

HOUSE COMMITTEE ON JUDICIARY

June 11, 1997 Hearing Room 357

1:00 P.M. Tapes 49 - 52

MEMBERS PRESENT: Rep. John Minnis, Chair

Rep. Floyd Prozanski, Vice-Chair

Rep. Roger Beyer

Rep. Jo Ann Bowman

Rep. Peter Courtney

Rep. George Eighmey

Rep. Lane Shetterly

Rep. Charles Starr

Rep. Ron Sunseri

Rep. Judy Uherbelau

Rep. Larry Wells

STAFF PRESENT: Bill Taylor, Counsel

Lisa Fritz, Administrative Support

MEASURE/ISSUES HEARD: HB 3730 Work Session

SB 267-A Work Session

SB 857 Work Session

SB 577 Work Session

HJR 40 Work Session

SB 243 Work Session

SB 855 Work Session

SB 1107 Work Session

SB 160-A Work Session

SB 601-A Work Session

SB 229-A Work Session

SB 425-A Work Session

SB 443-A Work Session

SB 613-A Work Session

SB 773-A Work Session

SB 1076 Work Session

SB 999 Work Session

SB 1199 Work Session

SB 1078 Work Session

SB 345 Work Session

SB 689-A Public Hearing

SB 494-A Public Hearing

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

Tape/#	Speaker	Comments
TAPE 49, A		
011	Chair Minnis	Convenes meeting at 1:38 PM, opens work session on HB 3730.
<u>HB 3730</u> <u>WORK</u> <u>SESSION</u>		
013	William E. Taylor	Counsel. Explains bill and subcommittee actions.
017	Rep. Roger Beyer	MOTION: Moves HB 3730 to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
		VOTE: 11-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES. REP. ROGER BEYER will lead discussion on the floor.

035	Chair Minnis	Closes work session on HB 3730 and opens work session on SB 267.
<u>SB 267-A WORK SESSION</u>		
036	Taylor	Explains bill and subcommittee actions. Discusses need for conflict amendments. Explains SB 857.
044	Chair Minnis	Closes work session on SB 267-A and opens work session on SB 857.
<u>SB 857 WORK SESSION</u>		
047	Rep. Sunseri	MOTION: Moves SB 857 to the floor with a DO PASS recommendation.
049	Taylor	Explains bill and subcommittee actions.
		VOTE: 11-0
		AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES. REP. COURTNEY will lead discussion on the floor.
072	Chair Minnis	Closes work session on SB 267 and opens work session on SB 577.
<u>SB 577 WORK SESSION</u>		
075	Rep. Sunseri	MOTION: Moves SB 577 AS AMENDED IN SUBCOMMITTEE to the HOUSE RULES AND ELECTIONS committee with a DO PASS recommendation.
082	Rep. Eighmey	States opposition to bill.
099	Rep. Bowman	States opposition to bill.
		VOTE: 7-4
		AYE: 7 - Beyer, Courtney, Shetterly, Starr, Sunseri, Wells, Minnis
		NAY: 4 - Bowman, Eighmey, Prozanski, Uherbelau
	Chair Minnis	The motion CARRIES.
118	Chair Minnis	Closes work session on SB 577 and opens work session on HJR 40.
<u>HJR 40</u>		

<u>WORK SESSION</u>		
120	Taylor	Explains resolution.
123	Rep. Prozanski	MOTION: Moves HJR 40 be sent to the floor with a BE ADOPTED AS AMENDED IN SUBCOMMITTEE recommendation.
		VOTE: 10-1 AYE: 10 - Beyer, Bowman, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells NAY: 1 - Minnis
	Chair Minnis	The motion CARRIES. REP. JENSON will lead discussion on the floor.
145	Chair Minnis	Closes work session on HJR 40 and opens work session on SB 243.
<u>SB 243 WORK SESSION</u>		
147	Taylor	Submits and explains -A10 conflict amendments (EXHIBIT A). Discusses need for amendments.
158	Rep. Prozanski	MOTION: Moves to RECONSIDER the vote by which SB 243 was sent to the floor with a DO PASS recommendation.
	Chair Minnis	Hearing no objection, declares the motion CARRIED.
164	Rep. Eighmey	MOTION: Moves to ADOPT SB 243-A10 amendments dated 06/10/97.
		VOTE: 10-1 AYE: 10 - Beyer, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis NAY: 1 - Bowman
	Chair Minnis	The motion CARRIES.
166	Rep. Eighmey	MOTION: Moves SB 243 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 10-1 AYE: 10 - Beyer, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis NAY: 1 - Bowman
		The motion CARRIES.

