

SENATE COMMITTEE ON
JUDICIARY

April 14, 1993 Hearing Room C
1:00 p.m. Tapes 105-106

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Jeannette Hamby
 Sen. Karsten Rasmussen
 Sen. Bob Shoemaker
 Sen. Gordon Smith
 Sen. Catherine Webber

MEMBERS EXCUSED: Sen.

STAFF PRESENT: Karen Quigley, Committee Counsel
 Kirk Bailey, Committee Assistant

ISSUES DISCUSSED: Work Session on SB 340, SB 372, SB 539, SB 493, SB 208,
HB
252 9.

Public Hearing on SB 689.

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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.

[--- Unable To Translate Graphic ---]

TAPE 105, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 1:14 pm.

Public Hearing

SB 689: Excludes charitable remainder annuity trusts and charitable remainder unitrusts from definition of annuity in Insurance Code.

WITNESSES:

WAYNE PEDERSON, OREGON INDEPENDENT COLLEGE ASSOCIATION
AL ZIMMERMAN, NORTH LINCOLN HOSPITAL FOUNDATION
JOHN EVEY, OREGON STATE UNIVERSITY
TERRY MEAGHER, DEPARTMENT OF INSURANCE AND FINANCE

016 WAYNE PEDERSON: Submits and reviews written testimony in support of the bill (EXHIBIT A & B).

107 AL ZIMMERMAN: Submits and reviews written testimony in support of

the
bill (EXHIBIT C).

212 JOHN EVEY: Testifies in support of the bill.
>Appropriate for Department of Insurance and Finance to oversee
annuity.
>Section 2, sub 3 (a), provides for necessary reporting.
>Section 3, provides for fiscal year reporting and administration.

Matches state fiscal year.
>Significant scrutiny of organizations who seek gift annuity.

Independent audits should be sufficient review.

279 SEN. SHOEMAKER: Section 4, subsection 2, states director shouldn't
have
interest in strength of the gift annuity funds?

EVEY: No.
>Occasionally gifts are accepted when they do not meet sufficient
requirements such as real property assets that may not be investment
grade.

301 SEN. SHOEMAKER: Would institution obligate itself to pay annuity
to
donor?

EVEY: It could?

304 SEN. SHOEMAKER: Should director be concerned about receiving
sufficient
assets to secure obligation; if institution does not have sufficient
assets it could weaken fund?

EVEY: Appropriate for director to review. Assumes institution would
have funds to cover.

312 PEDERSON: Clarifies. Subsection 2 language is not the intent of
the
bill.
>Intent is not to prohibit accepting gifts that do not meet quality
guidelines on the initial transaction.

322 SEN. SHOEMAKER: Institution should be held to standard, so that
quality
assets are purchased sufficient to support annuity.

PEDERSON: Correct. Or provide from institution resources.

328 SEN. SHOEMAKER: Independent from any other gifts from any one else.

PEDERSON: Correct. Institution must stand behind annuity.

335 SEN. SHOEMAKER: Public has interest in having institution stand
behind

its requirements? Should the public be concerned about that?

EVEY: Correct.

>OSU's foundation is a private organization with significant assets.

349 SEN. SHOEMAKER: More concerned about smaller institutions.

>Aren't lax standards dangerous?

EVEY: Appropriate, but perhaps the provision needs clarification.

>Appropriate for department to request information indicating

institution has sufficient assets to meet its obligations.

363 SEN. SHOEMAKER: You will formulate amendments?

EVEY: Yes.

368 SEN. SHOEMAKER: Please clarify lines 9 - 10?

PEDERSON: In reporting fund value, balance sheet declares historical

and market value, but would not have to report accrued earnings at
date

of statement.

>Reason: most institutions do not prepare accrual basis financial

statements at this level.

388 SEN. SHOEMAKER: Leads to under-reporting rather than
over-reporting?

Could it lead to over-reporting?

PEDERSON: Yes. No.

408 TERRY MEAGHER: Submits and reviews written testimony with
suggested

amendments in opposition to the bill (EXHIBIT D).

TAPE 106, SIDE B

003 MEAGHER: Completes review of written testimony.

044 SEN. SHOEMAKER: Doesn't bill give discretion to director?

MEAGHER: Refers to page 1, line 23, and other sections of the bill

which seem to indicate that is not the case.

051 SEN. SHOEMAKER: If it was clarified, would you be more comfortable
with

the provision?

MEAGHER: Yes.

052 SEN. SHOEMAKER: Proponents can amend if they have no objection.

054 MEAGHER: Continues testimony in opposition.

102 SEN. SHOEMAKER: Lines 5-10 on page 2, concerned that market
value

report may not be accurate indication of true value?

MEAGHER: Correct. Explains further.
>Market value formulation can be fairly subjective.

115 SEN. SHOEMAKER: Suggesting change to use market value where value
is readily ascertained and cost basis for other assets?

MEAGHER: Correct.

120 SEN. SHOEMAKER: Fiscal year is matter of convenience, but
doesn't requiring calendar year reports create problem for organizations who
report on fiscal year?

