

HOUSE COMMITTEE ON AGENCY PERFORMANCE & OPERATIONS

April 8, 1999 Hearing Room E

8:30 a.m. Tapes 49 - 50

MEMBERS PRESENT: Rep. Jane Lokan, Chair

Rep. Kathy Lowe, Vice-Chair

Rep. Betsy Close

Rep. Dan Gardner

Rep. Tim Knopp

Rep. Jeff Kruse

Rep. Bob Montgomery

Rep. Kitty Piercy

STAFF PRESENT: Pat Zwick, Administrator

Susan M. Pettey, Administrative Support

MEASURES HEARD: HB 3446 Work Session

HB 2026 Public Hearing

HB 3373 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 49, A		
004	Chair Lokan	Opens meeting at 8:40 a.m., and opens work session on HB 3446.
<u>HB 3446 WORK SESSION</u>		

013	Pat Zwick	Committee Administrator. Notes the Department of Corrections' amendment and list of amendment discussion issues.
060	Chair Lokan	Discusses questions raised by members in the public hearing on HB 3446. Reminds members that Dammasch is a facility that was dedicated to serving the mentally ill. Opines that proceeds from the sale of Dammasch should be used for acquisition and maintenance, not for operating expenses.
094	Chair Lokan	Refers members to HB 3446, Section 7 (9). Discusses the definition of service provider. Addresses state agency coordination of services.
117	Rep. Lowe	Suggests conditional language relative to prison siting.
145	Rep. Close	Asks if there is a complete appraisal for the Dammasch property.
153	Chair Lokan	Answers no. Refers members to HB 3446 Section 2 (9). Reads the definition of service provider. Indicates that, under the definition, a service provider is a caregiver.
156	Doug McKeon	Legislative Counsel. Agrees with Chair Lokan.
166	Chair Lokan	Comments about further references to service providers in the proposed amendments to HB 3446.
171	McKeon	Replies that it may be helpful to include the definition of service providers. References HB 3446, page 3, line 23. Explains that HB 3446 allows the Division to provide financial assistance to housing providers or service providers. Refers to page 3, Section 7, line 23, which requires service providers to repay the fund.
177	Chair Lokan	References Section 2 (6) of HB 3446 regarding family members. Asks if the reference to "family members" in the bill relates to service providers.
188	McKeon	Answers yes.
230	Rep. Lowe	Asks about the effect on HB 3446 if the prison is sited at Dammasch.
242	McKeon	Comments that HB 3446, Section 6, page 2, states that the hospital shall be sold. Notes that Department of Corrections (DOC) has some interest in the Dammasch property. Suggests that section needs to be amended.
254	Rep. Lowe	Asks if a transfer of funds has taken place. Asks if a provision is necessary to deal with that.
258	McKeon	Agrees with Rep. Lowe.

	Rep Lowe	Asks if the legislature can interfere with a real estate contract relationship between state agencies.
268	Greg Chaimov	(Nods head in the affirmative.)
274	Rep. Montgomery	Asks if the state owns the property. Asks how the state acquired the property. Asks if the state owns the property free and clear. Asks if there is a reversionary clause. Comments that if the answer is no to any of these questions, HB 3446 is dead.
292	Bill Nickleberry	Department of Administrative Services (DAS). Explains that the title to the Dammasch property is vested in the Department of Corrections (DOC). Describes the bargain and sale deed process, resulting in title to DOC. Explains that the proceeds from the sale are in the DAS Capitol Projects Fund. Adds that the property is owned free and clear.
311	Chair Lokan	Asks about mineral rights.
316	Nickleberry	Replies that the sale of mineral rights requires approval from Division of State Lands (DSL).
332	Chair Lokan	Asks if the state usually retains mineral rights when property is sold.
336	Nickleberry	Responds that it depends on the property. Explains agency-to-agency exchange of property.
368	Rep. Kruse	Asks if language needs to be added to HB 3446 to transfer the property from DOC.
374	McKeon	Responds that statutory language is not necessary.
384	Rep. Kruse	Asks how to ensure the transfer will occur if not addressed in HB 3446.
389	Nickleberry	Explains that ORS 276.180 relates to property transfer. Indicates that if DOC is not going to site a prison, DAS can request it as surplus property. Adds that the property reverts back to DAS for disposal.
397	Rep. Kruse	Comments HB 3446 does not preclude the siting of a prison. Indicates that if DOC sites a prison on the Dammasch property, it must pay fair market value, which requires a transfer.
404	Zwick	Discusses the proposed amendment submitted by Sue Acuff with DOC. Asks if that is inserted into HB 3446, does that address Rep. Kruse's concerns.