	Chair Minnis	REP. EIGHMEY will lead discussion on the floor.
219	Chair Minnis	Closes work session on SB 243 and opens work session on SB 267-A.
<u>SB 267-A WORK SESSION</u>		
220	Taylor	Submits and explains need for -A6 conflict amendments (EXHIBIT B).
225	Rep. Shetterly	MOTION: Moves to RECONSIDER the vote by which SB 267-A was sent to the floor with a DO PASS recommendation.
	Chair Minnis	Hearing no objection, declares the motion CARRIED .
230	Rep. Shetterly	MOTION: Moves to ADOPT SB 267-A6 amendments dated 06/06/97.
	Chair Minnis	Hearing no objection, declares the motion CARRIED .
235	Rep. Shetterly	MOTION: Moves SB 267-A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 10-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Roger Beyer
	Chair Minnis	The motion CARRIES . REP. SHETTERLY will lead discussion on the floor.
253	Chair Minnis	Closes work session on SB 267-A and opens work session on SB 855.
<u>SB 855 WORK SESSION</u>		
255	Taylor	Explains bill and subcommittee actions.
265	Rep. Shetterly	MOTION: Moves SB 855 to the floor with a DO PASS recommendation.
269	Rep. Uherbelau	Discusses page 3, section 7 of bill.
280	Rep. Shetterly	Explains need for section 7 of bill.
300		VOTE: 10-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Roger Beyer

	Chair Minnis	The motion CARRIES. REP. SHETTERLY will lead discussion on the floor.
309	Chair Minnis	Closes work session on SB 855 and opens work session on SB 1107.
<u>SB 1107 WORK SESSION</u>		
311	Taylor	Explains bill and subcommittee actions.
315	Rep. Bowman	MOTION: Moves SB 1107 to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
320	Rep. Uherbelau	States she will be voting no and provides reasons for doing so.
332	Rep. Prozanski	States she will be voting no and provides reasons for doing so. Reserves right to vote yes on floor.
355	Chair Minnis	Explains bill drafting history.
365	Rep. Uherbelau	States concerns about bill.
		VOTE: 8-2 AYE: 8 - Bowman, Courtney, Eighmey, Shetterly, Starr, Sunseri, Wells, Minnis NAY: 2 - Prozanski, Uherbelau EXCUSED: 1 - Roger Beyer
	Chair Minnis	The motion CARRIES. REP. BOWMAN
395	Chair Minnis	Closes work session on SB 1107 and opens work session on SB 160.
<u>SB 160-A WORK SESSION</u>		
397	Taylor	Explains bill and subcommittee actions. Submits -A13 amendments (EXHIBIT C) and explains need for amendments.
420	Rep. Shetterly	MOTION: Moves to RESCIND SB 160 -A12 amendments dated 06/09/97 and ADOPT SB 160-A13 amendments dated 06/09/97 and that the amendments be FURTHER AMENDED on page 3, line 23 by inserting "December 31, 2001" after "repealed".
430	Rep. Uherbelau	Asks for clarification of -A13 amendments.

433	Taylor	Explains -A13 amendments and contrasts to -A12 amendments.
TAPE 50, A		
030	Mike Niemeyer	Oregon Department of Justice. Explains bill and associated pilot project.
050	Rep. Bowman	Asks for clarification of -A13 amendments.
055	Taylor	Explains -A13 amendments and contrasts to -A12 amendments.
		VOTE: 11-0
		AYE: In a roll call vote, all members present vote AYE.
	Chair Minnis	The motion CARRIES.
078	Rep. Shetterly	MOTION: Moves SB 160-A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 11-0
		AYE: In a roll call vote, all members present vote AYE.
	Chair Minnis	The motion CARRIES.
		REP. JOHNSTON will lead discussion on the floor.
087	Chair Minnis	Closes work session on SB 160-A and opens work session on SB 601-A.
<u>SB 601-A</u> <u>WORK</u> <u>SESSION</u>		
089	Taylor	Explains bill and subcommittee actions. Submits and explains -A8 amendments (EXHIBIT D).
105	Rep. Uherbelau	Explains bill and amendments.
140	Rep. Shetterly	MOTION: Moves to ADOPT SB 601-A8 amendments dated 06/09/97.
141	Rep. Eighmey	Objects to motion.
	Chair Minnis	The motion CARRIES.
142	Rep. Shetterly	MOTION: Moves SB 601-A to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 7-4
		AYE: 7 - Beyer, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis
		NAY: 4 - Bowman, Courtney, Eighmey, Prozanski