MEAGHER: Concurs that it is a problem but not sure it is more
difficult than what the department must do.

132 SEN. SHOEMAKER: Have to do report of calendar year just for this.

MEAGHER: Correct.
>That occurs with majority with other insurance companies already.
Standard is established on calendar year.

143 SEN. SHOEMAKER: Did you understand point on lines 15-18, page
2 regarding language not matching intent?

MEAGHER: Yes. Refers to written testimony.
>Entire section doesn't apply to proponents.

154 SEN. SHOEMAKER: Will you assist with amendments?

MEAGHER: Yes.

159 SEN. HAMBY: Why is it so difficult to administer both fiscal
and calendar year reporting?

MEAGHER: Matter of fiscal abilities.
>Department does not have the staff to allow all companies to do this.

175 SEN. HAMBY: Comments on the need for government to be responsive to
the needs of constituents and consumers.

181 CHAIR SPRINGER: Recalls proponents.

187 PEDERSON: Comments on Meagher's testimony.

274 EVEY: Comments in response to Meagher's testimony.

304 SEN. SHOEMAKER: What assurance does department have in that there
are investment grade securities behind annuity?

EVEY: Can only speak for OSU, who can set aside reserves.

312 SEN. SHOEMAKER: Is that required?

EVEY: No.

313 SEN. SHOEMAKER: Where does that leave small funds?

EVEY: Hopefully there is a review when they are asking to issue gift annuities.

322 ZIMMERMAN: Comments in response to Meagher's testimony.
>Maintain full face value of annuity in reserve accounts.

327 SEN. SHOEMAKER: Is there a requirement that all such funds do so?

ZIMMERMAN: That is our policy.

329 SEN. SHOEMAKER: Concerned that may not be another institutions policy.

If law mandates this process don't we need to have requirement in the law?

ZIMMERMAN: Requirement for reserve fund to cover investment grade assets would not be a problem.

338 EVEY: No objection.

340 PEDERSON: No objection.
>Law requires adequate reserve.

350 SEN. SHOEMAKER: Would proponents work to ensure there are rules in place to assure quality and stability.

363 SEN. SHOEMAKER: On market value question, when do audit and federal standards apply?

EVEY: Apply when it is received?

470 SEN. SHOEMAKER: What about subsequent changes?

EVEY: Changes are done in conjunction with auditors.

374 SEN. SHOEMAKER: Do auditors have to check market value?

PEDERSON: Yes.

377 SEN. SHOEMAKER: Are they qualified to do so?

PEDERSON: Institutions are required to provide verifiable information and do so.

389 SEN. SHOEMAKER: Is that true of every fund?

PEDERSON: Should be.

391 SEN. SHOEMAKER: Comments generally on the issue.

401 PEDERSON: Former C.P.A. Familiar with requirements for the field.

431 SEN. SHOEMAKER: If requirements are clear why is department having
a hard time understanding?

PEDERSON: Department has reporting methods that influence the process.

448 SEN. SHOEMAKER: We are on the market value issue.

PEDERSON: Everyone struggles with this issue.

454 SEN. SHOEMAKER: Please work with Meagher on the market value issue?

PEDERSON: No problem.

475 SEN. SHOEMAKER: Clarifies concerns.

TAPE 105, SIDE B

Work Session

HB 2529: Prohibits use of accident reports or records compiled by police agencies for commercial purposes.

031 KAREN QUIGLEY, COMMITTEE COUNSEL: Reviews bill. No amendments.

042 MOTION: SEN. RASMUSSEN: moves HB 2529 be sent to the floor with a DO

PASS recommendation.

VOTE: In a roll call vote all members present vote AYE.

046 CHAIR SPRINGER: The motion CARRIES.

SEN. WEBBER will lead discussion on the floor.

SB 340: Allows disclosure of materials or information produced during discovery related to personal injury action or action for wrongful death even though protective order has been entered if disclosure is to another attorney representing client in similar or

SB 372: Provides that agreements between parties to civil action to keep material or information confidential are not binding as to certain materials and information.

057 CHAIR SPRINGER: Considers SB 340 and SB 372 together.

058 QUIGLEY: Reviews SB 340 and SB 372; with SB 340-1 and SB 372 -1

amendments (EXHIBIT E & G).

092 CHARLIE WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: Submits
and
reviews written testimony with amendments to the bill (EXHIBIT F).
>Reviews Washington Public Right to Know Act and compares to Oregon
situation.

209 SEN. SHOEMAKER: Regarding SB 372, Council on Court Procedures
decided
it was out of their jurisdiction?

WILLIAMSON: Correct. Decided they had no jurisdiction on a similar
bill because it extended beyond court procedures.

219 SEN. SHOEMAKER: Was this bill brought before them?

WILLIAMSON: Yes. Introduced last session, SB 580, which they chose not
issue a position on.

224 SEN. SHOEMAKER: Elected not to review?

WILLIAMSON: Correct.

