

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.

SENATE COMMITTEE ON HEALTH INSURANCE AND BIOETHICS

May 21, 1991Hearing Room C 3:00 p.m.Tapes 91 - 96

MEMBERS PRESENT:Sen. Bob Shoemaker, Chair Sen. Joyce Cohen,  
Vice-Chair Sen. Jeannette Hamby Sen. Lenn Hannon Sen. Frank Roberts

STAFF PRESENT: Barbara Coombs, Committee Administrator Guadalupe  
C. Ramirez, Committee Assistant

MEASURES CONSIDERED: SB 1076, SB 1077

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TAPE 91, SIDE A

003 CHAIR SHOEMAKER: Called the meeting to order at 3:12 p.m.

WORK SESSION ON SB 1076 Witnesses: Jim Swenson, Department of  
Insurance and Finance Mark Nelson, National Association of Social  
Workers Bruce Bishop, Kaiser Permanente John Powell, Blue Cross/Blue  
Shield Ellen Pinney, OHAC Jack Friedman, Sisters of Providence Roderick  
Bunell, Blue Cross/Blue Shield Linda Putman, Clerical Worker

024 COOMBS: Explained proposed amendments to SB 1076-3, Option 11  
(EXHIBIT A, pg. 7).

047 MOTION:ION: CHAIR SHOEMAKER moved the Option 11  
amendment to SB 1076.

052 SENATOR HANNON: What kind of co-payment structure would be deemed  
likely to deter needed services (EXHIBIT A, pg. 7, last paragraph)?

055 CHAIR SHOEMAKER: It was determined not to be dollar specific on this  
issue at this point.

066 SENATOR HANNON: Question on restrictiveness of the amendment.  
Explained why. If insurance commissioner is restricted, flexibility will  
be restrictive.

073 JIM SWENSON, DEPARTMENT OF INSURANCE AND FINANCE: Flexibility is

needed. Gave examples of how flexibility would and would not be needed. Is in favor of not having a specific figure.

095 SENATOR HANNON: Gave hypothetical case scenario with regard to deductibles.

104 SWENSON: Agreements would need to be reached by the appropriate parties.

112 SENATOR ROBERTS: Proposed that "for the members of the insured group" be added to the end of the paragraph on Option 11 (EXHIBIT A, pg. 7).

116 SENATOR HANNON: Would like to see it documented. > Does see the need for flexibility but there should be enough latitude for the carrier.

140 CHAIR SHOEMAKER: The amendment provides the flexibility needed. > The goal is to develop the availability of insurance to small groups and not just to the highly compensated members of those small groups.

149 SENATOR COHEN: Wouldn't this be addressed with the guaranteed issue mandate?

151 MOTION:CHAIR SHOEMAKER moved the Option 10 amendments as further amended to SB 1076 to include the phrase at the end "for the members of the insured group".

VOTE: In a roll call vote, the motion failed, with Senators Shoemaker and Roberts voting AYE. Senators Hannon, Hamby and Cohen voting NAY.

162 SENATOR ROBERTS: The plans should meet the needs of different groups.

185 SENATOR HANNON: People who are to be protected are the ones that would be impacted. Explained further.

195 SENATOR ROBERTS: The purpose of the language is to assure that the director won't approve this sort of approach because it violates the principle of making insurance affordable.

198 CHAIR SHOEMAKER: The Insurance Pool Governing Board (IPGB) plan has low rate plans with high deductibles and high co-payments resulting in few subscribers.

202 SENATOR COHEN: The language should be more reflective of the targeted population.

215 CHAIR SHOEMAKER: Suggested that the committee return to this at a later time.

222 SWENSON: Suggested that some of what is being discussed is already in SB 1076. > There is a balancing between accessibility and affordability.

243 MOTION:CHAIR SHOEMAKER moved to amend SB 1076, add Option 11 (EXHIBIT A, pg. 7), with the deletion of the last paragraph, delete "that" and insert "whether" from lines 2 and 4.

VOTE:Hearing no objection, Chair Shoemaker so moved.

270 COOMBS: Explained amendments to SB 1076, Option 10-A (EXHIBIT A, pg. 5).

279 CHAIR SHOEMAKER: This should be restricted to defining the basic benefit plan. > Proposed new language relating to the basic health care plan and tied to Section 5 of SB 1076.

306 SENATOR COHEN: Option 11 would release the specific service mandates because they were directed to be substantially similar to the Health Care Commission's (HCC) priority list. Why is this language needed.

326 CHAIR SHOEMAKER: Without it, there is nothing else in the act exempting them from the service mandates.

336 There was further discussion about the necessity of having the proposed language as Senator Cohen felt that it has already been provided in another part of the mandate.

362 MOTION:CHAIR SHOEMAKER moved to amend SB 1076, Option 10 (EXHIBIT A, pg. 5), line 3, delete "any health benefit plan" and insert "the basic health care benefit plan as defined in this 1991 act and".

VOTE: Hearing no objection Chair Shoemaker so moved.

