

SENATE COMMITTEE ON
JUDICIARY

May 5, 1993
1:00 p.m. Tapes

HearingRoom C

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: Bill Taylor, Committee Counsel
Karen Quigley, Committee Counsel
Kirk Bailey, Committee Assistant

ISSUES DISCUSSED Work Session on SB 833, SB 680, SB 1019, SB 94, SB 232,
SB
244, SB 308, SB 1051, SB 390, SB 391
Public Hearing on SB 250, SB 1064
Public Hearing & Possible Work Session on SB 1002

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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.

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TAPE , SIDE A

003 CHAIR SPRINGER: Opens the hearing at

Public Hearing

SB 1064:

WITNESSES:
SENATOR MAY YIH
CLIFFORD DAIMLER, OREGON STATE POLICE
KEVEIN STARRETT, GUN OWNERS OF AMERICA
BILL TEMPLE, OREGON ASSOCIATION OF GUN OWNERS
JOHN NICHOLS, OREGON STATE SHOOTERS ASSOCIATION

SENATOR YIH: Testifies in support of the bill. Reviews -1
amendments
(EXHIBIT).

CLIFFORD DAIMLER: Submits and reviews written testimony in support of

the
bill (EXHIBIT). Reviews -1 amendments (EXHIBIT).

shoe: three years from date of commission of crime?
daimler: three years after purchase. Continues testimony.
csp: modifications to page 2, lines 29-30. Still proposing?
daimler: yes. Continues reviews of additional amendments. Page 2, line
csp: why?
daimler: law enforcement would not be able to do warrant check.
csp: support amendments?
yih: yes.

ham: probability of validity of background check, due to time
constraint,
degree of accuracy?
daimler: 98.5% accuracy.

KEVIN STERRET: Testifies in support of the bill.

BILL TEMPLE: Testifies in support of the bill.

yih: with fingerprints on the form efficiency will increase.
Reduces
redundancy, and increases efficiency.

JOHN NICHOLS: Testifies generally on the bill. Personally support the
bill.
ras: will check with board and let us know.
nichols: yes.

some guy: Submits and reviews written testimony in support of the
bill
(EXHIBIT). copy from Bill's file.

Work Session

SB 833:

tay: reviews bill and -2 amendments (EXHIBIT).

REPRESENTATIVE MANNIX: Testifies in support of the bill.

smi: reviewed constitutional issues? Assume response is tha hearing
fills
constituttional requirements?
mannix: yes. Officers have more discretion currently than this bill
allows.
Probable clause is needed for order and sufficient for arrest. Simialr
to
family abuse protection act.
ham: where is house bill.
mannix: in house appropriations. should pass.
ham: notes her support for the bill.
mannix:
shoe: element fo the crime is reasonable apprehension about safety?
Aren't
there stalking situations that don't address safety.
mannix: survivors have felt actual fear. Most conduct does not
include

credible threat.
shoe: assume stalking was misplaced amorous pursuits?
mannix: misplaced amorous pursuits can normally be stopped, crosses the line
when individual does not stop.
ham: notes peterson case. That case
mannix: that case covered by the legislation. quotes chaplinsky....
fool...
ham:
mannix:
shoe: if person has intentional, does this mean that person intends for
action to be alarming, or that they intend action which is then alarming?
mannix: clarifies. intended the action and it had the effect of alarming.
shoe: why should we not favor the conduct?
mannix: clarifies.
shoe:

ras: like version just described.....
mannix: yes.
ras: reviews example.
mannix: reviews further.... either way is acceptable.
shoe: if dichotomy then need order to charge crime and that could create
problem....
mannix: agrees.

csp: call witnesses.
tay: reviews -2 amendments (EXHIBIT) and additional changes to -2.
shoe: why was amendmetn to included in the first place?
tay: Refers to the court. In keeping with family abuse prevention act.
>Continues review. Use definition for intentionally and knowingly
currently
in the statute.

csp: clarifies amendmetns to page 11, line 8-16. substituted on page 3.
and
page 6.
tay: correct.
csp: further testimony or information from witnesses.