421	Rep. Kruse	Prefers to have language that transfers the property, and if the decision to site is at Dammasch, it happens at true market value. Discusses the intergovernmental transfer of the property relative to the use of funds from the sale.
447	Rep. Lowe	Asks if the sale to DOC can be voided.
455	Rep. Kruse	Comments that the transfer was an intergovernmental agreement, which can be reversed legislatively. Describes the intent of HB 3446 as creating a trust fund. Indicates that any discussions on the disposition of the property should be in the context of current, true market value.
480	Chair Lokan	Comments on appraisals.
TAPE 50, A		
060	Rep. Lowe	States that she supports the bill conditionally. Comments on the mechanism of moving HB 3446.
076	Chair Lokan	Wants to defer the "unsiting" problem to Legislative Counsel.
081	Rep. Lowe	Comments that HB 3446 needs specific language regarding the prison siting and/or a sale at fair market value.
096	Chair Lokan	Indicates the language can state that the property is to be sold. Suggests the phrase "in the event of a sale."
103	Rep. Kruse	Disagrees. Comments that it is appropriate for the legislative branch to question decisions of the executive branch. Indicates that the siting decision was made at the expense of the mentally ill. Adds that the property should revert back so that any consideration happens at true market value. Indicates that cost is a consideration in siting a prison at Dammasch. Stresses the importance of establishing the trust fund for the mentally ill.
130	Rep. Knopp	Agrees with Rep. Kruse.
150	Chair Lokan	Suggests the amendment contain language stating that the property shall be sold at an amount to equal or exceed fair market value.
167	Rep. Lowe	Comments on potential problems, such as wetlands.
173	Chair Lokan	Indicates the necessity for language in the bill to establish a trust fund, based on the potential sale of the Dammasch property.
180	Chair Lokan	References Section 7 (6), line 16, "negotiate." Asks for clarification.

193	McKeon	Explains ORS 271.50.
199	Chair Lokan	Asks if administrative costs are negotiated.
202	McKeon	Replies he does not know, but will provide the information.
210	Chair Lokan	References the deletion of the definition of service provider.
215	McKeon	Asks if Chair Lokan wants the definition of "service provider" and "family member" deleted.
222	Chair Lokan	Responds affirmatively.
225	McKeon	Asks if Chair Lokan wants all references to service provider and family member deleted from HB 3446.
235	Chair Lokan	Answers yes. References SB 405 relative to the sale of Fairview. Addresses retention of a portion of the Dammasch property.
248	Rep. Gardner	Asks if the language should be "shall" or "may" retain a portion of the property.
260	Rep. Montgomery	Favors "shall".
266	Rep. Piercy	Asks if there was a request to set aside land.
274	Rep. Montgomery	Indicates he made the suggestion at a prior meeting.
279	Barry Kast	Administrator, Mental Health and Developmental Disability Services Division (MHDD). Discusses the possible retention of a portion of the Dammasch property for use by the chronically mentally ill.
280	Chair Lokan	Asks about retention of bare land if buildings are not usable.
298	Kast	Replies that is not a problem as far as MHDD is concerned. Describes a former dormitory on the Dammasch property that was converted in 1990 to a group home. Talks about the challenges involved in finding bare land within the urban growth boundary to site community mental health facilities.
323	Rep. Jerry Krummel	Representative, House District 27. Speaks in support of HB 3446. Discusses the purpose of HB 3446. Explains the property transfer to DOC. Feels the proceeds should have been used for housing the mentally ill. Comments that the transfer of property to DOC would not have been so attractive at fair market value.