	Chair Minnis	The motion CARRIES. REP. SHETTERLY will lead discussion on the floor.
157	Chair Minnis	Closes work session on SB 601-A, opens work session on SB 229.
<u>SB 229-A</u> <u>WORK</u> <u>SESSION</u>		
160	Taylor	Explains bill and subcommittee actions.
170	Rep. Prozanski	MOTION: Moves SB 228-A to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
173	Rep. Uherbelau	Asks for clarification regarding current sexual abuse laws.
		VOTE: 11-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES. REP. PROZANSKI will lead discussion on the floor.
194	Chair Minnis	Closes work session on SB 229-A , opens work session on SB 425-A.
<u>SB 425-A</u> <u>WORK</u> <u>SESSION</u>		
198	Taylor	Explains bill and subcommittee actions.
205	Rep. Prozanski	MOTION: Moves SB 425-A to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
212	Rep. Uherbelau	Questions if neighboring states have similar laws.
214	Chair Minnis	Contrasts Oregon's laws to other states' laws. Discusses liability issues.
245	Kevin Campbell	Oregon Association Chiefs of Police. Discusses liability issues and contrasts law to neighboring states' laws.
285	Rep. Eighmey	Discusses issues of indemnity.
300	Campbell	Contrasts SB 425-A to SB 423.
310	Rep. Beyer	Discusses need for State of Nevada to be included in bill.
		VOTE: 10-1 AYE: 10 - Beyer, Bowman, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Wells, Minnis NAY: 1 - Uherbelau

	Chair Minnis	The motion CARRIES. REP. PROZANSKI will lead discussion on the floor.
342	Chair Minnis	Closes work session on SB 425-A and opens work session on SB 443-A.
<u>SB 443-A</u> <u>WORK</u> <u>SESSION</u>		
347	Taylor	Explains bill and subcommittee actions. Contrasts SB 443-A to HB 2176. Submits -A3 amendments adopted in subcommittee (EXHIBIT E).
375	Rep. Wells	MOTION: Moves SB 443-A to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
378	Rep. Uherbelau	Discusses concerns regarding actions of subcommittee.
413	Rep. Prozanski	Discusses page 18, section 17 of -A3 amendments.
		VOTE: 11-0 AYE: In a roll call vote, all members present vote Aye.
	Chair Minnis	The motion CARRIES. REP. WELLS will lead discussion on the floor.
443	Chair Minnis	Closes work session on SB 443-A and opens work session on SB 613-A.
<u>SB 613-A</u> <u>WORK</u> <u>SESSION</u>		
447	Taylor	Explains bill and subcommittee actions.
459	Rep. Roger Beyer	MOTION: Moves SB 613-A to the floor with a DO PASS AS AMENDED recommendation.
TAPE 49, B		
022	Rep. Uherbelau	Discusses sections 2, 3, and 4 of the bill. States that the bill language is confusing. Verifies meaning of the language.
040	Rep. Shetterly	Responds to questions about polling a jury.
043	Rep. Uherbelau	Questions more language related to polling of juries.
058	Norman	Explains how a jury be instructed to make a decision on a lesser included
067	Rep. Prozanski	Indicates that the jury would return with a decision on the lesser included

