

SENATE COMMITTEE ON HUMAN RESOURCES

Monday February 18, 1991 Hearing Room A 3:15 p.m. Tapes 26
- 27 MEMBERS PRESENT: Sen. Bill McCoy, Chair Sen. Cliff Trow,
Vice-Chair Sen. Shirley Gold Sen. Bill Kennemer Sen. Paul Phillips STAFF
PRESENT: Janice J. Fiegenger, Committee Administrator Mike Meriwether,
Research Assistant Michael Sims, Committee Assistant Andra Woodrum, Page
MEASURES CONSIDERED: SB 501- Relating to the Indian Services
Commission, PH/VVS SB 476 - Relating to Hispanic and Black Affairs
commissions, PH/WS SB 139 - Relating to Health-practitioner licensees,
PHIVVS SB 47 - Relating to nonpatient-services fees, WS SB 48 - Relating
to records confidentiality, WS SB 92 - Relating to sheltered workshops,
WS SB 207 - Relating to psychologist education and licensing, WS

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marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 26, SIDE A

006 CHAIR McCOY: Calls the meeting to order at 3:15 p.m.

(Tape 26, Side A) PUBLIC HEARING ON SENATE BILL 501 WITNESSES: Jim
Metcalf, Chair, Coquille Indian Tribe Douglas Hutchinson, Executive
Officer, Commission on Indian Services Sue Greer, representing chief
sponsor Sen. Bill Bradbury, District 24 009 JANICE J. FIEGENER,
COMMITTEE ADMINISTRATOR: SB 501 increases membership on the Commission
on Indian Services by one, to include a representative from the Coquille
Tribe. The bill has minimal fiscal impact and no subsequent referral to
another legislative committee. 015 JIM METCALF, CHAIR, COQUILLE
INDIAN TRIBE (EXHIBIT A): Speaks in support of SB 501 and details
Exhibit A. 025 DOUGLAS HUTCHINSON, EXECUTIVE OFFICER, COMMISSION ON
INDIAN SERVICES (EXHIBIT B): The Commission currently has 12 members - 1
from each house of the Legislature and 10 Indians, representing urban
and reservation Indian people of the state. At our most recent quarterly
meeting (February 8), the 9 members present unanimously approved support
of SB 501. The Coquille Tribe has asked that the Human Resources
Committee consider an amendment to the bill to add an emergency clause,
so a tribal representative can be seated on the Indian Services
Commission as soon as possible. 043 FIEGENER: What would happen if we
don't include an emergency-clause amendment?

044 HUTCHINSON: A Coquille representative probably wouldn't be seated
on the Commission until 90 days after the legislative session ends.
They've been waiting a year; they're anxious to be seated.

048 CHAIR McCOY: We'll get that amendment drawn up. 051 SUE GREER,
REPRESENTING CHIEF SPONSOR SEN. BILL BRADBURY, DISTRICT 24: Senator
Bradbury is sorry he can't be here today, but encourages the Committee
to approve the proposed amendment and the final bill. 056 CHAIR
McCOY: Closes the public hearing on SB 501.

(Tape 26, Side A) WORK SESSION. SENATE BILL 501 062 SEN. KENNEMER:
Would adding an emergency clause lessen the chance of passage by the
full Senate? A Coquille member certainly could sit on the Commission in
the meantime, in an unofficial capacity. I don't wish to foul the bill
up with an emergency clause, particularly since the Senator from
Troutdale has been known to take considerable exception to these things.

067 CHAIR McCOY: Yes. However, because of the immediate seating and not waiting until the end of the legislative session, I think it might be in order to do this one.

069 MOTION: SEN. KENNEMER moves that an emergency clause be added to SB 501.

VOTE: In a roll-call vote, the motion is unanimously approved. Senate Committee on Human Resources February 18, 1991- Page 3

077 MOTION: SEN. KENNEMER moves SB 501 to the floor with a "do pass as amended" recommendation. VOTE: In a roll-call vote, the motion is unanimously approved.

