

## SENATE COMMITTEE ON JUDICIARY

April 17, 2001 Hearing Room 343

1:00 p.m. Tapes 98 - 99

**MEMBERS PRESENT:**        **Sen. John Minnis, Chair**  
                                  **Sen. Peter Courtney, Vice Chair**  
                                  **Sen. Roger Beyer**  
                                  **Sen. Ginny Burdick**  
**Sen. Steve Harper**  
                                  **Sen. Rick Metsger**

**MEMBER EXCUSED:**        **Sen. Verne Duncan**

**STAFF PRESENT:**         **Marilyn Odell, Counsel**  
                                  **Craig Prins, Counsel**  
                                  **Annola DeJong, Committee Assistant**

**MEASURE HEARD:**         **SB 956 Public Hearing**  
                                  **SB 353 Public Hearing**  
                                  **SB 140 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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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 98, A</b>		
004	Chair Minnis	Calls the meeting to order at 1:13 p.m. and opens a public hearing on SB 956.
<b><u>SB 956 PUBLIC HEARING</u></b>		
008	<b>Sen. Rick Metsger</b>	<b>Senate District 14</b> Testifies in support of SB 956 which allows a person to bring civil action against owner or operator of equipment that causes interference with radio communications sent or received by public safety agency if interference results in injury, death or damage to plaintiff.
048	<b>Randy Bruegman</b>	<b>Chief, Clackamas County Fire District No. 1</b> Submits testimony and testifies in support of SB 956 ( <b>EXHIBIT A</b> ).
121	Sen. Beyer	Asks if the frequencies are regulated by the FCC.
126	<b>Joe Kern</b>	<b>Washington County 911</b> States the frequencies are regulated by the FCC, however the technical uses are not defined.
134	Sen. Beyer	Verifies the cell phone systems are federally licensed.
139	Kern	Agrees. Reports the effects of placing a high powered transmitter near a low powered receiver have not been tested.
147	Chair Minnis	States the question facing the committee is if there are solutions to the usage problem.

158	<b>Jeff Johnson</b>	<b>Chief, Tualatin Valley Fire and Rescue</b> Submits testimony and testifies in support of SB 956 ( <b>EXHIBIT B</b> ).
209	Chair Minnis	Mentions that SB 956 sets up an affirmative defense for the corporations against civil suits.
226	Counsel Odell	Agrees with Sen. Minnis.
234	<b>Ron Goodpaster</b>	<b>Chief, Tigard Police Department</b> Testifies in support of SB 956.
286	<b>Susan Schnider</b>	<b>City of Portland</b> Testifies in support of SB 956.
295	<b>Nancy Jesuale</b>	<b>Director of Communications and Networking, City of Portland</b> Submits testimony and testifies in support of SB 956 ( <b>EXHIBIT C</b> ).
381	<b>Charles Anderson</b>	<b>Portland Police Bureau</b> Submits testimony and testifies in support of SB 956 ( <b>EXHIBIT D</b> ).
<b>TAPE 99, A</b>		
035	Chair Minnis	Asks about the radio system used by the Portland Police Bureau.
039	Jesuale	Describes the radio system used in the metro area.
057	Chair Minnis	Inquires how often officers go into “talk groups” for tactical operations.
062	Anderson	Estimates 3 to 4 times a week.
073	Chair Minnis	Asks about communication systems failure during a pursuit.
078	Anderson	Relates his experience.
100	<b>Bob Livingston</b>	<b>Oregon State Fire Fighters Council</b> Submits testimony and testifies in support of SB 956 ( <b>EXHIBIT E</b> ).
149	<b>Lawrence Krevor</b>	<b>Nextel Communications</b> Submits testimony and testifies in opposition to SB 956 ( <b>EXHIBIT F</b> ).
335	Sen. Harper	Asks what the FCC is doing to address the cellular interference problem.
337	Krevor	Discusses how the FCC is monitoring the situation.
371	Sen. Beyer	Asks how much money has been spent on equipment by the private sector to use these frequencies.
377	Krevor	Replies, he does not know. Mentions Nextel has spent 11 billion dollars to build their network.
389	Sen. Beyer	Inquires how SB 956 would affect the consumer.
397	Krevor	Says that any changes to cellular systems would not be noticed by the consumers.
418	Sen. Mestger	Confirms Nextel recognizes that public safety communications are critical.
424	Krevor	Agrees.
444	Sen. Mestger	Inquires if Mr. Krevor is confident that immediate and long-term solutions can be found.
469	Krevor	States he has confidence this will occur.
<b>TAPE 98, B</b>		
042	Sen. Burdick	Inquires if Nextel will contribute funds to help “solve the problem.”

046	Krevor	Says they will do their “fair share.”
063	Sen. Burdick	Asks Mr. Krevor to elaborate on Nextel’s response to interference complaints.
067	Krevor	Discusses Nextel’s corporate policy
077	Chair Minnis	Asks if Nextel would sit down with the proponents of SB 956.
082	Krevor	Agrees.
088	Chair Minnis	Inquires if Nextel feels they have any civil liability.
093	Krevor	Disagrees. States these are not known defects in the system and it is operating as required per the FCC.
129	Chair Minnis	Closes the public hearing on SB 956 and opens a public hearing on SB 353.

