

JOINT COMMITTEE ON STREAM RESTORATION
AND SPECIES RECOVERY

May 18, 1999 Hearing Room 50

4:30 PM Tapes 123 - 127

MEMBERS PRESENT: Sen. Ted Ferrioli, Co-Chair

Rep. Ken Messerle, Co-Chair

Sen. Joan Dukes, Vice-Chair

Rep. Bob Jenson, Vice-Chair

Sen. David Nelson

Sen. Frank Shields

Sen. Veral Tarno

Rep. Al King

Rep. Jeff Kruse

Rep. Randy Leonard

Rep. Lynn Lundquist

Rep. Susan Morgan

Rep. Bruce Starr

Rep. Terry Thompson

STAFF PRESENT: Judith Callens, Administrator

Stephen Kosiewicz, Administrative Support

MEASURE/ISSUES HEARD: HB 3071A Public Hearing

HB 3225 Work Session

HB 3609 Public Hearing and Work Session

HJM 13 Public Hearing and Work Session

TAPE/#	Speaker	Comments
TAPE 123, A		
004	Chair Ferrioli	Calls the committee to order at 4:53 p.m. Opens the public hearing on HB 3071A.
<u>HB 3071A ñ PUBLIC HEARING</u>		
009	Rep. Terry Thompson	House District 4. Explains what happened with HB 3071A when it went to the House floor.
022	Stephen Kafoury	Representing American Fisheries Society (AFS). Explains that any comments made by Dr. Li are not an official position of the AFS.
032	Chair Ferrioli	Asks Rep. Thompson what he wants the committee to do with the bill.
039	Rep. Thompson	Comments on the seriousness of this issue and the efforts he made to work with the shipping industry on some amendments. Responds that he is willing to pull the bill back if that is what the committee wants.
055	Chair Ferrioli	Comments that they need to do something about the introduction of exotic species.
069	Rep. Thompson	Clarifies that his concern was that there was an attempt to move the bill to another committee.
074	Rep. King	States that he would like to hear comments from Rep. Thompson and the shipping industry regarding the two proposed amendments.
078	Dr. John Chapman	Hatfield Marine Science Center, Oregon State University. Comments on the ñA3 and ñA5.
104	Rep. Thompson	Explains why they were proposing to insert the word "knowingly" into HB 3071A.
114	Chair Ferrioli	Asks how the California "zero tolerance" policy negatively affects Oregon.
117	Rep. Thompson	Responds that the federal government looks at the states when they implement these types of policies, and if Oregon has a different standard than California that could make a lot of problems.

127	Sen. Dukes	Asks Rep. Thompson if the ñA5 amendments would give Oregon what California has today.
129	Rep. Thompson	Responds that they would not.
130	Sen. Dukes	Questions why they would give the shipping industry another defense in addition to including "knowingly" in the bill. Notes that Oregon is at a disadvantage because they do not have a consistent policy with Washington and California.
152	Rep. Messerle	Asks whether Oregon is trying to get ahead of the other states in terms of this issue.
158	Chapman	Responds that in California the law is already to the Ways and Means Committee and that in Washington the law is moving through the process.
166	Rep. Messerle	Asks Mr. Chapman to speak to the study being done in Washington.
167	Chapman	States that the emphasis in the State of Washington is to implement a state plan. Notes that California's state plan is still being built.
184	Rep. Messerle	Asks whether there is a study going on right now on how to deal with ballast water.
188	Chapman	Notes that most of the ballast water exchange research is being done in Alaska and in the Great Lakes.
199	Rep. Lundquist	Asks what the potential risk factor is for invasive species coming into Oregon waters if the Legislature does nothing to address this issue.
209	Dr. Hiram Li	American Fisheries Society. Responds that studies of ballast water exchange in Coos Bay showed that about 10 billion organisms per ship are coming into Oregon waters. Notes other studies have been done in Yaquina Bay and Alsea Bay.
233	Rep. Thompson	Responds that if the Legislature does not do anything in regard to invasive species, and they just spend money on habitat research, species recovery efforts like HB 3225 are worthless.
243	Chair Ferrioli	Asks Rep. Thompson for clarification that he did not have any problem with the amendment to insert the word "knowingly" into HB 3071A.
245	Rep. Thompson	Responds that he thought this was a reasonable agreement. Reiterates his concern that the bill may be sent to another committee.

258	Rep. Lundquist	Questions why the shipping industry still has problems with the bill even with the amendment to insert the word "knowingly".
263	Chair Ferrioli	States his understanding of the change made by inserting the word "knowingly".
277	Rob Douglas	Representing Columbia River Steamship Operators Association. Submits written testimony (EXHIBIT A) and testifies in support of the ñA5 amendments.
286	Chair Ferrioli	Asks for clarification that the purpose of the ñA5 amendments is to provide an affirmative defense against the charge of knowingly introducing an invasive species through the discharge of ballast water.
290	Douglas	Responds that the intent of the amendments is not to have Oregon have a standard that exceeds neighboring states or the federal standard.
294	David Barts	Legal Counsel, Columbia River Steamship Operators Association. Testifies in opposition to HB 3071A and in support of the ñA5 amendments.
349	Barts	Continues testimony in opposition to HB 3071A and in support of the ñA5 amendments.
372	Rep. King	Notes that he does not see reference to ballast water in HB 3071A.
380	Barts	Comments on the issue of "knowingly".
407	Rep. Thompson	Comments that he would rather pull the bill and let it die then have an adverse effect on current law. Notes that he would like the committee to take a look at this issue during the interim.
TAPE 124, A		
013	Keith Leavitt	Port of Portland. Notes his organization's support for the ñA5 amendments.
017	Ken Armstrong	Oregon Public Ports Association. Notes his organization's support for the ñA5 amendments.
019	Rep. Messerle	Suggests the committee drop this bill and work on the issue during the interim.
029	Chair Ferrioli	States that the committee will not be taking action on HB 3071A. Comments on the issue of invasive species.
039	Rep. Thompson	States his belief that there is a reasonable solution to this issue. Suggests that the shipping industry and the scientific community get together to discuss the issue.