DAVID FINDANQUE, ACLU: Clarifies amendments.
shoe: focusing on the effects should be focusing on alarem not intent?
david: continues comments on problems with definitions of stalking.
ras: -2 amendments accomplish your purpose?
david: yes.

FRED AVERA, ODAA: Testifies with further information on the bill.
csp:
avera: not as optimistic as some about ability to prove intent on this
issue.

ross shepard:
laurie wimmer:

MOTION:
VOTE:

MOTION:
VOTE:

MOTION:
VOTE:

MOTION:
VOTE:

SB 680:

tay: reviews bill and amendments (EXHIBIT).

DAVID FACTOR, CRIMINAL JUSTICE COUNCIL: Reviews bill and amendments.

KINGSLEY KLINK, STATE COURT ADMINISTRATION: no objections to amendments.

BRENDA PETERSON, DEPARTMENT OF JUSTICE: no objections to amendments.

shoe: does prosecuting include defending?

factor: yes.

csp:

smi: what happens when study completed?

csp:

factor: will try to answer. Will help policy makers come to decisions

regarding the death penalty.

smi: what will it cost to find out cost?

factor: fiscal prepared which has been presented to committee.

smi: comfortable that council wouldn't take position on the issue?

factor: correct.

csp: comments generally.

ham:

smi: have other states continued to prosecute the penalty?

ham: some have, some have not. New York for example.

smi: comments in support.

MOTION:
VOTE:

MOTION:
VOTE:

SB 1019:

tay: reviews bill and amendments (EXHIBIT).

william leek: Submits and reviews written testimony in support of the bill

(EXHIBIT). Notes no opposition to the bill.

csp: do -6 supersede -5?

leek: yes.

csp: cost impact?

leek: relates experience of pilot program - \$12,000 expended for indigents.

5% area. Figure might increase but will not triple. Perhaps \$30,000.

>Same numbers will apply. Effect should be minimal. If money is not

available then it won't happen. Fund is healthy according to numbers so

far.

csp: comparison between costs generally and interlock program?

leek: current diversion program \$3,000. Monthly cost of interlock is \$50 and initiation is \$75.

ham: section 9 would last to 97? Comfortable that we could reach back and analyse information?

leek: experience with current interlock program.... Need that time to get sufficient number of people into the system.

csp: any others.

DON , DEPARTMENT OF TRANSPORTATION: supports -4 amendments. Interesting proposal. NOT the right time for this study.

peter , department of transportation: comments generally. Could make pilot project work.

csp: has program been effective?

don: yes.

csp: similar findings in the diversion program?

don: yes. Diversion is effective in limited scope,

shoe: what counties in pilot?

don: 11 metro counties.

shoe: sensible to do new project in those counties?

don: would make some sense.

shoe: in measuring effectiveness, 11 counties would be representative?

don: effective arguments for both sides.

CLARK CAMPBELL, DEPARTMENT OF HUMAN RESOURCES: Submits and reviews written testimony with background information on the bill (EXHIBIT).

csp: budget is currently under review?

clark: yes.

csp: requesting more money for?

clark: not requesting but there is some discussion.

csp: other fund money?

clark: considered other fund money. Reviews ada issues regarding

indigent.... Projections say the fund won't make it through the next

biennium. Some controversy over numbers.

>Cites state economists office numbers.

ed leek: responds to campbell. submits and comments on the additional

information from mental health division. Expenditures will exceed income but

reserve is still substantial.

csp: adopt amendments, hold bill and request fiscal analysis.

Suggested

approach.

ham:

leek:

shoe:

ham: that was my point. Couldn't counties do some comparisons.

don: clarifies questions.

ham:

don: puzzle getting information out of system.

clark: necessary to

leek: reminds hamby that programs involve two distinct groups of people.