073	Norman	Answers affirmatively. Indicates that the lesser included would be related to the higher included charge.
087	Rep. Eighmey	Expresses concerns for the legislation.
098	Norman	Understands the concern, and indicates the bill would allow litigation to end.
107	Rep. Eighmey	Suggests that if the accused is found not guilty on a greater charge, then they should be able to go on a lesser charge.
119	Norman	States that the jury can't not convict on a higher charge and then convict on a lesser charge.
129	Rep. Eighmey	Describes the thought process of a jury.
153	Rep. Bowman	Indicates that she had concerns about changes to the bill. Suggests that the changes will limit the number of pre-emptory challenges.
170	Norman	Explains what exists in relation to multiple defendants. Indicates that the bill will remove a cap on jury challenges.
181	Rep. Bowman	Verifies that the prosecution and the defendant have an unlimited number of challenges.
185	Norman	Answers affirmatively.
187	Chair Minnis	Indicates that current law requires the consolidation of challenges.
190	Rep. Bowman	Asks if the District Attorney now has twice as many challenges as before
197	Norman	Answers affirmatively.
200	Dale Penn	Marion County, District Attorney Association. Indicates that there are two problems with the bill. First defense counsels must join together to exercise their pre-emptories. Second, joint trials make more economic sense, but that allows for fewer challenges from the prosecutors.
223	Rep. Eighmey	Asks Mr. Penn to address his concerns.
225	Penn	Indicates that there was extensive discussion about Section 1 (4). Explains what subsection 4 does. It authorizes the state and defendant to not have a second trial if they don't want it.
252	Rep. Eighmey	Asks why the bill is needed.
254	Penn	Indicates that the bill clarifies the law and gives clear direction about how to handle lesser included charges.
268	Norman	Explains that the bill was the law until the 1980s.
270	Rep. Prozanski	Verifies various issues about the proposed legislation.
279	Rep. Bowman	Discusses actions of various pieces of language.

290	Norman	Explains that the bill is dealing with an unsettled area of the law.
300	Chair Minnis	Indicates that the bill will bring clarity to the issues.
		VOTE: 10-1 AYE: 10 - Beyer, Courtney, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis NAY: 1 - Bowman
320	Chair Minnis	The motion CARRIES. REP. MINNIS will lead discussion on the floor.
323	Chair Minnis	Closes the work session on SB 613-A, and opens a on SB 773.
<u>SB 773-A</u> <u>WORK</u> <u>SESSION</u>		
325	Scott Lumsden	Counsel. Summarizes provisions of the bill. Discusses the -A7 amendments. Suggests that "Universal Weight Lifting Equipment" be changed to "weight lifting machines not involving free weights".
340	Chair Minnis	Asks for clarification as to location of the language.
352	Rep. Prozanski	MOTION: Moves to AMEND SB 773 A -A7 amendments by deleting "Universal Weight Lifting Equipment" language and replace it with "weight lifting equipment not involving free weights" language.
361	Chair Minnis	Hearing no objections, declares the motion CARRIED.
369	Rep. Eighmey	MOTION: Moves SB 773 to the floor with a DO PASS AS AMENDED recommendation.
374	Rep. Uherbelau	Asks if a victim would have notification of a prisoner working in a community, no matter what community it is.
390	Al Chandler	Representative, Department of Corrections. Explains that the victim would be notified if they requested to be notified.
398	Rep. Uherbelau	Verifies that the victim would be notified no matter where they live. Suggests that notification will make it hard to put prisoners to work, since victims might picket and boycott businesses.
<u>TAPE 50, B</u>		
004	Chandler	Indicates that the issue was not discussed in the committee.
009	Rep. Uherbelau	Indicates that it will be difficult to make public-private partnerships.
015	Chandler	Explains that there has been little public comment about prison work crews in communities.

