

House Committee on Agency Reorganization and Reform April 25, 1991 -

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HOUSE COMMITTEE ON AGENCY REORGANIZATION AND REFORM

April 25, 1991Hearing Room D 4:00 p.m.Tapes 66 - 68

MEMBERS PRESENT:Rep. Clarno, Chair Rep. Hugo, Vice-Chair Rep. Derfler Rep. Jones Rep. Katz Rep. Brian Rep. Clark

STAFF PRESENT: Susan Browning, Committee Administrator Scott Kaden, Committee Assistant

MEASURES CONSIDERED:HB 2901 - Public Officials Compensation Commission, PH HB 2885 - Civil Jury Bill, Reconsideration and WS HB 3517 - Confidentiality Rules within DHR, PH HB 2892 - State Motor Pool, WS HB 2893 - Agencies and Advisory Bodies, PH and WS

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TAPE 66, SIDE A

008 CHAIRPERSON CLARNO: Calls the meeting to order at 4:07 p.m.. - Opens Public hearing on HB 2901.

(Tape 66, Side A) HB 2901 - PUBLIC OFFICIALS COMPENSATION COMMISSION, PUBLIC HEARING Witness:Rep. Randy Miller

012 SUSAN BROWNING, COMMITTEE ADMINISTRATOR: Explains the bill packet and the Staff Measure Summary.

022 CHAIRPERSON CLARNO: Rep. Miller, would you join our discussion.

023 REP. RANDY MILLER: HB 2901 is not a huge item in the budget. I am here to encourage the abolition of the Public Officials Compensation Commission. I think the Legislature ought to address the issue of compensation, rather than assigning it to this Commission.

041 CHAIRPERSON CLARNO: Were the recommendations for the increase of our pay after the passage of Ballot Measure Five?

043 REP. MILLER: Yes. I am quite sure that is correct. Sometimes people feel uneasy about seeking a pay raise. A commission is formed to

address this matter and we in turn accept the decision of the commission. "I don't think we ought to be that cute about it."

051 REP. DERFLER: What would be the mechanism without the Commission? What would be the procedure?

052 REP. MILLER: In the Legislature's case, it would be incorporated in our own budget request.

055 REP. DERFLER: Who would prepare that?

056 REP. MILLER: Those who are looking at the Legislative Assembly budget, basically Ways and Means.

057 REP. DERFLER: So Ways and Means would make the recommendation on salaries?

058 REP. MILLER: Yes, that is correct, Rep. Derfler. I suspect with some input from the rest of the Members.

060 CHAIRPERSON CLARNO: Any other questions of the Committee?

061 REP. HUGO: I am a little confused. First of all, I understand that the Legislative Assembly's salary is tied to a formula. Does this commission make recommendations regarding the changing of legislative salaries?

065 REP. MILLER: I am not sure of the mechanism whereby our salaries are increased. We are tied to some pay category, possibly category 17 or the lowest state employee salary.

070 REP. HUGO: What prompted the creation of this commission?

072 REP. MILLER: Probably the fact that this is a difficult issue, and people were reluctant to ask for an increase up front. This is a popular mechanism, country-wide. The Congress has even established commissions to divorce themselves from this issue.

082 REP. HUGO: I don't recall the 1983 Session very well (the session this Commission was founded). Could it have been created because we wanted to remove the politics of pay raises for elected officials? Instead of keeping it in the political realm, why not give it to a blue ribbon commission?

090 REP. MILLER: I am sure that argument was made. It certainly is not one that I subscribe to. I feel it is okay to ask for a raise, but don't have someone else do it for you. We are capable of addressing this issue ourselves. I feel the Commission tries to equate our work with that work being done in the private sector, with regard to compensation. I don't think that is appropriate.

102 REP. DERFLER: I would find it a conflict of interest to sit down and talk about what I am going to pay myself. I think someone else should be setting our salaries.

106 REP. MILLER: I have legislation which would do exactly that. I suggest that we vote on our raise, but make it effective after the next election. This was actually a proposal brought about in 1789 by a fellow named James Madison. This would be a pay raise for the office and not for an individual.

125 REP. DERFLER: Someone will have to do a study to see what the pay should be, though.

127 REP. MILLER: There is no shortage of studies that the legislature takes on.

130 CHAIRPERSON CLARNO: Are there any other questions of the Committee? - Oregon wants to maintain a citizen's legislature, yet a person cannot serve in the legislature if you don't have someone supporting you or some other forms of income.