227 TOM TONGUE, OREGON ASSOCIATION OF DEFENSE COUNSEL: Referring to
Sen.
Shoemaker's question. Comments on transcript from Council which
relates
to SB 340.
>Testifies in opposition to SB 372.

267 WILLIAMSON: Responds to comments by Tongue.

277 TONGUE: Testifies in opposition to SB 340.

330 CHAIR SPRINGER: Notes possible constitutional problems with bills
which
may prevent movement.

336 WILLIAMSON: Comments on showings of good cause and protective
orders.

369 CHAIR SPRINGER: Notes committee needs time to review amendments
before
action.

SB 208: Allows notice of appeal to be filed with clerk of trial court
for
purpose of time limitations on filing.

381 HENRY KANTOR: Reviews bill and SB 208-3 amendments (EXHIBIT I).

403 QUIGLEY: Reviews bill and engrossed SB 208-3 amendments (EXHIBIT H).

417 KANTOR: Notes shift in proponents position and clarifies.
>Purpose is to delete jurisdictional requirement of service of the

notice of appeal included in SB 208-2 amendments; page 1, lines 18-22.

436 CHAIR SPRINGER: Offers witnesses opportunity to review amendments
and
return to the bill.

440 KANTOR: That is at the discretion of the committee.

441 SEN. SPRINGER: Do you have the -3 amendments?

443 JUDGE RICHARDSON: Unfamiliar with references to amendments.

448 KANTOR: SB 208-3 amendments accomplish his goals.
>Committee should consider one of the changes but not all.

TAPE 106, SIDE B

041 JUDGE RICHARDSON: Comments generally in opposition.
>Bill creates workload problems.

088 SEN. SHOEMAKER: Would it help if statute imposed costs on moving
party?

094 RICHARDSON: In the event a party was not served...

SEN. SHOEMAKER: Whatever the basis for the motion, where there is
discretion, if court and counsel costs were imposed would that make a
difference?

100 RICHARDSON: Not sure about court costs. If court allowed to
set
attorney fees on motion.....

SEN. SHOEMAKER: Would have to be only on moving party?

106 RICHARDSON: Reviews process further.

112 SEN. SHOEMAKER: Trying to discourage using the courts time to sort
out
issues because of attorney's mistake.

118 RICHARDSON: Unsure how that could be accomplished.

123 KANTOR: Comments on Richardson's statements.

149 CHAIR SPRINGER: -3 amendments replace bill?

QUIGLEY: Correct. Notes need for effective date or date certain?

156 CHAIR SPRINGER: Date certain, or effective date?

KANTOR: No need for emergency date.

159 RICHARDSON: Recommends something firm.

160 CHAIR SPRINGER: January 1, 1994?

165 MOTION: CHAIR SPRINGER: moves to ADOPT SB 208-3 amendments dated

4/14/93, further amended to include effective date.

VOTE: Hearing no objection, the amendments are ADOPTED.

169 MOTION: CHAIR SPRINGER: moves SB 208, AS AMENDED, be sent to the floor

with a DO PASS recommendation.

SEN. SHOEMAKER: Notes opposition to the bill.

VOTE: In a roll call vote SEN. RASMUSSEN, SEN. WEBBER and CHAIR

SPRINGER vote AYE. SEN. HAMBY, SEN. SMITH, SEN. SHOEMAKER vote NAY.

179 CHAIR SPRINGER: The motion FAILS.

SB 539: Deletes requirement that applicant's race be listed on application

for marriage license.

183 QUIGLEY: Reviews bill and machine engrossed amendments (EXHIBIT J & K).

196 CHAIR SPRINGER: Notes preference to avoid amending relating clause.

200 JUDITH MCGINTY: Submits and reviews amendments (EXHIBIT L).

225 MOTION: CHAIR SPRINGER: moves to ADOPT SB 539 machine engrossed amendments presented by counsel.

226 SEN. HAMBY: Is there health division commitment behind the bill?

MCGINTY: Believes so, if they are directed to.

233 VOTE: Hearing no objection, the amendments are ADOPTED.

MOTION: CHAIR SPRINGER: moves SB 539, AS AMENDED, be sent to the floor with a DO PASS recommendation.

236 SEN. RASMUSSEN: Notes opposition to the bill.

>Bill is well intentioned, but will prevent collection of important social statistics.

269 VOTE: In a roll call vote SEN. HAMBY, SEN. SMITH, SEN. SHOEMAKER, SEN. WEBBER and CHAIR SPRINGER vote AYE. SEN. RASMUSSEN votes NAY.

273 CHAIR SPRINGER: The motion CARRIES.

SEN. COHEN will lead discussion on the floor.

SB 493: Expand definition of "racketeering activity" to include violation

of wildlife laws.

279 qui: Reviews bill. No amendments.

284 MOTION: SEN. HAMBY: moves SB 493 be sent to the floor with a DO
PASS
recommendation.

VOTE: In a roll call vote all members present vote AYE.

291 CHAIR SPRINGER: The motion CARRIES.

SEN. DWYER will lead discussion on the floor.