(Tape 26, Side A) PUBLIC HEARING. SENATE BILL 476 WITNESSES: Sen. Glenn Otto, District 13, chief sponsor; Member, Commission for Women Laurie Wimmer, Executive Director, Commission for Women Eunice Goetz, Executive Director, Commission on Hispanic Affairs Mike Clark, Member, Commission on Black Affairs

086 FIEGENER: SB 476 requires that members of the commissions for Women and on Hispanic and Black affairs are entitled to receive compensation for travel to meetings, and other expenses. The bill has a fiscal impact and subsequent referral to the Ways and Means Committee.

097 SEN. GLENN OTTO, DISTRICT 11, CHIEF SPONSOR, SB 476; MEMBER, COMMISSION FOR WOMEN: Over the years I've observed this very worthwhile Commission, one thing disturbs me: these people do not get per diem or travel expenses. I know, personally, that some commission members can't afford travel and as a result have not attended meetings, because they couldn't afford it. I just think it's grossly unfair that we have a Governor's commission whose members don't receive expenses. All 13 of these commissions should be treated equally, just like other commissions are in the state. 123 SEN. KENNEMER: Why aren't these commissions set up for compensation of travel or per diem expenses? 125 SEN. OTTO: I don't know. I do know that we are subjecting the state of Oregon to a lawsuit on the grounds of discrimination, because some commissions are paid for per diem and other expenses and others aren't. And I think a person who is so inclined could bring a pretty good lawsuit against the state. I know we had one of the Women's Commission members resign because of an inability to pay travel expenses. Those are the people you want. You don't want people to resign because of economic conditions - we need those people to present their views. 141 SEN. TROW: I agree with Senator Otto and think it makes sense to do this. I think probably the reason they haven't been paid is that, penny-wise and pound-foolish, we've tried to set these up on a shoestring originally and they've been tied to the shoestring ever since. They get a small percentage increase, based on what they had the previous biennium, and it's not any major increase to pay for this. Senate Committee on Human Resources February 18, 1991- Page 4

Also, I think that in order to fund some of these commissions, we've suggested that if they want programs, in addition to volunteering their time they've got to volunteer time for fundraising to pay for the programs. We ask a lot of these folks; we need to be more helpful.

157 SEN. PHILLIPS: As a former member of the Commission on Black Affairs, I agree with Senator Trow's remarks, particularly about the duties and commitment required of members of all these commissions.

170 SEN. OTTO: I again urge you to approve SB 476. 182 LAURIE

WIMMER, EXECUTIVE DIRECTOR, COMMISSION FOR WOMEN (EXHIBITS C, C-1):
Speaks in support of SB 476 and details Exhibit C. 190 EUNICE GOETZ,
EXECUTIVE DIRECTOR, COMMISSION ON HISPANIC AFFAIRS (EXHIBITS D, D-1): I
agree with what has already been said regarding SB 476 . We have several
commissioners who have come from the migrant-worker community and it's a
real sacrifice for them to come to the meetings, but the caring is there
and so they have been coming. I might add that we don't have any members
from Klamath Falls or from the far eastern part of the state - for
example, the Ontario-Nyssa area is about 60% Hispanic and we have had
someone from there in the past. The reason we don't have anyone from
those areas is that we don't have money to pay them, and that's just too
far to come to expect people to donate that. 205SEN. TROW: There's
been talk in Ways and Means - I'm not on the subcommittee dealing with
it - that they want to relocate these commissions into the same place
and provide a clerical pool to help you. Is that something that would
work for you? 210 GOETZ: We've tried to do this in the past, on our
own. In the past, without any money for clerical help - there's not much
you can maximize in the way of coming together. But if there is a
possibility of sharing a clerical person to answer phones and such, that
would be wonderful. 216 SEN. TROW: Relocation? 217 GOETZ: Our
present location is not handicapped-accessible. We wouldn't have a
problem moving. 224 MIKE CLARK, MEMBER, COMMISSION ON BLACK AFFAIRS
(EXHIBITS E, E-1): This Commission consists of 9 citizens appointed by
the Governor. Since its inception by the Legislature in 1983, the
Commission has worked within very limited budgets to carry out its
statutory mandate to improve the social, economic and political status
of the black population of Oregon. The Commission supports SB 476
because it would be a statement of legislative recognition of the
importance and legitimacy of the Commission's work. As citizen members,
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we willingly volunteer our time and talents to the good of our people
and, in turn, the state. What we have most often found is that we must
donate our money to the cause, as well, as the budget does not allow
reimbursement for mileage and other expenses which are paid on other
commissions and boards. We are acutely aware of the difficult tasks this
Legislature faces, as we all strive to cope with the new realities
brought about by Ballot Measure 5. We've heard from some in this
assembly who would cut back the Commission's current funding level and
level of function. Of course, we ask that not be the case. In fact, we
realize that passage of SB 476 would not ensure that we would be paid
per diem. However, we know it would deliver a timely message to
Oregonians and our Commission, that the Legislature does recognize the
legitimacy of the Commission and values its commitment to Oregonians.
The only risk associated with SB 476 is that not passing the measure
would send a negative message about the importance of black, Hispanic
and female Oregonians would go out to all Oregonians. We urge passage of
SB 476 by this Committee, the full Senate and the House of
Representatives.