044	Sen. Dukes	Notes that her interest in HB 3071A was not the issue of ballast water but the actual transportation and introduction of invasive species.
057	Chair Ferrioli	Closes the public hearing on HB 3071A and opens the work session on HB 3225.
<u>HB 3225 ñ WORK SESSION</u>		
068	Judith Callens	Committee Administrator. Reviews the materials that members received in their meeting packet. Notes where the hand-engrossed HB 3225-14 amendments came from.
108	Chair Ferrioli	Notes that at their last meeting the committee discussed the HB 3225-014 and ñ1002 working draft amendments.
119	Callens	Clarifies that the ñ13 and ñ14 amendments to HB 3225 are the official Legislative Counsel versions of the draft amendments reviewed at the last meeting.
139	Roy Hemmingway	Oregon Plan Manager, Governorís Office. Testifies on the Governorís concerns with sections 6 and 12 of the hand-engrossed ñ14 amendments.
198	Rep. Leonard	Asks how they are integrating the insert for section 12 into this.
201	Chair Ferrioli	Responds that if the issue was to move both of the insert sections, they would just refer to it as section 6 from the ñ14 amendments.
208	Rep. Leonard	Asks if they are removing section 12 from the ñ14 amendments and replacing it with the insert.
209	Chair Ferrioli	Responds that the insert was brought by the Governor's Office to replace sections 6 and 12 of the ñ14 amendments.
223	Rep. Kruse	Asks if they are going to do a page-by-page review of these amendments.
224	Chair Ferrioli	Responds that they are going to have to understand these changes before they can take any action on the amendments.
237	Hemmingway	Continues testimony on the Governorís concerns with sections 6 and 12 of the ñ14 amendments.
280	Sen. Dukes	Asks if the hand-engrossed ñ14 amendments reflect the insert.
283	Jeannette Holman	Legislative Counsel Office. Responds that they do not.

292	Sen. Dukes	Asks for clarification that what is deleted in the ñ014 draft amendments is not deleted from current statute, but is deleted from the ñ14 amendments.
294	Holman	Responds that this is correct.
298	Rep. King	Asks for clarification that he is trying to read the material from the ñ014 draft amendments where it says to see the insert for section 12.
302	Hemmingway	Responds that the insert for section 12 is a separate document. Continues testimony on the Governorís concerns with sections 6 and 12 of the ñ14 amendments.
376	Hemmingway	Continues testimony on the Governorís concerns with sections 6 and 12 of the ñ14 amendments.
408	Rep. Starr	Asks if the idea of OWEB being a grant-making body only is contrary to the constitutional amendment that they are working under.
TAPE 123, B		
002	Holman	Responds that they are separating OWEB out so they are a stand-alone agency and it is just a matter of what their purpose is. Notes that it is okay if they make them a stand-alone agency to do grants.
005	Rep. Starr	Asks if they are including in the language the language from the constitutional amendment as far as what the Measure 66 money on the salmon side is supposed to accomplish.
009	Holman	Responds that they are.
010	Rep. Kruse	Comments that all they have in the ñ014 draft amendments is the GWEB structure that they put someplace else and is doing nothing more than writing grants, and all of the authority is still resting in the Governor's Office.
025	Sen. Dukes	Asks Mr. Hemmingway how he would compare this entity to the current GWEB in terms of staff and hierarchy.
032	Hemmingway	Responds that this is more of an elaboration of what they already do. Notes that there are authorities given to GWEB in statute that are deleted in the ñ14 amendments.
045	Ken Bierly	Program Manager, Governorís Watershed Enhancement Board. States that they currently have a policy option package requesting 4 FTE to address what they anticipated would be increased responsibilities regarding funding and grant administration. Notes that this was done before they were aware of the

		<p>deliberations on expanding the board and that there could be some fiscal impact related to additional responsibilities.</p>
058	Chair Ferrioli	<p>Comments on the ñ1002 draft amendments and the Governor's concerns with them. Notes that the ñ14 amendments reflect a synthesis of the discussions that the committee has had, and the ñ014 draft amendments reflect the Governor's concerns that the committee has gone further than what he is willing to go in regard to OWEB's responsibilities [comments inaudible at times].</p>
080	Hemmingway	<p>Notes that their suggestion is to bring OWEB back to a grant-making agency, but as an expanded and more independent body, which the Governor can except.</p>
095	Rep. Messerle	<p>[Comments inaudible]</p>
107	Rep. Kruse	<p>States that he has seen a lot of action by the status quo to encourage the Legislature to study things some more.</p>
149	Callens	<p>Explains the provisions of the hand-engrossed version of the ñ14 amendments.</p>
181	Rep. Kruse	<p>Referencing page 3, line 25 of the hand-engrossed ñ14 amendments, notes that the committee had discussed adding a reference to tribal representation. Referencing page 4, line 2, notes that the committee had discussed using a term other than "restoration".</p>
205	Rep. Messerle	<p>Asks Mr. Hemmingway if he has a problem with making the change from "restoration" to "stewardship".</p>
207	Hemmingway	<p>Responds that as long as it is clear in the committee record that "stewardship" includes restoration, they would have no objection.</p>
213	Sen. Shields	<p>Questions whether future legislators would come to the same conclusion when looking at the definitions of stewardship and restoration.</p>
217	Rep. Kruse	<p>Notes that "stewardship" is a term that has been used in conservation for a long time and it is a commonly recognized term.</p>
221	Sen. Shields	<p>Explains that he was asking for clarity in regard to the difference between the definitions of the two words and what the implication is.</p>
225	Holman	<p>Notes that her only concern with making this change is that they define "restoration" and "protection", but not "stewardship".</p>
231	Chair Ferrioli	<p>Notes that the definition of "restoration" can be found in lines 22 through 24 on page 2 of the hand-engrossed ñ14 amendments. Clarifies that if they are going to use the word "stewardship", they would include the definition of this word in the</p>

