

**SENATE COMMITTEE ON JUDICIARY**

**June 24, 1999 Hearing Room B**

**7:30 a.m. Tapes 252 - 254**

**MEMBERS PRESENT: Sen. Bryant, Chair**

**Sen. Courtney, Vice-Chair**

**Sen. Brown**

**Sen. Burdick**

**Sen. Nelson**

**Sen. Duncan**

**Sen. Tarno**

**STAFF PRESENT: Anne Tweedt, Counsel**

**Judith Minnich, Administrative Support**

**MEASURE/ISSUES HEARD: HB 3492A ñ Work Session**

**HB 2758A ñ Work Session**

**HB 2805A ñ Work Session**

**HB 2985A ñ Work Session**

**HB 3388A ñ Work Session**

**HJR 52A ñ 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.

TAPE/#	Speaker	Comments
<b>Tape 252, A</b>		
003	Chair Bryant	Calls meeting to order at 7:45 a.m.
<b><u>HB 2985A WORK SESSION</u></b>		
005	Rep. Max Williams	State Representative, House District 9

		Submits written testimony and testifies in support of HB 2985 with the -A99 amendments which are in work draft ( <b>EXHIBIT A</b> ). The ñA99 work draft amendments address the concern that employers could be without any liability for acts committed by their employees. The scope of employer liability, as defined in the ñA99 amendments, is a three-part test established by case law. First, if the conduct is the kind the person is employed to perform; second, if it occurs substantially within the authorized time and space for that employment; and third; it is actuated at least in part by a purpose to serve the employer. The ñA99 amendments incorporate the three-part test and also add that the conduct was reasonably believed to be for the benefit of the employer.
088	Sen. Brown	Asks if Kelly Clarkis concerns have been met by the ñA99 amendments.
091	Rep. Williams	I havenít talked with him, but I suspect the amendments donít satisfy all of his concerns. I believe his position is that the person who committed the illegal act is almost always in a situation where a financial award could not be paid. In order to assist the victim, even though negligence may not have occurred, a strict vicarious liability should be required. My position is that we cannot keep requiring strict vicarious liability and expect business to continue doing the good things they do for society.
146	Sen. Bryant	<b>MOTION: Moves to ADOPT HB 2985A -A99 conceptual draft amendments dated 6/21/99.</b>
		<b>VOTE: 5-0</b>  <b>EXCUSED: 2 - Burdick, Courtney</b>
Chair Bryant		<b>Hearing no objection, declares the motion CARRIED.</b>
149	Sen. Bryant	<b>MOTION: Moves HB 2985A to the floor with</b>

		a <b>DO PASS AS AMENDED</b> recommendation.
		<b>VOTE: 4-2</b>  <b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 2 - Brown, Burdick</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
155	Sen. Brown	Serves notice of a possibility minority report.
184	Sen. Bryant	<b>MOTION:</b> <b>Moves to SUSPEND the rules for the purpose of reconsidering the vote which sent HB 3492A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Courtney</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
192	Sen. Bryant	<b>MOTION:</b> <b>Moves to RECONSIDER the vote by which HB 3492A was sent to the floor with a DO PASS recommendation.</b>
195	Chair Bryant	Explains there are amendments from the Attorney General's Office which bring the legislation into compliance with federal regulations and propose a graduated set of penalties for youth offenders who attempt to purchase tobacco products, rather than immediate driver's license

		suspension.
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Duncan</b>
	Chair Bryant	Hearing no objection, declares the motion <b>CARRIED</b> .
<b><u>HB 3492A WORK SESSION</u></b>		
221	Mark Gardner	<b>Attorney General's Office</b> Submits written testimony and testifies in support of the ñA12 amendments ( <b>EXHIBITS B &amp; C</b> ). Indicates the ñA12 amendments are the same as the ñA10 amendments which were previously adopted with the exception of section 5, which begins on page 2, at line 3 and addresses the federal funding issue. Indicates the Attorney General's willingness to facilitate discussions to agree upon appropriate graduated sanctions for violation of the statute.
246	Chair Bryant	Have you discussed the ñA12 amendments with the proponents of the ñA10 amendments to see if you are in agreement with them?
249	Gardner	Yesterday we circulated a draft, and I didn't hear of anyone with objections.
254	Mark Nelson	<b>7-11 Convenience Stores</b> We have no objections.
263	Counsel Tweedt	Indicates the ñA11 amendments are to provide notice to distributors and retailers regarding the resale or destruction of cigarettes ( <b>EXHIBIT D</b> ).
268	Gardner	Indicates he thought the ñA11 amendments had been previously adopted by the committee.
271	Counsel Tweedt	Since HB 3492A is under reconsideration, if you want to adopt the ñA11 amendments, they need to be readopted.
275	Sen. Burdick	Is the new language in the ñA12 amendments the same language as is used in existing alcohol statutes?