385 CHAIR SHOEMAKER: Explained the Option 10-A amendment (EXHIBIT A, pg. 6). > Proposed that the language "and substantially similar services are integrated into the basic health benefit plan developed under this act" be added.

419 SENATOR HANNON: Why is this being included now if it hasn't been put into the SB 27 priority list?

428 CHAIR SHOEMAKER: The mental health subcommittee of the HSC proposed an integrated list. Mental health services are part of the agenda and need to be included.

TAPE 92, SIDE A

024 SENATOR HANNON: Did SB 935 have mandates or coverages that were required beyond the basic plan?

029 SWENSON: The Insurance Pool Governing Programs mandated by SB 935 were exempt from mandated benefit requirements. The IPGB did specify that the programs to be offered under their jurisdiction, have a modest out-patient mental health component.

040 SENATOR HANNON: The amendment would create a disparity between the current plans.

045 CHAIR SHOEMAKER: This is a voluntary program.

058 SENATOR COHEN: Because of the vagueness of the language, adding this would only confuse the mandate even more. Would prefer that they require insurance companies to come up with a basic benefit package without the added options.

094 CHAIR SHOEMAKER: This is a benefit because it gives insurers more options.

108 MARK NELSON, NATIONAL ASSOCIATION OF SOCIAL WORKERS: Submitted and explained the dash 18 amendment to SB 1076 (EXHIBIT B). > Without knowing how the language will fold in and if the proposed language won't be equal to what exists now, they would like to keep what exists now. > They need to be able to compare what they have now to what is actually being proposed later.

155 CHAIR SHOEMAKER: Is the plan that they have developed to this point, the

prioritized plan and their "pro forma" fold in, is acceptable to you?

157 NELSON: Yes.

162 BRUCE BISHOP, KAISER PERMANENTE: No objection to Nelson's proposed language. > Two issues need to be considered: Substantially similar services language is unclear. > SB 935 plans are not subject to these or any other mandates. Therefore the Insurance Pool Governing Board can still continue to offer its plan, limited as it may be. > This disparity advantages employers who have not previously offered health insurance.

188 CHAIR SHOEMAKER: This coverage has limits on who it can be offered to.

191 BISHOP: Its available to any employer who has not previously provided insurance.

198 JOHN POWELL, BLUE CROSS/BLUE SHIELD: Submitted (EXHIBIT G). Makes comments on the difficulty of folding in because of the vagueness of the mandates. > Because of their concern of not jeopardizing the whole plan, a standard plan would be acceptable now.

213 There was further discussion about whether this should be dealt with in SB 321 and whether or not it would be necessary to go beyond a basic plan proposal without the mental health mandates in SB 1076.

295 MOTION: CHAIR SHOEMAKER moved to amend SB 1076, Option 10-A (EXHIBIT A, pg. 6), add "and substantially similar services are integrated into the basic health benefits plans and approved by the 1993 legislature".

VOTE: The motion failed with Senators Roberts and Shoemaker voting AYE and Senators Hannon, Hamby and Cohen voting NAY.

323 CHAIR SHOEMAKER: When the substantially similar plan gets going, insurance companies are exempted from all the mandates including the mental health mandates, whether or not they include mental health services.

330 SENATOR COHEN: This would be until 1993 when they have to come into conformance.

341 CHAIR SHOEMAKER: The basic plan that is substantially similar to the HSC basic plan can include mental health and chemical dependency services to the extent that the carriers wish to include them.

348 SWENSON: When the IPGB was given the charge of developing a program specifically waiving all mandated benefits, they chose to include a "stripped down" mandate for mental health and chemical dependency benefits.

360 SENATOR COHEN: Proposed that language be added that says that they can provide it they want to.

367 SENATOR HANNON: Makes suggestion to makes IPGB requirements and the proposed mandates be equal to each other.

384 CHAIR SHOEMAKER: Would the plans developed by the carriers include a common set of mental health services or can each plan offered by a carrier differ in that regard?

394 SENATOR COHEN: They must be substantially similar to the list and they may offer mental health and alcohol and drug dependency benefits which go beyond the list defined by the IPGB.

418 SENATOR ROBERTS: Wouldn't vote for a plan that excludes coverage for a basic health problem of this society. The suggestion that they have the option to cover at their discretion is completely contrary to what they have attempted to develop over a great deal of time.

TAPE 91, SIDE B

010 CHAIR SHOEMAKER: What kind of direction can we give without standards to refer to?

018 MOTION:CHAIR SHOEMAKER moved to amend SB 1076 Option 10 (EXHIBIT A, pg. 5), insert "to include mental health and chemical dependency services corresponding to the Insurance Pool Governing Board plans".

VOTE: In a roll call vote, the motion carried with all members voting AYE.

028 COOMBS: Submitted and explained Option 12 (EXHIBIT A, pg. 8).

041 SENATOR HANNON: Is the specified period left up to the director to determine?

044 SWENSON: It is designated in statute as being 6 months for anyone other than a late enrollee.

MOTION:CHAIR SHOEMAKER moved to amend SB 1076, Option 12 (EXHIBIT A, pg. 8), line 2, after "period" insert "as defined in this act".