		definition section of the bill.
238	Rep. Messerle	Referencing page 4, line 29 of the hand-engrossed ñ14 amendments, suggests inserting "private landowners" after "tribal".
266	Rep. Kruse	Referencing page 5, line 20 of the hand-engrossed ñ14 amendments, notes that they had discussed replacing "restore" with "enhance".
280	Rep. Thompson	Referencing page 5, line 22 of the hand-engrossed ñ14 amendments, asks for clarification on what is intended by the phrase "while sustaining a healthy economy".
294	Hemmingway	Notes that a majority of the projects that are undertaken with these grants are ones in which there is a win-win situation with the landowner. Responds that their emphasis should be on programs of this nature, and this is what he sees this phrase meaning.
312	Rep. Thompson	[Question inaudible]
316	Chair Ferrioli	Notes that the view of a healthy economy can be seen from a number of different perspectives.
331	Rep. Starr	States that they are looking for the win-win situations that Mr. Hemmingway was talking about.
341	Chair Ferrioli	Notes that there are different ways to approach these things.
350	Sen. Dukes	Notes that she shares Rep. Thompson's concerns regarding the language in this section.
370	Rep. King	Notes that there is similar language on page 6 in lines two and three.
378	Sen. Dukes	Questions whether this language means that someone would not have to restore those things if they cannot sustain a healthy economy and environment at the same time.
384	Chair Ferrioli	States that what they are trying to do is look at trying to do both sustaining a healthy economy and a healthy environment, and they should not be mutually exclusive.
394	Sen. Dukes	Asks Sen. Ferrioli if he would object to removing this language.
395	Chair Ferrioli	Responds that he would not. States that he would object to deletions of all of those balancing language issues.

406	Rep Jenson	[Comments inaudible]
408	Holman	Recommends either using both "restore" and "enhance" in line 20 on page 5, or just keeping the word "restore" since it is already defined.
TAPE 124, B		
017	Rep. Kruse	Questions whether they need to make reference to tribes in subsection 3(a).
025	Callens	Continues explaining the provisions of the hand-engrossed ñ14 amendments.
041	Sen. Dukes	States that if OWEB is going to be in charge of the grants, it seems like awkward language to say that they shall facilitate the implementation of the grant program.
045	Rep. Jenson	[Comments inaudible]. Asks if this means that if there were grant monies available from some other source, they would not be processed through this agency [question inaudible at times].
056	Holman	Responds that this is a technical drafting issue.
067	Rep. Kruse	Asks how funding that is not in a grant program, for example, a cost-share program, fits into the language in this section.
072	Holman	Notes that there is a cost-share requirement within the GWEB program now.
076	Rep. Kruse	Clarifies that he is talking about a cost-share program at the local level. Asks whether there would be a change in what they are doing in the amendments as far as language if they went to a mechanism like this.
080	Holman	Responds that it should not.
082	Callens	Continues explaining the provisions of the hand-engrossed ñ14 amendments.
093	Rep. Jenson	Referencing page 7, line 22, asks what the difference is in the language change from "all monies" to "the monies".
099	Ken Rocco	Legislative Fiscal Office. Responds that other monies may be put into this account, but there is not a serious difference.
103	Sen. Dukes	Asks if OWEB becomes the second state agency or the first.
104	Rocco	Responds that under the hand-engrossed ñ13 amendments OWEB would be the

		constitutionally identified single agency to administer the Parks and Natural Resource Fund.
108	Sen. Dukes	Asks for clarification that the agency at the first level is the one they cannot control.
110	Rocco	Responds that the money would flow from DAS just as a distribution of lottery dollars into the Parks and Natural Resource Fund and it would be split into two pieces—one going to parks and one going to OWEB.
115	Sen. Dukes	Asks what restrictions the Legislature can legally put on that first agency.
116	Rocco	Responds that there is really not a first agency. Explains that the first agency is just the way DAS currently distributes lottery dollars.
127	Sen. Dukes	Notes that on the parks side they were going to withhold some of the Measure 66 money in the Emergency Board, and there was concern that they might be inclined to not let OPRD spend money on a particular project, but that the constitution did not give the Legislature the authority to do this with OPRD. Asks if they are in the same situation with OWEB.
146	Rocco	Responds that it would be his interpretation that the Legislature could ask OWEB to come to the Emergency Board on any number of occasions to let them know what they were doing with the money, but once they have allocated the funds to OWEB the Legislature does not have much control over how they distribute these funds.
152	Sen. Dukes	Notes that this is sort of like the Lottery Commission.
154	Callens	Clarifies that the hand written language on the last page of the hand-engrossed version of the 14 amendments replaces section 23.
165	Sen. Dukes	States that she does not think they legally can do this.
174	Rep. Kruse	Asks why they could not do this.
175	Sen. Dukes	Responds that the first agency that gets the money has continuous appropriation and the language in Measure 66 is written in such a way that Legislative Counsel and the Attorney General feel that the Legislature does not have a lot of authority over it.
179	Rep. Kruse	States that it is his understanding that they cannot prohibit them from spending the money, but they can direct the way it is spent.
185	Rocco	Notes that in Ways and Means they are proceeding in the manner that Rep.

