

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.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS

January 31, 1991  
p.m.

Hearing Room F 1:15  
Tapes 15 - 16

MEMBERS PRESENT: Rep. John Schoon, Chair Rep. Hedy L. Rijken,  
Vice-Chair Rep. Jerry Barnes Rep. Lisa Naito Rep. Carolyn Oakley Rep.  
Beverly Stein Rep. Greg Walden

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta  
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2396 PH HB 2040 PH

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TAPE 15, SIDE A

010 CHAIR SCHOON calls the meeting to order at 1:19 p.m. and opens the work session for purposes of introduction of measures.

INTRODUCTION OF MEASURES

015 MIKE McCALLUM, Director, Oregon Restaurant Association, submits a prepared statement and hand-engrossed version of HB 2304. He summarizes a prepared statement and requests the committee introduce the amended version of HB 2304 (EXHIBIT A).

055 CHAIR SCHOON: I note there are fee increases in the bill.

057 MR. McCALLUM: That is from the other bill. We think those fees will cover the cost of administering the program adequately through the Department of Agriculture. We are in consultation with them to determine if those fees are adequate; we are not married to those fees.

062 MOTION: Rep. Rijken moves that the committee introduce the proposed draft (EXHIBIT A, pages 3 - 8), as submitted by Mr. McCallum, at the request of the Oregon Restaurant Association.

071 VOTE: In a roll call vote, REPS. NAITO, OAKLEY, STEIN, WALDEN, RIJKEN AND CHAIR SCHOON vote AYE. REP. BARNES IS EXCUSED.

076 CHAIR SCHOON declares the motion PASSED.

075 DAN DOYLE, representing Eric Lindauer, consumer member on the State Board of Agriculture and a member of the Consumer Advisory Council, explains the draft and reasons for requesting the introduction of LC 2609 (EXHIBIT B): >proposes a position of consumer officer for Department of Agriculture. >position existed from 1972 to June 1982; was cut out in the special session. >position has been filled on a half-time basis by various department personnel. >primary consideration for the position is to conduct educational activities for consumers and industry groups.

113 REP. NAITO: Does the Department of Justice do any of this kind of work?

115 MR. DOYLE: At this time it is performed only by the department by a position that is not even half time.

121 MOTION: REP. RIJKEN moves that the committee introduce LC 2609 at the request of Eric Lindauer (Consumer Advisory Council, Oregon Department of Agriculture).

124 VOTE: In a roll call vote, REPS. NAITO, OAKLEY, STEIN, WALDEN, RIJKEN and CHAIR SCHOON vote AYE. REP. BARNES IS EXCUSED.

126 CHAIR SCHOON declares the motion PASSED.

133 CHAIR SCHOON opens the public hearing on HB 2396.

HB 2396 - REQUIRES HEALTH INSURANCE PAYMENT FOR SERVICES TO VICTIMS OF CHILD SEXUAL ABUSE. Witnesses: Mary Hoyt, Chair, Task Force on Sex Offenses Against Children Al Thompson, Blue Cross/Blue Shield Jim Swenson, Administrator, Insurance Division, Dept. of Insurance and Finance

138 MARY HOYT, Chair, Task Force on Sex Offenses Against Children: Since our last meeting, we have gone through some of our records, but not all, and we will need to go back through our notes to determine the names of persons and insurance companies. We also received some information from the Victims Assistance Program about people who have insurance that does not cover the treatment and a list of reasons why Victims Assistance would pick up the coverage. They didn't have any instances where an insurance company had denied a claim because of sexual assault.

Our intent in the task force was not to get into all the other issues of insurance, but just to make sure the young victims have coverage. Mr. Thompson and I have been talking about how to accomplish that. We discussed inserting in the statutes after "mental or emotional illness" "to include victims of sex abuse." Mr. Thompson suggested that won't accomplish it because that is already there. We looked at how to get the consumers to understand that their insurance would cover treatment. The insurance coalition has suggested they include examples in their brochures. Another suggestion was to get the Oregon Insurance Consumer Advocate involved to look at situations as they come up. That may be enough to accomplish what the task force wanted.

175 CHAIR SCHOON: How about the self-insurers?

184 MS. HOYT: About one-half the people covered in Oregon are covered by self-insurers, not by the companies that are mandated to cover mental or emotional disturbances.

191 AL THOMPSON, Blue Cross/Blue Shield: I believe the Insurance Division is here and perhaps they could follow up.

200 REP. STEIN: Is it possible we can do this without legislation?

212 MS. HOYT: It may be and that is all we want to do.

220 CHAIR SCHOON: We heard testimony from representatives of the insurance companies that insurance companies do treat people who have been sexually abused as a nervous or mental disorder. There didn't seem to be any dispute. Is that what you understood also?

227 MR. THOMPSON: Yes.

230 CHAIR SCHOON: "I would like for us to note for the legislative record that the industry, and therefore, we as a legislative body understand that sexual abuse is one of the items covered under mental and nervous disorders as covered in the statutes."