143 REP. MILLER: I have looked at the pay scale, and I don't think I agree with your conclusion that you need outside income. One of the most understated things in this building is our salary. We do not get \$1,000 a month; that grossly understates what we do receive.

151 REP. KATZ: If you are including our benefits, I want you to know that I can't "eat my benefits."

154 REP. MILLER: During the time we are here, I don't have any problem with considering additional compensation. We do put in a lot of hours, and it is an inconvenience on our private pursuits. I don't see any reason to make the 18 months we are not here particularly lucrative. The interim staff allotments which 30% of the time just happen to go to people with the same last name as the member, the \$400/month for constituent service, the finest health care program, and the retirement program total a lot more than \$1,000 per month.

170 CHAIRPERSON CLARNO: If I was a young married man with a wife and four children to support, I really could not be a citizen legislator, unless I had other sources of support or a particularly lenient employer, who would excuse my absence during the campaign and the session.

184 REP. DERFLER: My expenses for doing legislative work during the interim total \$5,600 a year. That is certainly more than what we are allotted. So I don't consider that as income. My interim expenses are spent on people doing work, not on people within my own family.

190 REP. MILLER: I commend you for that, Rep. Derfler.

191 REP. DERFLER: I don't think I am an exception to the rule.

192 REP. MILLER: We are sort of getting off the point of this bill. Your arguments might have considerable merit, and we could address those. I just don't think we should shield the discussion and hide behind this commission.

196 CHAIRPERSON CLARNO: I agree with that comment.

197 REP. JONES: With regard to the interim money, I don't think you can ever legislate the use of money, in terms of wise or unwise use. If it were not interim committees, I don't think anybody could raise a family on our compensation. - If we don't have somebody from the outside looking at this, we may have a problem. If we don't want what the Commission recommends, we have the right and responsibility to take action on that recommendation. Is the Commission an excuse? If it is, then it is our responsibility to stop using it as an excuse. To stop the Commission from offering recommendations is not the solution to this

problem.

226 CHAIRPERSON CLARNO: I think that was a statement, or did you see it as a question?

227 REP. MILLER: I appreciate the genuineness of the Representative's comments. If we want to really reduce expenditures and account for every penny, I would rather spend the money devoted to this commission on others who really need our assistance.

233 REP. JONES: How much does this commission cost?

234 CHAIRPERSON CLARNO: Six to seven thousand dollars.

235 REP. HUGO: Have you broken down how the interim money is spent? The amount of money used on newsletters? How much of that interim money is returned to the General Fund, unused?

241 REP. MILLER: I have not undertaken such a study.

242 REP. HUGO: We cannot legislate how people use their monies. I have never been able to find a way to spend all the interim money that is allowed. So it automatically reverts to the General Fund. On the other hand, my phone bill is \$400 per month because every phone call I make from Scappoose is long distance and I do not have a state phone at my residence. - I am not so certain this commission deals with legislative salaries.

253 REP. KATZ: Yes, it does.

254 REP. HUGO: Then why are we tied to the percentage of judges' salaries or the lowest paid state employee?

257 REP. KATZ: I think when we started the Commission, we were not tied to anyone's salary. We wanted to move this out of the political arena because it became such a political issue. 261 REP. HUGO: Rep. Brian is correct when he says that when they recommend an increase in the judges' salaries, then we just get an increase. I think that is what Rep. Miller is saying.

263 REP. KATZ: Whatever is lowest of the two.

264 REP. MILLER: Rep. Hugo, with respect to your phone bills, and Rep. Derfler, with respect to your interim costs, I would suggest that, instead of paying out the interim costs as we presently do, put this money in an account and let the Representatives draw on that money. But don't allow the Representatives to keep the extra. We don't need to have every member secure an interim office and hire interim staff. I would bring that money back into the General Fund, or pad the draw money if the current rates are proving to be inadequate.

294 REP. BRIAN: This interim discussion doesn't have anything to do with this bill, I assume. Before 1983, who set the judges' salaries?

301 BROWNING: In speaking with the Executive Department Personnel Office, prior to the Commission, the Executive Department did a survey of other states and reported directly to the Legislative Assembly, specifically, Ways and Means.

307 REP. BRIAN: With or without the Commission, this would be reported

to a Ways and Means Subcommittee?

313 REP. MILLER: There is only one of us here who was here prior to 1983, but I think that is a correct statement.

316 REP. JONES: Wasn't that also the same time we took over the state courts? Didn't we fully implement that in 1983?

318 REP. KATZ: Yes, that sounds familiar.

319 REP. JONES: I thought so.

322 CHAIRPERSON CLARNO: Any other questions of the Committee?

323 REP. JONES: Would the savings of this bill be \$1,000?

325 CHAIRPERSON CLARNO: Rep. Miller, would you like to comment on your earlier remarks which indicated savings of \$6,000 to \$7,000?