293 CHAIR SPRINGER: Recesses committee until 5:30 pm in Hearing Room C.

Submitted by:

Reviewed by:

Kirk Bailey
Assistant

Karen Quigley
Administrator

EXHIBIT LOG:

- A - Testimony on SB 689, Wayne Pederson, 3 pages
- B - Testimony on SB 689, Wayne Pederson, 4 pages
- C - Testimony on SB 689, Al Zimmerman, 4 pages
- D - Testimony on SB 689, Terry Meagher, 3 pages
- E - Amendments to SB 340, Staff, 2 pages
- F - Testimony on SB 340 & SB 372, Charlie Williamson, 9 pages
- G - Amendments to SB 372, Staff, 1 page
- H - Amendments to SB 208, Staff, 4 pages
- I - Amendments to SB 208, Staff, 3 pages
- J - Amendments to SB 539, Staff, 1 page
- K - Amendments to SB 539, Staff, 1 page
- L - Amendments to SB 539, Judith McGinty, 4 pages

SENATE COMMITTEE ON
JUDICIARY

April 14, 1993 Hearing Room C
1:00 p.m. Tapes 107-110

MEMBERS PRESENT: Sen. Dick Springer, Chair
 Sen. Bob Shoemaker, Vice-Chair
 Sen. Karsten Rasmussen
 Sen. Catherin Webber

MEMBER EXCUSED: Sen. Hamby

STAFF PRESENT: Bill Taylor, Legislative Counsel
 Kate Wrightson, Committee Administrator
 Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED: Public Hearing on SB 715, SB 716, SB 717, SB 718.
 Public Hearing and Work Session on SB 141.
 Work Session on SB 137, SB 138, SB 139, SB 140.

[--- Unable To Translate Graphic ---]

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TAPE 107, SIDE A

003 CHAIR SPRINGER: Opens the hearing at 5:40 p.m.

PUBLIC HEARING

SB 715: Declares legislative findings regarding current prison capacity.

SB 716: Declares legislative findings regarding prison capacity based on Governor's budget.

SB 717: Declares legislative findings regarding prison capacity based on 80% budget.

SB 718: Allows retroactive application of certain interim modifications to sentencing guidelines.

WITNESSES:

DAVID FACTOR, OCJC

DICK OGDEN, OPEU/OSCI

LEW BROADBENT, OPEU/COALITION FOR RESPONSIBLE JUVENILE POLICY

ALLISON MURRAY, AFSCME

MARIANE GEST, OPEU

JUDGE ELLIS

JOE VAN METER, COALITION FOR RESPONSIBLE JUVENILE POLICIES

033 DAVID FACTOR, OCJC: Submits and reviews written testimony in support of

SB 715, SB 716, SB 717, SB 718. (EXHIBIT A, B)

- The guidelines designed to take into account the budgeted capacity of prison beds and what sentencing guidelines would have to be adjusted to get to this capacity.

116 SEN. SHOEMAKER: Could you explain what SB 137, SB 138, SB 140 and SB
139 are?

FACTOR: Gives overview on above bills.

159 SEN. G. SMITH: We're not lowering the standard of crime, but they would be let out sooner?

FACTOR: Currently there is the 60 month sentence less the possibility of 20% for earned time credit. With this bill, if the 60 months were reduced by 15% up front, the sentence would be 51 months.

204 SEN. RASMUSSEN: I would like the base figure that you're using.

FACTOR: The projected population is 7,333 by July 1995.

SEN. RASMUSSEN: What's 3,070 stand for? And what does that yield?

FACTOR: That's the deficit. It yields 4,263.

226 SEN. SHOEMAKER: Briefly describe what is causing this projected increase.

FACTOR: It's not a projected increase. The population projections are on target with what the guidelines were when they were designed.

238 SEN. SHOEMAKER: So basically, you anticipate more people will come into the system and the actual number is consistent with your projections?

FACTOR: The time being served under the guidelines, though the announced sentence may be shorter than what we've been hearing previously, is actually longer.

250 SEN. WEBBER: That's not universally true against all sentencing categories, is it? Isn't there some differential from earlier days?

FACTOR: Its true for offenders sentenced under the guidelines.

255 SEN. WEBBER: On all categories of crime?

CRAIG MOSS, OCJC: Senator Webber, lengths of stays have increased for drug offenders and have gone down for property and driving offenders.

264 FACTOR: Continues with testimony.

- If you allowed Retroactive Guidelines amendments then reductions in

sentences wouldn't have to be so severe.

FACTOR: Population projections currently indicate that there will be a bed deficit in the coming biennium.

344 SEN. WEBBER: How do all your bills interact with the departments package?

FACTOR: They all work in consort.

- The subsections of SB 715 are in effect SB 138, SB 716 is SB 140, SB 718 is SB 138.

SEN. WEBBER: So, how many bills are in that entire package?

FACTOR: SB 138 and SB 140 are what the Guidelines Board are considering. They would help get to deficit scenario problem.

