

## SENATE COMMITTEE ON PUBLIC AFFAIRS

July 7, 1999 Hearing Room B

8:30 a.m. Tapes 84

**MEMBERS PRESENT:** Sen. Charles Starr, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Veral Tarno

**MEMBER EXCUSED:** Sen. Marylin Shannon

Sen. Thomas Wilde

**STAFF PRESENT:** Sandy Thiele-Cirka, Administrator

Valerie Luhr, Administrative Support

**MEASURE HEARD:** HB 2332-A 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 84, A</b>		
004	Chair Starr	Opens the meeting at 8:09 a.m. and discusses the meeting agenda. Opens a work session on HB 2332-A.
<b><u>HB 2332-A WORK SESSION</u></b>		
017	Annette Talbott	Legislative Coordinator, Employment Department. Testifies in support of the bill. Reviews provisions of the HB 2332-A3 amendments ( <b>EXHIBIT A</b> ). Discusses the department's screening procedures. Reviews federal law requirements. Comments on the reduction of the fiscal impact by the amendment.

058	Scott Ashcom	Oregon Association of Nurserymen. States the association concurs with Ms. Talbott's testimony and supports the amendments.
066	Sen. Tarno	Asks if permission from the federal government is required to implement the pilot program.
067	Talbott	Responds the department has received preliminary indication they can treat employment service applicants similarly to unemployment insurance claimants and will have something in writing before January 1, 2000.
077	Sen. Tarno	Asks about the fiscal impact to the state mandated by the federal government.
079	Talbott	Indicates there is no federal mandate.
083	Sen. Tarno	Comments on requirements of the Federal H(ii)(a) Program;
086	Talbott	Explains that many programs administered by the Employment Department are federal statutory programs for which the department cannot change the rules, but can provide suggestions.
099	Ashcom	Explains the task force will be able to review whether a federal mandate incurs a cost to the state and then report to the legislature.
108	Sen. Tarno	<b>MOTION: Moves to ADOPT HB 2332-A3 amendments dated 7/6/99.</b>
		<b>VOTE: 3-0</b>
		<b>EXCUSED: 2 - Shannon, Wilde</b>
	<b>Chair Starr</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
112	Sen. Tarno	Proposes a motion to move HB 2332-A as amended to the floor with a do pass recommendation.
114	Sen. Dukes	Asks if the bill will go to the Ways and Means Committee. Expresses concern about the department's ability to absorb the cost.
121	Talbott	Clarifies the department will absorb the cost of performing verifications. Comments on task force funding. Explains the fiscal is 1 FTE, not 5 FTE, and the department will apply for a new federal grant.
142	Sen. Dukes	Comments the mandate is still there if the department does not receive additional federal funds.
143	Talbott	Responds the requirement would be there for two years.
147	Sen. Dukes	States the rules require that anything over \$50,000 goes to the Ways and Means Committee.
149	Sen. Tarno	Asks if funding was discussed in the House.

150	Ashcom	Answers affirmatively. Explains the fiscal impact statement addresses the HB 2332-A2 amendments.
156	Sen. Dukes	Notes that the current fiscal statement exceeds \$100,000.
161	Talbott	Comments on Legislative Administration's staffing of interim committees.
169	Thiele-Cirka	Reviews procedures for fiscal impact statements and referrals to the Ways and Means Committee.  Discussion continues revolving around the bill's fiscal impact.
201	Sen. Tarno	<b>MOTION: Moves HB 2332 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 3-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 2 - Shannon, Wilde</b>
	Chair Starr	<b>The motion CARRIES.</b>  States the committee will meet at 3 p.m. Adjourns the meeting at 8:20 a.m.

Submitted By, Reviewed By,

Valerie Luhr, Sandy Thiele-Cirka,  
Administrative Support Administrator

#### EXHIBIT SUMMARY

A ñ HB 2332-A3 amendments, staff, 1 p.