020	Rep. Uherbelau	States that private industries will not want their businesses picketed and if they are, the Department of Corrections will lose them as an employer.
024	Chandler	Understands that will be a reality.
026	Rep. Courtney	(Due to technical difficulties, much of Rep. Courtney's comments were lost.) Asks if the -A7 amendments are still in the bill.
028	Lumsden	Answers affirmatively
030	Rep. Courtney	Asks what type of sex offenders are covered by the bill.
033	Chair Minnis	All sex offenders.
038	Rep. Courtney	Verifies that the bill will require notification to all employers if a sex offender is working for them.
040	Chandler	Answers affirmatively.
041	Rep. Courtney	Suggests that more discussion is needed on the issue. Indicates that sex offender notification is very touchy and provisions may be lost in court.
056	Chair Minnis	Agrees that the argument is valid.
067	Rep. Bowman	Indicates that there have been detailed conversations about sex offenders related to other bills.
077	Rep. Uherbelau	Asks if the concerns are the same for inmates as they are for people who have been released.
082	Chair Minnis	Explains that many of the concerns are in the original bill. Suggests that the bill be deleted and the amendments be kept.
089	Rep. Bowman	MOTION: Moves to delete the original language of SB 773.
091	Chair Minnis	Hearing no objections, declares the motion CARRIED.
		VOTE: 11-0
		AYE: In a roll call vote, all members present vote Aye.
104	Chair Minnis	The motion CARRIES. REP. BOWMAN will lead discussion on the floor.
109	Chair Minnis	Closes the work session on SB 773 and opens a work session on SB 1076.
<u>SB 1076</u> <u>WORK</u> <u>SESSION</u>		
118	Scott Lumsden	Counsel, Explains provisions of the bill and indicates that there are no amendments to the bill.
122	Rep.	MOTION: Moves SB 1076 to the floor with a DO PASS

	Shetterly	recommendation.
125	Rep. Uherbelau	Asks why someone in law enforcement would have to photograph someone nude.
131	Chair Minnis	Explains that during surveillance, investigators might find someone in a criminal act.
141	Rep. Prozanski	Suggests that investigation would take place under a search warrant.
143	Chair Minnis	Indicates that the warrant is not needed if it is in a public place.
143	Rep. Prozanski	Explains that the bill is related to spaces where people would expect privacy.
151	Chair Minnis	Indicates that many situations are hard to imagine.
155	Rep. Shetterly	Suggests that the bill would be related to prostitution stings.
162	Rep. Uherbelau	Asks if sodomy is a crime in Oregon.
166	Chair Minnis	States that it is a crime if the people involved are not consenting adults.
172	Rep. Uherbelau	Expresses discomfort with the bill and having to "enter peoples' bedrooms"
175	Chair Minnis	Agrees that the subject is not pleasant.
177	Rep. Sunseri	Explains that the bill is intended for situations where people have put up video cameras where they shouldn't have.
		VOTE: 10-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. Courtney
191	Chair Minnis	The motion CARRIES. REP. SUNSERI will lead discussion on the floor.
193	Chair Minnis	Closes the work session on SB 1076, opens a work session on SB 999.
<u>SB 999</u> <u>WORK</u> <u>SESSION</u>		
197	Scott Lumsden	Counsel, Explains provisions of the bill.
209	Rep. Shetterly	MOTION: Moves SB 999 B to the floor with a DO PASS AS AMENDED recommendation.

211	Rep. Bowman	Asks how the Oregon Liquor Control Commission (OLCC) works with local law enforcement agencies in local communities and how provisions in the bill will work.
222	Rep. Prozanski	Explains that the current law is similar, but it requires more offenses before the OLCC can revoke a license.
230	Rep. Shetterly	Relates previous testimony to the committee.
240	Rep. Prozanski	Explains that the law is in place, but the number of violations within a period of time is different.
251	Rep. Wells	Asks if civil penalty provisions are in current statute.
261	Lumsden	Indicates that the OLCC does not have the ability to impose civil penalties.
269	Rep. Prozanski	Explains that establishments have the choice of fines or civil penalties.
285	Rep. Bowman	Asks if the illegal drug use can take place in the parking lot or around the establishment.
293	Rep. Prozanski	Indicates that Sen. Dukes was specific about the illegal drug use taking place within a structure.
310	Rep. Wells	States that there is some jurisdiction over parking lots.
322	Lumsden	Indicates that ORS 471.322 (1) does give permission to the OLCC may impose a civil penalty.
339	Rep. Uherbelau	Verifies that is in present law.
340	Lumsden	Answers affirmatively.
342	Rep. Shetterly	Indicates that a civil penalty will not be imposed in lieu of a suspension.
347	Rep. Wells	Suggests that drug use is a different issue than alcohol use which is what the OLCC deals with.
354	Rep. Bowman	Agrees with Rep. Wells' concern.
356	Rep. Prozanski	Suggests that the OLCC does have jurisdiction over establishments. Indicates that the bill will allow for quicker suspension for the offense.
364	Rep. Bowman	Asks if there was testimony about how the OLCC interacts with local law enforcement agencies.
372	Chair Minnis	Indicates that OLCC officials in plain clothes would call local law enforcement if they saw an offense taking place. The bill will allow OLCC more enforcement capability as a civil remedy.
398	Rep. Prozanski	The bill will allow OLCC the ability to remove the license of an establishment that couldn't maintain control of it's patrons.
400	Chair Minnis	Suggests that the bill will encourage owners to police their establishments.
	Rep.	Asks if OLCC will send notices of when they will cruise an