328 REP. MILLER: It was indicated to me that past expenses of this commission amounted to about \$6,000; that may have been for the biennium.

332 REP. JONES: The figure that we have in our folders from Legislative Fiscal says \$1,000. I thought I would clarify that point.

335 REP. MILLER: I would say that up in Judiciary we receive fiscal statements that at times vary a little bit from what actually is the case.

339 REP. JONES: Sometimes they are higher than what the Judiciary Committee expects them to be?

340 REP. MILLER: Sometimes.

341 REP. JONES: If that is the case, then that really wouldn't serve your purpose, would it?

342 REP. BRIAN: I assume your interest is not in the savings of the \$1,000, but instead the greater potential costs which may result from the Commission's inflationary effect on salaries and so forth.

351 REP. MILLER: Rep. Brian, it is both of those items. I think we should do this job and not hide behind the Commission's recommendation. We shouldn't waste this money, whether it is a \$1,000 or \$6,000.

364 REP. BRIAN: Let us forget about the Legislative Assembly for a moment. What about the other state employees that are affected, i.e. the judges. You think all of those decisions should be made here, without the Commission who serves as a middle-man, so to speak.

372 REP. MILLER: That is correct. They should come to us and advocate for increases in their salaries.

390 CHAIRPERSON CLARNO: Rep. Miller, thank you for your efforts to save this state some money. - Closes the public hearing on HB 2901 and open the work session on HB 288 5.

(Tape 66, Side A) HB 2885 - CIVIL JURY BILL, WORK SESSION

403 CHAIRPERSON CLARNO: I ask unanimous consent that the rules be suspended for the purpose of immediate reconsideration of the vote by which HB 2885 was reported to the floor with a "do pass recommendation." Hearing no objection, so ordered.

411 REP. JONES: Do you need a motion?

412 CHAIRPERSON CLARNO: I do.

415 MOTION: REP. JONES moves to reconsider the vote by which HB 2885 was adopted.

419 REP. JONES: This bill was supposed to go to Ways and Means, and instead we sent it to the House floor. We need to rescind the previous referral to Ways and Means.

432 VOTE: Hearing no objection, Chair Clarno so moves.

435 MOTION: Rep. Brian moves that HB 2885 be referred to the floor with a "do pass" recommendation, and that the subsequent referral to Ways and Means be rescinded.

459 VOTE: In a roll call vote, the motion carries with all members present voting AYE. REP. CLARK will carry the bill.

470 CHAIRPERSON CLARNO: Closes the work session on HB 2885 and opens the work session on HB 2892.

TAPE 67, SIDE A

(Tape 67, Side A) HB 2892 - MOTOR POOL BILL, WORK SESSION Witnesses:Ray Phelps, Speaker's Office C.D. White, Risk Management Division Cameron Birnie, Department of General Services

033 BROWNING: Explains the bill packet on HB 2892 (dash five amendment which is almost identical to dash four amendment).

047 CHAIRPERSON CLARNO: Rep. Hugo, do you have a question?

048 REP. HUGO: On line 16 of page two (dash five), don't you mean the "State Board of Higher Education," instead of the "State Board of Education"?

051 BROWNING: That is absolutely correct. It should read "State Board of Higher Education." The only difference between dash four and dash five is line 13 and line 16. - Are there any question of how dash four differs from dash five?

058 REP. JONES: On line 19, is the word "and" supposed to be "and/or"?

059 BROWNING: It is still supposed to be "and." The event must be sponsored by the accredited college and it must be held at a facility under the direct management of that institution. Both criteria must be met in order for the State Board of Higher Education to authorize the use of a vehicle.

063 CHAIRPERSON CLARNO: Rep. Clark, do you have a question?

065 REP. CLARK: Wasn't this the bill that we discussed the language regarding to political and religious functions? I don't see that

language in the dash five amendment.

068 CHAIRPERSON CLARNO: The Committee was uncomfortable with that language, so Mr. Phelps removed that language.

072 BROWNING: Discusses additional information found in the bill packets - Fiscal Analysis (EXHIBIT B) and the Risk Management Division Memorandum (EXHIBIT A).

- Recording device unexpectedly deactivated itself from 077 to 079. Browning was discussing Exhibit B, which had been prepared at her request, for the consideration of the Committee. Browning noted that, although the Fiscal Analysis was prepared for the dash four amendment, it was still applicable to the dash five amendment.

