

HOUSE COMMITTEE ON  
JUDICIARY

Hearing Room 357  
Tapes - 38

MEMBERS PRESENT:

Rep. Kate Brown, Vice-Chair  
Rep. Chuck Carpenter  
Rep. Peter Courtney  
Rep. Jerry Grisham  
Rep. Bryan Johnston  
Rep. Leslie Lewis  
Rep. Lisa Naito  
Rep. Floyd Prozanski  
Rep. Eileen Qutub  
Rep. Veral Tarno  
Rep. Bob Tiernan

MEMBER EXCUSED:

Rep. Del Parks, Chair

STAFF PRESENT:

Holly Robinson, Committee Counsel  
Milt Jones, Committee Counsel  
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 225A - Work Session  
SB 193A - Work Session  
SB 320A - Work Session  
SB 343A - Work Session  
SB 367A - Work Session  
SB 609A - Work Session  
SB 618A - Work Session  
SB 641A - Work Session  
SB 787A - Work Session  
SB 119A - Work Session  
SB 1052A - Work Session  
SB 1138A - Work Session

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE , SIDE A

006 REP. BROWN: Calls the meeting to order at 8:36 am

009 MOTION: REP. JOHNSTON: Moves to RECONSIDER the vote by which "SB  
225 was passed to the FLOOR with a DO PASS recommendation".

010 REP. GRISHAM: What is the reason?

011 REP. JOHNSTON: Discusses reason for reconsideration.

WORK SESSION ON SB 225A

021 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 225A changes period for filing  
post-conviction relief petition to specify that for person whose conviction  
and appeals became final on or after July 7, 1993

047 REP. GRISHAM: Why didn't the 120 days work?

048 HOLLY ROBINSON, COMMITTEE COUNSEL: I don't know that it didn't work,  
there was some question about the retroactivity of it.

057 LYNN LARSON, DEPARTMENT OF JUSTICE: Testifies and explains SB 225A.

059 REP. JOHNSTON: Asks what the staffing problems would be if the current  
statute remains the same.

063 LARSON: Right now we handle close to 700 post-conviction hearings. With an increase in prisoners, will bring more post-convictions cases. If the increase is as projected, we will be doubling our attorney force for post-conviction cases. The fiscal impact on that is significant. Discusses possible changes in bill that would help their situation. The 120 day rule had worked and the Oregon Supreme Court had upheld it as constitutional. The legitimate claims are brought within one year. The legislature gives all post-conviction inmates counsel.

109 REP. PROZANSKI: You think there will be a significant increase over the next biennium's because of Measure 11 passage?

112 LARSON: Correct.

113 REP. PROZANSKI: How much will it increase in the next two years?

114 LARSON: I think it is supposed to increase by a couple of thousand inmates. I don't think we will see any effect on post-conviction cases because Measure 11 just went into effect in April. We will probably see a 10 percent increase over this biennium.

124 REP. BROWN: The fiscal says we will save \$28,000 in general funds.

127 REP. PROZANSKI: Because anyone can protect their rights through post-convictions, won't we actually see an increase in the number of filings?

132 LARSON: No, explains. We saw an increase when the change went from 120 days to 2 years, explains.

141 REP. PROZANSKI: The case that Rep. Brown mentioned really changed things.

143 LARSON: Yes it did, explains.

144 REP. PROZANSKI: It actually required District Attorney's to go back and search their records on the grand juries to see whether or not there were six or seven. What is the percentage that are filed between the 0-1 year mark, and the 1-2 year mark?

149 LARSON: I don't know. We are projecting that it will be word of mouth record keeping.

159 JIM ARNESON, OREGON CRIMINAL DEFENSE LAWYERS ASSOCIATION: Testifies in opposition to SB 225A.

185 MICHAEL ROSE, CRIMINAL DEFENSE LAWYER: Testifies in opposition to SB 225A.

208 REP. COURTNEY: The issue is that an individual should have a certain amount of time to file an appeal. I don't believe that there will be a great savings issue.