351	Rep. Krummel	Discusses the investment necessary to set up the trust account. Suggests that the property is exempt from going through the surplus property process to be sold on the open market. Discusses property set-aside to house the mentally ill.
378	Rep. Krummel	Addresses infrastructure in the Urban Village Plan.
398	Rep. Krummel	Discusses mineral rights. Suggests legal counsel advise members. Emphasizes that the overall intention of HB 3446 is to establish the trust fund by selling the property at fair market value.
428	Rep. Kruse	Asks if there is a problem allowing a state agency to compete for purchase at fair market value. Clarifies he wants HB 3446 to be a mental health bill. Adds that if DOC wants it as a prison site, they should purchase the property at fair market value.
454	Rep. Krummel	Comments on 1995 administrative transfer of property. Supports property development under the Urban Village Plan.
TAPE 49, B		
046	Rep. Krummel	Continues testimony in support of HB 3446. Comments on interagency transfer of properties.
063	Rep. Kruse	Mentions that options should not be limited.
070	Rep. Krummel	Objects to prison being sited at Dammasch. Describes the transfer to DOC as theft.
083	Rep. Lowe	Objects to Rep. Krummel's characterization of the transfer of Dammasch as theft. Comments on public policy and the best interests of Oregonians.
098	Rep. Krummel	Speculates that the City of Wilsonville would not have been allowed to purchase the property at the same price as DOC.
108	Chair Lokan	Closes work session on HB 3446, and opens public hearing on HB 2026.
<u>HB 2026 PUBLIC HEARING</u>		
123	Zwick	Explains the provisions of HB 2026 proposed amendments.
188	Greg Chaimov	Deputy Legislative Counsel. Comments on proposed ñ1 amendment to HB 2026.
208	Rep. Close	Asks what is Mr. Chaimov's preference.

217	Chaimov	Prefers ñ2 amendment.
219	Rep. Kruse	Asks why members are going to invest two interims to study 42 pages of the ORSs.
223	Chaimov	Replies that he is not in a position to discuss that particular feature of the bill.
225	Rep. Kruse	Describes it as overkill.
229	Cam Birnie	Department of Administrative Services. Speaks in support of HB 2026. Submits and reads written testimony (EXHIBIT A).
307	Birnie	Continues reading testimony.
337	Bill Penhollow	Association of Oregon Counties. Speaks in support of HB 2026. Prefers HB 2026 in its original form. Encourages a discussion of funding mechanisms. Explains public contracting funding. Comments on ñ2 amendment. Suggests consideration of ñ2 amendment in a work group.
375	Jim Green	Oregon School Boards Association. Speaks in support of HB 2026. Expresses concern about the amendments. Comments about the difficulties of allowing two interims to allow the study of ORS 279.
417	Mardilyn Saathoff	Assistant Attorney General, Department of Justice (DOJ). Speaks in support of HB 2026. Suggests that ORS 279 needs a significant re-write. Comments on the fiscal impact of HB 2026.
463	Rep. Kruse	Comments on the two-biennia time frame. Asks about the creation of another committee to replace the Agency Streamlining Committee. Suggests directing a committee that already exists.
483	Rep. Montgomery	Asks how many meetings the interim committee had in 1997-98.
485	Chair Lokan	Replies that the Agency Streamlining Committee had approximately seven meetings, and they appointed a work group.
TAPE 50, B		
056	Penhollow	Addresses the work of the Agency Streamlining Committee and subcommittee.
071	Chair Lokan	Comments on the work of the Agency Streamlining Committee.
082	Shawn Miller	Associated Builders and Contractors. Describes service on an interim work

		group that presented issues to the committee. Comments on term limits. Suggests work be accomplished in one session. Discusses the cost of the original draft.
112	Mary Botkin	Takes neutral position on HB 2026. Recommends that the focus be in one biennium, not two. Suggests members decide if they want an interim committee or task force.
133	Chair Lokan	Opines that some legislative presence is desirable.
140	Zwick	Enters written testimony from Associated General Contractors submitted prior to the hearing (EXHIBIT B).
155	Chair Lokan	Closes public hearing on HB 2206, and opens public hearing on HB 3373.
<u>HB 3373 PUBLIC HEARING</u>		
175	Dave Cook	Director, Oregon Department of Corrections. Submits and summarizes written testimony (EXHIBIT C). Advises the committee that another process to address the provisions of HB 3373 is being undertaken, and should negate the need for HB 3373.
205	Joe Brewer	Administrator, Building Codes Division, Department of Consumer & Business Services. Agrees with Dave Cook, and submits and summarizes written testimony (EXHIBIT D).
238	Chair Lokan	Closes public hearing on HB 3373. Adjourns meeting at 10:25 a.m.

Submitted By, Reviewed By,

Susan M. Pettey, Pat Zwick,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 2026, written testimony, Cam Birnie, 2 pp.

B - HB 2026, written testimony, Associated General Contractors, 1 p.

C ñ HB 3373, written testimony, Dave Cook, 1 p.

D ñ HB 3373, written testimony w/proposed amendment, Joe Brewer, 2 pp.