360 SEN. G. SMITH: We have to use all these bills or else come up with some money as soon as possible?

FACTOR: We'll bring you the best numbers and you can make the options as to how to get there. SB 141, if implemented, would have the potential savings of 100 beds.

390 SEN. G. SMITH: We could either vote on these or grant the authority for you to make these judgments?

FACTOR: I suspect that's an option.

TAPE 108, SIDE A

003 SEN. SHOEMAKER: I thought that if we didn't pass this legislation there was some discretion within guidelines to adjust population?

FACTOR: There is statutory authority to make some reductions in sentencing guidelines in the interim when there is a capacity emergency.

010 SEN. RASMUSSEN: It would require a drastic reduction because it isn't

retroactive.

FACTOR: That's correct. Retroactive or not, the reduction is extreme.

018 CHAIR SPRINGER: How do we deal with a population that was incarcerated prior to sentencing guidelines?

FACTOR: They're are still subject to the Parole Board.

022 CHAIR SPRINGER: What percentage of the incarcerated are represented to make room?

024 MOSS: About 50%-60% are guidelines offenders.

FACTOR: There are two distinct population incarcerated. The pre-guidelines offenders subject to Parole and the guidelines offenders.

033 MOSS: Out of the 6,500 prisoners 4,200 are guidelines offenders.

036 SEN. WEBBER: The classification is that they are very serious offenders.

040 SEN. G. SMITH: Give us some data for the public on what we are going to do tonight to demonstrate why people are serving longer.

FACTOR: Guidelines were designed to reserve beds for more serious person offenders. There is a package that shows how the length of stays have increased.

052 SEN. G. SMITH: Good. We have to be able to justify what we need to do to the tax payers.

072 MARIANE GEST, OPEU: Testifies in opposition to SB 715, SB 716, SB 717, SB 718.

080 LEW BROADBENT, COALITION FOR RESPONSIBLE JUVENILE POLICIES: Submits and reviews written testimony in opposition to SB 715, SB 716, SB 717, SB 718.
(EXHIBIT D, E)

102 CHAIR SPRINGER: What is the Coalition for Responsible Juvenile Policies?

BROADBENT: A number of youth workers and private and public organizations who are concerned about the reducing of felonies to misdemeanors.

147 RICHARD OGDEN, OPEU/OSCI: Testifies in opposition to SB 715, SB 716,
SB

717, SB 718.

- Oregon has permissive guidelines.

202 SEN. WEBBER: Could you get me some comparative information
between

Oregon's sentencing and other states.

213 CHAIR SPRINGER: How many OPEU families voted for Measure 5?

OGDEN: I know a lot of people who voted.

210 CHAIR SPRINGER: Do you think they see any connection in what's
happening

now and their vote?

OGDEN: I'm sure they do.

221 GEST: There are many things legislature can do.

236 SEN. G. SMITH: What other parts of Oregon public
employment/services

are being cut to pay for this? There still isn't a 51% vote for new
taxes.

BROADBENT: Cutting has to be done and its a terrible job. The point
is,

this bill isn't going to save us money down the line.

258 GEST: I believe that the Legislature will realize what is
happening,

then the public will move.

SEN. G. SMITH: You may be right eventually, but now we rank just below
used cars salesmen.

268 ALISON MURRAY, BOARD OF PAROLE: Submits and reviews written testimony
in

opposition to SB 137. (EXHIBIT C)

303 CHAIR SPRINGER: Tell me about the CSD budget relating to
juvenile

offenders. What does the Governors Budget do?

BROADBENT: Changes some resources for handling juvenile offenders. The
lack of bed space results in no time for treatment process. The budget
does diminish some of the "early intervention" resources.

327 CHAIR SPRINGER: If we find X millions of dollars, should that money
go

first to juvenile corrections or adult corrections?

OGDEN: It depends on your philosophy of where your intervention is.

For us, the money will help reduce long-term costs and intervene with

delinquent youths. Both need attention.

352 CHAIR SPRINGER: If you gave it to the juvenile side, how much would
go to community based programs as opposed to state training schools?

BROADBENT: That's not an easy answer. We need to keep people out of
institutions and our communities safe.

388 DALE PENN, REPRESENTING DISTRICT ATTORNEYS ASSOCIATION: Testifies
in opposition to SB 715, SB 716, SB 717, SB 718.
- A return to problems faced in early '80s.
- After the SB 137 hearing the Department of Corrections and the
Parole Board have been willing to discuss SB 137, SB 138, SB 140.

TAPE 107, SIDE B

003 PENN: Continues testimony and submits draft amendments for SB
137 .
(EXHIBIT F)
- Amendments deal with parole supervision.
- Has been amended so a case can be presented to the court for
revocation.
- A restriction of 1/3rd of use of jail units.
- SB 140 Suggest that non-violent felonies be converted to Class

A.

153 SEN. WEBBER: We're talking about a choice of evils. The real goal
is predicated on dangerous offenders. If there is one empty bed you have
something you can sanction, so the shift will assure that there is
still room from personal/serious offenders. Is that the way you see it?