278	Gardner	I'm not certain.
282	Nelson	As far as I know, there are no specific statutory authorizations for "stings" in relation to alcohol. Discusses tobacco "stings."
298	Sen. Bryant	<b>MOTION: Moves to ADOPT HB 3492-A11 amendments dated 6/17/99.</b>
		<b>VOTE: 6-0</b> <b>EXCUSED: 1 - Duncan</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>
314	Sen. Courtney	Discusses the reason to wait and allow the Attorney General to testify regarding the ñA10 and ñA 12 amendments.
316	Chair Bryant	My hope was we would adopt the ñA10 amendments and then hold the bill.
326	Sen. Courtney	I can't support the adoption of the ñA10 amendments at this time.
332	Sen. Burdick	The ñA12 amendments are the same as the ñA10 amendments except with the "sting" protection added?
337	Chair Bryant	That's correct.
339	Elinor Hall	<b>Department of Human Resources, Health Division</b>  Submits written testimony and testifies in support of HB 3492 and in opposition to the ñA10 amendments ( <b>EXHIBIT E</b> ). Indicates the proposed penalties are too harsh for the crime. Discusses the need to protect the federal funding of alcohol and drug programs through provisions such as have been added through the ñA12 amendments.
406	Chair Bryant	Do you think the ñA10 amendments would have an effect on minors who would stand to lose their driving privileges if they purchase or possess

		tobacco? It doesn't sound like we are holding the youth responsible.
412	Hall	Currently it is illegal for minors to be in possession of tobacco.
417	Chair Bryant	Yes, but would the potential loss of driving privileges act as a deterrent?
423	Hall	Possibly, but if a judge feels the penalty is too harsh, he may refuse to enforce it. Discusses the harshness of suspending a driver's license for a year.
<b>Tape 253, A</b>		
016	Chair Bryant	Continues to discuss potential penalties as deterrents for purchasing of tobacco.
059	<b>Rep. Jo Ann Bowman</b>	<b>State Representative, House District 19</b>  Testifies in opposition to HB 3492A. Believes that taking a young person's driver's license will just create unlawful drivers. Believes the current laws should be enforced.
114	Sen. Burdick	You are not opposing the underlying bill, just the A10 amendments?
116	Rep. Bowman	That's correct.
118	Sen. Duncan	I'm interested in the concept of graduated penalties. Do you still oppose that possibility?
122	Rep. Bowman	Yes. When we suspend adults license they often continue to drive, why wouldn't young people also continue to drive?
137	Sen. Duncan	My concern is that they will drive and become an uninsured driver. Indicates he would support a judge having discretion in sentencing.
150	Sen. Brown	This would have a disproportional effect on rural areas.
157	Chair Bryant	Closes work session on HB 3492A.
<b><u>HJR 52 WORK SESSION</u></b>		

168	Chair Bryant	Discusses the previous testimony on HJR 52. Indicates the ñA8, -A9, and -A15 amendments are available for consideration ( <b>EXHIBITS F, G &amp; H</b> ).
190	Counsel Tweedt	Indicates that HJR 52A would permit the zoning of sexually oriented adult businesses to the extent allowed by the federal constitution.
198	<b>Rep. Rob Patridge</b>	<b>State Representative, House District 50</b>  Submits testimony and testifies in support of the -A8 amendments ( <b>EXHIBIT I</b> ).
200	<b>Bill Linden</b>	<b>Oregon Entertainment Corporation</b>  Indicates support of the ñA8 amendments.
207	<b>Andrea Myers</b>	<b>American Civil Liberties Union (ACLU)</b>  Testifies in support of the ñA8 amendments.
214	Linden	The ñA15 amendments do two things: a) they make it clear that existing businesses would be grandfathered in under HJR 52, and b) they make it clear that if one of these businesses discontinues its use for two years, that non-conforming use would no longer be available.
260	Sen. Burdick	If the business changes ownership, then what happens?
270	Linden	Changing ownership would not cause the non-conforming use to expire.
281	Myers	We support the ñA15 amendments. We believe that all non-conforming businesses should be treated the same whatever the type of business and the ñA15 amendments do this.
320	Chair Bryant	Was one of the issues that the City of Portland could buy out the business, through amortization over a period of time?
332	Linden	This is a method to remove businesses from a location. The ñA15 amendments would eliminate this as a possibility.