Describes.

csp: proposes course of action.

SENATE COMMITTEE ON
JUDICIARY

May 5, 1993 Hearing Room C
5:15 p.m. Tapes 144 - 147

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Sen. Bob Shoemaker, Vice-Chair
Sen. Jeannette Hamby
Sen. Karsten Rasmussen
Sen. Gordon Smith
Sen. Catherine Webber

VISITING MEMBERS: Sen. Tricia Smith
Rep. Kate Brown

STAFF PRESENT: Karen Quigley, Legislative Counsel
Kate Wrightson, Committee Administrator
Ellen L. Senecal, Committee Assistant

ISSUES DISCUSSED: Work Session on SB 94, SB 232, SB 244, SB 308, SB 390,
SB
391 ,
SB 1051.
Public Hearing on SB 250.
Public Hearing & Possible Work Session on SB 1002.

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TAPE 144, SIDE A

003 CHAIR SPRINGER: Opens hearing at 5:15 p.m.

006 MOTION: CHAIR SPRINGER: Moves the committee introduce LC 3936.

VOTE: Hearing no objection the motion is ADOPTED.

WORK SESSION

SB 94

025 DR. JOHN TUNG, OREGON MEDICAL ASSOCIATION: Submits and reviews
written
testimony in support of SB 94. (EXHIBIT D)

083 CHAIR SPRINGER: We did receive the letter dated March 8 from
Katrina
Hedberg of the Oregon Health Division expressing support. (EXHIBIT B)

088 BILL CROSS, OREGON ASSOCIATION CHIEFS OF POLICE: Testifies in support of SB 94.

107 CHAIR SPRINGER: Have you been tracking the .06 legislation on the House side? Do you have any information?

CROSS: There is legislation that would drop the level from .08 to .06.

146 TAYLOR: Gives overview of the SB 94-1 through SB 94-3 amendments.

(EXHIBIT B, F, G)

- The -1 amendments, at the request of the Chair, make driving while under the influence a Class C felony.
- The -2 amendments require that the diversion agreement must be filed within seven days.
- The -3 amendments remove the court from the diversion program and inserts the district or city attorney.

180 BRAD SWANKEN, STATE COURT ADMINISTRATOR'S OFFICE: Testifies on SB 94.

(EXHIBIT C)

- Want to shorten the diversion period of 12-25 days to pre-screening by the D.A. so that treatment can start as soon as possible.

230 CHAIR SPRINGER: I feel that, in addition to the time frames, there is the completion of the referral and the evaluations, which can take up to 6 months; therefore putting off treatment that much longer.

SWANKEN: One of the problems is the difficulty of someone finding a program and the other is those who delay getting into a treatment program. We don't think the -3 amendments solve these problems.

258 CHAIR SPRINGER: Are you aware of any legislation on the House side to shorten time lines?

SWANKEN: No, I am not.

273 ROSS SHEPARD, OCDLA: Testifies on SB 94 amendments.

- The amendments are to speed up the diversion process and to track the defendant.
- Section 5 of the -1 amendments do something the committee is against, which is to make DUUI a felony if there's been one prior incident.

345 JANE AIKEN, GOVERNOR'S ADVISORY COMMITTEE ON DUII: Testifies on SB
94

amendments.

- Suggests that legislators look at regulating the conduct by
lowering it to .04 rather than changing procedural safeguards.

372 TUNG: The .04 law will reduce the death rate by 10%. The
diversion
program would reduce drunk drivers by less than 1% per year.

SEN. G. SMITH: I support that.

394 SEN. WEBBER: I would be interested in a .06 level.

TUNG: I testified on March 1 and I don't believe you were a member of
the committee at that point. If you were you weren't in attendance.