**SB 353 PUBLIC HEARING**

141	<b>Connie Gallagher</b>	<b>Crime Victims’ Assistance Section, Oregon Department of Justice (DOJ)</b> Submits testimony and testifies in support of SB 353 which excludes consideration of crime victim’s conduct contributing to the crime victim’s death in determining compensation <b>(EXHIBITS G &amp; H)</b> .
272	Counsel Prins	Suggests further defining injuries as “non-lethal.”
281	Gallagher	Agrees.
282	Counsel Prins	Asks about the difference between “provoked” and “substantial provocation.”
292	Gallagher	Explains the differences.
302	Chair Minnis	Asks about changing “shall” to “may” on line 13, on page 1.
316	Gallagher	Says that would be acceptable.
318	Counsel Prins	Advises the committee on the issue of lethal injuries.
325	Chair Minnis	Clarifies his understanding of what the DOJ wants.
328	Gallagher	Agrees.
332	Sen. Burdick	<i>(Microphone cut out.)</i>
338	Gallagher	Confirms applications could still be denied.
353	Chair Minnis	Closes public hearing on SB 353 and opens a public hearing on SB 140.

**SB 140 PUBLIC HEARING**

366	<b>Joshua Marquis</b>	<b>Clackamas County District Attorney, Oregon District Attorney’s Association</b> Testifies in opposition to SB 140 which establishes that persons convicted of aggravated murder is not subject to the death penalty if the person is mentally retarded.
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**TAPE 99, B**

015	<b>Clarence Pugh</b>	<b>Citizen</b> Submits testimony and testifies in support of SB 140 <b>(EXHIBITS I &amp; J)</b> .
066	<b>Janna Starr</b>	<b>Oregon Developmental Disabilities Council</b> Submits testimony and testifies in support to SB 140 <b>(EXHIBITS K &amp; L)</b> .
123	<b>Don Myers</b>	<b>The Arc of Oregon</b> Submits testimony and testifies in support of SB 140 <b>(EXHIBIT M)</b> .
137	<b>Christy DeMoll</b>	<b>Citizen</b> Submits testimony and testifies in support of SB 140 <b>(EXHIBITS N – U)</b> .

217	Chair Minnis	Discusses the issue of a person with mental retardation having the ability to form mental intent.
264	Vice Chair Courtney	Inquires how the statute about insanity relates to the definition of mental retardation.
304	Marquis	Further clarifies the definition of mental retardation.
337	<b>Brenda Rocklin</b>	<b>Oregon Department of Justice</b> Submits testimony and testifies in support of SB 140 ( <b>EXHIBIT V</b> ).
435	Chair Minnis	Asks when the determination is made about a person's mental capacity during court proceedings.
445	Rocklin	Describes the process.
475	Marquis	Points out the state cannot execute someone who is not competent.
501	Chair Minnis	Closes the public hearing on SB 140 and adjourns the meeting at 3 :00 p.m.

Submitted By,                      Reviewed By,

Annola DeJong,  
Committee Assistant

Craig Prins,  
Counsel

**EXHIBIT SUMMARY**

- A – SB 956, written testimony submitted by Randy Bruegman, Chief, Clackamas County Fire District No. 1, 3 pp.**
- B – SB 956, written testimony submitted by Jeff Johnson, Fire Chief Tualatin Valley Fire and Rescue, dated 4/18/01, 21 pp.**
- C – SB 956, written testimony submitted by Nancy Jesuale, City of Portland, dated 4/17/01, 3 pp.**
- D – SB 956, written testimony submitted by Charles Anderson, Portland Police Bureau, dated 4/16/01, 1 p.**
- E – SB 956, written testimony submitted by Bob Livingston, Oregon State Fire Fighters Council, date 4/16/01, 1 p.**
- F – SB 956, written testimony submitted by Lawrence Krevor, Nextel Communications, dated 4/18/01, 8 pp.**
- G – SB 353, written testimony submitted by Connie Gallagher, Oregon Department of Justice, dated 4/17/01, 2 pp.**
- H – SB 353, written testimony from Ron Soto, submitted by Connie Gallagher, Oregon Department of Justice, dated 4/16/01, 1 p.**
- I – SB 140, written testimony submitted by Clarence Pugh, dated 4/17/01, 2 pp.**
- J – SB 140, written testimony from Claudia Burton, submitted by Clarence Pugh, dated 4/17/01, 7 pp.**
- K – SB 140, written testimony submitted by Janna Starr, Oregon Council on Developmental Disabilities, dated 4/17/01, 2 pp.**
- L – SB 140, written testimony submitted by Janna Starr, Oregon Council on Developmental Disabilities, dated 4/17/01, 3 pp.**
- M – SB 140, written testimony submitted by Don Myers, The Arc of Oregon, 2 pp.**
- N – SB 140, written testimony submitted by Christy DeMoll, 7 pp.**
- O – SB 140, written testimony submitted by Christy DeMoll, 10 pp.**
- P – SB 140, written testimony submitted by Christy DeMoll, 30 pp.**
- Q – SB 140, written testimony submitted by Christy DeMoll, 33 pp.**
- R – SB 140, written testimony submitted by Christy DeMoll, 8 pp.**
- S – SB 140, written testimony submitted by Christy DeMoll, 4 pp.**

**T – SB 140, written testimony submitted by Christy DeMoll, 22 pp.**  
**U – SB 140, written testimony submitted by Christy DeMoll, 79 pp.**  
**V – SB 140, written testimony submitted by Brenda JP Rocklin, Department of Justice, dated 4/17/01, 4 pp.**  
**W – SB 353, written testimony from Mary Ellen Johnson, dated 4/17/01, 2 pp.**  
**X – SB 353, written testimony from Anne Pratt, 3 pp.**  
**Y – SB 353, written testimony from Steve Doell, Crime Victims' United, dated 4/17/01, 1 p.**  
**Z – SB 353, written testimony from Arwin Bird, Survivors Advocating for an Effective System, dated 4/17/01, 1 p.**  
**AA – SB 353, written testimony from James Hill, Eugene Police Department, dated 4/17/01, 1 p.**