

# SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

May 2, 2001  
1:00 PM

Hearing Room B  
Tapes 109 - 111

**MEMBERS PRESENT:**     **Sen. Bill Fisher, Chair**  
                                  **Sen. Margaret Carter, Vice-Chair**  
                                  **Sen. Gary George**  
                                  **Sen. Frank Shields**  
                                  **Sen. Ken Messerle**

**STAFF PRESENT:**       **Rick Berkobien, Administrator**  
                                  **Andrew Morris, Committee Assistant**

**MEASURES HEARD:**       **SB 910 Work Session**  
                                  **SB 567 Work Session**  
                                  **SB 9 Work Session**  
                                  **SB 45 Public Hearing and Work Session**  
                                  **SB 482 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.

---

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 109, A</b>		
004	Chair Fisher	Calls meeting to order at 1:20 p.m. and opens a work session on SB 910.
<b><u>SB 910 WORK SESSION</u></b>		
007	Rick Berkobien	Administrator. Explains SB 910 to the committee.
013	Dr. Michael Skeels	State Public Health Laboratory. Reviews health screening tests.
020	Chair Fisher	Comments on the language of SB 910.
050	Skeels	Reviews ORS 438.
070	Chair Fisher	Provides personal opinion. Asks if the language narrows the scope of testing.
080	Skeels	Responds no.
092	Sen. George	Asks what is wrong with the bill.
095	Skeels	Responds the problem is that the bill is not clear in intent.
106	Chair Fisher	Reviews the intent of SB 910.
111	Skeels	Reiterates concerns.
116	Sen. George	Asks about the discretion of labs.
121	Skeels	Responds labs have their own discretion.
126	Sen. Carter	Asks if the agency needs clear direction from the committee.
132	Skeels	Reviews current practices.
156	Chair Fisher	Comments on various medical tests. Clarifies his intents with SB 910.
189	Skeels	Reviews tests that can be done with blood samples.
205	Chair Fisher	Reiterates the intention of SB 910.
224	Skeels	Reiterates the need for clear direction in SB 910.
235	Chair Fisher	States the issue can be worked on during the interim.
269	Chair Fisher	Closes the work session on SB 910 and opens a work session on SB 567.
<b><u>SB 567 WORK SESSION</u></b>		

288	Berkobien	Explains SB 567 to the committee.
384	Chair Fisher	Puts the committee at ease at 1:45 p.m.
385	Chair Fisher	Calls meeting back to order at 1:50 p.m.
<b>TAPE 110, A</b>		
000	Chair Fisher	States the intention of SB 567 is to work with incontinent supplies..
023	Grover Simmons	Representing Adult Foster Homes. Comments on a past rule making hearing at Senior and Disabled Services Division (SDSD).
036	Chair Fisher	Comments on the affects of single source contracts in rural areas.
041	Tom Holt	Oregon State Pharmacy Association. Comments on the –2 amendments.
<b>054</b>	<b>Sen. Carter</b>	<b>MOTION: Moves to ADOPT SB 567-2 amendments dated 04/17/01.</b>
		<b>VOTE: 5-0</b>
		<b>AYE: 5 - Carter, George, Messerle, Shields, Fisher</b>
<b>056</b>	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>
<b>057</b>	<b>Sen. Carter</b>	<b>MOTION: Moves SB 567 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 5-0</b>
		<b>AYE: 5 - Carter, George, Messerle, Shields, Fisher</b>
<b>065</b>	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>
066	Chair Fisher	Closes the work session on SB 567 and opens a work session on SB 9.
<b><u>SB 9 WORK SESSION</u></b>		
068	Berkobien	Explains SB 9 to the committee.
090	Holt	Comments on SB 9.
107	Wayne Kragen	Dean, Oregon State University School of Pharmacy. Testifies in support of SB 9.
118	Sen. Carter	Comments on the –2 amendments.
127	Connie Sealy	Legislative Director, Senate Democratic Office. Reviews the –2 amendments.
142	Chair Fisher	Comments on the costs of the –2 amendments.
146	Sealy	States that there is a proposed dispensing fee modeled after California’s law. Explains <b>(EXHIBIT A)</b> .
185	Chair Fisher	Comments on the costs of the –2 amendments.
194	Sen. Carter	Reviews the intention of the –2 amendments.
200	Chair Fisher	States the responsibility of prescriptions is the federal government’s.
217	Sen. Carter	Asks about the California law.
222	Sealy	Responds by explaining who supported the bill in California.
233	Sen. Carter	Asks about fiscal savings.
244	Sealy	Comments on the revenue impact. States the presented numbers are taken from the Legislative Revenue Office.
256	Sen. Carter	Comments on the intention of the –2 amendments.
262	Chair Fisher	Provides personal opinion.
266	Holt	Reviews California law. Comments on lost revenue from pharmacists. States opposition to the –2 amendments.
315	Sealy	Reviews work that has been done.
339	Chair Fisher	Provides personal opinion.
<b>344</b>	<b>Sen. Carter</b>	<b>MOTION: Moves to ADOPT SB 9-2 amendments dated</b>