## SENATE COMMITTEE ON PUBLIC AFFAIRS

July 7, 1999 Hearing Room B

3:00 p.m. Tapes 85 - 87

**MEMBERS PRESENT:** Sen. Charles Starr, Chair

Sen. Joan Dukes, Vice-Chair

Sen. Marilyn Shannon

Sen. Veral Tarno

Sen. Thomas Wilde

**STAFF PRESENT:** Brian Smith, Administrator

Jan McComb, Administrator

Megan Palau, Administrator

Patrick Brennan, Administrative Support

**MEASURES HEARD:** HB 2670-B Public Hearing and Work Session

HB 2335-A Public Hearing and Work Session

HJR 4-A Public Hearing and Work Session

SB 1335 Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 85, A		
003	Chair Starr	Calls the meeting to order at 3:07 p.m. Opens a public hearing on HB 2670-B.
<u>HB 2670-B PUBLIC HEARING</u>		

008	Rep. Starr	House District 3. Testifies in support of HB 2670. Describes the bill as an attempt to bring character education to Oregon schools. Discusses the successful implementation of a character education program in the Clatskanie school district <b>(EXHIBIT A)</b> . Mentions that the bill requires the character program to be secular in nature. Says the bill is merely a recommendation, not a mandate. Indicates that the ñB8 amendments <b>(EXHIBIT B)</b> have been submitted to adjust the timetable for grant application and to remove language in the "whereas" clause related to single-parent families.
057	Jessica Harris	Legislative Assistant, Rep. Lynn Lundquist. Testifies in support of HB 2670-B. Says the bill will allow reimbursement of room and board costs for students attending public boarding schools in lieu of transportation costs.
107	Steve Martin	Representative, City of Clatskanie. Testifies in support of HB 2670-B <b>(EXHIBIT C)</b> . Describes the character education program implemented by Clatskanie schools in 1998 as part of the cityís efforts to become "a city of character." Says the program has been convenient for all segments of the cityís government, employers, schools, and faith organizations.
155	Martin	Shares examples of statements from Clatskanie students written in support of character education. Explains that the program is a joint effort to "make character a cultural norm" in Clatskanie.
205	Chair Starr	Discusses his involvement in the Clatskanie project. Commends Mr. Martin for helping to make Clatskanie "a model for the Northwest." Closes the public hearing on HB 2670-B and opens a public hearing on HB 2335-A.
<b><u>HB 2335-A PUBLIC HEARING</u></b>		
230	Helen Liere	Representative, Alliance for Community Traffic Safety in Oregon. Testifies in support of HB 2335-A <b>(EXHIBIT D)</b> . States that school zones require greater precautions to protect the safety for children.
290	Liere	Indicates that Sen. Shannon has submitted the ñA9 amendments <b>(EXHIBIT E)</b> , which create a clearer definition of "when children are present." Says the amendments consider children to be present if they are in or at a crosswalk, in or alongside a road, or within 50 feet of a road on un-fenced school grounds. Asserts that the ñA9 amendments will make it easier for a driver to determine whether they are to keep their speed under 20 mph. through the improved definition and requirements for signage.
340	Sen. Peter Courtney	Senate District 17. Testifies in support of HB 2335-A. Says that SB 844, which creates school safety zones of 1,000 feet, has been incorporated into the ñA10 amendments <b>(EXHIBIT F)</b> .
<b>TAPE 86, A</b>		
002	Sen. Courtney	Indicates that the ñA11 amendments <b>(EXHIBIT G)</b> create a new class of misdemeanor for trespass within the 1,000 ft. safety zone, which would allow