100 PENN: Yes. That is our concern about the 700 series. We believe the
series strikes a balance. The career offender can still be dealt with
in prison.

184 SEN. WEBBER: The margin of error concerns me. And if the guess is
wrong there is going to be one difficult issue. Comment on the timing of
some of the programs.

PENN: There is some cushion, which gives flexibility. The 100 series
can work for two years.

215 SEN. WEBBER: Is there any connection between this package and what
will happen at Marion County's jail?

PENN: I don't know if there will be a major impact in our jails. More

resources available for Marion County if these bills go through.

250 CHAIR SPRINGER: Did you want to comment on SB 141?

PENN: I'll give a personal opinion. I like flexibility. I don't like it because it takes discretion away from the judge.

276 JUDGE JIM ELLIS, OCJC: Testifies in opposition to SB 718.
- The 700 series is a bad idea, but its also reality.
- Judges giving fictitious sentences is a fact.
- Better choices are SB 137, SB 138, SB 140.

310 CHAIR SPRINGER: How about SB 141.

ELLIS: I would guess that most judges would be opposed, but the Council hasn't considered it.

WORK SESSION

SB 140: Modifies definitions of various crimes of theft.

WITNESSES

C.W SMITH, OREGON SHERIFFS' ASSOCIATION
SHERIFF McMANNIS, OREGON SHERIFFS' ASSOCIATION
BILLY WASSON, MARION COUNTY DEPARTMENT OF CORRECTIONS
DAVID FACTOR, OCJC
JUDGE ELLIS, OCJC

353 C.W. SMITH, OREGON STATE SHERIFFS'ASSOCIATION: Submits and reviews written testimony in opposition to SB 140. (EXHIBIT G)

TAPE 108, SIDE B

003 SMITH: We do support community programs, but don't want to see reduction in hard cell beds. We had to release 1,500 people last year.

023 SHERIFF MCMANNIS: Testifies in opposition to SB 140.
- The complexity of the problem is large and we want to be an active part to the solution to this problem.

045 SEN. WEBBER: Are the bills capable of absorbing what might come down if the 700 series is passed?

SMITH: It's pushing down and it would make it on a faster track.

058 McMANNIS: We are facing budget cuts. The first five percent eliminates 88 beds out of the Lane County jail. The services on the local level are also hurting.

SMITH: We will be taking a \$500,000 reduction, which is 66 beds. We

also took a 75% cut.

083 SEN. WEBBER: Have you noticed any change in the parole population during the Morrisey hearings?

SMITH: It has reduced somewhat. Its a fairly manageable number. The time period has been speeded up.

094 SEN. WEBBER: Is the same thing true in Lane County?

095 McMANNIS: I don't participate in the drop program. We have a mini-criminal justice council. Part of their decision making is going to be the use of the county jail.

109 SEN. WEBBER: How do we institutionalize that process of everyone working together?

McMANNIS: The Corrections Working Group is an excellent start.

124 CHAIR SPRINGER: How does the decision by a county affect that county's perspective on these issues? Is there any impact?

McMANNIS: There was a clear consensus when the document was drafted.

163 DAVID FACTOR, OCJC: Submits proposed amendments and gives overview for SB 140. (EXHIBIT H)

200 CHAIR SPRINGER: We can scan the Prison Impact statement and ask questions. Have we taken UUMV out of SB 140?

FACTOR: Yes. The OCJC asked to be new sponsor of bill and have CJSD removed.

224 JUDGE ELLIS, OCJC: Submits and reviews proposed amendments to SB 140. (EXHIBIT I)

271 BILLY WASSON, MARION COUNTY DEPARTMENT OF CORRECTIONS: Submits and reviews written testimony in support of SB 140 (and the 100 series) as amended. (EXHIBIT G)

TAPE 109, SIDE A

003 WASSON: Continues testimony.

027 CHAIR SPRINGER: Should we just adopt amendments and have another hearing on Monday.

044 MOTION: CHAIR SPRINGER: Moves to ADOPT SB 140 Criminal Justice amendments.

VOTE: Hearing no objection the amendments are adopted.

SB 139: Modifies allocation formula for community corrections enhancement grants.

067 ELYSE CLAWSON, DEPARTMENT OF CORRECTIONS: Submits and reviews proposed amendments to SB 139. (EXHIBIT K)

106 JOHN HARTNER, WASHINGTON COUNTY COMMUNITY CORRECTIONS: Testifies in support of SB 139.

168 MOTION: CHAIR SPRINGER: Moves that SB 139 Dept. of Corrections proposed amendments be ADOPTED.

VOTE: Hearing no objection the amendments are ADOPTED.

173 CHAIR SPRINGER: We will carry over until Monday.

178 SEN. WEBBER: These bills are strongly interdependent and the fiscal impact is what is driving them. Is there any way to get them packaged together?

SB 138:
Provides that Department of Corrections shall determine probation violations and impose sanctions for violations.