402	Bowman	establishment for drugs.
TAPE 51, A		
		VOTE: 10-0 AYE: In a roll call vote, all members present vote Aye. EXCUSED: 1 - Rep. Courtney
006	Chair Minnis	The motion CARRIES. REP. SHETTERLY will lead discussion on the floor.
007	Lumsden	Notes clarifications to earlier statements.
014	Chair Minnis	Closes the work session on SB 999 and opens a work session on SB 1119.
<u>SB 1119</u> <u>WORK</u> <u>SESSION</u>		
017	Rep. Prozanski	MOTION: Moves SB 1119 to the floor with a DO PASS recommendation.
019	Rep. Bowman	Questions why authorization would be given to place a boot on a car that isn't owned by a person.
		VOTE: 9-1 AYE: 9 - Beyer, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis NAY: 1 - Bowman EXCUSED: 1 - Courtney
038	Chair Minnis	The motion CARRIES. REP. PROZANSKI will lead discussion on the floor.
039	Chair Minnis	Closes the work session on SB 1119, opens a work session on SB 1078.
<u>SB 1078</u> <u>WORK</u> <u>SESSION</u>		
043	Lumsden	Summarizes SB 1078.
046	Rep. Prozanski	MOTION: Moves SB 1078 to the floor with a DO PASS AS AMENDED IN SUBCOMMITTEE recommendation.
049	Rep. Beyer	Notes that Rep. Courtney is in objection to SB 1078.
051	Chair Minnis	Comments on the intent of the bill as amended.
		VOTE: 10-0

053		AYE: 10 - Beyer, Bowman, Eighmey, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis EXCUSED: 1 - Courtney
	Chair Minnis	The motion CARRIES. REP. COURTNEY will lead discussion on the floor.
065	Chair Minnis	Closes work session on SB 1078, opens work session on SB 345.
<u>SB 345</u> <u>WORK</u> <u>SESSION</u>		
084	Chair Minnis	Recesses at 3:35 PM. Reconvenes at 4:03 PM.
089	Alan Tressider	Representing Oregon Advocacy Center, provides testimony in support of the -A4 and -A6 amendments (EXHIBIT F).
094	Rep. Prozanski	MOTION: Moves to ADOPT SB 345-A4 and -A6 amendments dated 06/09/97.
097	Chair Minnis	Questions the expressed warranty.
101	Tressider	Responds with clarification and explanation of the dispute resolution.
105	Rep. Shetterly	Questions the definition of assistive device.
107	Tressider	Responds that is included in the -A6 amendments.
110	Rep. Shetterly	Questions the definition of scooter.
115	Tressider	Responds that it is a three-wheeled device that is used in place of a motorized wheelchair.
117	Rep. Shetterly	Questions if a four-wheeled device could be a scooter.
118	Larry Campbell	Representing Hearing Industries Association, responds that device has to enhance the mobility of an individual.
121	Rep. Shetterly	Notes concerns regarding the language "including other aids".
134	Tressider	Comments on the language of the original bill versus the language in the -A6 amendments.
144		VOTE: 7-0 AYE: 7 - Beyer, Prozanski, Shetterly, Starr, Sunseri, Wells, Minnis EXCUSED: 4 - Bowman, Courtney, Eighmey, Uherbelau
	Chair	The motion CARRIES.