		Kruse has indicated.
195	Rep. Kruse	Notes that previously GWEB had to come to the Legislature for allocation of the grant funds and now OWEB will just have the grant funds and will report to the Legislature, but not for the money.
202	Chair Ferrioli	Asks for clarification that this is in consultation with the Attorney General, LFO, and other people that have formed legal opinions on this.
206	Rocco	Responds that it is.
209	Rep. Kruse	Asks why they are taking out the descriptive language as to direction on page 8, subsection 7.
217	Rocco	Responds that this is another simplification approach to the bill.
233	Rep. Kruse	Expresses concern that taking out the language in lines 19 through 24 removes a definition regarding the separation of funds into an investment program that is not captured anywhere else.
243	Chair Ferrioli	States that there would be other opportunities to address this and that if they put it in statute there is no guarantee that the committee would ever put any money in the funds.
256	Rocco	Notes that the board could do this on their own if they decided to once they are appointed.
261	Callens	Continues explaining the provisions of the hand-engrossed 14 amendments.
268	Rep. Starr	Asks why they would take out the reference to grant making experience in terms of board qualifications if this is a grant making board.
269	Chair Ferrioli	Responds that the thought is that they need to be knowledgeable about natural resources issues.
Discussion among the committee members as to whether this board actually makes grants.		
280	Chair Ferrioli	Asks what the logic was behind making this change.
282	Callens	Responds that some of the committee members raised a concern as to where they want the focus of the experience of the board members.
285	Rep. Jenson	States that knowledge of the grant process would be beneficial, but knowledge of

		natural resources was the primary area of concern.
298	Rep. Morgan	Comments that they do need people on this board that are familiar with natural resource issues. States that she would like to further define the geographic regions of the state and see language introduced that would use the five watershed council districts.
318	Rep. Leonard	Notes that the committee was at this point once, but decided to go with the current language.
325	Chair Ferrioli	Comments on the committee's discussion about the geographic regions.
330	Rep. Morgan	Notes that she tried to bring this issue up earlier.
336	Chair Ferrioli	Comments on the issue of geographic regions.
348	Rep. Kruse	Questions whether it would be possible to get some language that they would try to make the appointments geographically, but if they could not, they would do something else.
376	Hemmingway	Notes that all of these appointments will be made at once, so the Senate would have the opportunity to review whether the geographic representation is appropriate.
399	Rep. Morgan	Suggests inserting the language "shall represent equally all geographic regions of the state".
406	Holman	Expresses concern about use of the word "equally" and questions what this word means.
410	Rep. Morgan	States that what she is trying to do is make sure that all areas of the state are represented.
TAPE 125, A		
007	Callens	Referencing page 9, lines 9 through 12, notes that it is her interpretation of the language in this section that the five regions would be represented in a combination of the 11 voting member appointments.
019	Chair Ferrioli	States that the language they are looking at is compromise language.
026	Callens	Continues explaining the provisions of the hand-engrossed 14 amendments.

033	Holman	Recommends adding language that the members can be reappointed for a second term and whether they are limited to two consecutive terms, if this is what the committee intends.
040	Chair Ferrioli	States that they will add the standard language for reappointment to a second term and serving two consecutive terms.
050	Rep. Jenson	Referencing page 10, lines 19 through 24, notes that the grant criteria is not dealt with in any way. Asks if it is dealt with somewhere else or will it be adopted in rules by the board.
058	Holman	Responds that the grant criteria are set out in other parts of statute already.
064	Rep. Jenson	Asks how long a chairperson would serve and under what conditions would the board be able to change chairpersons.
071	Holman	Responds that the chair would be limited to a 4-year term just like everybody else.
076	Hemmingway	Responds that most boards and commissions that elect chairs do so for a year and that this is done under their bylaws, rather than through statute.
079	Rep. Jenson	Clarifies that his concern was that the board would have the ability to change chairpersons if they had someone who was not functional in this capacity.
084	Callens	Continues explaining the provisions of the hand-engrossed ñ14 amendments.
090	Rep. Jenson	Asks if there are changes in section 12 of the hand-engrossed ñ14 amendments.
093	Callens	Responds that the insert for section 12 would replace the entire section.
106	Callens	Continues explaining the provisions of the hand-engrossed ñ14 amendments.
137	Rep. Jenson	Referencing page 14, line 4, asks if they should change the language to make reference to the chair or a designee of the chair.
149	Holman	Responds that it is standard to include the chairperson as an ex-officio member of each advisory committee and there is nothing to prevent the board from appointing another member of the board to be on the advisory committee.
160	Rep. Kruse	Notes that the committee had talked about whom requesters can submit requests to and whether it was appropriate for them to bypass local process and go straight to the board.