On the question of co-location, we share the concern raised by the
Commission on Hispanic Affairs regarding handicapped accessibility to
the structure where the Hispanic and women's commissions are now
located. There has been considerable discussion in the House regarding
consolidating the commissions into one, effectively making us function a
bit more effectively. I have to say we function very effectively with

limited resources. We are not opposed to the idea of co-location. We currently are located over on Ferry Street. If we were to be relocated, we'd prefer it be someplace on the Capitol Mall, in some kind of handicapped-accessible facility. I think this Legislature will be dealing with those kinds of changes which are coming about as a result of the Americans with Disabilities Act.

An additional concern related to co-location and consolidation is the undermining of the task of each individual commission. We each have a separate clientele with separate needs that must be addressed. I looked at the proposal for our Commission - and I believe this would apply to Hispanic Affairs as well - from the Ways and Means General Government subcommittee, and what actually came out of the Legislative Fiscal Office (LFO). That proposal would have us cut back from our one position - executive director - to .89 full-time equivalent (FTE) staff. The Commission for Women currently is less than 1 FTE for executive director. I think this kind of shoestring budgeting is something not new to us, and we certainly are in the Measure 5 mindframe, but we would just as soon not take that additional cut. The Governor had proposed a budget we felt we could live within, and we hope that is what ultimately survives. 317 CHAIR McCOY: Closes public hearing on SB 476.

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(Tape 26, Side A) WORK SESSION. SENATE BILL 476

319 MOTION: SEN. TROW moves SB 476 to the Ways and Means Committee with a "do pass" recommendation. VOTE: In a roll-call vote, the motion passes unanimously.

(Tape 26, Side A) PUBLIC HEARING, SENATE BILL 139 WITNESSES: John Ulwelling, Executive Director, Board of Medical Examiners Maralyn Turner, Member, Board of Medical Examiners Walt Barrie, Economic Affairs Division, Department of Justice Scott Gallant, Oregon Medical Association Bob Mollenhoff, M.D., United States Indian Health Service
340 FIEGENER: SB 139 was introduced at the request of the Board of Medical Examiners. It makes several changes in statute regarding regulation of medical practice in Oregon I know the Board's executive director is prepared to go through those changes section by section. We are expecting amendments today, which if approved by this Committee would most likely change the bill's prescribed subsequent referral to the Senate Judiciary Committee. From my conversations with the Judiciary Committee administrator, I understand we would then have a bill that would go directly to the Senate floor. Those amendments deal with confidentiality.

355 JOHN ULWELLING, EXECUTIVE DIRECTOR, BOARD OF MEDICAL EXAMINERS: To comment on the previous bill, often members of citizen boards and commissions will put in 3035 full-time days a year for that board or commission. Maralyn Turner of the Board of Medical Examiners serves on the Board's investigating committee and makes an enormous commitment of time. We appreciate that commitment. 374 SEN. TROW: She receives per

diem? 375 ULWELLING: Yes, and expenses. I was surprised that there were commissions and boards whose members didn't receive that. I just assumed they all did.

380 MARLYN TURNER, MEMBER, BOARD OF MEDICAL EXAMINERS (EXHIBIT F):
Speaks in support of SB 139, proposes amendments on behalf of the Board of Medical Examiners and details Exhibit F.