	Minnis	
152	Rep. Prozanski	MOTION: Moves SB 345 to the floor with a DO PASS AS AMENDED recommendation.
158		VOTE: 8-0 AYE: 8 - Beyer, Prozanski, Shetterly, Starr, Sunseri, Uherbelau, Wells, Minnis EXCUSED: 3 - Bowman, Courtney, Eighmey
	Chair Minnis	The motion CARRIES. REP. STARR will lead discussion on the floor.
167	Chair Minnis	Closes work session on SB 345, opens public hearing on SB 689A.
<u>SB 689-A PUBLIC HEARING</u>		
178	Brenda Johnson	Former foster child, provides testimony in support of SB 689A.
250	Johnson	Continues testimony.
290	Rep. Uherbelau	Comments in support of the witnesses testimony.
302	Pam Sornson	Attorney, provides testimony in support of SB 689 (EXHIBIT G).
347	Chair Minnis	Questions prior foster home history.
351	Sornson	Responds with data. Comments that SCF was having difficulties with the mother.
408	James Lace	Pediatrician, Salem, representing Oregon Pediatric Society and Oregon Medical Association, provides testimony in support of SB 689 (EXHIBIT H).
483	Chair Minnis	Questions if a permanency plan were in place is there adequate adoptive accommodations.
<u>TAPE 52, A</u>		
037	Lace	Responds that there is not adequate housing for these children. Notes that many foster homes have space limitations.
051	Sornson	Comments that SCF has a regulation that looks for an alternative safe home for every child that enters the system.
061	Nancy Miller	Director, Citizen Review Board Program, provides testimony in support of SB 689 (EXHIBIT I).
071	Jessica Harris	Legislative assistant to Sen. Hamby, provides testimony in support of SB 689.

093	Miller	Continues section by section summary of SB 689.
118	Chair Minnis	Questions the impact of parents' rights and responsibilities.
124	Miller	Responds that the workgroup discussed these issues. Notes that it is the court that considers the rights of parents' versus children.
150	Elizabeth Welch	Circuit Judge, Chief Family Court Judge, Portland, notes she is not familiar with the current federal law. Comments that parental rights are well established in Oregon statute.
175	Rep. Sunseri	Questions if juvenile parental rights are similar as adult parental rights.
181	Welch	Responds if it is a criminal procedure they are not the same, both of the processes allows for the right to counsel.
186	Rep. Sunseri	Questions section 2, line 10.
192	Miller	Responds that a petition is filed with juvenile court outlining why the child is being brought before the court.
206	Rep. Sunseri	Comments that the language is unclear.
208	Welch	Continues explanation of the judicial process for terminating parental rights.
229	Rep. Starr	Questions line 6, how much latitude are the parents allowed for discipline.
252	Miller	Responds that there is a definition of physical abuse in the Oregon administrative rules that SCF operates under.
267	Rep. Starr	Questions the definition of emotional abuse and compelling a child to participate in religious activities.
285	Welch	Responds that she has had no experience or information relating to this issue.
301	Rep. Uherbelau	Questions if the parental rights are viewed as from the agency and/or the child.
308	Chair Minnis	Responds that Congress passed legislation that parents have specific rights to govern the oversight of their children.
320	Rep. Shetterly	Questions page 2, lines 23-25, questions if there is intent to create a private right of action on behalf of the child against the state.
331	Miller	Responds that there was not any discussion addressing this language. Notes that the intent of the language was to clearly identify that SCF has an obligation to find an alternative, safe home.
340	Rep. Shetterly	Questions the definition of permanency.
347	Miller	Responds that this term is taken from federal law.
360	Rep. Shetterly	Questions if the intent is stability.

363	Miller	Responds both stability and safety.
367	Welch	Continues that this language comes from literature that states that foster care is no place to raise kids.
382	Rep. Wells	Requests more information how juvenile code is applied to this bill.
3890	Miller	Responds that prior to 1993 the juvenile code was a very difficult section of the statute to read and understand. SB 257 and 1051 provided an organizational remedy. Currently the juvenile code is broken down into general policy, dependency cases, and delinquency cases.
411	Rep. Wells	Questions the history of the inflammatory language.
417	Miller	Responds that language was put in in 1993.
439	Rep. Sunseri	Questions of state agencies are going to have to comply with the new language.
443	Miller	Responds affirmatively.
446	Rep. Sunseri	Questions that this language is not directed exclusively for parents.
447	Miller	Responds that the language intent is inclusive.
458	Rep. Sunseri	Questions if the legal guardian fails to fulfill the obligations, the state would intervene.
459	Miller	Responds affirmatively.
463	Chair Minnis	Questions the definition of the language "liberally construed".
473	Miller	Responds that this language is in current statute.
486	Rep. Uherbelau	Comments on intent of language.
TAPE 51, B		
040	Chair Minnis	Comment on his concerns with this language.
043	Welch	Responds that this language is from the 1959 version of the juvenile code.
057	Miller	Continues with section analysis.
083	Chair Minnis	Questions the practical impact of section 3.
084	Miller	Responds with a case example.
096	Rep. Uherbelau	Questions section 7, mediation, who is responsible for the expense of the mediator.
107	Miller	Responds that she does not have that information.
112	Rep. Sunseri	Questions if physical custody of the child has been removed from the parent, what other parental rights are there.
119	Miller	Responds child support, the child's ability to inherit.
122	Welch	Continues with example of circumstances that this type of situation