[QUOTE]

400 SEN. WEBBER: There has been testimony in front of the committee when
I
was here...I have heard it and have read through the material. [QUOTE]

411 SEN. SHOEMAKER: For the record and for Dr. Tung, I cannot bring
myself

to make it a crime to drive when in fact the person may not be
impaired
to the point that they can't drive safely. A person who drives with
.04 is usually not, in fact, drunk.

TAPE 145, SIDE A

013 CHAIR SPRINGER: One suggestion has been another category of offense.
Not
drunk driving, but driving while impaired.

015 TUNG: There seems to be a misunderstanding. We are talking
about
visible intoxication in cases where someone who shows probable cause
is
stopped and flunks the field sobriety test.

035 SEN. SHOEMAKER: Under those circumstances the person can be
convicted
under the present statute for driving under the influence of
intoxicants.

TUNG: The person can be convicted at any blood alcohol level.

SEN. SHOEMAKER: You don't need the .04 level. What this would do is
create a irrebuttable presumption that a person is intoxicated and
therefore, in violation of the criminal laws even if the person is
capable of driving. The sobriety test takes care of this.

- I don't see what a .04 level adds to the present law, because you

say the person still has to flunk the field sobriety test to be arrested.

047 TUNG: The fact remains that everyone at .04 is impaired. Let's say someone is arrested with a .07 b.a.c., that evidence doesn't support the officer's arrest?

SEN. SHOEMAKER: No. The law says that a person commits the offense of driving while under the influence of intoxicants and a B.A.C. of .08. That's a criminal presumption.

TUNG: If there is a greater risk by me to cause injury to myself or others on the road than we should deal with that in public policy.

075 SEN. SHOEMAKER: I have no problem with the suspension of driving privileges. When you cross the line and make it criminal that's where I have the problem.

PUBLIC HEARING & POSSIBLE WORK SESSION

SB 1002:

Revises and restates provisions of Articles 3 and 4 of Uniform Commercial Code (ORS chapters 73 and 74) pertaining to commercial paper and bank deposits and collections.

094 KEN SHERMAN JR., OREGON BANKERS ASSOCIATION: Submits and reviews written testimony in support of SB 1002. (EXHIBIT H, K, L)
- We want to move from a paper based payment system to more advanced payment system.

224 MARY CHAFFIN, OBA: Submits and reviews written testimony in support of SB 1002.
- Talks to Article 3, which governs negotiable instruments.
- Oregon needs to stay in step with the commercial law of surrounding states.
- This bill provides a balance between consumers and bankers.
- It modernizes and clarifies the law in the above area.

328 SEN. WEBBER: Could you describe a situation where a loss has been incurred?

CHAFFIN: For example, a business has a bookkeeper who is unfaithful and

commits a fraud on the business. The bank will try and say that the business didn't check their background. This will allow a more fair apportionment according to the fault that each party bears in causing that loss.

366 SEN. WEBBER: Is there a change from our current statute in here?

CHAFFIN: Yes, there would be a change with respect to certain items.

378 SEN. WEBBER: So, you're cutting the statute of limitations in half?

CHAFFIN: It depends on specific facts.

TAPE 144, SIDE B

003 SEN. SHOEMAKER: Are there any Oregon departures at all?

006 SHERMAN: Both Articles 3 and 4 are completely the National Act.

010 GARY LINDBERG, OBA: Submits and reviews written testimony in support of

SB 1002. (EXHIBIT J)

- Talks to Article 4.

- Modernization is necessary to accommodate changing business practices.

- The definitions of "bank" and "item" are expanded.

104 SEN. SHOEMAKER: I am puzzled about the last point in section 93. Do you have an item for collection even if there's a prior perfected security interest in that item?

LINDBERG: There might be a perfected security interest in the dollars that the items represented. A bank does have a security interest.

122 SEN. SHOEMAKER: Whether or not without any filings? Does the bank have security interest in the proceeds?

LINDBERG: Without filing. I've never been involved in such a situation.