089 CHAIRPERSON CLARNO: While Susan is passing that out, I will note the most common citizen complaint received about student drivers is high speed and reckless driving (referring to Exhibit A).

106 BROWNING: Do you have any questions on the material found in the bill packet?

108 CHAIRPERSON CLARNO: Rep. Jones, do you have a question?

110 REP. JONES: Legislative Fiscal is having trouble determining the costs associated with the consolidation of fleets. While they indicate it is substantial, they really do not know what it is.

112 CHAIRPERSON CLARNO: That is correct. You will also see we have to insert a date for that consolidation. The Committee will have to come to a consensus on the date for consolidation.

120 REP. JONES: This question is with regard to section 2, subsection 2. Can people driving to a game held at any non-state institution attend that game, if they plan on using state vehicles?

131 RAY PHELPS, CHIEF OF STAFF - SPEAKER'S OFFICE Yes, they may. The operative word is accredited college or university. That institution can be public or private. This would not prohibit you from travelling to Stanford or the University of Portland.

139 REP. JONES: Then, it does not have to be an Oregon institution, just any higher education, accredited college or university? If they had a practice game at a high school, they could not use the vehicles.

143 PHELPS: That would be correct. It depends upon whether the facility is under the management of the sponsoring institution. It must be sponsored and then held at the facility under management by the institution.

147 REP. JONES: So this would not allow the use of cars to facilities such as high schools, etc.

150 CHAIRPERSON CLARNO: Rep. Clark, would you like to clarify this language?

151 REP. CLARK: I am also concerned with that language. Could we substitute "site" for "facility" and "control" for "management"? I am worried about the college biology class that goes to Mt. Hood for a field trip and stays at some sort of shelter. I am very comfortable

with the word "control" rather than "manage."

165 REP. DERFLER: What about a golf team or ski team?

168 CHAIRPERSON CLARNO: There are a lot of those activities, but I don't want to get too far off from the mission of this bill. Do we really feel that it is our responsibility to insure they get to a function that isn't educational?

174 REP. DERFLER: You would eliminate sporting events, like a tennis team. If they go to places that are not under the direct management of the sponsoring college or university, then you have a problem.

179 REP. CLARK: What would happen if you substituted the word "or" instead of "and" in line 19? Mr. Phelps, do you have a comment on that? Would that broaden the language too much?

181 PHELPS: We are trying is to combine two criteria, so that we are not focusing on one specific event that may be unacceptable to one or another person. If the accredited school is sponsoring and the event occurs under the control of the sponsoring college or university, what the individual event is becomes a different matter.

192 REP. DERFLER: What about a debate team?

193 PHELPS: I think the word we are having trouble with is "control." I think the word "management" is too restrictive. I guess we could argue the meaning of "control."

198 REP. CLARK: Supervision?

199 PHELPS: "Supervision" or "control" would be a better choice than "direct management."

205 REP. CLARK: Maybe we ought to declare victory and move on.

207 REP. JONES: Can we reread that last section, so we know what we are dealing with?

207 REP. BRIAN: Can we start with line 16, because there have been a number of suggestions?

209 CHAIRPERSON CLARNO: On line 16 (dash five amendment), "the State Board of Higher Education shall not authorize or allow the use of any state owned and licensed motor vehicle to transport persons to an event not directly sponsored by an accredited college or university, and held at a site under the direct supervision of the sponsoring college or university."

217 REP. BRIAN: This section specifically refers to Higher Education only and not any other agencies. Are there are other agencies that would allow non-employee drivers to use their vehicles?

227 PHELPS: Yes. There are other agencies; please see page one, line 9 which defines volunteers and agency clients. Those are circumstances which are not precluded. There is pre-screening and much better oversight with regard to these individuals. With respect to Higher Education, you have non-salaried persons, who are independent agents, using the state-owned vehicles.

239 REP. BRIAN: Does this satisfy the concerns about the political and religious use of vehicles?

241 PHELPS: I think it does. The event must be sponsored by an accredited institution and held a site under the supervision of that same institution. With this language, we don't have to address the specifics of the event, and we don't have to take on the burden of attempting to define those terms.

252 REP. BRIAN: If an accredited school is sponsoring a political or religious demonstration at a site that they are supervising, then is it okay and we don't need to screen for content?

257 PHELPS: That is correct.

258 REP. DERFLER: What if you have two colleges that are going to debate at a local radio station? Would they be able to travel to such an event in a state-owned vehicle?