225 REP. QUTUB: Asks about fiscal impacts.

228 HOLLY ROBINSON, COMMITTEE COUNSEL: That should be in your files from the last time this was in front of the committee.

#### WORK SESSION ON SB 193A

237 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 193A creates single violations Bureau in lieu of separate bureaus for traffic infractions, state park infractions and boating infractions.

242 MOTION: REP. TARNO: Moves SB 193A be sent to the floor with a DO PASS recommendation.

VOTE: 9-0 MOTION PASSES  
AYE: Brown, Courtney, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub,  
Tarno  
NO: None  
EXCUSED: Carpenter, Tiernan, Parks

251 REP. BROWN: Rep. Lewis will carry the bill.

#### WORK SESSION ON SB 320A

254 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 320A excludes felons from list of persons eligible to seek relief from prohibition against possessing

firearms.

268 MOTION: REP. TARNO: Moves SB 320A be sent to the floor with a DO  
PASS recommendation.

VOTE: 8-1  
AYE: 8 - Brown, Courtney, Grisham, Lewis, Naito, Prozanski, Qutub, Tarno  
NAY: 1 - Johnston  
EXCUSED: 3 - Carpenter, Parks, Tiernan

CHAIR: The motion CARRIES.

277 Rep. Prozanski will lead discussion on the floor.

WORK SESSION ON SB 343A

280 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 343A creates offense of  
unlawfully applying graffiti.

289 MOTION: REP. TARNO: Moves SB 343A be sent to the floor with a DO  
PASS AS AMENDED recommendation.

290 REP. QUTUB: Asks if the -7 amendments and -1 amendments were adopted.

296 HOLLY ROBINSON, COMMITTEE COUNSEL: The only ones that were adopted were  
the -7 amendments.

300 VOTE: 10-1  
AYE: 10 - Brown, Carpenter, Courtney, Grisham, Lewis, Naito, Prozanski,  
Qutub, Tarno, Tiernan  
NAY: 1 - Johnston  
EXCUSED: 1 - Parks

CHAIR: The motion CARRIES.

315 Rep. Courtney will lead discussion on the floor.

WORK SESSION ON SB 367A

317 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 367 modifies element of defense  
to crime of possession of gambling device and to crime of possession of  
gray machine to require that device be over 25 years old at time charge is  
brought. (EXHIBIT A)

357 MOTION: REP. TARNO: Moves to AMEND SB 367A by inserting language  
to clarify that "the machine is currently not operable for purposes of  
unlawful gambling".

VOTE: Hearing no objection the motion CARRIES.

371 MOTION: REP. BROWN: Moves to ADOPT SB 367A-5 amendments dated  
05/11/95.

VOTE: Hearing no objection the motion CARRIES.

374 MOTION: REP. TARNO: Moves SB 367A be sent to the floor with a DO  
PASS AS AMENDED recommendation.

379 REP. JOHNSTON: Discusses his opposition to the bill. Discusses the  
crime for selling a machine.

412 REP. LEWIS: This bill is an affirmative defense to the charges of  
possession of a gambling device if it was manufactured prior to 1968. You  
can own a machine older than 1968 as long as you don't use it for unlawful  
gambling.

421 REP. PROZANSKI: Also look at the -5 amendments.

426 HOLLY ROBINSON, COMMITTEE COUNSEL: There are two conditions that would  
help that situation, explains.

435 REP. LEWIS: If it was manufactured prior to 1968, located in a  
residence, or displayed for viewing and not operated for purposes of  
unlawful gambling, then it is ok.

440 REP. JOHNSTON: The -5 amendments clarify, thank you.

TAPE 38, SIDE A

006 VOTE: 10-0  
AYE: 10 - Brown, Carpenter, Grisham, Johnston, Lewis, Naito, Prozanski,  
Qutub, Tarno, Tiernan  
EXCUSED: 2 - Courtney, Parks

REP. BROWN: The motion CARRIES.