343	Rep. Patridge	Discusses non-conforming zoning designation. Discusses amortization of property with a non-conforming zoning designation. Indicates that the ñA15 amendments do create an entire new tier of property under the zoning laws. Zoning regulations don't belong in the Oregon constitution.
448	Chair Bryant	If you wanted to rezone, you could simply condemn. Amortization is a different process than condemnation.
476	Sen. Brown	The prior ballot measures which addressed adult businesses failed. HJR 52, with a grandfather clause in it, may have a better chance at passing. Aren't we better off having something, rather than nothing, since the two prior measures failed?
494	Rep. Patridge	If you create a second level of land use, proponents of this measure will withdraw their support.
<b>Tape 254, A</b>		
055	Sen. Burdick	I thought I'd heard that Portland would anticipate passing an amortization ordinance.
061	Sen. Brown	Are sex shops opening and closing frequently?
067	Linden	Yes. They change type of entertainment frequently and the economics are difficult.
076	Rep. Patridge	I think sexually oriented businesses should be treated the same as any other business. If there is concern they won't be treated fairly, then language could be added, but we should not create a whole new tier of land use.
100	Linden	The purpose behind the ñA15 amendments is to ensure these businesses are treated the same. The very nature of the business calls out for special treatment.
116	Sen. Burdick	Asks for clarification of the difference between the approach taken by Rep. Patridge and the ñA15 amendments.
120	Linden	Section 2 in the ñA15 amendments would grandfather in existing



		businesses.
149	Myers	There will be a lot of pressure on local governments to zone these businesses out of existence.
165	Rep. Patridge	These types of business are regulated in 48 other states. Amortization is an expensive proposition and local entities don't have the money.
181	Linden	"Lawfully" would not extend to the non-conforming nature of the business?
189	Chair Bryant	No, I mean they were businesses established lawfully.
194	Sen. Burdick	What would be an example of that?
197	Chair Bryant	Gives an example.
211	<b>Marge Kafoury</b>	<b>City of Portland</b>  There is a big difference between a constitutional provision and local statutes. The City will oppose HJR 52 if the ñA15 is adopted. Putting this in the constitution gives these businesses a status that other businesses do not enjoy.
226	Chair Bryant	There is constitutional protection for these businesses now.
248	<b>Beth Vargas Duncan</b>	<b>League of Oregon Cities</b>  Agrees with the City of Portland and is opposed to the ñA15 amendments. The prior ballot measures dealt with books, videos and other types of material that HJR 52 does not address. The ñA15 amendments are not necessary to obtain support for HJR 52 which only addresses the zoning of these businesses, not the content.
<b><u>HB 2758 PUBLIC HEARING</u></b>		
293	<b>Steve Kafoury</b>	<b>Architects Council of Oregon</b>  Discusses the reason for the ñA4 amendments ( <b>EXHIBIT J</b> ).
320	Chair Bryant	Asks if there are substantive changes in the bill with the ñA4 amendments.

340	John Baker	<p><b>Legal Counsel for Architects Council of Oregon</b></p> <p>Indicates that the ñA4 amendments do not make substantive changes in the underlying bill. They just make procedural changes in the lien rights established.</p>
438	Chair Bryant	Asks a question regarding lien laws as they exist for architects.
<b>Tape 253, B</b>		
005	Baker	Indicates that contractor's liens and architect's liens are different. Architect's liens are more ambiguous.
008	Chair Bryant	But the ambiguity is a benefit to the architect under current law.
013	Baker	Yes, it could be. But it is unclear how a court would interpret the law, since it is ambiguous.
023	Chair Bryant	On page 6, section 5, is this a change in existing law?
025	Baker	I don't think so. This provides the architect the same burden and same protection as the contractor has.
044	Chair Bryant	Discusses current lien laws for architects.
076	Baker	Discusses current lien laws for architects and the procedural changes made by the ñA4 amendments.
117	Kafoury	<p>Discusses the suggestion that this issue go to work group during the</p> <p>interim. Why can't the architects and surveyors be served in this legislative session?</p>
145	Sen. Burdick	What happened to your bill, HB 2991?
154	Kafoury	One of the reasons for HB 2991 was that the architects were not placed in the same section as the surveyors' liens but in the contractor's lien section. Other objections were raised which we consider frivolous.