		principals to deal with gang members and drug dealers.
013	Sen. Tarno	Comments on SB 844, the bill from which the ñA10 amendments were taken. Suggests the committee consider them prior to taking action on the bill.
020	Sen. Courtney	Discusses the decision by the House Criminal Law Committee not to take action on SB 844.
042	Sen. Dukes	Requests clarification regarding the 1,000 feet limit. Asks if public sidewalks are considered school property by the amendments.
049	Sen. Courtney	Replies that sidewalks would not be considered school property and would not be subject to restriction. Compares the amendments to penalties for drug solicitation near schools.
065	Sen. Dukes	Agrees with the concept of protecting school zones. Suggests that the committee take care to insure that schools will not be allowed to restrict free access to sidewalks near schools. Asserts that the bill should clarify that only school property is affected.
075	Sen. Wilde	Submits that the bill and amendments adequately address the issue.
080	Pat Egan	Representative, Beaverton-Hillsdale School District. Clarifies that the ñA11 amendments restrict certain conduct within the 1,000 ft. zone, enhancing the ability of administrators to deal with pupil conduct.
096	Sen. Dukes	Inquires whether exclusion zones are defined in statute.
100	Sen. Courtney	Suggests that the committee receive additional testimony on the amendments prior to making a decision.
111	Chair Starr	Indicates the committee will hold a work session on the bill at a later time. Closes the public hearing on HB 2335-A and opens a public hearing on HJR 4-A.
<b><u>HJR 4-A PUBLIC HEARING</u></b>		
122	Rep. Lane Shetterly	House District 34. Testifies in support of HJR 4-A. Gives an overview of <i>Tanner v. OHSU</i> , which determined that employers must provide benefits to same-sex partners of employees consistent with married employees. Asserts that the decision has created the possibility that statute prohibiting same-sex marriages may be found unconstitutional. Explains that the resolution would define marriage in the Oregon Constitution to consist of one male and one female, solemnized in law.

155	Sen. Dukes	Inquires about the purpose of the resolution.
157	Rep. Shetterly	Replies that the purpose is "to define the institution of marriage." Mentions that the requirement that marriage be solemnized in law was added to avoid granting common-law marriage constitutional protection.
168	Sen. Dukes	Asks if the <i>Tanner</i> decision held that Oregon's marriage law does not permit same-sex marriages.
170	Rep. Shetterly	Responds that the court did not make that issue a holding of the case, but rather a <i>dicta</i> , or commentary.
174	Sen. Dukes	Wonders if it was the intention of the sponsors to affect the <i>Tanner</i> decision.
175	Rep. Shetterly	Replies negatively.
179	Sen. Wilde	Inquires whether a same-sex marriage recognized by a religious organization would not be recognized by the state.
185	Rep. Shetterly	Replies affirmatively. Explains that there are both civil and religious aspects of marriage, with the state recognizing only the former to be relevant with regard to rights and obligations.
194	Sen. Wilde	Submits that <i>Tanner</i> , combined with state recognition of the religious aspect of same-sex marriage, creates civil responsibilities on the part of the state.
206	Rep. Shetterly	Clarifies that HJR 4-A addresses the <i>Tanner</i> case only with regard to the civil aspects of marriage.
212	Rep. Bill Witt	House District 7. Testifies in support of HJR 4. Refers to testimony submitted by Greg Chaimov, Legislative Counsel, which indicates the <i>Tanner</i> case threatens the Oregon marriage law. States that HJR 4 clarifies that the legal logic of the case cannot be used to compel the state to recognize same-sex marriages.
263	Rep. Witt	Asserts that HJR 4 reflects the fact that most Oregonians do not support the recognition of same-sex marriages. Reiterates that the resolution would refer the issue to voters, who would determine whether it should become part of the Oregon Constitution and therefore be out of the reach of judicial interpretation.
280	Sen. Wilde	Inquires what would happen if a "contractual arrangement" similar to marriage were created for same-sex couples. Wonders if such a creation would be considered unconstitutional if HJR 4-A were to be adopted.
294	Rep. Witt	Replies that there is nothing in the resolution that would prohibit recognition of a status other than marriage. Reiterates that the resolution does not directly address