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TAPE 27, SIDE A

063 CHAIR McCOY: You're going to remove the language in subsection 3 - the language saying that you provide confidential information to other health-related agencies who might need that information? 067 TURNER: We want to be able to do that. It was a real concern to the Board, that we be able to notify other states. But if we go back to the language on page 2, subsections 3-4 - if we're able to investigate someone, even if they've surrendered their license and gone to another state, that provides us the ability to notify the other state. We're not without that ability. It might take a little longer and be more work for the Board, but we would still be able to provide that information to other states. Deleting the language on that last page will not affect that. 078

SEN. TROW: That provision is clearly discretionary with your board, as to whether you provide confidential information to other health-related or law-enforcement agencies in the state or other states, or the Federal government. I don't know why you'd want to delete that.

083 ULWELLING: One reason is that it's taken us a long time - from 1975 until now - to convince physicians in particular and the public in general that confidentiality is with the Board of Medical Examiners. When we open this up immediately, we've begun to get feedback, asking if we are potentially going to open up this confidentiality which saw a doubling in the number of complaints we got, beginning in 1975 - even though it's discretionary. Because patients generally want to file complaints when they know it's confidential, and it's certainly true of physicians. Feedback from the various groups and individuals was to ask us not to open that up because if you start getting into this, the Board is going to be under tremendous pressure to make policy decisions - if you gave it to A, why not to B, C, D, F and G? Based on that kind of feedback, we thought maybe it's best not to tinker with this section - particularly since the surrender of the license is going to help us so much. I want to clarify that we're not talking about formal disciplinary action by the Board of Medical Examiners. That presently is public information and is available to everybody. We're talking about that information leading up to that formal action. So the Board was doubly concerned, based on the perception of the way this was being perceived and also concerned that it would get us into a public-policy issue. 104

SEN. TROW: Perceived by whom? 105 ULWELLING: Virtually everybody we talked to, whether they were on legislative committee staff, the Oregon Medical Association or other entities - when they saw this language, they were very concerned that we were opening up our confidentiality, even though it has the discretionary provision you indicated.

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109 SEN. TROW: It's clearly discretionary.

-ULWELLING: Yes. 109 SEN. TROW: Aren't there times when this information would be essential to health-related or law enforcement agencies? 112 ULWELLING: In reflecting on that, we thought that it would not be helpful to most of the entities. I could not think of any case in the area of criminal action where they used our information, or could have used it, potentially to take criminal action against a physician. That happens very seldom in this state, anyway. I personally could not think of any case in the last 13 years where that case was dependent upon our information. In terms of insurance companies, hospitals, etc., they normally go off our final disciplinary action anyway. I don't know if it gives them that much more. 120 SEN. TROW: Do you sometimes have cases where the doctor has been sexually abusive to patients?

122 ULWELLING: Yes. 123 SEN. TROW: Isn't that a violation of the law?

-ULWELLING: Yes, and if there was action taken, that would be reportable. Any final Board action is reportable to anyone who wants the information. We're not talking about that. What we're talking about is a complaint being filed against a doctor, and nothing comes of it, people can access that information. We felt the tradeoff was not worth it, because we want people to continue to file complaints with the Board. It's the essence of what makes the whole disciplinary section go. 131 SEN. TROW: Section 7 of the bill - is that only complaints we're talking about here? It says any information provided to the Board of Medical Examiners or the state of Oregon is confidential and not subject to public disclosure, or shall be admissible as evidence in a judicial proceeding. What information are we talking about here? 136 WALT BARRIE, ECONOMIC AFFAIRS DIVISION, DEPARTMENT OF JUSTICE: This would be any information the Board gets from a complaint - a routine pharmacy-check, a confidential or unknown informant - anything like that which would initiate an investigation would be subject to the provision in Section 7. It's not that we don't want to give information to other states and other bodies, but that it would have a chilling effect on people who report to the Board and wish to be unidentified. They're afraid that if it gets to the Board under this provision, even if it's discretionary, it may be reported out. If we take this provision out, then we feel we'll get more people reporting to the Board, and we can better investigate doctors.