158	Chair Bryant	It is my hope to address this issue during the interim.
178	<b>Phil Donovan</b>	<b>Oregon Equipment Rental Association</b>  Testifies in opposition to the ñA4 amendments. Discusses the changes in construction lien law which would be caused by the ñA4 amendments. Indicates they are substantive changes.
232	Baker	Discusses his interpretation of the ñA4 amendments.
259	<b>Sen. Brown</b>	<b>MOTION: Moves to ADOPT HB 2758A-A4 amendments dated 5/26/99.</b>
260	Sen. Tarno	I'll be a no.
261	Sen. Burdick	I'll also be a no.
262	Sen. Nelson	I think it is very complicated and there seems to have been a negotiated agreement so I'll vote no.
268	Chair Bryant	The sponsors of the original bill have indicated that if the ñA4 amendments are added, they will oppose the bill, or try to have it changed in conference committee. After listening, I think I would like to do this in the interim.
290	<b>Sen. Brown</b>	<b>MOTION: Moves to WITHDRAW the motion to ADOPT HB 2758A-A4 amendments dated 5/26/99.</b>
296	<b>Sen. Tarno</b>	<b>MOTION: Moves HB 2758A to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 7-0</b>
Chair Bryant		Hearing no objection, declares the motion CARRIED.

		SEN. TARNO will lead discussion on the floor.
<b><u>HB 2805A WORK SESSION</u></b>		
307	Chair Bryant	Indicates there are additional amendments available to HB 2805A, which addresses SLAPP suits by providing civil immunity under some circumstances, and asks Legislative Council to address the ñA8 amendments ( <b>EXHIBIT K</b> ).
330	Counsel Tweedt	Indicates that the ñA12, ñA10, ñA11 and ñA13 amendments are also to be considered and discusses their differences ( <b>EXHIBITS L, M, N &amp; O</b> ).
348	<b>Dave Heynderickx</b>	<b>Office of Legislative Counsel</b>  Indicates the ñ A11, -A12 and ñA13 amendments all address the awarding of attorney fees and the ñA8 and ñA10 amendments address civil immunity.
365	Sen. Burdick	Suggests that the -A12 amendments be considered rather than the -A11 amendments.
376	Chair Bryant	Indicates agreement on considering the ñA12 amendments. Believes that fees, if they are to be awarded, should be awarded to the prevailing party. Discusses punitive damages and indicates reluctance to make a new exception.
422	Heynderickx	Discusses punitive damages. The problem with reciprocity is that constitutionally you could not award punitive damages to a plaintiff in a defamation case.
<b>Tape 254, A</b>		
039	Heynderickx	Discusses punitive damages and the necessity for a cross claim in order to have an award of reciprocal punitive damages. There is no authority in the law for a defendant to file for punitive damages.
075	<b>Sen. Bryant</b>	<b>MOTION: Moves to ADOPT HB 2805A-A10 amendments</b>

		<b>dated 6/21/99.</b>
082	Sen. Duncan	Is the concept of "should have known" understandable to those who are not attorneys?
084	Chair Bryant	It is defined in current case law and the plaintiff will have to prove it. Discusses the balancing which needs to be done between encouraging active participation and protecting the truth.
111	Sen. Brown	Discusses the "should have known" language and the possibility of exchanging this language for the material/immaterial standard.
117	Chair Bryant	Even being a citizen requires some due diligence. I would prefer the "should have known" language.
125	Sen. Burdick	Asks if the "should have known" language is a high bar in the case law.
128	Heynderickx	It requires a series of facts to show that the person should have known.
145	Sen. Burdick	The whole point is to keep these cases out of court. I would prefer "should have known" be left out. A jury would always have to decide.
159	Sen. Duncan	I am uncomfortable with the phrase but I want to be sure we have a HB 2805.
169		<b>VOTE: 4-3</b>  <b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 3 - Brown, Burdick, Courtney</b>
	<b>Chair Bryant</b>	<b>The motion CARRIES.</b>
175	Sen. Burdick	Indicates she would like to move the ñA12 amendments at the appropriate time.
177	Chair Bryant	Indicates he would support the ñA12 amendments without the final sentence but that he prefers the ñA13