165	Callens	Notes that she has language related to this issue that was submitted by Mr. Bierly and explains what the suggested changes are.
186	Sen. Dukes	Asks if this just says that SWCDs can apply for money.
189	Holman	Responds that it is her understanding that this reflects what is really done right now.
201	Rep. Kruse	Asks for clarification that there should be commas between "enhancement" and "education".
204	Bierly	Responds that this is correct. Notes that the suggested change is intended to capture the small grant program GWEB currently administers with ODA through SWCDs.
213	Rep. King	Asks Mr. Bierly to elaborate on his comments about these small grants being available to watershed councils also.
219	Bierly	States that he would be happy to work with Legislative Counsel to capture this concept so they make sure these small grants are available to any entity at in the local area.
230	Rep. Kruse	Asks for clarification that this language does nothing to prohibit someone from bypassing the local process and going straight to the board.
235	Bierly	Respond that this language is intended to maintain the current small grant program.
242	Rep. Kruse	States that he does not see how they are setting up a process to make sure that things are being channeled properly.
254	Bierly	Clarifies that this language tries to address the concept that is embodied on page 8 of the ñ14 amendments and that it would allow OWEB to make grants for implementation of action plans. Notes that this language does not attempt to address the issue of applicants making direct presentations to the board.
275	Callens	Continues explaining the provisions of the hand-engrossed ñ14 amendments.
286	Rep. Leonard	Asks if this is a separate issue than the parks acquirement.
287	Chair Ferrioli	Responds that it is.
294	Rep. King	Asks for an explanation on why they have taken out the entities to make it appropriate agencies only.

304	Chair Ferrioli	Responds that they deleted the enumeration partly because they could not include all of the potential purchasers. Notes that they did not want to use state funds to buy lands for not-for-profit organizations.
325	Rep. King	Notes that this excludes the possibility for match funding.
333	Holman	Comments that it needs to be agencies that have authority to hold land or water rights. Notes that the issue of whether to include local agencies came up.
354	Rep. Messerle	States that this is an issue they may need to address.
367	Rep. King	Notes that it may be difficult to deal with two different ownerships on the same piece of ground.
379	Holman	Recommends adding language clarifying that it be used for Measure 66 purposes if the language is expanded.
386	Chair Ferrioli	Notes that the issue is unresolved about whether or not a participatory organization would keep the fee title interest they acquire.
400	Rep. Kruse	Asks if mitigation banks would qualify as a Measure 66 purpose.
406	Holman	Responds that it depends on how it is used and that this is a decision the board would have to make.
TAPE 126, A		
005	Chair Ferrioli	States that he thinks they will see local organizations come forth with proposals that could be used in conjunction with [remainder of statement inaudible].
010	Callens	Continues explaining the provisions of the hand-engrossed ¶14 amendments.
017	Chair Ferrioli	Clarifies where the committee is at in their deliberations on HB 3225.
026	Holman	Notes that there are two section of statute that are repealed in the hand-engrossed version of the ¶14 amendments. States that concerns have been expressed that some of the policies and directions still need to be in statute.
037	Chair Ferrioli	Asks staff what needs to happen between now and Thursday's meeting regarding HB 3225.
039	Callens	Responds that the committee needs to give Ms. Holman direction as to the single amendment that she will need to draft for Thursday's meeting.

048	Sen. Dukes	Asks whether the entire bill would be replaced if they were to adopt what they have discussed at today's meeting.
051	Holman	Responds that this is a total rewrite of the bill.
053	Chair Ferrioli	Asks staff and Ms. Holman what the degree of confidence is that they have captured the concerns the committee has had.
055	Holman	Responds that they have done a good job of identifying the areas of concern.
056	Rep. Starr	Asks if there will be a chance for public input on the final amendments.
062	Chair Ferrioli	Asks staff if the agenda for Thursday's meeting has been posted.
063	Callens	Responds that the posted agenda was for a work session on HB 3225.
068	Chair Ferrioli	Notes that there are a number of people present who want to testify on HB 3609 and expresses concern that if they do not hear the other bills on the agenda to night, the committee will lose the ability to hear all of these bills before the committee is closed. States that he would like conduct work sessions on these other bills tonight.
087	Rep. Thompson	Expresses opposition to moving HB 3225 tonight.
093	Sen. Dukes	Expresses opposition to moving HB 3225 tonight.
104	Rep. Messerle	States that he would at least like to give Ms. Holman direction on how to move forward in drafting new amendments.
110	Rep. Jenson	Notes that he has not had sufficient time to review the most recent amendments and states his opposition to moving HB 3225 tonight.
119	Rep. Kruse	MOTION: Moves to ADOPT the hand-engrossed HB 3225-14 amendments.
128	Rep. Starr	Asks if Rep. Kruse's motion includes the separate insert for section 12. Notes that if it does not, the bill is incomplete because the hand-engrossed 14 amendments delete section 12.
132	Rep. Kruse	Withdraws his previous motion.
134	Rep. Kruse	MOTION: Moves to ADOPT HB 3225-14 amendments dated 5/17/99.

140	Sen. Tarno	Asks for clarification that the hand-engrossed version of the ñ14 amendments cannot be used as the vehicle to convey their thoughts to Ms. Holman on a final amendment proposal.
146	Chair Ferrioli	Responds that it appears Rep. Kruse intends for the committee to adopt the ñ14 amendments, and then possibly adopt the conceptual amendments, which would give Ms. Holman direction to move forward.
150	Rep. Kruse	Asks if section 12 is still included in the hand-engrossed ñ14 amendments.
159	Callens	Responds that it is.
164	Rep. Kruse	Withdraws his previous motion.
165	Rep. Kruse	MOTION: Moves to ADOPT the hand-engrossed HB 3225-14 amendments.
170	Rep. Thompson	States that he will be voting no on the motion.
176	Chair Ferrioli	Comments on what would happen if they moved amendments tonight versus if they did not.
191	Rep. Thompson	Notes that there is the alternative of moving the HB 3225-8 amendments.
198	Sen. Shields	Asks for clarification that Rep. Kruse's motion is for adoption of the ñ14 amendments with the ñ12 amendments incorporated.
202	Chair Ferrioli	Responds that the ñ12 amendments have not been moved. Clarifies that the motion is to move the hand-engrossed ñ14 amendments.
209	Rep. Messerle	Asks if Rep. Kruse's motion includes the section 12 insert.
210	Rep. Kruse	Responds that it does not.
211	Rep. Jenson	Questions whether the committee can consider the ñ1002 working draft amendments.
216	Callens	Clarifies what the motion before the committee is.
227	Rep. Kruse	Explains that the reason for the hand-engrossed ñ14 amendments is to capture the notes that Judith took at the last meeting.