128 CHAFFIN: I don't think this is change from existing law.

SEN. SHOEMAKER: It appears as a change.

LINDBERG: The language is new, but not the concept.

136 SEN. WEBBER: Is there a change in the standard of care here? Are you moving from due care to a different standard?

LINDBERG: The definition of ordinary care has been expanded to include

the observance of reasonable commercial standards prevailing in the area in which the person is located and engaged.

183 SEN. WEBBER: It seems that there is a subtle change.

LINDBERG: The burden is on the bank to show that those procedures don't vary unreasonably from other banks.

CHAFFIN: The security interest provision is in 742.080.

PUBLIC HEARING

SB 250:

Allows Supreme Court to discipline attorney for engaging in sexual harassment of employee.

264 MARY PAULSON: Testifies in support of SB 250.

378 CHAIR SPRINGER: How would we define sexual harassment to provide guidance to the Supreme Court?

PAULSON: We could follow the state laws.

391 BOB OLESON, OSB PUBLIC AFFAIRS OFFICE: Testifies in support of SB 250 .

- Any new provision should be applied across the board.

408 SYLVIA STEVENS, OREGON STATE BAR: Testifies in support of SB 250.

TAPE 145, SIDE B

003 STEVENS: Continues testimony

- Many lawyers are sensitive to this issue.
- Currently there is no definition of "sexual harassment".
- We should address this legislation to all regulated professions,

not just lawyers.

law
- We should define who is the "employee" and the "employer" in a firm relationship.

053 SMITH: I live in fear of what my supervisors are doing. The work place is where people fall in love and there needs to be guidelines that will govern every work place.

SEN. SHOEMAKER: I share Senator Smith's concerns, but agree that there should be guidelines in regulated professions. Is there any way the Bar can get at sexual harassment through the rules of the bar?

075 STEVENS: There could be a disciplinary rule, but there is still the

problem of ingrafting a whole different body of law into the professional conduct and expanding the scope of those rules.

103 KELLY HAGAN, BOLI: Submits and reviews testimony in support of SB
250 .
(EXHIBIT N)

SEN. WEBBER: What is current definition of "sexual harassment"?

125 HAGAN: It is conduct of a physical or a verbal nature that is expressed because of the sex of the recipient. It is unwelcome, of a sexual nature and either exacts a quid pro quo or creates a hostile environment.

131 SEN. WEBBER: Apparently, that doesn't apply to all employers?

HAGAN: It would apply. There are no exclusionary provisions.

143 SEN. WEBBER: We can interfere with professional licenses?

HAGAN: That is the focus of SB 250.

145 SEN. G. SMITH: What would be the Burden of Proof in terms of what the complainant would have to meet?

HAGAN: I don't know how they operate in disciplinary proceedings.

155 SEN. G. SMITH: I want to encourage women to speak out, but we can't be insensitive to the opportunity of the defendant.

170 SEN. HAMBY: On the recommendation of Kathleen Boufet I'm having a bill brought down on similar legislation to SB 250.

WORK SESSION

SB 232: Replaces certain references to county clerk with references to court clerk or court administrator.

187 QUIGLEY: Gives overview of SB 232-1 amendments by Bill Linden.
(EXHIBIT O, P)

212 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 232-1 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

216 JOHN KAUFMAN, OREGON ASSOCIATION OF COUNTY CLERKS: Testifies in support of SB 232 as amended.

223 MOTION: CHAIR SPRINGER: Moves that SB 232 as amended be sent to

the

Floor with a DO PASS recommendation.

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

228 The motion is ADOPTED. SEN. G. SMITH will CARRY.

SB 244: Defines "person" for statutes relating to powers and duties of county clerks.