241 REP. STEIN: It seems she has said a pre-existing condition means treatment had already been started prior to getting insurance and then there is a waiting period before you are allowed to get treatment. If you hadn't been treated, it is still a pre-existing condition in the sense that the incident that is triggering the need for treatment happened prior to getting the insurance. Does that mean you get first-day coverage?

246 MR. THOMPSON: If there is a pre-existing clause in the contract, it would state "if you have been treated for this condition within three or six months prior to this coverage starting" then you may have to wait that period for coverage. The fact the sexual abuse occurred three or 10 years ago would not be considered a pre-existing condition as far as being eligible for treatment.

250 CHAIR SCHOON: Do you know of any complaints from persons not being provided coverage for sexual abuse when they were covered by insurance that had mandated coverage for mental and nervous disorders.

268 MR. SWENSON: We have had no specific complaint from a consumer who has been denied coverage as a victim of child abuse. There are a few issues I would like to discuss in general terms. >All health insurance policies covers treatment that is medically necessary. The Division is unaware of any policies that would specifically exempt such coverage unless it was a pre-existing condition. >Some policies provide limited benefits that relate to psychological problems. ORS 743.556 mandates that Oregon-based health insurance policies provide coverage for mental health services requiring they be subject to the same co-insurance and deductibles as other medical services, although they are subject to some internal limits. >The mandate does not apply to other forms of insurance such as self-insurance plans. Roughly 50 percent of the people are covered by self-insurance. >Insurance Pool Governing Board is not subject to state mandated benefits. That program might become mandated in 1994 unless certain enrollment targets are not achieved. >In addition, out-of-state groups, would not be subject to the mandated benefits. Generally, most do provide some coverage for psychological problems at 50 percent rather than the typical 80 percent. >As indicated before, we have not received complaints from consumers, but have from providers in efforts of containing health care costs. >If an individual believes he/she has been inappropriately denied coverage, our Complaint Resolutions and Investigations Section stands ready to intercede on their behalf.

344 CHAIR SCHOON: What is meant by an "Oregon based policy?"

MR. SWENSON: It is written in Oregon according to Oregon law. A policy issued through a California employer for employees in Oregon would be subject to California law.

367 CHAIR SCHOON: It appears we have a solution without legislation and it appears to be the most appropriate choice. Mary Hoyt and the task force will continue to search their records in an attempt to find specific examples that relate to specific companies that may not have honored this provision. Mr. Swenson will keep us informed about complaints received by the Insurance Division.

397 CHAIR SCHOON closes the public hearing on HB 2396 and opens the public hearing on HB 204 0.

HB 2040 - ESTABLISHES SPECIAL PROGRAM FOR TELEPHONE ACCESS FOR PHYSICALLY DISABLED. Witnesses: Maury Astley, Oregon Independent Telephone Association Eugene Organ, Executive Director, Oregon Disabilities Commission Carl Garner, member, Oregon Disabilities Commission Pat Fawcett, Administrator, OTAP Jack R. Cassell, Telecommunications for Deaf and Hearing Impaired Jim Sexton, Administrator, Public Utility Commission

415 MAURY ASTLEY, Oregon Independent Telephone Association: Our concern is that federal legislation requires telephone companies to provide the deaf relay system and fund it if it is not done by the state in a way that meets the federal mandates. I don't have any question about meeting the deadline. My concern is in working with the advisory committee. The funds for adding operators to the system really haven't been earmarked. We are still trying to decide at the advisory committee level at what time we should bring enough operators on, whether we should bring them on now and spend the money before we have to meet the federal guideline or should we wait until next year when the 1988 act becomes effective.

My concern is not so much with adding this new program, but making sure we get the deaf relay system up to standards before we started using the money for other programs.

TAPE 16, SIDE A

041 REP. NAITO: Do you think it would be preferable to put some sort of priority in the legislation for the deaf relay system or do you feel comfortable that the board would be able to work that out?

044 MR. ASTLEY: You can do it either of two ways: leave it to the discretion of the board or make the effective date January 1992, or just put language of preference in there. Mr. Organ said they are satisfied with finishing the deaf program first.

065 REP. NAITO: If you bring the system up to the federal mandates and increased the consumers being served, would you foresee the surcharge going back up to 25 cents.

067 MR. ASTLEY: There are two funds now, although the telephone bill shows a 25 cent charge. One is a 15 cent program for the low income and the other is a 10 cent program for the deaf relay and device program. The low-income program didn't need the 15 cents and therefore reduced it to five cents. The relay part of the other program is the most expensive because of the operators. That program may need more than the 10 cents. Another bill will give the commission the authority to co-mingle those funds. Currently, customers are seeing 15 cents on their bill; we might go back to 25 cents so the money is available for the deaf relay system and the disabled program and the teletypes for the deaf. OITA will support that bill.