262 PHELPS: "Probably. I honestly don't know. With a simple reading of the words, I'd have to answer you in the negative."

264 REP. JONES: What if you said "under the direct supervision of the sponsoring university," instead of getting into the "site." The "site" is not always going to be under the direct supervision of the college or university, but the "event" will be.

269 PHELPS: I understand what you are saying. But that brings you into the area that brought us here in the first place.

273 REP. JONES: Well, I guess we will be requiring that private vehicles be used for college activities that we probably do want them to do.

276 PHELPS: Or you could have chartered vehicles or other kinds of transportation provided, instead of a passenger vehicle. I think we have to make sure that our language addresses the real issue. I think this language does address that issue. It will not be totally satisfying.

288 REP. JONES: Was the event that created this problem or issue in the first place, under the direct supervision of a sponsoring college or university?

291 PHELPS: I don't know. It was my understanding that it was not. But to be truthful, I do not know.

295 CHAIRPERSON CLARNO: Mr. White, would you know the answer to that?

298 C.D. WHITE, ADMINISTRATOR, RISK MANAGEMENT DIVISION: Could you repeat the question?

300 REP. JONES: Was the event in Nevada under the direct sponsorship of an accredited college or university and under the supervision of the sponsoring college or university?

304 WHITE: I cannot answer that for sure because that incident is still under investigation. It is our preliminary understanding that it was not, that it was a cooperative effort of student organizations.

308 CHAIRPERSON CLARNO: So when students rent a vehicle together and pay the rental expense, would that be what you consider not under the direct supervision?

311 WHITE: That part of the issue we do have documented. The Department of Higher Education has a collection of accepted clubs. When they stay under their own charters, those agencies can check out state cars and pay for it with a common fund to which all the clubs contribute.

319 CHAIRPERSON CLARNO: You do not know, for sure, that was the case with regard to the Nevada accident?

320 WHITE: I do not know if that was the case with this incident. I do know that those accepted groups currently are not limited to accredited school-sponsored events.

324 REP. HUGO: What is the rate of rental? Is it competitive with private enterprise, or is it much less?

326 WHITE: Cam Birnie is an expert on that. I understand that the Department of Veterans' Affairs did some research on this matter because they felt they were not being treated properly. They checked out six different leasing companies, and all said they couldn't give a better rate. That is probably because we are tax-exempt, and several other reasons.

332 REP. HUGO: Is it close to being competitive?

333 WHITE: It is a cost that we are covering. We are not making a profit, we are covering a cost.

335 REP. HUGO: What is the savings to the campus group by renting from you as opposed to renting from private enterprise?

337 WHITE: I think there is a savings, but I do not know what that amount would be.

343 REP. HUGO: Other than Higher Education, are there other situations in the state where anyone other than an employee of the State of Oregon has access to the state motor pool?

345 WHITE: Yes. There are quite a number of them. AFS and CSD, for example, have volunteers who come and drive elderly people to the doctor, drive children, etc. There might be others out there that we are not recognizing, but I think the first page of this bill will take care of these situations.

360 REP. HUGO: Thank you.

362 PHELPS: I will answer that differently. With respect to your last question, please look at lines 9-16 on page one with regard to volunteers and others. Those are costs that we would have to pay regardless. The distinction is that student clubs are not costs that are borne by some program initiated and sponsored by the State of Oregon.

374 REP. DERFLER: I think Rep. Hugo has brought out an answer to our dilemma. They can rent the vehicles, which may cost a bit more, but will serve the purpose.

378 CHAIRPERSON CLARNO: I think that Rep. Hugo has brought out an excellent point. By doing so, the students have taken some liability that we assume as tax payers away from the state.

386 REP. HUGO: If you want to pursue that, you would have to turn to the statutes which deal with incidental fees for Higher Education. Currently there is a transfer mechanism between the State System of Higher Education and the State Motor Pool which allows for those incidental fees to go back and forth. I don't think there is a mechanism for those fees to be used as a voucher or a check or a warrant to pay a private vendor. I am not sure how that would work.

- Inaudible answer by a member of the audience, Lynn Pinckney.

404 REP. HUGO: Lynn Pinckney is saying is that with the permission of the Motor Pool, a purchase order may be used to rent a car from the private sector. The next question is under what condition does the Motor Pool grant or deny that permission?

411 CHAIRPERSON CLARNO: If a vehicle is not available, perhaps. - Could you comment, Ms. Pinckney. - Inaudible answer by a member of the audience, Lynn Pinckney.