		would arise.
148	Miller	Notes the intent of section 7.
150	Rep. Sunseri	Questions section 8, the statute will prohibit the parent from petitioning for guardianship once the parental rights are terminated.
157	Welch	Responds that the court will terminate parental rights, however, in the family dynamics the extended family may not want to refuse that family member from the child.
162	Rep. Sunseri	Questions if there is wisdom behind this language.
165	Welch	Responds affirmatively.
186	Miller	Continues summary of section 4.
212	Rep. Uherbelau	Questions the definition of "foreseeable future" and the language changes.
217	Miller	Responds affirmatively. Continues section 4 summary.
246	Nikki Jones	Counsel, comments that legislative counsel omitted the change from 2 years old to 10 years old.
248	Chair Minnis	Questions the definition of physical abuse without death.
253	Miller	Responds that it would depend on the condition of the child.
260	Chair Minnis	Repeats the question for Dr. Lace.
263	Lace	Responds affirmatively.
267	Chair Minnis	Questions if there is permanent damage from shaken baby syndrome.
270	Lace	Responds that if there is a significant hemorrhage there is some form of brain damage.
273	Chair Minnis	Comments that those injuries should be included in statute.
282	Miller	Continues summary of sections 5, 6, 7.
305	Rep. Shetterly	Questions if the additional language involves incarceration.
306	Miller	Responds it is possible.
311	Rep. Uherbelau	Questions how is criminal conduct established.
320	Miller	Responds that the workgroup was using incarceration as the guideline.
334	Rep. Sunseri	Questions the definition of "reasonable time".
337	Miller	Responds that it depends on the age of the child.
350	Rep. Sunseri	Comments that determination will be the responsibility of the people who should know about these situations.

354	Miller	Responds that it is the responsibility of the state to prove what a responsible time is.
360	Judge Welch	Notes that the purpose of this legislation is to say to judges that a child should not be in care longer than a year.
375	Rep. Shetterly	Questions the language of page 5, lines 42-43, if a single parent were incarcerated for more that 12 months would parental rights be terminated.
383	Miller	Responds that it would be determined on a case by case basis.
421	Chair Minnis	Closes public hearing on SB 689, opens public hearing on SB 494.
<u>SB 494 PUBLIC HEARING</u>		
438	Welch	Provides and summary in support of SB 494 (EXHIBIT J).
<u>TAPE 52, B</u>		
020	Welch	Continues explanation of the flow chart EXHIBIT J.
049	Chair Minnis	Closes public hearing on SB 494, adjourns meeting at 5:25 PM.

Submitted By, Reviewed By,

Lisa Fritz, Bill Taylor,

Administrative Support Counsel

Transcribed By,

Sandy Thiele-Cirka

Administrative Support

EXHIBIT SUMMARY

A - SB 243, -A10 amendments, staff, 7 pp.

B - SB 267, -A6 amendments, staff, 10 pp.

C - SB 160, -A13 amendments, staff, 13 pp.

D - SB 601, -A8 amendments, staff, 6 pp.

E - SB 443, -A3 amendments, staff, 18 pp.

F - SB 345, -A6 amendments, Alan Tressider, 2pp.

G - SB 689, Written testimony, Pamela Sornson, 1pp.

H - SB 689, Written testimony, James Lace, 1pp.

I - SB 689, Written testimony, Nancy Miller, 14pp.

J - SB 494, Written testimony, Elizabeth Welch, Chief Family Law Judge, 2pp.