		civil issues related to marriage.
328	Rep. Juley Gianella	House District 38. Testifies in support of HJR 4-A. States that the bill allows the gay community to retain benefits while allowing the state to define marriage. Argues that defining marriage is crucial for the protection of children, who are "begging for boundaries" between right and wrong.
368	Sen. Dukes	Reiterates that same-sex marriages are outlawed in Oregon. Wonders what is gained by the addition of HJR 4-A.
373	Rep. Gianella	Asserts that the <i>Tanner</i> case has created the need to define marriage, before it is redefined arbitrarily. Argues that it is better to take action than to try to defend the institution later.
381	Sen. Dukes	Recalls previous testimony that indicated that <i>Tanner</i> made no comment on the legality of same-sex marriages.
388	Rep. Gianella	States that the people of Oregon should make a definitive statement, as there is no guarantee that no change will take place on the issue. Reiterates that the resolution is an important step in protecting children.
<b>TAPE 85, B</b>		
003	Dominick Vetri	<p>Professor of Law, University of Oregon. Testifies in opposition to HJR 4-A (<b>EXHIBIT H</b>). Offers three reasons for rejecting the resolution:</p> <ul style="list-style-type: none"> <li>• It is bad public policy</li> <li>• It will harm Oregon's social fabric</li> <li>• It will leave a blot on Oregon's constitutional history, which is "already stained with mistreatment of minority peoples"</li> </ul> <p>Asserts that the proposal is unnecessary, as there is little chance that the marriage law will be overturned. States that gay and lesbian families already exist, and will continue to exist if the resolution is adopted. Argues that the essence of the proposal is discrimination, comparing the issue to past prohibitions against slave and interracial marriages.</p>
050	Vetri	Asserts that some traditions embody "irrational prejudice," excluding certain classes of people from full participation in institutions. Says that the civil rights of individuals should not be put to the vote. Submits that an anti-gay provision such as HJR 4-A will justify continued prejudice and discrimination. Concludes that the measure is "at odds with the ideals of our nation."
093	Sen. Shannon	Wonders if there have been detrimental effects in Hawaii during the period following its passage of a measure similar to HJR 4-A.
096	Vetri	Replies that Hawaii has not yet finalized the legislation outlawing same-sex marriages, as it is still tied up in the courts.



101	Sen. Shannon	Comments that the Hawaii measure was a constitutional amendment.
103	Vetri	Replies that the Hawaii Supreme Court is debating the issue.
107	David Fidanque	Executive Director, American Civil Liberties Union (ACLU) Oregon chapter. Testifies in opposition to HJR 4-A. Says that there are complicated legal issues related to the resolution. Indicates that the court did make a holding for the prohibition of same-sex marriages in <i>Tanner</i> , adding that such holdings are typical. Asserts that the decision in the case does not threaten the Oregon marriage law.
150	Fidanque	Discusses the <i>Tanner</i> case. Indicates that the court's decision to require businesses to extend benefits to same-sex couples was related to the prohibition against extending special rights to any class of citizen. Argues that HJR 4-A does not affect the <i>Tanner</i> decision.
205	Fidanque	Comments on possible "collateral damage" that might result from adoption of HJR 4-A. Suggests that Oregon may be required to recognize any marriage between a male and female from another state, including those between underage couples.
252	Sen. Shannon	States that all states recognize marriages from other states under Full Faith and Credit laws. Argues that is one reason why HJR 4-A is important, as it would prevent the recognition of such marriages.
260	Fidanque	Asserts that provisions in statute are a different matter than those embodied in the constitution.
270	Jerry Keene	Representative, Log Cabin Republicans of Oregon. Says the strongest arguments for and against the resolution are not legal, but are rather symbolic. Describes his relationship with his partner, which is equivalent to marriage in every sense but the legal. Argues that the measure is "a fight over who gets to have family values."
310	Keene	Discusses the phenomenon of homophobia. Argues that the purpose of the bill is to divide Oregonians over gay rights. Submits that passage of the bill will adversely affect the Republican Party by portraying its membership as judgemental. Recalls the Dorchester conference, in which a similar measure was voted down 3-1.
358	Sen. Shannon	Recalls that in the 1970s, the Democrat Party took a liberal stance on social issues, which Republicans have aligned themselves against. Asserts that the Republican Party's return to power has occurred because it was willing to take a stand on social issues.
376	Keene	Comments on his experiences as a candidate in legislative elections. Says it has been some time since a Republican won a statewide election and that the majority is threatened by swing voters being turned off by efforts to limit gay rights. Reiterates that the gay community has merely reacted to the issue, being