080 EUGENE ORGAN, Executive Director, Oregon Disabilities Commission: At the last hearing we were talking about some additional information. We were able to obtain some examples of adaptive technology that we were talking about. Mr. Garner has those with him courtesy of AT&T. We have

a brochure on the telecommunications section of the Americans with Disabilities Act (EXHIBIT C).

Since so much of the act applies to the business community, our commission will do a brief summation of the Act.

131 CARL GARNER, member of the Oregon Disabilities Commission, submits copies of the AT&T Product Catalog (EXHIBIT D) and displays and explains a variety of available devices.

160 MR. ORGAN: The devices that would be made available to the consumers would be made by the PUC in consultation with the TDAP committee. We in no way have any intention of detracting from the present program for the deaf and speech and hearing impaired. We would be open to making it clear that we want to see the hearing impaired and deaf program maintained.

198 PAT FAWCETT, Administrator, Oregon Telephone Assistance Program (OTAP), submits a letter, brochure and summary of funds paid out through the OTAP program and reviews the letter explaining the program (EXHIBIT E).

289 CHAIR SCHOON: Do you perceive a funding problem as a result of the new federal standards?

302 MR. CASSELL: The FCC requirements haven't been written yet; we will need find out what they are going to require. Call blocking and the number of calls are cost factors that will influence the cost. Based on the figures we have so far, we expect to be able to cover any unexpected charges for the 1991-92 biennium. We think the balance will be about \$3.5 million. That should be enough to pay for the relay service and the FCC requirements.

323 MS. FAWCETT: The federal requirements for the standards do not impact the OTAP program. We will not see any change in our funding or increase in the number of employees.

330 REP. BARNES: Are the telephone companies permitted to withhold a part of the surcharge for administrative expenses?

334 MS. FAWCETT: The money is clearly identified for these two programs. The telephone companies bill and collect the 15 cent surcharge and submit it to the commission on a monthly basis. The handout shows the carrier reimbursement for the telephone assistance program. The direct customer benefits over the \$1 million is paid from PUC to the phone company, but that represents the customer credits. There is a \$3.80 processing fee approved by the PUC for each enrollment or disconnection from the program. Administrative expenses for the 1987-89 biennium was \$107,000. No other costs are paid to the phone companies. The administrative costs are the PUC's costs.

345 Issues further discussed: >Availability of services. >Marketing programs. >Availability of program to elderly persons in nursing homes.

TAPE 15, SIDE B

001 CHAIR SCHOON: How would you feel about us moving some of the unused funds from the low-income program to the telephone assistance program for the disabled since there is a concern about funding. You would still have considerable latitude for the low-income and we would alleviate the concerns for staffing for the physically disabled.

015 JIM SEXTON, Executive Director, Oregon Public Utility Commission (PUC): Currently, the laws calls for not more than 15 cents to go to low

income assistance and not more than 10 cents to go to OTAP. The Chair was suggesting that rather than give the commission the flexibility to adjust the limitations that it be done by statutes and perhaps the 15 cents be lowered to 10 and the 10 cents be increased to 15 cents. That would be an interim solution to the problems identified here today.

The committee might be more comfortable by hearing from the committee; Mr. Astley represents that committee.

040 MAURY ASTLEY: As a member of the advisory committee and as a representative of the Oregon Independent Telephone Association, we are supporting the other legislation which gives the commission flexibility.

I would support the Chair's concept to move five cents. From the beginning of this program we knew that in other states the deaf relay program had eaten up the original money that was allocated for it.

060 MR. SEXTON: The legislation Mr. Astley referred to was sponsored by the Public Utility Commission. The commission had not discussed changing the limitations; they had only discussed the flexibility. Since either proposal would meet their objectives, I think I would not be undermining their position by saying they would be agreeable.

068 CHAIR SCHOON: We will not go into work session and will give the parties time to reconsider and rethink their positions.

079 MS. FAWCETT: In HB 2222 we had proposed to expand the OTAP program to include people who are in several other low income groups, rather than isolate it to those on food stamps. However, based on the experience of the program today, we felt the five cent limit would serve those people.

088 REP. BARNES: Is there a reporting procedure set up for the PUC to tell the Legislature how well the program is going?

091 MR. SEXTON: We always report back to Ways and Means with our budget request. Often times reports are requested when programs are set up. I think we had some obligation to return to either the Legislature or the Emergency Board with a report of our experience with this program prior to this time.

101 REP. BARNES: I like the suggestion of flexibility, but if we were to go further, I think we would want feed back on how the flexibility is going.

105 CHAIR SCHOON: We will reschedule the bill for another public hearing and work session next Tuesday.

113 CHAIR SCHOON closes the public hearing on HB 2040 and declares the meeting adjourned at 2:23 p.m.

Respectfully submitted,

Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

#### EXHIBIT SUMMARY

A -Introductions, prepared statement and legislative proposal, Mike McCallum B -Introductions, LC 2609, Dan Doyle C -HB 2040, brochure, The Americans with Disabilities Act, Eugene Organ D -HB 2040, product catalog, Carl Garner E -HB 2040, prepared statement, brochures and fiscal information, Pat Fawcett