415 REP. JONES: Don't misinterpret my comments to say that I want every student to be able to drive state-owned vehicles. My question is, "does this allow those legitimate college activities that are under the sponsorship of the college or universities to continue to have access to state vehicles?"

423 REP. HUGO: I would like to draw a distinction between the academic activities of the campus and the incidental fee related services of the campus. Those people using incidental fees buy transportation services that benefit their club or organization. What I am suggesting is that we may want to ask them to use purchase orders to buy that service from non-state vehicles, leaving the state vehicles to pursue academic activities like a biology field trip. Currently, the bill is not written to distinguish between the two uses. I would like to look at that.

439 CHAIRPERSON CLARNO: Are you saying that you would like to add something to the bill?

441 REP. HUGO: I don't know how to do that yet. But Mr. Phelps will try to amend the bill for that purpose, correct Mr. Phelps?

444 PHELPS: Okay, I will try.

446 REP. BRIAN: Does anyone have any comments on what the impact will be? What have we cut away at here?

457 BROWNING: Rep. Brian, there is a fiscal impact statement which discusses an indeterminable dollar value. We have representatives here from the General Services, Forestry and Transportation motor pools, if you would like to address how the bill will impact them. I don't believe we have a representative from Higher Education.

465 REP. BRIAN: The reason I ask is because the fiscal impact does say the impact is indeterminable but anticipated to be substantial. Legislative Fiscal must have gotten that impression from someone.

472 CHAIRPERSON CLARNO: You are talking about the level of travel which will now be allowed, compared to the travel before? I don't think Legislative Fiscal was worried about this language we have been discussing. They are worried about the language found in Section 8, where the consolidation of motor pools is discussed.

483 REP. BRIAN: I don't want to delay the bill. I was just curious as to whether anyone had an opinion on this matter.

488 CHAIRPERSON CLARNO: Could I hear some discussion and possibly a motion regarding the date we must insert into line 25, page three? If you recall, this is the suggested date for consolidation.

TAPE 66, SIDE B

037 REP. CLARK: The testimony we received suggested they could accomplish this by 1995.

038 CHAIRPERSON CLARNO: The Department of General Services preferred the date 1997. The Speaker's Office thought 1995 would be a desirable date due to the necessity of improving the efficiency of the motor pool.

041 REP. CLARK: Are we in a work session?

042 CHAIRPERSON CLARNO: We are in a work session on HB 2892.

043 MOTION: REP. CLARK moves to adopt the date of 1995 into line 28, section 8, of HB 2892.

044 CHAIRPERSON CLARNO: Is there any discussion?

045 REP. CLARK: I do not understand what is involved in the consolidation process, but that is more than four years. It seems to me they should be able to accomplish the consolidation by that date.

046 REP. DERFLER: I think we should be able to get a fiscal impact if we provide Legislative Fiscal with that date.

048 REP. BRIAN: In response to Rep. Clark's question, this consolidation involves fleet depletion. I think it is a matter of appropriation, because you have to buy the fleets from the various agencies. Did I hear that it is a federal requirement that we have to buy the vehicles, or is that a state requirement?

052 REP. HUGO: Only if the agencies used federal money to buy the cars in the first place.

053 REP. BRIAN: Are those the only vehicles that we have to buy? In other words, if a state agency owns a vehicle and we want to transfer that vehicle to General Services, we don't have to do an actual fund transfer to that agency, do we?

059 CAMERON BIRNIE, ADMINISTRATOR OF TRANSPORTATION & DISTRIBUTION - DEPARTMENT OF GENERAL SERVICES: ORS 283.320 obligates General Services to reimburse surrendering agencies for fair market value of the vehicles. It all depends on how the vehicles were bought and what sort of funds were used. At this time, we don't know how the vehicles were purchased. There are secondary charges which depend on the vehicle's condition. There are really numerous things to be considered.

074 REP. BRIAN: Would you need a General Fund appropriations to buy a vehicle from another state agency?

079 BIRNIE: With a July 1, 1995 date, there will be additional dollars needed to allow this to happen. I don't know that the funds will be from the General Fund.

084 REP. BRIAN: I think we need to look at that law very closely. This is all General Fund money, and it doesn't make sense for General Services to have to buy these vehicles. They still have the use of the vehicles, and the agencies shouldn't be given a chunk of cash for vehicles which were initially purchased by General Fund dollars.

098 BIRNIE: Several of the agencies, including the two agencies that spoke two days ago, acquire their vehicles through other than General Funds.

100 REP. BRIAN: Are there instances where we will need to come up with General Fund money to buy cars from other state agencies which initially purchased the cars with General Fund money? I believe you answered that question "yes."