		<b>03/23/01.</b>
348	Sen. Messerle	Asks about the decision to incorporate the –2 amendments.
358	Sealy	Responds she is unsure.
378	Kragen	States opposition to the –2 amendments.
		<b>VOTE: 2-3</b>
		<b>AYE: 2 - Carter, Shields</b>
		<b>NAY: 3 - George, Messerle, Fisher</b>
<b>398</b>	<b>Chair Fisher</b>	<b>The motion FAILS.</b>
<b>401</b>	<b>Sen. George</b>	<b>MOTION: Moves to ADOPT SB 9-1 amendments dated 03/16/01.</b>
		<b>VOTE: 3-2</b>
		<b>AYE: 3 - George, Messerle, Fisher</b>
		<b>NAY: 2 - Carter, Shields</b>
<b>405</b>	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>
<b>407</b>	<b>Sen. George</b>	<b>MOTION: Moves SB 9 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 3-2</b>
		<b>AYE: 3 - George, Messerle, Fisher</b>
		<b>NAY: 2 - Carter, Shields</b>
<b>421</b>	<b>Chair Fisher</b>	<b>The motion CARRIES.</b>
<b>TAPE 109, B</b>		
000	Chair Fisher	Closes the work session on SB 9 and opens a public hearing on SB 45.
		<b><u>SB 45 PUBLIC HEARING</u></b>
010	Berkobien	Explains SB 45 to the committee.
033	Jody Fischer	Oregon Academy of Ophthalmology. Testifies in support of the –5 amendments ( <b>EXHIBIT B</b> ). Comments on the agreement reached with the optometrists. States the Optometrists later reversed the agreement. Reviews the need for the –5 amendments. Comments on the –7 amendments.
092	Chair Fisher	Comments on the formulary council.
100	Fischer	Comments on topical prescriptions.
112	Chair Fisher	Provides personal opinion.
126	Peggy Anet	Health Insurance Association of America. Testifies on SB 45 ( <b>EXHIBIT C</b> ). Comments on scope of practice issues. Reviews changes made to the scope of practice by the Board of Optometry without statutory authority. States that the Board of Optometry has written their rules in the form of questions. Comments on oversight.
179	Sen. Carter	Asks for Anet’s opinion.
185	Anet	States support of the –5 amendments.
188	Jim Anderson	Oregon Medical Association (OMA). States the OMA supports the –5 amendments.
200	Sen. Messerle	Asks for the differences of the –5 and the –7 amendments.
205	Fischer	Explains the difference. Explains the impact and intention of the –7 amendments.
223	Sen. Messerle	Comments on services for patients.
242	Fischer	Follows up to Sen. Messerle’s comments. Comments on intention of the –5 amendments.
260	Anet	States the –5 amendments are not a change from current practices.
280	Sen. Messerle	States an interest in combining state boards.

295 Joan Miller President, Oregon Board of Optometry. Comments on the Board of Optometry. Describes definitions of procedures. Comments on the use of topical medications. States disagreement of the –5 amendments.