231	Chair Ferrioli	Clarifies that the ñ14 amendments were intended to capture the committee's discussion on the ñ1002 draft amendments and to offer the members a document that they could make additional changes to.
236	Rep. Morgan	Notes that the committee has looked at these amendments for a few days and they do not represent a change of direction from where the committee was at after the last meeting.
245	Rep. Messerle	[Comments inaudible]
257	Rep. Leonard	Asks for clarification that the motion is to adopt the hand-engrossed ñ14 amendments, but not to include the ñ014 draft amendments.
259	Chair Ferrioli	Responds that this is correct.
262	Sen. Dukes	Asks whether the bracketed notes in the hand-engrossed ñ14 amendments mean anything.
265	Chair Ferrioli	Responds that the bracketed notes that refer to other amendments are not a part of the motion.
268	Rep. Leonard	MOTION: Moves to AMEND the motion to move to ADOPT the hand-engrossed HB 3225-14 amendments by incorporating the -014 draft amendments into the hand-engrossed HB 3225-14 amendments.
270	Chair Ferrioli	Questions whether they can consider more than one motion at a time.
272	Rep. Leonard	Clarifies that a motion to amend is always in order. Explains the reason for his motion.
286	Rep. Kruse	States that he has serious problems with the ñ014 draft amendments.
		VOTE: 2-11 AYE: 2 - Leonard, Shields NAY: 11 - Dukes, Jenson, King, Kruse, Morgan, Nelson, Starr, Tarno, Thompson, Ferrioli, Messerle EXCUSED: 1 - Lundquist
307	Chair Ferrioli	The motion FAILS.
		VOTE: 8-5

		AYE: 8 - Jenson, Kruse, Morgan, Nelson, Starr, Tarno, Ferrioli, Messerle NAY: 5 - Dukes, King, Leonard, Shields, Thompson EXCUSED: 1 - Lundquist
332	Chair Ferrioli	The motion CARRIES.
331	Rep. Kruse	MOTION: Moves to ADOPT the conceptual amendments discussed by the committee at today's meeting to the HB 3225-14 amendments.
331	Rep. Kruse	Moves the conceptual amendments to the ñ14 hand-engrossed amendments.
338	Chair Ferrioli	Asks whether Rep. Kruse's previous motion included the conceptual amendments made in committee at today's meeting.
340	Rep. Kruse	Responds that it did not.
348	Chair Ferrioli	Asks Rep. Kruse to clarify his motion.
349	Rep. Kruse	Clarifies his motion.
352	Rep. Jenson	Asks if this includes the ñ014 draft amendments.
353	Rep. Kruse	Responds that it does not.
		VOTE: 8-5 AYE: 8 - Jenson, Kruse, Morgan, Nelson, Starr, Tarno, Ferrioli, Messerle NAY: 5 - Dukes, King, Leonard, Shields, Thompson EXCUSED: 1 - Lundquist
377	Chair Ferrioli	The motion CARRIES.
378	Chair Ferrioli	Motion passes. Asks staff to review the conceptual amendments that were made at today's meeting.
383	Callens	Reviews the conceptual changes that were suggested at today's meeting.
398	Sen. Shields	States that he has received indication that adoption of the hand-engrossed ñ14 amendments and the conceptual amendments guarantees a veto of HB 3225 by

		the Governor.
410	Chair Ferrioli	Comments on the work the committee has done on HB 3225 to get the broadest amount of support. Urges the committee to take a further look at the 14 amendments.
TAPE 125, B		
022	Sen. Dukes	Cautions the committee to not come to Thursday's meeting with a new set of concepts.
038	Chair Ferrioli	Closes the work session on HB 3225 and opens the public hearing on HB 3609.
<u>HB 3609 - PUBLIC HEARING</u>		
062	Rep. Jason Atkinson	House District 51. Testifies in support of HB 3609.
110	Rep. Atkinson	Continues testimony in support of HB 3609.
139	Olney Patt, Jr.	Chairman of the Tribal Council, Confederated Tribes of the Warm Springs Reservation of Oregon. Submits written material and reads written testimony in support of HB 3609 (EXHIBIT B).
191	Patt	Continues reading written testimony.
243	Patt	Continues reading written testimony.
269	Chair Ferrioli	Notes that the Warm Springs tribe has a litigation history with the State of Oregon. Asks Mr. Patt to indicate why they cannot seem to co-manage without litigation.
272	Patt	Notes that Chair Ferrioli is referring to the situation regarding the Imnaha River.
282	Don Sampson	Executive Director, Columbia River Inter-Tribal Fish Commission. Explains that on three occasions Oregon tribes have had to petition federal court to force ODFW to carry out its obligation under the Columbia River Fish Management Plan for the Imnaha River.
300	Sen. Nelson	Asks Mr. Sampson if the tribes classify the fish that have been brought back to the Umatilla River as wild fish.
307	Gary James	Fisheries Program Manager, Confederated Tribes of the Umatilla Indian Reservation. Responds that they have both natural and hatchery fish. Notes that