		interested more in protecting its existing rights than in expanding them.
407	Sen. Shannon	Mentions that the plaintiffs in <i>Tanner</i> were homosexual.
		Additional testimony was submitted for consideration by the committee members ( <b>EXHIBIT I</b> ).
410	Chair Starr	Closes the public hearing on HJR 4-A and opens a work session on HJR 4-A.
<b><u>HJR 4-A WORK SESSION</u></b>		
420	Sen. SHANNON:	<b>MOTION: Moves HJR 4-A be sent to the floor with a BE ADOPTED recommendation.</b>
424		<b>VOTE: 3-1-1</b> <b>AYE: 3 - Shannon, Tarno, Starr</b> <b>NAY: 1 - Wilde</b> <b>EXCUSED: 1 - Dukes</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. STARR will lead discussion on the floor.</b>
432	Chair Starr	Closes the work session on HJR 4-A and opens a work session on HB 2670-B
<b>TAPE 86, B</b>		
<b><u>HB 2670-B WORK SESSION</u></b>		
014	Sen. Tarno	<b>MOTION: Moves to ADOPT HB 2670-B8 amendments dated 6/30/99.</b>
020		<b>VOTE: 3-0-2</b>  <b>EXCUSED: 2 - Dukes, Shannon</b>

	Chair Starr	Hearing no objection, declares the motion <b>CARRIED</b> .
022	Sen. Tarno	<b>MOTION: Moves HB 2670-B to the floor with a DO PASS AS AMENDED recommendation.</b>
026		<b>VOTE: 3-0-2</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 2 - Dukes, Shannon</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. STARR will lead discussion on the floor.</b>
032	Chair Starr	Closes the work session on HB 2670-B and opens a public hearing on SB 1335.
<b><u>SB 1335 PUBLIC HEARING</u></b>		
033	Sen. Gary George	Senate District 2. Testifies in support of SB1335. Says that Yamhill County was one of the first to adopt an urban reserve. Indicates that the Newberg urban reserve contains most of the Class 1 soil in the area, with only poor soil existing outside the boundary. Explains that the breakdown of the city-county agreement could end the moratorium on development.
060	Ken Friday	Senior Planner, Yamhill County Planning Department. Testifies in support of SB 1335. States that a penalty was established for failure by the county to adopt the moratorium associated with an urban growth boundary. Mentions there is no corresponding penalty for cities. Indicates that Newberg wishes to renegotiate the urban growth boundary ( <b>EXHIBIT J</b> ) and is threatening to end the urban reserve agreement, as leverage in negotiations. Says the bill would prohibit the city from forcing the moratorium on the county.
114	Chair Starr	Requests clarification as to how the bill addresses the situation.
120	Friday	Replies that SB 1335 prevents penalties from falling on the county should the city opt out of the agreement. Says the change would put cities and counties on equal footing for reaching agreements.
136	Sen. Dukes	Inquires whether a county would be able to develop an area as an urban reserve if a city wished to do otherwise.
141	Friday	Replies negatively, as there are requirements for city approval.