231 QUIGLEY: Gives overview of SB 244-1 amendments. (EXHIBIT Q, R, S)

248 JOHN KAUFMAN, CLACKAMAS COUNTY CLERK: Testifies in support of SB
244 -1 amendments.

267 FRANK BRAUNER, OREGON BANKERS' ASSOCIATION: Testifies in support of
SB 244-1 amendments.

287 KEVIN HANWAY, OREGON LAND TITLE ASSOCIATION: Testifies in support of
SB 244.

298 CHAIR SPRINGER: Do you accept FAX documents?

KAUFMAN: No, because we must have the original signature in order to record the document.

306 MOTION: SEN. HAMBY: Moves the ADOPTION of the SB 244-1 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

310 MOTION: SEN. HAMBY: Moves that SB 244 as amended be sent to the
Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. SEN. WEBBER is EXCUSED.

317 The motion is ADOPTED. SEN. RASMUSSEN will CARRY.

SB 308:

Mandates compulsory arbitration for specified cases in all circuit and district courts of state.

327 QUIGLEY: Gives overview of SB 308-1 amendments. (EXHIBIT T, U)

367 SEN. SHOEMAKER: That is existing law. I don't see what substantive change this bill causes to existing law.

CHAIR SPRINGER: We are eliminating the optional language for the

discretionary prefecatory language.

393 HELEN WILLIAMS, LEAGUE OF WOMEN VOTERS: Testifies in opposition to
SB

308.

416 SEN. SHOEMAKER: Under existing law it is now mandatory in
domestic
cases.

WILLIAMS: We would like to see it not mandatory.

TAPE 146, SIDE A

003 SEN. SHOEMAKER: The present law also has an escape clause, which
allows
the judge to exempt from arbitration. This bill would remove this
clause and I don't agree with that.

WILLIAMS: I would leave the escape clause in the places it already is.
But, we wouldn't like to see it spread to the rest of the state.

013 SEN. HAMBY: We could just use line 9 on page 2.

SEN. SHOEMAKER: I don't see any reason to take away from the court the
right to have somebody tried if the court thinks its appropriate.

024 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 308-1 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

027 MOTION: SEN. SHOEMAKER: Moves that we restore the deleted language
on
page 2, lines of the printed bill.

VOTE: Hearing only one objection the amendments are ADOPTED. SEN.
HAMBY
objects.

043 SEN. SHOEMAKER: I would like to hear from some of the judges and
lawyers
that are involved in the system.

SEN. RASMUSSEN: I'm not sure if I'll vote. Arbitration should stay in
the bill.

057 SEN. SHOEMAKER: Arbitration is a decision.

SEN. RASMUSSEN: I said arbitration is simply an informal way of moving
the process along.

063 SEN. SHOEMAKER: I don't think one has a right to trial in a no win.

070 CHUCK CORRIGAN: Under the current Cornac Court Annex statute if you
lose
you are entitled to go back to court.

074 WILLIAMS: If you don't come out well in the lower court for the
lower
arbitration you pay everybody's bills. This deters older and
non-career
women.

089 MOTION: CHAIR SPRINGER: Moves to ADOPT the deletion of lines 7 and 8
of
existing law.

VOTE: In a roll call vote everyone present votes NAY. The motion
FAILS.

100 MOTION: SEN. HAMBY: Moves that SB 308 as amended be sent to the
Floor
with a DO PASS recommendation.

VOTE: In a roll call vote Sen. Webber, Sen. Shoemaker, Sen. Hamby and
Chair Springer vote AYE. Sen. Rasmussen and Sen. G. Smith vote NAY.

107 The motion is ADOPTED.

SB 1051: Revises juvenile code.

115 QUIGLEY: Gives overview of SB 1051-1 to SB 1051-8 amendments.
(EXHIBIT
W)

147 TIMOTHY TRAVIS, JUVENILE RIGHTS COUNCIL: Testifies in support of SB
105 1
amendments. You'll like the amendments. [QUOTE]

QUIGLEY: The SB 1051-1 deals with being able to make sure there is
language relating to best efforts at time of removal.