		they are reestablishing Spring Chinook, Fall Chinook, and Coho salmon that have not been in the Umatilla River for 70 years, so they have to start from scratch with the hatchery stock.
312	Sen. Nelson	Asks if these salmon are classified as wild fish.
313	James	Responds that there are some hatchery fish that have returned and are spawning naturally.
317	Sen. Nelson	Asks if ODFW consider these wild fish.
318	James	Responds that the tribes call it a natural fish.
322	Sen. Nelson	Repeats his previous question.
324	James	Responds that they do.
331	James	Submits and reads written testimony regarding HB 3609 and the wild fish policy (EXHIBIT C) .
388	James	Continues reading written testimony.
TAPE 126, B		
008	James	Continues reading written testimony.
048	Rep. Jenson	Comments on the extinction of fish in the Umatilla River. Asks Mr. James for clarification that they are talking about 5,000 to 10,000 fish coming up the Umatilla this year.
056	James	Responds that currently they have about 800.
058	Rep. Jenson	Asks how many other places in the northwest has a fish species been recovered that had been extinct.
064	James	Responds that he is not aware of any. Notes that they have also supplemented the Steelhead population, which had been depressed, and they have experienced stable runs in the basin and have not reduced Indian and non-Indian harvests.
075	Rep. Jenson	Notes that the tribes have a proven track record.
098	Sampson	Submits written testimony (EXHIBIT D) and testifies in support of HB 3609.

152	Sampson	Continues testimony in support of HB 3609.
196	Sampson	Continues testimony in support of HB 3609.
230	Rep. Jenson	Expresses appreciation for the tribes coming to testify on the bill.
245	Steve Williams	Deputy Director, Department of Fish and Wildlife. Submits written testimony (EXHIBIT E) and testifies in opposition to HB 3609.
286	Chair Ferrioli	Asks what mechanism is currently used to coordinate the wild fish policy of ODFW and the adaptive management policies for wild fish of the tribes.
290	Williams	Responds ODFW works continually on these issues with the tribes and that they discuss at length on all of the projects how the tribes view ODFW's policy.
299	Chair Ferrioli	Asks why there is continuous disconnect between the adaptive management and hatchery management policies of the tribes and the same policies at the state level if these discussions are taking place.
310	Williams	Responds that ODFW views the wild fish policy as a policy designed to manage risk. Explains that there has been a difference in philosophy.
345	Chair Ferrioli	States his feeling that ODFW is overstating the cooperative nature of the relationship between ODFW and the tribes. Asks whose policies are preeminent when there are philosophical differences.
359	Williams	Responds that ODFW sticks with the Fish and Wildlife Commission's wild fish policy.
363	Chair Ferrioli	Asks for clarification that the Commission sets the wild fish policy.
364	Williams	Responds that the Commission adopted this policy and ODFW works underneath this.
368	Chair Ferrioli	Asks Mr. Williams if he has seen the ñ2 amendments to HB 3609.
369	Williams	Responds that he has.
370	Chair Ferrioli	Asks Mr. Williams to comment on the ñ2 amendments.
373	Williams	Comments that the ñ2 amendments look good as written, but he is concerned that there may be different interpretations of the language.

384	Chair Ferrioli	Asks for a definition of co-management.
386	Steve Sanders	General Counsel, Department of Fish and Wildlife. Responds that the term "co-management" is a relatively technical one and the tribes and ODFW disagree on what this term means.
406	Chair Ferrioli	Asks for the layperson's version of what co-management means.
409	Sanders	Responds that it is not defined in HB 3609.
TAPE 127, A		
002	Chair Ferrioli	Asks if it would mean that there is no veto power in the state over the sovereign rights of the tribe.
005	Sanders	Responds that ODFW's authority within the Upper Columbia basin is established by the Columbia River Fish Management Plan, which is a veto over both ODFW's and the tribe's management strategies.
008	Chair Ferrioli	Asks if the sovereignty of the tribes and the sovereignty of the state is equal sovereignty.
009	Sanders	Responds that they are not.
018	Chair Ferrioli	Asks if they can manage a wild fish population with ODFW's philosophy and manage returning stocks simultaneously with the hatchery policy operated by the tribes, and have a consistent outcome.
022	Sanders	Responds that they cannot be consistent with all of the tribes' wild fish policies.
029	Chair Ferrioli	States that it sounds like there is work to do by ODFW to make sure that there is a consistent wild fish policy implemented across the state.
031	Williams	Agrees with Chair Ferrioli's statement. Notes that ODFW is still not managing all of its facilities consistent with the wild fish policy.
039	Sanders	Comments that in some of the places where ODFW is not in technical compliance with the wild fish policy is as a result of negotiations with the tribes in establishing the Columbia River Fish Management Plan.
060	Rep. Leonard	Asks for clarification that ODFW will work with the tribes on a case-by-case basis to co-managing hatchery fish in some areas, but maybe not in other areas.