148	Sen. Dukes	Asks whether a penalty would be incurred if a county continued to develop restricted areas.
151	Friday	Responds that there would be opportunity to appeal such decisions, but that no penalty would result from a city opting out.
156	Sen. Dukes	Expresses concern with the development of areas such as urban reserves. Asserts that penalties should remain in place to prevent over-development.
170	Friday	Explains that urban reserves have several layers of protection. Says that Yamhill County desires to maintain the urban growth boundary and urban reserve. Says the county would be unfairly penalized if the city chose to eliminate the urban reserve agreement.
205	Robert Johnstone	Chairman, Yamhill County Board of Commissioners. States that the bill is necessary to prevent counties from being penalized for entering into good faith agreements with cities. Explains the process by which cities and counties enter into urban reserve agreements. Argues that the unilateral action by the Newberg City Council has tied the hands of landowners and of the county.
258	Tom Bunn	Yamhill County Commissioner. Testifies in support of SB 1335. Says that the board of commissioners must protect the interest of property owners outside of incorporated cities, who should not be penalized for decisions made by cities such as Newberg.
288	Bob Rindy	Representative, Department of Land Conservation and Development (DLCD). Testifies in opposition to SB 1335. Requests additional time to analyze the bill and consider its ramifications. Asserts that the bill is unnecessary, as there are remedies already in place. Explains that administrative rule does not reinstate interim measures in the event that one of the urban reserve planning requirements is removed. Indicates that the action Newberg has taken can be appealed with the Land Use Board of Appeals (LUBA), which could suspend the action and reinstate the agreement.
341	Phillip Fell	Representative, League of Oregon Cities (LOC). Testifies in opposition to SB 1335. Says that Newberg's action may be appealed under current law. Comments that the decisions and negotiations should be made locally.
373	Sen. Dukes	Concurs that the two parties should work out their differences, adding that the two should be equal players.
383	Fell	Offers to bring representatives from the City of Newberg to testify.
390	Rindy	Comments that DLCD can extend the agreement if the city fails to negotiate in good faith. Concurs that negotiations should be balanced.
<b>TAPE 87, A</b>		

004	Monte Glud	Citizen, Yamhill County. Testifies in support of SB 1335. Expresses disdain that agency representatives cannot agree on whether a solution exists. Argues that the negotiation structure unfairly advantages cities. Says that a moratorium would be detrimental to property owners in the affected areas. Offers a brief overview of land use planning in Yamhill County. Submits that the bill would create a "level playing field."
056	Bunn	Disagrees with the assertion that city/county agreements can be appealed, as they are contracts that specifically provide the opportunity to opt out. Says the agreement is no longer in effect, despite testimony indicating that there would be a 90-day period for negotiations.
073	Glud	Comments that the situation could arise in any area of the state, making legislation a reasonable way to deal with the issue.
		Additional testimony was submitted to the committee for consideration <b>(EXHIBIT K)</b> .
078	Chair Starr	Closes the public hearing on SB 1335 and opens a work session on SB 1335.
<b><u>SB 1335 WORK SESSION</u></b>		
080	Sen. Tarno	Says the bill needs to be moved along in the process and that the interested parties will have time to analyze the bill before hearings are held in the House.
088	Sen. Tarno	<b>MOTION: Moves SB 1335 to the floor with a DO PASS recommendation.</b>
092		<b>VOTE: 3-0-2</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Dukes, Shannon</b>
	Chair Starr	<b>The motion CARRIES.</b>  <b>SEN. GEORGE will lead discussion on the floor.</b>
098		Closes the work session on SB 1335 and adjourns the meeting at 5:15 p.m.

Submitted By, Reviewed By,

Patrick Brennan, Brian Smith,  
Administrative Support Administrator

Reviewed By, Reviewed By,

Jan McComb, Megan Palau,  
Administrator Administrator

**EXHIBIT SUMMARY**

**A ñ HB 2670-B, testimony, Rep. Bruce Starr, 2 pp.**

**B ñ HB 2670, -B8 amendments, staff, 1 p.**

**C ñ HB 2670-B, testimony, Steve Martin, 27 pp.**

**D ñ HB 2335-A, testimony, Helen Liere, 2 pp.**

**E ñ HB 2335, -A9 amendments, Sen. Marylin Shannon, 5 pp.**

**F ñ HB 2335, -A10 amendments, Sen. Peter Courtney, 2 pp.**

**G ñ HB 2335, -A11 amendments, Sen. Peter Courtney, 1 p.**

**H ñ HJR 4-A, testimony, Dominick Vetri, 2 pp.**

**I ñ HJR 4-A, testimony, Lynn Partin, 2 pp.**

**J ñ SB 1335, map, Ken Friday, 2 pp.**

**K ñ SB 1335, testimony, staff, 2 pp.**