VOTE: Hearing no objection, Chair Shoemaker so moved.

063 MOTION:CHAIR SHOEMAKER moved that pregnancy existing on the effective day of coverage is not a pre-existing condition.

VOTE: Hearing no objection, Chair Shoemaker so moved.

064 COOMBS: Submitted and explained option 13 (EXHIBIT A, pg. 9).

079 SENATOR COHEN: Why two 2 years?

086 COOMBS: The concern is that it is unclear whether or not the federal waiver will come.

090 SENATOR COHEN: The time limit needs to be a little more tangible. > Wants to make sure the fold in has occurred with respect to mental

health.

112 CHAIR SHOEMAKER: What about making it one year after the implementation of SB 27 including provisions for mental health and chemical dependency services.

115 SENATOR COHEN: This wouldn't be folded in until the 1993 legislative session, correct?

118 SENATOR HANNON: Why not make within two years?

123 CHAIR SHOEMAKER: Need to make sure that SB 1076 is not implemented without the mental health coverages if SB 27 results without the mental health mandates.

133 There was further discussion on how the language would be proposed to make sure that mental health coverage would be included in SB 1076.

MOTION:SENATOR COHEN moved to amend SB 1076, "to be implemented within two years after implementation of SB 27, the integration of mental health and chemical dependency services into the ranked services offered by the Office of Medical Assistance Programs".

VOTE: Hearing no objection, Chair Shoemaker so moved.

169 CHAIR SHOEMAKER: This motion was adopted in concept, the exact language will be adopted at a later time.

170 COOMBS: Introduced and explained Option 14 (EXHIBIT A, pg. 10).

190 SENATOR HANNON: This section doesn't become a mandate until 1/1/94, why is it here now?

198 COOMBS: This is for purposes of the waiver.

210 SENATOR HANNON: There are two issues here, this one and SB 935 in the IPGB that are being merged together.

After further discussion, it was determined that there was a misunderstanding about which ones were being merged together.

240 SENATOR HANNON: Is this creating an insurance pool fund (EXHIBIT A, pg. 10)?

242 COOMBS: That is current language deleted in brackets.

255 CHAIR SHOEMAKER: This bill is being used as a vehicle to extend the implementation date of SB 935 to occur no later than 1/1/94 or at the implementation of SB 27.

264 SENATOR HANNON: What if SB 27 goes into effect in 1993, then is SB 935, not required to go into effect until 1994.

266 COOMBS: Which ever is later.

MOTION:SENATOR COHEN moved Option 14 amendments into SB 1076.

278 ELLEN PINNEY, OREGON HEALTH ACTION CAMPAIGN: Is opposed to having the employer mandate connected to whether or not there is a waiver. > Consumer groups are concerned about the link in benefits between

everyone else in the state and the Medicaid population, they should be equal. > The Option 14 amendments being considered today obscure the language, they would be opposed.

VOTE: Hearing no objection, Chair Shoemaker so moved.

313 CHAIR SHOEMAKER: Introduced option 15 (EXHIBIT A, pg. 11).

314 SENATOR COHEN: They passed an amendment that states you can't have ten or under. > Opposed to this option now, because there are other ways to contract with providers

351 CHAIR SHOEMAKER: Agreed. Decided to bypass this amendment.

388 CHAIR SHOEMAKER: Introduced the dash 17 amendments to SB 1076 (EXHIBIT C). > Proposed that they add on page 2, "other plans offered in the small group market shall be supplemental to the standard health benefit plan and shall be subject to the same guaranteed issue exclusions, pre-existing conditions and rating requirements imposed in the standard health benefit plan". > This raises the question of whether or not the supplemental plans should be subject to the same guaranteed issue rules.

TAPE 92, SIDE B:

005 PINNEY: Proposed the amendment to prevent the better benefits plan from continuing to be used to cream the best risk employees. > Suggested that they offer a guaranteed issue product and other products which are "richer" than the first and are not guaranteed issue. Insurance carriers could use these policies to cream the good risk from the standard health benefits plan, leaving the poorer risks and therefore raising the rates of the standard health benefits plan across the board.

015 SENATOR HANNON: What's wrong with allowing people to chose the plan they want? This would advocate mediocrity of everyone.

017 PINNEY: Nothing as long as everyone has access to the standard health benefit plan and have the option to do so. > They want to make sure that every plan offered in the state would be guaranteed issue. This is redefining state mandates which are a floor of benefits for insurance policies. Explained further.

038 SWENSON: Rating principles do apply to all types of plans. > The rates for the basic plan would form the floor rate to which carriers would add increments of premium for the additional benefits beyond the basic plan. > Since the additional benefits are to be priced in addition to the basic plan, that the basic plan premiums would benefit somewhat from the selection process.

054 CHAIR SHOEMAKER: Would this concept work?

055 SWENSON: The guarantee of insurability is only directed at the basic plan. > Proposed that there are ways of addressing Pinney's concerns without requiring the richer plans to be guaranteed insurable and explained how this might be done.