102 BIRNIE: I believe so. I don't know about all the General Fund agencies, but perhaps Higher Education, Agriculture, and others.

105 REP. BRIAN: If we want this done by 1995, we will need to appropriate General Funds to General Services. They will pass on the cash for switching the title and control of vehicles that were purchased with General Fund money in the first place. The agencies end up with no cars, but some cash and the right to use the motor pool. That sounds like a windfall.

111 REP. DERFLER: Could you use an offset from their budget?

112 REP. BRIAN: That is what I am saying. It seems to me the title should just transfer if the vehicles were purchased with General Fund money, and the agencies still have access to the vehicles.

114 CHAIRPERSON CLARNO: I do think this is an issue that needs to be addressed.

116 REP. BRIAN: If it came out of gas tax funds or highway funds or federal funds, I see the need to reimburse.

121 REP. HUGO: I discussed this matter briefly with John Lattimer. The Department of Agriculture has such a funding mix, that their fiscal people will have a lot of fun determining who should get reimbursed and who should not. This will be a fiscal fiasco.

131 REP. BRIAN: If the agency still has the same access to the vehicles and for the same purposes, what difference does it make?

133 REP. DERFLER: Would it possible to perhaps give the agencies credit for use of the motor pool in the amount of the vehicle?

134 REP. BRIAN: I really want to make sure that cash is appropriated and transferred only when it needs to be.

142 REP. DERFLER: We could issue the agencies a credit on their motor

pool account.

144 CHAIRPERSON CLARNO: Would the kinds of issues that we are discussing here be helpful in your transition?

145 BIRNIE: Certainly.

146 CHAIRPERSON CLARNO: Are there any questions on the motion before the Committee?

149 VOTE: Hearing no objection, Chairperson Clarno so moves.

151 CHAIRPERSON CLARNO: Mr. Phelps has agreed to work on the recommendations of the Committee. - Closes work session on HB 2892 and opens public hearing and work session on HB 3517.

(Tape 66, Side B) HB 3517 - CONFIDENTIALITY RULES, PUBLIC HEARING AND WORK SESSION

180 CHAIRPERSON CLARNO: While we wait for our key testimony from Ms. Janice Yaden, we will close the public hearing and work session on HB 3517 and open a public hearing and work session on HB 2893.

(Tape 66, Side B) HB 2893 - AGENCIES AND ADVISORY BOARDS, PUBLIC HEARING AND WORK SESSION

186 BROWNING: Discusses the bill packet on HB 2893. This bill directs an interim study of Oregon's boards and commissions.

207 CHAIRPERSON CLARNO: Rep. Kevin Mannix has just introduced a priority bill which would establish a centralized staff for boards and commissions. At a later work session, we will have him address his bill. I am in favor of his bill and we might think about combining his bill, with HB 2893. - Closes the public hearing and work session on HB 2893 and reopens the public hearing and work session on HB 3517.

(Tape 66, Side B) HB 3517 - CONFIDENTIALITY RULES, PUBLIC HEARING AND WORK SESSION Witnesses: Jim Carlson, Oregon Medical Association
Janice Yaden, Department of Human Resources

222 JIM CARLSON, OREGON MEDICAL ASSOCIATION: We had one concern with the bill as it deals with confidential medical records or materials that contain confidential medical records. I have talked with Ms. Yaden and am pleased with the language she will introduce today. Ms. Yaden explained that they will essentially get client consent before release of any information.

-We did want to flag the Committee with regard to our concern on confidential medical records. We would like this information released only with the permission of the individual.

236 CHAIRPERSON CLARNO: That is the goal of the Committee, and we appreciate your testimony.

246 JANICE YADEN, DEPARTMENT OF HUMAN RESOURCES: Begins her discussion by referring members to page 16 of report (see EXHIBIT C). - Discussion of recommendations (page 16, Exhibit C). Administrative recommendations (pgs. 16 - 20).

315 CHAIRPERSON CLARNO: Some of these recommendations sound like common

sense to me. Unfortunately, it is not practiced.

316 YADEN: Absolutely. I think most of this is common sense. - Continues with discussion of recommendations (see page 17, Exhibit C). Legislative recommendations (pgs. 20 - 24). - We must set a policy, for we cannot write a simple procedure.

TAPE 67, SIDE B

032 REP. CLARK: I want to express a little bit of skepticism about setting policy. The agencies always follow the path of least resistance. They look for the easy way out. I agree we cannot write a "two sentence silver bullet." Maybe you are just saying that setting policy is one step in the process.