013 Rep. Tarno will lead discussion on the floor.

014 REP. TIERNAN: Asks to reconsider vote on SB 343. Did the parental consent stay in?

020 REP. BROWN: No, it was never moved.

021 REP. TIERNAN: So the amendments were not put in?

022 REP. BROWN: Correct.

022 MOTION: REP. TIERNAN: Moves to SUSPEND the rules for the purpose of allowing Rep. Tiernan to vote on SB 343.

026 VOTE: AYE: Rep. Tiernan

WORK SESSION ON SB 609A

(SB 609A authorizes court to find parent or guardian of child within jurisdiction of juvenile court liable for certain damages caused by child without requiring that victim file separate action. [EXHIBIT B])

032 TOM BASSINET, SUBLIMITY INSURANCE COMPANY: Testifies in opposition to SB 609A.

WORK SESSION ON SB 618A

046 MILT JONES, COMMITTEE COUNSEL: SB 618A allows appointment of pro tem justice of the peace for period not exceeding one year. (EXHIBIT C)

051 MOTION: REP. TARNO: Moves SB 618A be sent to the floor with a DO PASS recommendation.

VOTE: 10-0

AYE: 10 - Brown, Carpenter, Grisham, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno, Tiernan

EXCUSED: 2 - Courtney, Parks

CHAIR: The motion CARRIES.

059 Rep. Grisham will lead discussion on the floor.

WORK SESSION ON SB 641A

062 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 641A allows community colleges and private institutions of higher education to commission employees as campus public safety officers.

069 REP. PROZANSKI: I voted no in subcommittee, and will vote no now. Discusses his opposition to SB 641A. Discusses possible conceptual amendment.

087 MOTION: REP. PROZANSKI: Moves to AMEND SB 641A by deleting "private colleges".

090 REP. TIERNAN: Objects to the motion. Gives reason why he objects.

097 REP. JOHNSTON: I agree with Rep. Prozanski's concerns, yet there is a problem. The question is how do we balance those out?

100 REP. TARNO: Gives Willamette University as an example. This bill is something that the campuses need. Tells were the concerns might come in. I support the bill.

113 REP. JOHNSTON: We, in this committee, approved sending someone from SunRiver or Black Butte to BPST. I would be more willing to let these people provide these protections if they had some sort of training.

127 REP. TIERNAN: Discusses that colleges have a lot of crime problems. Unless you have people on campus who have the authority to enforce the laws, they will have no authority whatsoever. Discusses that some of the campus police people are actually moonlighting. If these police officers leave their authority and abuse someone's rights, the university would be susceptible to lawsuits.

146 REP. NAITO: I am troubled by granting the powers of a police to private individuals. Discusses possible problems. The private institutions do have a problem, but there are other ways to solve it. When will the serious crimes be turned over to the police, not just campus security?

172 REP. PROZANSKI: Where do you get your statistics as to "moonlighters"?

176 REP. TIERNAN: If this bill passes it might allow people to do that. Police people often work as private security guards for a variety of institutions.

181 REP. PROZANSKI: Will they be able to have their firearm on while they are serving as a security guard?

183 REP. TIERNAN: I don't think you can stop a private institution from arming their people whether this is passed or not. They have a right to protect themselves and wear arms.

187 REP. PROZANSKI: Why aren't we looking at making a complete law enforcement with full authorities as any other peace officer instead of bifurcating the system?

190 REP. TIERNAN: Everyone has the right to protect themselves and private security guards have a right to carry arms now.

WORK SESSION ON SB 787A

198 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 787A creates crimes of cellular counterfeiting in first, second and third degrees. There was a subsequent referral to Ways and Means which needs to be rescinded.

206 MOTION: REP. TARNO: Moves that the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED on SB 787A.

213 REP. TIERNAN: Why are we rescinding the referral?

214 HOLLY ROBINSON, COMMITTEE COUNSEL: Explains the rescinding of the subsequent referral to Ways and Means.

221 REP. CARPENTER: I am concerned about not sending this to Ways and Means because the financial impact of this is \$161,000. Discusses the impact in the 1997-1999 biennium.