076 SENATOR COHEN: How do you get from here to there?

077 SWENSON: This plan addresses the issue because it envisions that the basic plan is the floor premium which additional premium can be added to

for additional practices.

082 CHAIR SHOEMAKER: There is a good faith provision within the bill, which would protect against abuse.

085 PINNEY: Oregon is in a position to do as much as other states, and suggests that more can be done than what SB 1076 proposes.

097 There was extensive discussion about Pinney's concerns and the anti-blocking measures proposed by Swenson.

144 CHAIR SHOEMAKER: With no motion proposed to move the dash 17 amendment,

moved on. > Began the discussion on the reinsurance provisions. The committee will consider whether or not they should stay with the bill as drafted or go to an involuntary program.

163 SENATOR HANNON: Why should this be mandatory and not voluntary?

170 BISHOP: It should be voluntary for those who need protection to cover high risk groups or individuals in a guaranteed issue market. The central purpose is to encourage insurance carriers to internalize the risks of those groups and not to shift to some other entity. > A mandatory pool will shift into the pool rather than managing the risks.

204 SENATOR HANNON: Won't a small carrier be affected to a greater extent than a larger carrier?

214 BISHOP: It is likely that each type of carrier will assume risk. If they get disproportionate number of risks, remedies are provided.

227 SENATOR HANNON: This needs to be further clarified.

232 BISHOP: All participants take on the same risk. Larger insurers have the option to take the risk where others don't.

240 SENATOR HANNON: If this were a mandatory program, could you not by rule make sure that a small carrier got a proportionate amount high risk cases?

249 SWENSON: They could monitor for proportionate share of bad risks being assumed. > This was an issue of whether the program would permit carriers to opt out. Conclusion: the voluntary reinsuring mechanism was appropriate basis for guaranteeing insurability. > Explained the opting out aspect of the program.

291 There was further discussion about how small carriers will be affected.

323 POWELL: The potential problems exist for large and small carriers. > Reiterated what Bishop testified to.

359 JACK FRIEDMAN, SISTERS OF PROVIDENCE: Small employer carriers can get as many risks as large carriers can. > Described how the Oregon Medical Insurance Pool runs currently. > Their view is that if they enter the market as a smaller insurer, they would be exposed to higher risk and if they moved into a pool arrangement without larger carriers in the pool, they would have to pay 150% of the premium to cede the risk



but they would have to pay 4% of the assessment if the losses were greater than the premium. > Most equitable way is to spread it across as equally as possible.

TAPE 93, SIDE A

004 There was committee discussion on how these concerns should be further addressed. Because of the lack of a quorum, a motion could not be voted on.

> The direction of the committee discussion changed to address proposed technical amendments which were explained by the committee administrator.

051 COOMBS: Explained proposed technical amendments to SB 1076 (EXHIBIT D).

096 > Specific reference was made to (EXHIBIT D, pg. 11, line 6), the language "misuse" was defined. > Lines 26 - 29 from the same page, were given further clarification.

117 SENATOR HANNON: Under current statute can an employee be denied coverage for being overweight and lying on the application?

124 SWENSON: If it were an individual and a determination needed to be made, this would not be characterized as material misrepresentation.

130 SENATOR HANNON: Is an employee mis-statement, grounds for denial for the one employee or for the entire group?

140 CHAIR SHOEMAKER: Suggested that the problem of who would be held liable could be addressed by deleting "employee" on line 29 (EXHIBIT D).

145 RODERICK BUNELL, BLUE CROSS/BLUE SHIELD: This problems arises primarily in individual policies. > The insurance company makes the contract with the employer and thus the employer is the liable party. The employer is not held accountable for employee false statements.

159 CHAIR SHOEMAKER: "Employee" can be deleted on line 29.

161 COOMBS: Continued explaining technical changes from (EXHIBIT D, pg. 11). > Explained that a couple of the provisions regarding small carriers were redundant with some exceptions which she explained in detail. > Page 14, it must remove itself entirely from the small employer market. > The page 11 option, keeps its current business but may not write new business. > They both have a five year opt out period.

191 SENATOR HANNON: If a carrier is on the edge and needs to terminate that block of business sooner, what provision would protect them.

195 COOMBS: There are special provisions for carriers who have financial distress.

203 Senator Hannon and Mr. Swenson discussed the protections for a small carrier going out of business.

227 SWENSON: National Association of Insurance Commissioners (NAIC) prefers the option that allows them to keep current business but cannot write new business.

238 CHAIR SHOEMAKER: With no further discussion about going with the NAIC option proposed that lines 7 - 25 on pg. 11 (EXHIBIT D), be deleted.

242 COOMBS: Continued with technical amendments beginning with (EXHIBIT D, pg. 15).

Senator Hannon excused at 5:23 pm.

266 CHAIR SHOEMAKER: The intent of the change from 30 to 90 days on (EXHIBIT D, pg. 27, line 4) is because of the requirement to the Health Services Commission to review and the director to approve, 30 days is not long enough.