064	Sanders	Responds that they work with the tribes in implementing and making changes to the Columbia River Fish Management Plan.
072	Rep. Leonard	Asks if HB 3609 does not pass, does this mean the tribes cannot use hatchery stock.
074	Sanders	Responds that it does not mean this.
075	Williams	Responds that ODFW will continue to use hatchery stocks in a number of locations.
082	Rep. Leonard	Asks for clarification that what the tribes are explaining at today's meeting are efforts that are being undertaken in cooperation with ODFW.
083	Williams	Responds that this is correct.
085	Sen. Nelson	Notes that the tribes may not agree that there is cooperative effort.
092	Rep. King	Notes that the committee is at risk of losing a quorum if they do not move the bill soon.
095	Chair Ferrioli	States that he would like to hear from some additional people who have signed up to testify in opposition to HB 3609.
098	Rep. Thompson	Comments that further testimony is not going to change how the committee votes on the bill.
107	Sen. Tarno	Asks for Oregon Trout to comment on the bill.
111	Jim Myron	Oregon Trout. Testifies in opposition to HB 3609.
136	Bill Bakke	Native Fish Society. Submits written material (EXHIBIT F) and testifies in opposition to HB 3609.
166	Chair Ferrioli	Asks when the review of the wild fish policy will be completed.
167	Bakke	Responds that ODFW testified that it would be completed in July, 2000.
171	Don Eixenberger	Native Fish Society. Testifies in opposition to HB 3609.
191	Stephen Kafoury	Representing the American Fisheries Society. Submits written testimony (EXHIBIT G) and testifies in opposition to HB 3609.

203	Dr. James Hall	American Fisheries Society. Testifies in opposition to HB 3609.
236	Dr. Hiram Li	American Fisheries Society. Notes that some further discussion will help certain areas.
251	Chair Ferrioli	Asks if there is anything in the ñ2 amendments that precludes the continuation of the wild fish policy review.
256	Kafoury	Responds that they are not sure what the ñ2 amendments mean, but he believes there is nothing in them that precludes the continuation of the review.
262	Rep. Thompson	Asks if changing hatchery practices will change the outcome of their report.
268	Hall	Responds that it modifies it, but it does not change it.
Written testimony from Carol Porto, Oregon Chapter of the Sierra Club, expressing concerns regarding HB 3609 submitted by Jeff Watkins (EXHIBIT H).		
278	Chair Ferrioli	Closes the public hearing and opens the work session on HB 3609.
<u>HB 3609 ñ WORK SESSION</u>		
280	Sen. Tarno	MOTION: Moves to ADOPT HB 3609-2 amendments dated 5/14/99.
281	Rep. Kruse	Questions whether they are changing the status quo with the ñ2 amendments.
291	Chair Ferrioli	Expresses concern that giving the tribes an outright exemption would eliminate the discussion that needs to happen to coordinate the wild fish policy.
308	Rep. Kruse	Explains that he will be voting no on the ñ2 amendments.
325	Rep. Jenson	Notes that he will not be supporting the ñ2 amendments.
331	Rep. Messerle	Expresses support for the ñ2 amendments.
336	Rep. King	States that the cooperation has to go both ways.
		VOTE: 5-7 AYE: 5 - King, Nelson, Tarno, Ferrioli, Messerle

		NAY: 7 - Jenson, Kruse, Leonard, Morgan, Shields, Starr, Thompson EXCUSED: 2 - Dukes, Lundquist
356	Chair Ferrioli	The motion FAILS.
357	Rep. Kruse	MOTION: Moves HB 3609 to the floor with a DO PASS recommendation.
362	Rep. King	Explains that he will be voting against HB 3609.
371	Rep. Thompson	Explains that he will be voting for HB 3609.
		VOTE: 9-3 AYE: 9 - Jenson, Kruse, Morgan, Nelson, Starr, Tarno, Thompson, Ferrioli, Messerle NAY: 3 - King, Leonard, Shields EXCUSED: 2 - Dukes, Lundquist
398	Chair Ferrioli	The motion CARRIES. REP. ATKINSON will lead discussion on the floor.
415	Chair Ferrioli	Closes the work session on HB 3609 and opens the public hearing on HJM 13.
<u>HJM 13 ñ PUBLIC HEARING</u>		
Written testimony in support of HJM 13 submitted by Irv Fletcher, President, AFL-CIO (EXHIBIT I).		
435	Chair Ferrioli	Closes the public hearing and opens the work session on HJM 13.
<u>HJM 13 ñ WORK SESSION</u>		
437	Sen. NELSON:	MOTION: Moves HJM 13 be sent to the floor with a BE ADOPTED recommendation.
		VOTE: 10-1 AYE: 10 - Jenson, King, Kruse, Morgan, Nelson, Starr, Tarno, Thompson, Ferrioli, Messerle NAY: 1 - Leonard

		EXCUSED: 3 - Dukes, Lundquist, Shields
455	Chair Ferrioli	The motion CARRIES. SEN. NELSON will lead discussion on the floor.
460	Chair Ferrioli	Announces that Rep. Starr will carry SB 133A, Rep Morgan will carry SB 1161A, Rep. King will carry SB 1163A, Rep. Kruse will carry SB 1166A, and Sen. Nelson will carry HB 3620.
470	Chair Ferrioli	Adjourns the committee at 8:59 p.m.

Submitted By, Reviewed By,

Stephen Kosiewicz, Judith Callens,
Administrative Support Administrator

EXHIBIT SUMMARY

A ñ HB 3071A, written testimony, Rob Douglas, 5 pp.

B ñ HB 3609, written material, Olney Patt, 11 pp.

C ñ HB 3609, written testimony, Gary James, 7 pp.

D ñ HB 3609, written testimony, Don Sampson, 2 pp.

E ñ HB 3609, written testimony, Steve Williams, 1 p

F ñ HB 3609, written material, Bill Bakke, 5 pp.

G ñ HB 3609, written testimony, Stephen Kafoury, 2 pp.

H ñ HB 3609, written testimony of Carol Porto, Jeff Watkins, 1 p

I ñ HJM 13, written testimony, Irv Fletcher, 2 pp.