WITNESSES

FRANK HALL, DEPARTMENT OF CORRECTIONS
ELYSE CLAWSON, DEPARTMENT OF CORRECTIONS
ROSS SHEPARD, OCDLA
ANN CHRISTEN, IDS
CHARLES WILLIAMSON, OTLA
BOB KEISER, OREGON POLICE ASSOCIATION

195 FRANK HALL, DEPARTMENT OF CORRECTIONS: Submits and reviews proposed amendments to SB 138. (EXHIBIT L)

ELYSE CLAWSON, DEPARTMENT OF CORRECTIONS: Submits and reviews SB 138A machine engrossed amendments. (EXHIBIT M) (EXHIBIT N, O)

323 SEN. WEBBER: On page 3 are some references to "community corrections".

Some places mention it and some places don't. Is that intentional?

CLAWSON: No. Its intended that "corrections" and "community corrections" be included throughout the bill.

349 SEN. WEBBER: The issue around waiving of the hearing is to some
extent
moving over to the department under the administrative rule. Has there
ever been a formal opinion that it's okay to do that, since some say
it
could be unconstitutional?

CLAWSON: We do have a letter from the Attorney General's office saying
it is constitutional.

360 TAYLOR: We received the letter dated 4/14 today. In his opinion
its
constitutional.

371 HALL: We also think these bills would enable to strengthen
overall
impact on offenders.

383 SEN. G. SMITH: Do you anticipate when we get beyond Measure 5
that
you'll be back here trying to toughen these up?

HALL: We're proposing a continuation of the 1988 process. The Governor
agreed to this process and has been successfully implemented. These
bills would strengthen our ability to deal with inmates in the
community.

421 SEN. G. SMITH: We can change these next session to meet other needs
that
we will learn about.

427 HALL: These things are measurable and we'll know their impact.

TAPE 110, SIDE A

003 CHAIR SPRINGER: What are some of the next steps in terms of a
strategic
corrections plan process?

HALL: Our focus needs to be impacting on high percentage of people
coming into the system. Also need to strengthen programs within the
institution and the transition from institution to community.

030 ROSS SHEPARD, OCDLA: Testifies in opposition to SB 138.

043 SEN. WEBBER: Do you have any idea what the cost for defense is in
the

probation revocation hearings?

SHEPARD: No. It would be less expensive than defending a client of trial.

046 SEN. WEBBER: Do you know of anyone who would have those numbers?

SHEPARD: The State Court administrators office may have them.

053 ANNE CHRISTEN, INDIGENT DEFENSE SERVICES: In preparing a fiscal impact statement we came up with the average cost to the IDS of providing counsel in felony probation violation/revocation hearings, which is \$125/appointment. If there were only a 10-25% reduction in number of appointments, due to passage of SB 138, the cost of savings would be \$105,000 to \$262,000/year.

10% SEN. WEBBER: What number of people did Corrections estimate would use the administrative process vs. going back to court? Did you get the from them?

CHRISTEN: That was the original number we received on SB 138. Fifty percent going through the court system might choose administrative options.

078 SEN. WEBBER: So it would be five times what you estimated.

081 CHARLES WILLIAMSON, OTLA: Testifies in support of SB 138.
- It will serve citizens better.

093 SEN. SHOEMAKER: Ross, in the letter of February 17th your objections are based on constitution/policy grounds. We have a letter from Attorney General's office saying the amended bill passes constitutionally. If a defendant requests a hearing that hearing will be before a judge?

SHEPARD: Yes.

106 SEN. SHOEMAKER: So we're just talking about his waiving the right to counsel and a hearing before the judge? Does this make you feel more comfortable?

SHEPARD: Slightly.

117 SEN. SHOEMAKER: You don't think that the people involved would be

aware

of that risk?

SHEPARD: No. Its an unsophisticated crew dealing with the courts. I have a slight amendment on page 3, line 20...

126 SEN. SHOEMAKER: I suspect facing the alternatives to these bills are
the 700 series.

SHEPARD: Another alternative would be for the Legislature to give some direction to the judges to using intermediate sanctions.

131 SEN. SHOEMAKER: You mean when they do request a hearing?

SHEPARD: The Legislature is telling the judges use intermediate sanctions rather than flat out revocation.

135 SEN. SHOEMAKER: They couldn't do that now?

138 SHEPARD: They could.
- The slight amendment on page 3, line 20 would be to insert the words "defense counsel" after "District Attorney".

149 CHAIR SPRINGER: I had a question about that in my mind. I
don't understand this. Who gets the notice?

SHEPARD: It would be council at time of sentencing.

157 CHAIR SPRINGER: I don't know about that.

DALE PENN: The vast majority of these cases are indigent defense cases.

- Subsection B is to insure consistent, knowledgeable, understandable advice.
- Asks committee not to amend bill because many of the benefits of this bill will dissipate.

188 SHEPARD: I don't understand that objection. The added costs would be
a 29 cent stamp per notification.

192 SEN. WEBBER: Many of the Parole Board hearings are slam dunk in terms
of what is the law. Can you estimate what percentage are doing social disposition vs. legal issues?

SHEPARD: Most of them are trying to find appropriate disposition.