038 YADEN: It is a nudge.

039 REP. CLARK: Okay.

040 YADEN: I would say if you polled the current staff at a lot of the agencies, you would find that they believe not sharing is more the policy. They have had people come down on them for sharing information. By stating the policy, you are giving a nudge to these staffers. Then, we recommend that you create a committee that acts as a forum for confidentiality. They can deal with the individual detail, the individual cases which exist. If there are clear conflicts, they may bring those conflicting statutes to the Legislative Assembly for amending.

067 CHAIRPERSON CLARNO: What I see you doing is developing a focus out in the agencies, setting the policy which we want to see happen. - These are excellent suggestions.

070 YADEN: We think it is important that this committee reports back. At the same time, I think you want to set a legislative policy as well, with regard to confidentiality. - We did discuss possible legislation for improving the sharing of information. See Exhibit C, page 24.

087 CHAIRPERSON CLARNO: I thought alcohol and drug providers were required reporters.

088 YADEN: No. They are not on the list of required reporters. - Returns to her discussion.

094 CHAIRPERSON CLARNO: Rep. Brian, are you aware of a bill in the Judiciary Committee that would address this issue?

095 REP. BRIAN: I am not familiar with it, but that bill would probably be in the Family Justice Subcommittee. I am not on that subcommittee.

097 YADEN: That is correct, it is in Family Justice.

098 CHAIRPERSON CLARNO: We need to touch base with Rep. Clark to see if that has been heard or not.

099 BROWNING: That bill is HB 2397, and it is in Rep. Clark's subcommittee. There will be a work session on that bill next Monday.

100 YADEN: According to my notes, it is HB 2397.

103 BROWNING: There is a work session scheduled for next Monday.

104 YADEN: Returns to discussion of page 24, Exhibit C (penalties).

116 REP. BRIAN: There was a bill in Judiciary Committee which addressed the granting of immunity to case workers who revealed the mental state and possible danger associated with a particular juvenile. We shifted the scales to a lot of disclosure. With that bill, you are immune if you disclose, but you are liable if don't disclose and someone gets hurt. Then we added language which would make you immune whether you disclose or whether you didn't. That is significant. Then Family Justice Subcommittee took out the part that if you didn't disclose, you would be immune. In the full committee, I voted against the bill because I really thought that forced them to disclosing, and I am not in favor of that. The Chair of the Committee is hinting that the bill might be coming back to the committee for reconsideration. - Fines are really nothing compared to what might happen if they were sued in a court of law. The state and the county could also be sued because of their liability.

168 YADEN: You are right. Penalties are not an issue that you would want to address this session, due to the complexity and the fact we are in the late stages of this session.

176 REP. BRIAN: Once the information sharing system is in place, we will be in a better position to discuss and judge the penalties that we want to establish.

181 CHAIRPERSON CLARNO: We want to do it right, so we don't have to bring it back to the Committee for reconsideration.

181 YADEN: That is correct. - We also thought that each agency should bring forward laws that are not in compliance with one another. (See page 24, Exhibit C.) - We are trying to reduce the level of frustration that the public has with regard to bureaucracies.

193 CHAIRPERSON CLARNO: Is that listed on the recommendations you have provided us?

194 YADEN: Yes. - Discusses the Judicial recommendations (Page 24, Exhibit C) and inappropriate sharing of information (pgs. 25 - 26, Exhibit C).

230 CHAIRPERSON CLARNO: What is your intent as to HB 3517? Do you want to go forth with the changes you have suggested? - After we draft the amendments based on your recommendations, we would like to have you come back so that you can respond to any concerns the Members might have. - Thank you for your work.

241 REP. CLARK: Comments on another war story about a bill heard in Judiciary concerning the testing of pregnant women for drug use. There were considerations about what you would do with that information. We don't know how to deal with this topic, because we do not want to chase women away from pre-natal care. Confidentiality was a key issue to the passage of this bill. Had it not been there, the bill would not have passed.

256 YADEN: But you can uncover what those hindrances are and deal with them with existing tools (client consent, interagency agreements, etc.)

261 CHAIRPERSON CLARNO: Thank you, Ms. Yaden, for your testimony. -
Closes the public hearing and work session on HB 3517 - Adjourns the
meeting at 5:49 p.m..

EXHIBIT LOG

Exhibit A - Susan Browning - 3 pages Exhibit B - Susan Browning - 1 page
Exhibit C - Janice Yaden - 44 pages

Submitted by:

Reviewed by:

Scott Kaden

Susan M. Browning