188 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-1 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

190 QUIGLEY: The SB 1051-2 amendments reflects some technical language
in
the bill.

201 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-2 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

207 QUIGLEY: The SB 1051-3 amendments deal with recognition of the
Indian
Child Welfare Act. On page 3, line 7 insert CSD.

JUDGE HUTCHINSON, OREGON COMMISSION ON INDIAN SERVICES: Testifies on
SB
1051-3 amendments.

248 QUIGLEY: These amendments also requested by the National Native American Legal Services.

HUTCHINSON: That's not exactly correct. These were proposed by Native American Program of Oregon Legal Services representing several Indian tribes. The commission itself didn't have time to deal with the issues.

I see a change that needs to be made on line 5, page 1. It should say "and hereby adopts the policy embodied in it's provisions".

279 TRAVIS: The Nepals attorney went through the code and attempted to make sure that everything from ICWA that was relevant to our Juvenile Code were put in there.

SEN. SHOEMAKER: Would there be time to do a more careful job?

306 TRAVIS: We believe we've done the job.

321 MOTION: CHAIR SPRINGER: Moves to ADOPT CSD into the blank on line 7, pg. 3.

VOTE: Hearing no objection the amendments are ADOPTED.

350 HUTCHINSON: There needs to be a reference to the Indian Child Welfare Act and one to its policy reach, which is to preserve and maintain Indian families.

- The preamble to this Act is a critical portion of it.

380 SEN. SHOEMAKER: Is there a statutory reference to the preamble?

HUTCHINSON: There is, but I don't have the exact words. Its section 1901, I think.

396 SEN. RASMUSSEN: I suggest that we amend line 6 of the -3 amendments to read "and hereby incorporates the policies of that act." and the House can then expand it.

406 MOTION: SEN. RASMUSSEN: Moves to ADOPT the language on page 3, lines 5 and 6 to read "The state of Oregon recognized the value of the Indian Child Welfare Act,...and hereby incorporates the policies of that act." and deleting "in its entirety".

VOTE: Hearing no objection the amendment is ADOPTED.

TAPE 147, SIDE A

003 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-3 amendments
as
further amended.

VOTE: Hearing no objection the amendments are ADOPTED.

005 QUIGLEY: The SB 1051-4 amendments.

010 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-4 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

011 QUIGLEY: Presents SB 1051-5 amendments, which were submitted by
Senator
Gordon Smith.

013 SEN. G. SMITH: I believe this reflects a tighter definition that
is
appropriate.

015 MOTION: SEN. G. SMITH: Moves to ADOPT the SB 1051-5 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

018 QUIGLEY: The SB 1051-6 amendments delete sections 39 and 40.

021 KINGSLEY, STATE COURT ADMINISTRATOR'S OFFICE: They put back in
the
original language that was passed in SB 257, which relates to
appointment of council for parents in dependency situations.

028 CHAIR SPRINGER: Does that mean that its in the court's discretion?
Its
no longer mandatory, basically?

KINGSLEY: It is in the court's discretion.

MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-6 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

037 QUIGLEY: The SB 1051-7 amendments are submitted by Timothy Travis.

048 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-7 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

052 QUIGLEY: The SB 1051-8 amendments requested by the Judicial Council.

065 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 1051-8 amendments.

VOTE: Hearing no objection the amendments are ADOPTED.

087 MOTION: CHAIR SPRINGER: Moves that SB 1051 as amended be sent to
the
Floor with a DO PASS recommendation.

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

is EXCUSED.

091 The motion is ADOPTED. CHAIR SPRINGER will CARRY.

SB 390:

Modifies procedures concerning manufactured dwelling and floating home space tenants objecting to substantial modification of rental agreement.

112 CHUCK CORRIGAN, MANUFACTURED HOUSING COMMUNITIES OF OREGON: The SB 390-A4 amendments are from MHCO and SB 390-A6 amendments are from low income mobile home park tenants.