201 SEN. WEBBER: I have a difficult time thinking about tying up
judicial and court time in terms of a disposition.

SHEPARD: This committee should find that is a quintessential judicial function in sentencing people.

207 SEN. WEBBER: But the person has already been sentenced, basically.

214 BOB KEISER, OREGON COUNCIL POLICE ASSOCIATION: Testifies in support of SB 138 amendments.

227 TAYLOR: I agree with David Factor's amendments. Discusses Machine Engrossed SB 138A. (EXHIBIT P)

PENN: There are two words we would like changed. On page 3, line 41, it says "working days" and that should be "judicial days".

256 CHAIR SPRINGER: Not that there's a difference.

266 MOTION: CHAIR SPRINGER: Moves that SB 138A Machine Engrossed amendments with additional ones on page 2 and on line 41, page 3 and the language read into record by counsel at the request of David Factor on page 4, section 8 be ADOPTED.

VOTE: Hearing no objection the amendments are ADOPTED.

SB 137:
Allows State Board of Parole and Post-Prison Supervision to discharge parolee if parolee has substantially complied with conditions of parole.

311 VERN POTTS, OREGON BOARD OF PAROLE: Gives overview of proposed SB 137 -1 amendments.

364 CHAIR SPRINGER: We have 4/8/93 SB 137-1 amendments, are these the same? (EXHIBIT Q)

POTTS: I haven't seen those. I took this through committee counsel last week and it went down to L.C.

375 TAYLOR: Yes they are. Delivered to L.C. by Department of Corrections.

383 CHAIR SPRINGER: They're not exactly the same. We use term "prisoner" in SB 137-1 as opposed to "offender"/"prisoner" used interchangeably in the 4/6/93 amendment. (EXHIBIT Q)

397 DAVID FACTOR, OCJC: Gives overview of proposed amendments to SB 137 .

(EXHIBIT R)

- Brought to OCJC at request of Board of Parole and Post-Prison Supervision.

443 CHAIR SPRINGER: What is the exact language that you're proposing as an amendment to SB 137?

FACTOR: I can get the language to accomplish the rule amendment.

TAPE 109, SIDE B

003 FACTOR: Continues overview.

040 BOB KEISER: Submits and reviews written testimony in opposition to SB 137.

(EXHIBIT S, T, U)

- Rather than a minimum of six months, parole should be for three years. Parole Board could have a review after 1 1/2 years.

071 BARBARA CLARK, SUNRISE HOUSE: Testifies in opposition of SB 137.

- I am clean and sober due to current probation rules.
- We had indigent legal counsel and I was on welfare.
- I now support myself and three years is a good time to get your life back together.

091 ROBIN MCGREGOR, PASSAGES: Testifies in opposition to SB 137.

- I'm clean and sober and support myself.
- It took six months alone just to get me to treatment.

143 MOTION: CHAIR SPRINGER: Moves that the SB 137-1 amendments be ADOPTED.

VOTE: Hearing no objection the amendments are ADOPTED.

160 CHAIR SPRINGER: Adjourns meeting at 8:40 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal
Assistant

Bill Taylor
Administrator

EXHIBIT LOG

- A - Testimony on SB 715 to SB 718-David Factor-3 pgs.
- B - Testimony on SB 715 to SB 718-David Factor-1 pg.
- C - Testimony on SB 137-Allison Murray-1 pg.
- D - Testimony on SB 715 to SB 718-Lew Broadbent-1 pg.
- E - Testimony on SB 715 to SB 718-Lew Broadbent-41 pgs.
- F - Proposed amendments to SB 137-Dale Penn-3 pgs.
- G - Testimony on SB 140-C.W. Smith-2 pgs.
- H - Testimony/proposed amendments to SB 140-David Factor-6 pgs.
- I - Aggregation amendments to SB 140-Judge Ellis-4 pgs.
- J - Testimony on SB 137 to SB 140-Bill Wasson-2 pgs.

K - Proposed amendments to SB 139-Elyse Clawson-1 pg.
L - Testimony on SB 138-Frank Hall-3 pgs.
M - Machine Engrossed SB 138A amendments-Elyse Clawson-10 pgs.
N - Testimony on SB 138-Elyse Clawson-9 pgs.
O - Testimony on SB 138, SB 140-Ted Kulongoski-1 pg. *
P - Proposed amendments to SB 138-David Factor-1 pg.
Q - Proposed SB 137-1 amendments-Staff-2 pgs.
R - Proposed amendments to SB 137-David Factor-1 pg.
S - Testimony on SB 137-Bob Keiser-booklet
T - Testimony on SB 137-Bob Keiser-3 pgs.
U - Testimony on SB 137-Bob Keiser-book
V - Proposed amendments to SB 139-Frank Hall-1 pg. *
X - Proposed amendments to SB 141-David Factor-1 pg. *
Y - Testimony on SB 715 to SB 718-Oregon State Penitentiary-7 pgs. *
Z - Internat'l Covenant on Civil and Political Rights-Staff-4 pgs.