284 SWENSON: Requests that the change that he advised on pertaining to Page 11, lines 7 - 25 be kept and that the page 14 language be deleted (EXHIBIT D, pgs. 11 and 14).

285 CHAIR SHOEMAKER: Asked that the original proposal be changed in response to the change. > Are you in agreement with the 30 to 90 day change?

297 SWENSON: Yes.

305 COOMBS: Continued with technical amendments beginning on pg. 28 (EXHIBIT D).

312 MOTION: :CHAIR SHOEMAKER moved the proposed technical amendments to SB 107 6.

VOTE: Hearing no objection, Chair Shoemaker so moved.

341 PINNEY: Submitted and explained proposed amendments to SB 1076 (EXHIBIT C). Opposed to the dash 3 amendments because they are a step backwards for the rate band. > Wide range of carriers is not what is needed, more choice of packages is needed. > Request that this benefit package will be uniform and at least that employers and employees who are looking to buy this can compare the plans in terms of cost only.

399 SENATOR COHEN: Weren't we developing two packages here.

404 PINNEY: Not linked to any one plan. Each is defined in a different way.

411 CHAIR SHOEMAKER: SB 1076 contemplates 2 plans: one for indemnity carriers and one for HMO carriers. The mental health part hasn't been sorted out yet.

432 LINDA PUTMAN, TEMPORARY CLERICAL WORKER: Submitted and explained testimony in opposition to amendments to SB 1076 excluding temporary workers (EXHIBIT E).

TAPE 94, SIDE A

003 PUTMAN: Continued with testimony.

069 CHAIR SHOEMAKER: The committee is aware of the need for health insurance coverage for temporary and seasonal employees. They couldn't cover them in this bill.

074 PINNEY: The dash 4 amendments were substantially stronger than the dash 3. > Rates should not be adjusted for any other criteria than for family size.

103 CHAIR SHOEMAKER: Reference to gender as a criteria was removed from the bill.

111 PINNEY: Referring to line 7, page 1 and page 2, lines 10 - 12 (EXHIBIT C).

120 CHAIR SHOEMAKER: Gender reference was not changed as originally thought.

121 PINNEY: Explained their opposition to SB 1076 further.

140 SENATOR COHEN: There are going to be other options in 1993. This isn't going to be the last legislative action pertaining to health insurance in Oregon.

151 PINNEY: Consumers have been left out of the dash 3 amendment discussions.

155 SENATOR ROBERTS: Just because this is an interim matter, it shouldn't be given any less consideration and discussion. More serious consideration should be given. The attitude should be more considerate of the concerns expressed by Pinney. > The concerns being expressed should not be taken lightly.

168 PINNEY: Gave example from Minnesota where insurance carriers did not have the option of rejecting anyone. OHAC was rejected by Kaiser because one person was overweight. This is something that happens often in the one and two employee market. > Refers to article in the Business Journal with regard to the insurance company profitability. > Net profit for the 8 largest insurance companies was \$56 million. They are in the position of assuming some risk based on the profits. > Continued explaining the proposed amendments. > Submitted and explained testimony about the number of small employers in Oregon (EXHIBIT F). They suggest that the number of employees be changed to 50, based on this study.

227 CHAIR SHOEMAKER: The insurance industry was asked to develop a program they believed would be marketable. > SB 1076 was developed based on the response from the insurance industry. > The insurance industry was involved to assure that the program would be feasible, since they would be the one to implement it.

240 PINNEY: It is difficult to understand why the insurance companies can't provide a benefit plan that can be linked to SB 27, they can do more. > Continued with testimony: explained Section 14 of (EXHIBIT C, pg. 1).

275 CHAIR SHOEMAKER: Responds to testimony about provider mandates. They decided not to change the provider mandates or give any exemption from them. > SB 321 would provide a standard regarding non discrimination among providers.

287 PINNEY: Continued with testimony beginning on (EXHIBIT C, pg. 2, lines 6 - 7). > They would also like to see the requirement that a waiver be sought from ERISA be written in. It won't be easy to get. > Suggested that families below the 200% of the federal poverty level be

subsidized. > All employers should be required to pay equal percentages of their payroll. > Mentions an article from Families USA regarding state mandates.

388 MOTION:SENATOR ROBERTS moved the dash 17 amendments with the exception of lines 2 - 6 on page 1, to SB 1076.

VOTE: In a roll call vote, the motion failed, with Senator Roberts voting AYE and Senators Cohen, Hamby, and Shoemaker voting NAY. Senator Hannon was excused.

408 The committee considered the age and gender question from the dash 17 proposed amendments (EXHIBIT C, pg. 1, line 7 and pg. 2, lines 10, 11, 12).

MOTION:SENATOR COHEN moved to amend SB 1076, the conceptual amendment, "Premiums cannot be adjusted by reason of the age and sex mix within an employer group".