- Gives overview of amendments. (EXHIBIT X, Y)

CHAIR SPRINGER: Do A4 and A6 represent two options before us?

CORRIGAN: Yes. We speak to some things in A4 that aren't in A6.

139 DAVID NEBEL, OREGON LEGAL SERVICES: This bill deals with the procedures

by which mobile home park landlords can change rules.

- The major differences between the amendments have to do with the way that tenants object to rule changes.

- The -A4 sets up a voting mechanism whereby tenants vote and send them for counting.

- In -A6 tenants vote in writing to the landlord, or by petition format.

225 EMILY CEDARLEAF: Testifies in support of SB 390-A6 amendments.

BRAD WILDER, OREGON HOUSING AND COMMUNITY SERVICES: Testifies in support

of SB 390-A6 amendments.

- I cannot support the counting of votes.

245 CORRIGAN: The collecting of votes is private and a petition isn't the way to get a vote.

283 FRANK BURLESTON, GREENWAY TENANTS ASSOCIATION: Testifies in support of

SB 390-A6 amendments.

- We were the originators of SB 390. Disturbed by lines 18-20 on page 2.

417 SEN. SHOEMAKER: I don't feel that I understand the amendments well enough to vote on them.

425 MOTION: CHAIR SPRINGER: Moves to ADOPT the SB 390-A6 amendments.

VOTE: In a roll call vote Sen. G Smith, Sen. Webber, Chair Springer,

Sen. Rasmussen vote AYE. Sen. Shoemaker votes NAY. Sen. Hamby is
EXCUSED.

437 MOTION: CHAIR SPRINGER: Moves that SB 390 as amended be sent to
the Floor with a DO PASS recommendation.

VOTE: In a roll call vote all members present vote AYE. Sen. Hamby is
EXCUSED.

The motion is ADOPTED CHAIR SPRINGER will CARRY.

461 CHAIR SPRINGER: Sen. Rasmussen wants to be recorded as an AYE vote on
SB 1051. Sen. Webber wants to be recorded as an AYE vote on SB 244.

471 CHAIR SPRINGER adjourns meeting at 8:40 p.m.

Submitted by:

Reviewed by:

Ellen L. Senecal
Assistant

Karen Quigley
Administrator

EXHIBIT LOG

B - Proposed SB 94-3 amendments-staff-10 pgs.
C - Testimony on SB 94-Joan Robinson-1 pg.
D - Testimony on SB 94-Tricia Smith-1 pg.
E - Testimony on SB 94-Katrina Hedberg-2 pgs.
F - Proposed SB 94-2 amendments-staff-2 pgs.
G - Proposed SB 94-1 amendments-staff-1 pg.
H - Testimony on SB 1002-Ken Sherman-48 pgs.
I - Testimony on SB 1002-Mary Chaffin-6 pgs.
J - Testimony on SB 1002-Gary Linberg-10 pgs.
K - Testimony on SB 1002-Ken Sherman-4 pgs.
L - Proposed OBA SB 1002 amendments-Gary Linberg-1 pg.
M - Testimony on SB 250-Alex Cheatham-1 pg. *
N - Testimony on SB 250-Kelly Hagen-2 pgs.
O - Testimony on SB 232-Kaufman-1 pg.
P - Proposed SB 232-1 amendments-staff-1 pg.
Q - Testimony on SB 244-Kaufman-1 pg.
R - SB 244 Hand engrossed amendments-staff-4 pgs
S - Proposed SB 244-1 amendments-staff-2 pgs.
T - Proposed SB 308-1 amendments-staff-1 pg.
U - Testimony on SB 308-Helen Williams-2 pgs.
V - Testimony on SB 308-Shirley Dorsey-1 pg. *

- W - Proposed SB 1051-1 through SB 1051-8 amendments-staff-21 pgs.
- X - Proposed SB 390-A4 amendments-staff-5 pgs.
- Y - Proposed SB 390-A6 amendments-staff-9 pgs.