		amendments.
187	Sen. Bryant	<b>MOTION: Moves to ADOPT HB 2805A-A13 amendments dated 6/23/99.</b>
		<b>VOTE: 4-3</b>  <b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 3 - Brown, Burdick, Courtney</b>
	Chair Bryant	<b>The motion CARRIES.</b>
196	Sen. Bryant	<b>MOTION: Moves HB 2805A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-3</b>  <b>AYE: 4 - Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 3 - Brown, Burdick, Courtney</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
198	Sen. Brown	Serves notice of a possible minority report.
207	Chair Bryant	Recesses hearing at 9:45 a.m.
213	Chair Bryant	Reconvenes the hearing at 2:40 p.m.
<b><u>HB 3388A WORK SESSION</u></b>		

221	<b>Pete Shepherd</b>	<b>Department of Justice, Financial Fraud</b>  Submits testimony and testifies in support of HB 3388A. Discusses and supports the ñA5 amendments <b>(EXHIBITS R &amp; S)</b> . HB 3388A declares certain sweepstakes promotions to be unlawful trade practices.
265	Sen. Duncan	What if the niece of elderly woman makes a request that the mailings be discontinued to her aunt?
272	Shepherd	We struggled with this because it is often the case that a family member discovers that an elderly person is not making good decisions, but is unable to persuade the elderly person to make the request. I don't think a request by a relative, unless appointed as guardian, would be honored.
284	<b>Tom Gallagher</b>	<b>Oregon Association for Home Care</b>  Testifies in support of HB 3388A. Indicates the elderly person can have someone to help with the submission of forms.
296	Shepherd	The consequence of the failure to remove someone from the mailing list for sweepstakes solicitation is unlawful trade practice. Elderly, disabled or incapacitated people who have spent \$500 or more in the year preceding their application to be removed from the list, can avail themselves of the current statute to obtain an ex parte restraining order.
338	Chair Bryant	How was the time frame for removal from the list decided?
341	Shepherd	There is a long, complicated and mostly legitimate procedure for removing someone from the list. As long as they are obligated to return any subsequent money, the major problem has been solved.
374	<b>Mike Dewey</b>	<b>Direct Marketing Association</b>  Testifies in support of HB 3388A.
377	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT HB 3388A-A5 amendments</b>

		dated 6/24/99.
		<b>VOTE: 7-0</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>382</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves HB 3388A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0</b>
	<b>Chair Bryant</b>	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. COURTNEY will lead discussion on the floor.</b>
<b>392</b>	<b>Chair Bryant</b>	<b>Adjourns hearing at 2:55 p.m.</b>

Submitted By, Reviewed By,

Judith Minnich, Sarah Watson,

Administrative Support Office Manager

#### EXHIBIT SUMMARY

**A ñ HB 2985A, -A99 work draft amendments dated 6/21/99, 1 pp**

**B ñ HB 3492A, -A12 amendments dated 6/23/99, 16 pp**

**C - HB 3492A, -A10 amendments dated 6/8/99, 16 pp**

**D - HB 3492A, -A11 amendments dated 6/17/99, 1 pp**

**E ñ HB 3492A, written testimony from Elinor Hall, 2 pp**

**F ñ HJR 52A, ñA9 amendments dated 6/1/99, 1 pp**

**G - HJR 52A, ñA8 amendments dated 6/1/99, 1 pp**

**H - HJR 52A, ñA15 amendments dated 6/17/99, 1 pp**



**I ñ HJR 52A, written testimony from Legislative Council submitted by Rep. R. Patridge, 1 pp**

**J ñ HB 2758A, -A4 amendments dated 5/26/99, 9 pp**

**K ñ HB 2805A, -A8 amendments dated 5/17/99, 1 pp**

**L - HB 2805A, ñA12 amendments dated 6/23/99, 1 pp**

**M - HB 2805A, ñA10 amendments dated 6/21/99, 1 pp**

**N - HB 2805A, ñA11 amendments dated 6/23/99, 1 pp**

**O - HB 2805A, ñA13 amendments dated 6/23/99, 1 pp**

**P ñ HB 2805A, written testimony submitted by Marilyn Reeves, 2 pp**

**Q ñ HB 2805A, written testimony from Jeff Lamb submitted by Rep. L. Shetterly, 2 pp**

**R ñ HB 3388A, written testimony from Pete Shepherd, 1 pp**

**S ñ HB 3388A, - A5 amendments dated 6/24/99, 5 pp**

## SENATE COMMITTEE ON JUDICIARY

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June 24, 1999 Hearing Room C