228 REP. TARNO: Discusses financial impact.

REP. TIERNAN: What about the firm or individual

Recesses hearing at 9:21 am.

Reopen meeting at 9:35 am.

238 REP. BROWN: Discusses motion to rescind the subsequent referral to Ways and Means.

243 REP. JOHNSTON: I support the motion.

244 VOTE: 7-0  
AYE: 7 - Brown, Johnston, Lewis, Naito, Prozanski, Qutub, Tarno  
EXCUSED: 5 - Carpenter, Courtney, Grisham, Parks, Tiernan

255 MOTION: REP. TARNO: Moves SB 787A be sent to the floor with a DO  
PASS recommendation.

VOTE: 8-0  
AYE: 8 - Brown, Carpenter, Johnston, Lewis, Naito, Prozanski, Qutub,  
Tarno  
EXCUSED: 4 - Courtney, Grisham, Parks, Tiernan

CHAIR: The motion CARRIES.

260 Rep. Carpenter will lead discussion on the floor.

WORK SESSION ON SB 1052A

269 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1052A allows Native American tribes to request certain criminal information from Department of State Police concerning persons or contractors applying as employees of tribal gaming facilities. (EXHIBIT D)

279 REP. TARNO: Discusses -3 amendments.

285 MOTION: REP. TARNO: Moves to ADOPT SB 1052A-3 amendments dated 05/15/95.

VOTE: Hearing no objection the motion CARRIES

288 MOTION: REP. TARNO: Moves SB 1052A be sent to the floor with a DO  
PASS AS AMENDED recommendation.

VOTE: 8-0  
Tarno AYE: 8 - Brown, Carpenter, Johnston, Lewis, Naito, Prozanski, Qutub,  
EXCUSED: 4 - Courtney, Grisham, Parks, Tiernan

CHAIR: The motion CARRIES.

299 Rep. Tarno will lead discussion on the floor.

WORK SESSION ON SB 119A

300 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 119A allows access to FBI  
fingerprint records by Oregon State Lottery for purposes of verifying  
identities of specified applicants for lottery employment or lottery  
contracts.

308 MOTION: REP. TARNO: Moves SB 119A be sent to the floor with a DO  
PASS recommendation.

310 REP. QUTUB: Does this mean that the general fund will be paying this?

314 REP. TARNO: This will be done through a factual agreement with all of  
tribal (inaudible).

318 VOTE: 8-0  
Tarno AYE: 8 - Brown, Carpenter, Johnston, Lewis, Naito, Prozanski, Qutub,  
EXCUSED: 4 - Courtney, Grisham, Parks, Tiernan

CHAIR: The motion CARRIES.

325 Rep. Tarno will lead discussion on the floor.

WORK SESSION ON SB 1138A

313 HOLLY ROBINSON, COMMITTEE COUNSEL: SB 1138A requires health insurers to  
enroll children subject to support enforcement order under plan of obligor  
upon application of custodial parent or certain state agency. This should  
be sent to Ways and Means. (EXHIBIT E)

358 MOTION: REP. TARNO: Moves to ADOPT SB 1138A-3 amendments dated  
05/15/95.

VOTE: Hearing no objection the motion CARRIES.

367 MOTION: REP. TARNO: Moves SB 1138A AS AMENDED to the floor with a  
DO PASS recommendation and BE REFERRED to the committee on Ways and Means.

VOTE: 8-0  
Tarno AYE: 8 - Brown, Carpenter, Johnston, Lewis, Naito, Prozanski, Qutub,  
EXCUSED: 4 - Courtney, Grisham, Parks, Tiernan

377 CHAIR: The motion CARRIES.

382 REP. BROWN: Adjourns the hearing at 9:43 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson  
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Proposed Amendments SB 367 - Staff - 1 page
- B. Testimony on SB 609 - Staff - 1 page
- C. Testimony on SB 618 - Staff - 1 page
- D. Proposed Amendments to SB 1052 - Staff - 1 page
- E. Proposed Amendments to SB 1138 - Staff - 5 pages