed out a number of problems with the PUC rules and property tax law but does not believe he has pointed out any problems with the condemnation law.</p>
342	Rep. Flores DiLorenzo	<p>Asks if condemnation by the City of Portland would affect the bidding process.</p> <p>Responds he suspects it would. Comments on subjective situations that may affect the status of PGE.</p>
389	Rep. Verger DiLorenzo	<p>Comments that the City of Portland would have to prove they have some reason for eminent domain. Asks DiLorenzo to comment on that.</p> <p>Responds that the threshold is quite low. States that the courts have made it clear that a resolution of need under ORS 35.235 creates a rebuttable presumption that there is a public need for the assets. Believes it would be hotly contested in the case of hydro assets.</p>
419	Rep. Verger	<p>Comments this would be a very, very large asset for the City of</p>

		Portland. Asks if the City of Portland would then be first in line for power from Bonneville.
428	DiLorenzo	Refers Rep. Verger to page 4 of his testimony that says that BPA preference power is already fully subscribed. BPA would have to figure out how to re-divide the pie or how it would increase prices to satisfy the new dynamic of supply and demand that would be created. Any user of PGE power should be concerned about the specter of Portland joining in the BPA power scenario.
452	Rep. Verger	Comments she has heard the argument this might set a precedent and does not see how the HB 2356-A3 amendments (EXHIBIT H) do that.
	DiLorenzo	Agrees it sets no precedent; it is designed to address a special circumstance.
TAPE 106, B		
013	Tom O'Connor	Oregon Municipal Electric Utilities. Speaks in opposition to the HB 2356-A3 amendments (EXHIBIT H). Comments that electricity is an essential public service, and there are existing protections for citizens. States this is the wrong time to take from the citizens the fundamental right to take over the public service after going through the legal proceeding. States he is concerned the amendments set a precedent.
072	Chair Doyle	Asks what redress PGE customers who are citizens outside the City of Portland would have.
	O'Connor	States he doesn't think this goes to the governance issues. Agrees there are legitimate questions around how to restructure a public entity to encompass the various communities in the territory. This bill says you cannot get there and that is the part that is troubling.
089	Chair Doyle	Asks if O'Connor is suggesting that he as a citizen of Salem only has to go to the City of Portland Council and expect to get a response.
099	O'Connor	States he thinks there are legitimate governance issues that would need to be looked at if a publicly owned utility were formed. States that if this right is taken away, there is ultimately no protection for citizens in Salem or anywhere else from the potential of abuses.
111	Rep. Backlund	Asks if condemnation might be more frightening than not knowing what is going to happen with Enron.
124	O'Connor	Responds that there are no answers to a lot of questions. If we don't have answers, we ought not to close off options.
152	Rep. Backlund	States that O'Connor commented this was setting a precedence and he doesn't see that in the amendment.
160	Rep. Verger	Reads the HB 2356-A3 amendment (EXHIBIT H) and asks how that language would keep the City of Coos Bay from being dissatisfied with Pacific Power.
170	O'Connor	Responds that one person's narrow exception is another person's slippery slope to broad preemptions. Their concern would be if you do it in this case, it would be easy to change the population number and preempt Coos Bay.
181	Rep. Verger	Comments she cannot imagine this bill interfering with anyone forming their own PUD or going through the process, and cannot see how the HB 2356-A3 amendments would do that.