2:30 PM Tapes 255

**MEMBERS PRESENT:** Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Duncan

Sen. Nelson

Sen. Tarno

**STAFF PRESENT:** Bill Taylor, Counsel

Kathy Courtney, Administrative Support

**MEASURE/ISSUES HEARD:** HJR 87A ñ HJR 94A, Work Session

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TAPE/#	Speaker	Comments
<b>TAPE 255, SIDE A</b>		
050	Chair Bryant	Calls hearing to order at 2:50 PM.
<b><u>HJR 87A WORK SESSION</u></b>		
056	Counsel Taylor	HJR 87A proposes an amendment to the Oregon Constitution which grants certain rights to victims of crimes and acts of juvenile delinquency. Discusses the HJR 87A-A8 amendments. <b>(EXHIBIT A)</b>
068	Sen. Tarno	Discusses his opposition to the HJR 87A ñ HJR 94A amendments.

078	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 87-A8 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 ñ Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b> <b>NAY: 1 ñ Tarno</b>
	Chair Bryant	<b>The motion CARRIES.</b>
068	Sen. Tarno	Expresses his concern that HJR 87A ñ 94A may not satisfy the will of the voters expressed in Measure 40, the Victim Rights Initiative.
080	Chair Bryant	<b>MOTION: Moves HJR 87A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 7-0-0</b>
	Chair Bryant	<b>Hearing no objection, declares the motion CARRIED.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
082	Chair Bryant	Closes HJR 87A Work Session.
<b><u>HJR 88A WORK SESSION</u></b>		
084	Counsel Taylor	HJR 88A proposes an amendment to the Oregon Constitution which grants the people of Oregon the right to a jury trial. Discusses the HJR 88A ñA10 amendments. <b>(EXHIBIT B)</b>
099	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 88A -A10 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b> <b>NAY: 1 - Tarno</b>

	Chair Bryant	The motion CARRIES.
102	Chair Bryant	<b>MOTION: Moves HJR 88A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 - Brown, Courtney, Duncan, Nelson, Tarno, Bryant</b> <b>NAY: 1 - Burdick</b>
	Chair Bryant	The motion CARRIES.  <b>SEN. BRYANT will lead discussion on the floor.</b>
105	Chair Bryant	Closes HJR 88A Work Session.
<b><u>HJR 89A WORK SESSION</u></b>		
107	Counsel Taylor	HJR 89 proposes an amendment to the Oregon Constitution to disqualify specified felons and people who are not registered to vote from jury service. Discusses the HJR 89A ñA10 amendments. <b>(EXHIBIT C)</b>
110	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 89-A10 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b> <b>NAY: 1 - Tarno</b>
	Chair Bryant	The motion CARRIES.
113	Chair Bryant	<b>MOTION: Moves HJR 89A to the floor with a DO PASS AS AMENDED recommendation.</b>

		<b>VOTE: 6-1</b>  <b>AYE: 6 - Brown, Courtney, Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 1 - Burdick</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
120	Chair Bryant	Closes HJR 89A Work Session.
<b><u>HJR 90A WORK SESSION</u></b>		
122	Counsel Taylor	HJR 90A proposes an amendment to the Oregon Constitution specifying offenses which are subject to bail. Discusses the HJR 90A -A9 amendments. <b>(EXHIBIT D)</b>
129	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 90-A9 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b>  <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b>  <b>NAY: 1 - Tarno</b>
	Chair Bryant	<b>The motion CARRIES.</b>
131	Chair Bryant	<b>MOTION: Moves HJR 90A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 6-1-0</b>  <b>AYE: 6 - Brown, Courtney, Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 1 - Burdick</b>

	Chair Bryant	<p>The motion CARRIES.</p> <p>SEN. BRYANT will lead discussion on the floor.</p>
135	Chair Bryant	Closes HJR 90A Work Session.
<b><u>HJR 91A WORK SESSION</u></b>		
139	Counsel Taylor	HJR 91A proposes an amendment to the Oregon Constitution which relates to the admissibility of evidence. Discusses the HJR 91A ñA10 amendments. (EXHIBIT D)
144	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 91-A10 amendments dated 06/23/99.</b>
		<p><b>VOTE: 6-1-0</b></p> <p><b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b></p> <p><b>NAY: 1 - Tarno</b></p>
	Chair Bryant	The motion CARRIES.
152	Chair Bryant	<b>MOTION: Moves HJR 91A AS AMENDED to the floor WITHOUT RECOMMENDATION as to passage.</b>
		<p><b>VOTE: 5-2-0</b></p> <p><b>AYE: 5 - Courtney, Duncan, Nelson, Tarno, Bryant</b></p> <p><b>NAY: 2 - Brown, Burdick</b></p>
	Chair Bryant	<p>The motion CARRIES.</p> <p>SEN. BRYANT will lead discussion on the floor.</p>