VOTE: The motion carried with Senators Cohen, Hamby, Roberts and Shoemaker voting AYE. Senator Hannon was excused. TAPE 93, SIDE B

015 MOTION:SENATOR COHEN moved to amend SB 1076, Option 11, (EXHIBIT A, pg. 7) insert "The director's approval shall be based on a determination that the plans provide maximum accessibility and affordability of needed health services".

VOTE: In a roll call vote, the motion carried, with all members present voting AYE. Senator Hannon was excused.

030 MOTION:SENATOR COHEN moved SB 1076, as amended, to the floor {with a "do pass" recommendation}.

VOTE:In a roll call vote, the motion carried with all members present voting AYE. Senator Hannon was excused.

Submitted for the record: > Testimony from Scott Haas (EXHIBIT L).

040 CHAIR SHOEMAKER: Closed the work session on SB 1076 and opened the work

hearing on SB 1077.

PUBLIC HEARING ON 1077 Witnesses: Chad Cheriell, Office of Health Policy Roger Auerbach, Governor's Office Ellen Pinney, OHAC Kevin Earls, AOI Amy Klare, AFL, CIO Ed Patterson, Oregon Association of Hospitals Jana Fussell, Office of Health Policy Steve Telfer, Legacy Health System Scott Gallant, Oregon Medical Association Bruce Bishop, Kaiser Permanente

043 COOMBS: Submitted and explained proposed amendments to SB 1077 (EXHIBITS H, I and J).

066 SENATOR HAMBY: Suggested that the \$1 million cap be lowered to a \$750,000 for capital expenditures.

077 CHAIR SHOEMAKER: The philosophy of the dash 8 amendments (EXHIBIT J) would be that the certificate of need would be unchanged for the next two years while a different approach is being developed. > There are 2 proposed amendments within SB 1077 that would address the loopholes that

make it possible for the million dollars to be used inappropriately (EXHIBIT I, pg 3, line 43 and pg. 6, line 44)..

108 SENATOR ROBERTS: How does the language on pg. 3, line 43 (EXHIBIT I) prevent additional acquisition of million dollar pieces of equipment?

114 CHAIR SHOEMAKER: Gave a short explanation.

122 SENATOR ROBERTS: What kind of major equipment can be acquired for less than \$1 million?

134 COOMBS: In other meetings with the Office of Health Policy (OHP), they discussed changing the waiver percentage from 75 to 90 percent. When it was decided to revert back to the status quo, that would go back to 75%. > The intention is to have the 75% of managed care apply for the waiver.

145 CHAD CHERIEL, OFFICE OF HEALTH POLICY: Responded to Senator Roberts question about major medical equipment purchases by giving an example.

168 SENATOR ROBERTS: Would this language (EXHIBIT I, pg. 3, line 43) have affected any of the examples you have given?

177 CHERIEL: No, it would not have prohibited any of the purchases. > This language was put in there to avoid situations whereby providers went to firms outside of the state and leased major medical equipment that exceeded the million dollar threshold.

180 ROGER AUERBACH, GOVERNOR'S OFFICE: The Governor's Office is concerned about the composition of Health Resource Commission. The commission looks heavily weighted in favor of the industry. > The commission needs to address public concern. Commission should reflect the needs of the public. > Made some suggestions about how to change the composition. > Concerned with data collection amendments (EXHIBIT I, pg. 3, (6). There is some concern about the commission being administered by the Executive Department because the lack of resources to adequately staff the administration of the commission. > Although this amendments suggests that there may or may not be cost, there will be incurred costs.

268 CHAIR SHOEMAKER: Would you want that language deleted?

270 AUERBACH: That or a substitution which would be a reasonable compromise.

273 There was further discussion about changing the language regarding the administration of the commission.

299 CHERIEL: It is unlikely when it comes to major medical equipment, that the office through the administration of the Certificate of Need (CN) program will be able to control any more MRI's in this state. The most that might be achieved is minimizing the number of new technology equipment coming in from the state. > CN is not effective because the high threshold provides opportunity for people to take advantage of the system.

321 SENATOR ROBERTS: Is there any analysis about what the cost of this would be?

324 CHAIR SHOEMAKER: No there isn't.

341 ELLEN PINNEY, OREGON HEALTH ACTION CAMPAIGN: Support the suggestion made about the composition of the HRC. Makes her own suggestions. > They support lowering the threshold.

358 KEVIN EARLS, ASSOCIATED OREGON INDUSTRIES: Suggested an extension of the current CN process. > Suggested that a balance on committee makeup be considered.

375 AMY KLARE, AFL,CIO: They support Senator Hamby's proposed amendment (lowering the threshold to \$750,000) and the extension of CN. They support the governors recommendation of adding another consumer representative.

385 ED PATTERSON, OREGON ASSOCIATION OF HOSPITALS: Responded to suggestions made that the commission was not balanced, > The commission's nature will be highly technical. > The providers won't be getting reimbursed for their time and efforts. > Pointed out inconsistencies in the proposed language regarding the CN process (EXHIBIT I, pg. 3, lines 12 and 20). > Concerned with the proposed language from Section 6, (EXHIBIT I, pg. 3, line 23). The proposed commission can gather that data and the data currently exists in the Department of Revenue.