416 Sen. George Asks why the –5 amendments do not work.

421 Miller Responds the board’s attorney said the language did not work.

428 David Plunkett Oregon Board of Optometry. States the amendments do not protect Optometrists.

**TAPE 110, B**

000 Miller Comments on the –7 amendments.

010 Sen. Carter Asks how the –5 amendments could allow for the topical formulary to disappear.

018 Plunkett Gives ways the formulary could be removed. Reviews past laws.

048 Wayne Schumacher Oregon Optometrist Physician Association. Testifies in support of the –7 amendments. Explains the difference between the –7 and –5 amendments.

079 Chair Fisher Asks about the changes in administrative rules.

090 Miller Responds how the changes were made in the administrative rules.

129 Chair Fisher Asks about the changes in the rules requiring Optometrists to consult with Ophthalmologists.

137 Miller Responds the statute requires a medical doctor, not an Ophthalmologist.

149 Plunkett Provides further comments.

154 Chair Fisher Comments on the hearings to change the administrative rules.

165 Plunkett Reviews how the hearings were set up.

184 Miller Comments on the hearing process.

194 Chair Fisher Asks about the development of administrative rules.

199 Miller Gives her opinion of the administrative rule process.

225 Chair Fisher Asks if practitioners have to follow ORS even if the administrative rules do not incorporate them.

232 Miller Responds affirmatively.

257 Fischer Responds to previous testimony. Comments on the opinion of legislative counsel. States the intent of the –5 amendments is to grandfather in previous laws.

281 Anderson States agreement with Fischer. Comments on the administrative rule process.

308 Sen. Carter States her intention with the –5 amendments.

328 Chair Fisher Provides personal opinion.

**TAPE 111, A**

000 Chair Fisher Continues giving personal opinion.

058 Chair Fisher Closes the public hearing on SB 45 and opens a work session on SB 45.

**060 Sen. Carter MOTION: Moves to ADOPT SB 45-5 amendments dated 04/25/01.**

**VOTE: 2-3**

**AYE: 2 - Carter, Shields**

**NAY: 3 - George, Messerle, Fisher**

**The motion FAILS.**

**076 Chair Fisher MOTION: Moves to ADOPT SB 45-7 amendments dated 05/02/01.**

**078 Sen. George**

**VOTE: 4-1**

**AYE: 4 - George, Messerle, Shields, Fisher**

**NAY: 1 - Carter**

093	Chair Fisher	The motion CARRIES.
095	Sen. Shields	<b>MOTION: Moves SB 45 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-1</b>
		<b>AYE: 4 - George, Messerle, Shields, Fisher</b>
		<b>NAY: 1 – Carter</b>
106	Chair Fisher	The motion CARRIES.
		<b>SEN. FISHER will lead discussion on the floor.</b>
108	Chair Fisher	Closes the work session on SB 45 and opens a public hearing on SB 482.
<b><u>SB 482 PUBLIC HEARING</u></b>		
111	Berkobien	Explains SB 482 to the committee.
133	Dr. Katrina Hedberg	Oregon Health Division. Testifies in support of the –1 amendments.
141	Chair Fisher	Closes the public hearing on SB 482 and opens a work session on SB 482.
<b><u>SB 482 WORK SESSION</u></b>		
143	Sen. Carter	<b>MOTION: Moves to ADOPT SB 482-1 amendments dated 04/11/01.</b>
		<b>VOTE: 5-0</b>
		<b>AYE: 5 - Carter, George, Messerle, Shields, Fisher</b>
158	Chair Fisher	The motion CARRIES.
162	Sen. Carter	<b>MOTION: Moves SB 482 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b>
		<b>AYE: 5 - Carter, George, Messerle, Shields, Fisher</b>
177	Chair Fisher	The motion CARRIES.
		<b>SEN. CARTER will lead discussion on the floor.</b>
188	Chair Fisher	Closes the work session on SB 482 and adjourns the meeting at 3:30 p.m.

Submitted By,

Reviewed By,

Andrew Morris,  
Committee Assistant

Rick Berkobien,  
Administrator

**EXHIBIT SUMMARY**

- A – SB 9, Figure sheet, Connie Sealy, 1 p.
- B – SB 45, Written testimony, Jody Fischer, 10 pp.
- C – SB 45, Statutes and information, Peggy Anet, 11 pp.