156	Sen. Brown	Expresses opposition to HJR 91A.
161	Sen. Burdick	Asserts that the Legislature owes Oregon voters one ballot measure, not eight.
175	Chair Bryant	Closes HJR 91A Work Session.
<b><u>HJR 92A WORK SESSION</u></b>		
187	Mark Gardner	<b>Special Counsel to the Attorney General</b>  HJR 92A proposes an amendment to the Oregon Constitution which allows an 11-1 vote of guilty of murder. Compares murder and aggravated murder penalties.
203	Chair Bryant	Introduces the HJR 92A ñA6 amendments. <b>(EXHIBIT F)</b>
204	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 92A-A6 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b>  <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b>  <b>NAY: 1 - Tarno</b>
	Chair Bryant	<b>The motion CARRIES.</b>
207	Chair Bryant	<b>MOTION: Moves HJR 92A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2-0</b>  <b>AYE: 5 - Courtney, Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 2 - Brown, Burdick</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>

209	Chair Bryant	Closes HJR 92A Work Session.
<b><u>HJR 93A WORK SESSION</u></b>		
212	Counsel Taylor	HJR 93A proposes an amendment to the Oregon Constitution which relates to the criminal liability of a person compelled to testify in court. Discusses the HJR 93A ñA9 proposed amendments. <b>(EXHIBIT G)</b>
213	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 93A-A9 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b> <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b> <b>NAY: 1 - Tarno</b>
	Chair Bryant	<b>The motion CARRIES.</b>
216	Chair Bryant	<b>MOTION: Moves HJR 93A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2-0</b> <b>AYE: 5 - Courtney, Duncan, Nelson, Tarno, Bryant</b> <b>NAY: 2 - Brown, Burdick</b>
	Chair Bryant	<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
222	Chair Bryant	Closes HJR 93A Work Session.



**HJR 94A WORK SESSION**

224	Counsel Taylor	HJR 94A proposes an amendment to the Oregon Constitution which relates to the execution of sentences.
230	Mark Gardner	<b>Special Counsel to the Attorney General</b>  Discusses HJR 94A as it relates to Measure 11. Explains the court's sentencing power which derives from legislative action. Discusses good time credit applied retrospectively.
266	Chair Bryant	<b>MOTION: Moves to ADOPT HJR 94A-A7 amendments dated 06/23/99.</b>
		<b>VOTE: 6-1-0</b>  <b>AYE: 6 - Brown, Burdick, Courtney, Duncan, Nelson, Bryant</b>  <b>NAY: 1 - Tarno</b>
Chair Bryant		<b>The motion CARRIES.</b>
269	Chair Bryant	<b>MOTION: Moves HJR 94A to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-2-0</b>  <b>AYE: 5 - Courtney, Duncan, Nelson, Tarno, Bryant</b>  <b>NAY: 2 - Brown, Burdick</b>
Chair Bryant		<b>The motion CARRIES.</b>  <b>SEN. BRYANT will lead discussion on the floor.</b>
273	Chair Bryant	Adjourns hearing at 3:07 PM.

Submitted By, Reviewed By,

Kathy Courtney, Sarah Watson

Administrative Support Office Coordinator

**EXHIBIT SUMMARY**

- A. HJR 87A ñA8 proposed amendments, Bill Taylor, 1p**
- B. HJR 88A ñA10 proposed amendments, Bill Taylor, 1p**
- C. HJR 89A ñA10 proposed amendments, Bill Taylor, 1p**
- D. HJR 90A ñA9 proposed amendments, Bill Taylor, 1p**
- E. HJR 91A ñA10 proposed amendments, Bill Taylor, 1p**
- F. HJR 92A ñA6 proposed amendments, Bill Taylor, 1p**
- G. HJR 93A ñA9 proposed amendments, Bill Taylor, 1p**
- H. HJR 94A ñA7 proposed amendments, Bill Taylor, 1p**