TAPE 94, SIDE B.

028 PATTERSON: Continued with testimony. > Comments about the changes in definition of acquisition and new hospital. Questions whether this makes a difference for any of the hospitals in the state. > Commented on the percentages for exemptions.

049 COOMBS: Explained how the percentage exemptions would be made consistent on all the drafts.

058 CHAIR SHOEMAKER: Asked for clarification on (EXHIBIT J, pg. 8, lines 3 and 4).

070 JANA FUSSELL, OFFICE OF HEALTH POLICY: These changes were made to correct some errors that were made before.

084 CHAIR SHOEMAKER: These don't change anything.

087 COOMBS: They are the operative CN from which someone would want to be waived. They need to be included.

097 STEVE TELFER, LEGACY HEALTH SYSTEM: Submitted and explained proposed amendment (EXHIBIT K). > There are 3 or 4 systems that would be characterized as multi-hospitals. > They exist as a multi-hospital system to reconfigure their delivery system to be able to achieve greater cost effectiveness and to provide needed services. > These amendments enable the Office of Health Policy to recognize the value of reconfiguring services within any given multi-hospital system.

124 SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: Expressed their concern about whether or not a useful product will be developed. > Commented on the concerns expressed earlier that the committee may be unbalanced. > The intent of the proposed composition was to make sure there was expertise on the commission for analyzing the information and producing a good product. > It is reasonable to expect that costs will be

reimbursed for information to commission. > The commission should be able to make its own decisions about what the priorities are. > Opposed to having a change in the threshold on major medical equipment.

210 SENATOR ROBERTS: The needs to the commission don't involve a high degree of clinical expertise.

234 GALLANT: Explained why there should be expertise on the commission. If physicians don't have respect for the commission, it won't have that great of an impact on them. > Emphasized his concern about the number of physicians on the commission to be the most effective.

292 There was further discussion about the composition of the commission between Senator Roberts and Mr. Gallant.

309 SENATOR HAMBY: Other states have enacted strict regulations on physician referrals and physician owned treatment facilities, correct?

320 GALLANT: Agreed and added other comments.

345 SENATOR HAMBY: The issue is that a referral to a physician owned facility and the cost of that treatment in comparison to the same type of service offered by a non- physician.

352 GALLANT: The studies that he submitted in other hearing didn't address the issue of whether the referrals were appropriate or not. The commission could study this if it was determined that it is an important enough issue. He is not sure it is important enough now to study.

368 SENATOR HAMBY: The issue now is the great cost deferential.

372 GALLANT: Depends on what you study. It isn't very clear.

381 BRUCE BISHOP, KAISER PERMANENTE: They do not support 1077-8 (EXHIBIT J). The CN process is ineffective in controlling capital expenditures. > The threshold should not be changed.

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006 BISHOP: Continued with testimony: Explained how the threshold provisions didn't affect them. > Suggested that the support for the long standing public policy should continue. > The policy encourages hospitals to move away from a regulatory system like CN has into a prospective payment system where the hospitals themselves are at risk for their decisions. > Concerned about the language proposed on page 8, line 3 (EXHIBIT J). > Concerned about Section 19 (EXHIBIT J, pg. 10).

060 There was committee discussion about Mr. Bishop's last point. It was determined that this issue could not be addressed at this point.

098 BISHOP: Asked that Section 16 be deleted entirely.

116 MOTION: SENATOR ROBERTS moved to amend SB 1077-8, on page 1, Section 2, Subsection (2)(a) in line 13, delete "Three" and insert "Two". On page 1, Section 2(2)(f), line 20, delete "One" and insert "Two".

145 COOMBS: Explained the kinds of duties the commission would be performing

(EXHIBIT J, pg. 2, Section 4 [a] and (2) [a], lines 18 - 26) and thereby making recommendations about guidelines.

192 MOTION:SENATOR ROBERTS withdrew his earlier motion.

200 SENATOR ROBERTS: Since the emphasis is on clinical practices, having more clinicians would be valid reasoning.

210 The committee decided to leave the commission makeup the way it was because of the of the expertise that would be required of the commission.

MOTION:SENATOR HANNON moved to amend SB 1077-8, (EXHIBIT I), on page 4, Section 4, delete (3) (a) and (b), lines 7 - 13.

251 The committee discussed alternative methods to reaching conclusive results in this matter.

265 VOTE: Hearing no objection, Chair Shoemaker so moved.

279 MOTION:SENATOR COHEN moved to amend SB 1077-8, page 4, Section 4 (4), line 22, delete beginning with "If" to line 24, ending with "costs", insert "If the form adopted for the submission of reports requires any conversion of record keeping systems or compilation of data which is currently not compiled, the commission shall reimburse the reasonable costs of such conversion or compilation".

286 VOTE: Hearing no objection, Chair Shoemaker so moved.

291 MOTION:SENATOR COHEN moved to amend SB 1077 (Engrossed compromise amendment) (EXHIBIT I, pg. 3), delete Section 5 (4).