201	Jefferson Bissonette	Citizens' Utility Board of Oregon (CUB). Testifies in opposition to the HB 2356-A3 amendments (EXHIBIT D). States that residential customers of PGE need options and we cannot afford to close doors. States that we seem to see a high level of intent to try to prevent a Portland problem; we have an Enron problem and we need the customers of PGE out from under that Enron problem and we cannot afford to close doors in order to do that.
	Bissonnette	Comments on the Enron proceedings and states that the consumers of PGE have no further clarity of what is going to happen to their utility and the State of Oregon has no idea what is going to happen.
	Bissonnette	Comments on subjective scenarios of condemnation by other cities.
277	Bissonnette	States this is not a protection and is not in the interest of consumers. Consumers need all options.
287	Rep. Flores	Asks if the committee is being asked to provide protection of the consumers against something we do not know, then how can that be protection.
292	Bissonnette	Responds that sometimes not doing anything is the best thing and he is not sure there is a good reason to change the current policy. He would ask that the committee do no harm and not act on the amendments.
	Rep. Flores	Asks what happens to the ratepayers that are outside the Portland City proper.
312	Bissonnette	Responds that CUB represents all residential ratepayers. States that if the City of Portland were to purchase PGE, he agrees there is an issue of how to get representation of the citizens of the other 49 cities in the PGE territory. States they are not seeing amendments to prohibit the public acquisition of PGE by the City of Portland or any other public entity. The same situations exist in a condemnation. States that we need every option open.
351	Rep. Verger Bissonnette	Asks if CUB had similar concerns about deregulation. Responds affirmatively. Comments that they believe Enron purchased PGE in order to demonstrate how a utility would be deregulated. Within months after purchasing PGE Enron filed a docket in front of the PUC, UE 102, which said today we have what we have and tomorrow it is everybody for themselves. Comments on efforts by CUB at that time and said it was not in the interest of ratepayers and put forth their own plan. Enron's plan was rejected by the PUC and said if we wanted to go down that path, the concepts put forth by the Fair and Clean Energy Coalition is the way to go. Comments on resulting legislation in 1999 in SB 1149.
410	Rep. Barnhart	Comments he is hearing this is a very blunt instrument to deal with all the potential problems that a condemnation might have and getting rid of it takes care of all those potential problems but it doesn't give any of the advantages of having the tool in their tool box. Asks if that is a fair summary.
420	Bissonnette Rep. Barnhart	Responds he thinks it would be a fair summary of his testimony. Asks if it is possible to have a bill that might be acceptable to CUB that would put boundaries around the governance structure of a large multi-county municipally owned or operated utility.
433	Bissonnette	Responds they would be willing to engage in the discussion.
440	Chair Doyle	Comments that he did make the offer for the City of Portland to

450	David Barenburg	come forward to answer questions and they have declined. League of Oregon Cities. Testifies in opposition to HB 2356-A3 amendments. Comments he wants to say ditto to comments by O'Connor and Bissonnette. If the issue was taking condemnation authority away from essentially any city in Oregon, they would speak in opposition because they think it is an authority that has been important for many cities for many purposes sparingly over time but for important purposes, and they think it has been handled in a very property way by cities. Would agree there are many issues raised in the issue but there are many mechanisms for discussion and addressing the problems. They would rather have the discussions and it would be beneficial to maintain the options on the table.
TAPE 107, A		
013	Rep. Flores	MOTION: Moves to ADOPT HB 2356-A3 amendments dated 7/2/03.
015	Chair Doyle	VOTE: 7-0-0
017	Rep. Flores	Hearing no objection, declares the motion CARRIED. MOTION: Moves HB 2356 A to the floor with a DO PASS AS AMENDED recommendation.
021	Rep. Monnes Anderson	Comments in opposition to the motion.
040	Rep. Barnhart	Comments in opposition to the motion.
095	Rep. Verger	Comments in support of the motion.
122	Rep. Flores	Comments in support of the motion.
136	Rep. Backlund	Speaks in support of the motion.
159		VOTE: 5-2-0 AYE: 5 - Backlund, Close, Flores, Verger, Doyle NAY: 2 - Barnhart, Monnes Anderson
164	Chair Doyle	The motion CARRIES. REP. DOYLE will lead discussion on the floor.
167	Chair Doyle	Closes the work session on HB 2356 A and adjourns meeting at 3:42 p.m.

EXHIBIT SUMMARY

- A – HB 3654, Title IX, Women’s Health and Cancer Rights Act of 1998, Sen. Walker, 3 pp**
- B – HB 3654, prepared statement, Amy Hanlon, 1 p**
- C – HB 3654, prepared statement, Rep. Rosenbaum, 2 pp**
- D – SB 751, SB 751-A14 amendments, Rep. Doyle, 1 p**
- E –HB 3587, prepared statement, Ted Hughes, 1 p**
- F – HB 3587, HB 3587-2 amendments, Ted Hughes, 2 pp**
- G – HB 3587, Legislative Fiscal Statement, staff, 1 p**
- H – HB 2356, HB 2356-A3 amendments, John DiLorenzo, 1 p**
- I – HB 2356, prepared statement, John DiLorenzo, 5 pp**