VOTE: Hearing no objection, Chair Shoemaker so moved.

310 MOTION:SENATOR COHEN moved to amend SB 1077-8, page 5, beginning with line 27 to page 6, ending with line 2, delete Section 6.

VOTE: Hearing no objection, Chair Shoemaker so moved.

333 There was no change made on the definition of new hospital (EXHIBIT I, pg. 4, line 44).

341 MOTION:SENATOR HAMBY moved to amend SB 1077 (Engrossed compromise amendment), page 7, Section 7, (22), delete "\$ 1 million" and insert "\$750,000".

378 There was committee discussion about reducing the threshold level.

398 VOTE: In a roll call vote, the motion failed with Senators Hamby and Roberts voting AYE and Senators Cohen and Shoemaker voting NAY. Senator Hannon was excused.

407 CHAIR SHOEMAKER: Discussion about Section 16 on whether there should be a change in the waiver limit (EXHIBIT J, pg. 8).

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011 MOTION:CHAIR SHOEMAKER moved to amend SB 1077-8, Section 16, (2) (a) (b), to stay with present statutory language regarding percentages.



014 VOTE:In a roll call vote, the motion carried with Senators Cohen, Roberts and Shoemaker voting AYE and Senator Hamby voting NAY. Senator Hannon was excused.

019 CHAIR SHOEMAKER: There is a dispute about whether a reference to ORS 442 .315 (EXHIBIT J, pg. 8, lines 3 and 4) is needed or not and cannot be resolved here. Suggested that this be left as it was to be dealt with on the house.

028 TELFER: The section being considered needs to be discussed. The theory behind the continuity of this waiver requirement has to do with the necessity to apply new institutional health services.

035 MOTION:CHAIR SHOEMAKER moved to amend SB 1077-8, Section 16, (1), page 8, line 3, delete "ORS 442.315" and (4) (b), page 9, line 17, delete "ORS 442.315".

037 VOTE:Hearing no objection, Chair Shoemaker so moved. Senator Hannon was excused.

039 MOTION:SENATOR ROBERTS moved to amend SB 1077-8, page 10, line 9, delete Section 19, insert "Emergency clause to take effect June 30, 1993".

042 VOTE: Hearing no objection, Chair Shoemaker so moved. Senator Hannon was excused.

044 MOTION:SENATOR SHOEMAKER moved to adopt the amendments presented by Legacy Health System (EXHIBIT K) to SB 1077-8.

VOTE: Hearing no objection, Chair Shoemaker so moved. Senator Hannon was excused.

052 MOTION:CHAIR SHOEMAKER moved SB 107 7-8, as amended, to the Ways and Means Committee, with a {"do pass" recommendation}.

065 VOTE:In a roll call vote, the motion carried with all members present voting AYE.

066 MOTION:SENATOR COHEN moved to reconsider the vote by which SB 1076 was adopted.

VOTE: Hearing no objection, Chair Shoemaker so moved.

#### RECONSIDERATION OF SB 1076

070 SENATOR COHEN: The addition of sex and age no longer applies to SB 107 6. The motion made earlier regarding the gender issue needs to be deleted.

MOTION:SENATOR COHEN moved to amend SB 1076, delete earlier motion to insert "Premiums cannot be adjusted by reason of the age and sex mix within an employer group".

075 VOTE:The motion carried with Senators Cohen, Hamby and Shoemaker voting AYE and Senator Roberts voting NAY.

078 CHAIR SHOEMAKER: The Health Services Commission has developed a

prioritized list of mental health services and has proposed and integration of that into the list. "Would it make sense to call for that, for those mental health services above the line that we fund as being within the plan to be developed for this program?"

093 SENATOR COHEN: They have to come into conformance in 1993 and the means by which to do it will be established.

111 MOTION:SENATOR COHEN moved to adopt SB 1076, as further amended, to the floor with a {"do pass" recommendation}.

114 VOTE:In a roll call vote, the motion carried with Senators Cohen, Hamby and Shoemaker voting AYE and Senator Roberts voting NAY. Senator Hannon was excused.

116 CHAIR SHOEMAKER: Adjourned the meeting at 7:31 p.m.

Submitted by: Reviewed by:

Guadalupe C. Ramirez Barbara Coombs AssistantAdministrator

EXHIBIT LOG:

A - Amendments to SB 1076-10 - Staff - 12 pp. B - Amendments to SB 1076-18 - Nelson - 4 pp. C- Amendments to SB 1076 - Pinney - 3 pp. D - Amendments to SB 1076-3 - Staff - 37 pp. E - Testimony to SB 1076 - Putman - 22 pp. F- Testimony to SB 1076 - Pinney - 8 pp. G - Testimony to SB 1076 - Powell - 2 pp. H - Amendments to SB 1077 - Cheriel - 9 pp. I - Amendments to SB 1077 - Staff - 21 pp. J - Amendments to SB 1077 - Staff - 10 pp. K - Amendments to SB 1077 - Telfer - 1 p. L - Testimony to SB 1076 - Haas - 1 p.