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153 SEN. TROW: I guess what I'm seeing is that it may provide the Board the discretion, if it uses its discretion in a very intense way and doesn't really let much information out at all except when it's absolutely essential. 158 ULWELLING: The problem is not so much with the Board exercising discretion but what does that doctor or patient or

other person out there, who wants to report, going to think it's the contingency that the particular complaint they're going to file might be disclosed, that we feel would have the chilling effect. 163 TURNER: When we were looking at the revisions on the Board, I really went back to what our intent was. When we changed the language, the intent was to be able to respond to other states who wanted information to help them in their proceedings with the doctors. The language was changed to meet that need. But what we realized, through feedback we were getting, was that the language we had included to meet that need opened up some other issues that could be detrimental to the work of the Board. So what we felt we needed to do was take that language out, since the provision for dealing with other state boards was still included in language in the bill - it still allows us to do that. The original intent of this was to do what we talked about earlier, to help us work better with other boards.

176 SEN. TROW: I guess what I don't want to see happen here is that, somehow or other, with your own investigatory policy and ability to discipline and investigate, that you don't allow somebody who is really abusing the public and violating the law to continue to do that while you investigate or discipline. Because there are some things that happen that are clearly violations of the law.

184 TURNER: And we have the provision and the ability to immediately suspend if we feel that someone is a danger to the public. And we have done that.

186 SEN. TROW: So there's no way that's likely to happen?

187 TURNER: No, we take that kind of action. We don't want that to happen, either. -SEN. TROW: True. 189 SEN. GOLD: In terms of someone who is actually violating the law, wouldn't a complainant have the private right of action, in terms of whatever law that would be, as separate from whatever you folks would do? 195 ULWELLING: Yes, the complainant would have the separate right of action. But the complainant might not want to proceed; that's up to him/her. 199 SEN. GOLD: Give me an example. - These minutes contain material 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 Human Resources February 18, 1991- Page 10

200 ULWELLING: The Board may be investigating an incident of sexual abuse, and the alleged victim may not want to go public by filing a complaint, in court for instance, for a malpractice case, because of humiliation or embarrassment or whatever. They have the right to do it, but may not do it. We've seen that happen - the Board has acted but the victim hasn't.

211 SEN. KENNEMER: Another part of this is that the bill takes it substantially further in that right now, if I understand what you're saying, your hands are tied if someone voluntarily surrenders their license. This provides access to continuing that follow-up, to make sure they are regulated. Right now, they simply leave Oregon and that record doesn't follow them.

219 TURNER: By being able to continue, then we can continue taking action which then is reportable to other states. So it takes care of those issues.

222 ULWELLING: We think we've struck a very good balance between having confidentiality that allows those complaints to come in, yet at the same time is reportable to anybody who wants it in the state once that action is taken. And we're really hesitant, except in the surrender of license, to tinker with that, because we were able to release it to hundreds of people - literally thousands - a year. At the same time, we didn't want to jeopardize the confidentiality that leads up to that.

243 BOB MOELLENHOFF, M.D., UNITED STATES INDIAN HEALTH SERVICE: Approval of the language on page 1, section 2, subsection 3A, would mean I would find myself without an active license. I work out of the Portland Area office of the Indian Health Service, and am currently employed in the state of Washington part-time, on the Colville and Spokane reservations. In my Federal service, I use my Oregon license - it's the only one I have now. I haven't worked in the state of Oregon although I'm supervised from the Portland Federal office - through the language in this bill I'd become inactive, though I don't want to be. I tend to work about 20 weeks during the calendar year, and all of last year I was in Idaho and Washington working with my Oregon license. I'd say that this law does not adequately cover any physician in the Federal service working outside Oregon. In the Federal service, one only needs a license from one state to practice, and it need not be the state in which the Federal facility is located. 282 SEN. KENNEMER: This section isn't new language, is it? -FIEGENER: No. 284 ULWELLING: To work on any Federal reservation, military base, etc., you do not need an Oregon license. Federal law now is requiring that physicians when they practice have at least one state in which they are licensed. Whether a physician has an active or inactive license has not been the bottom-line criteria the Feds have used. Sometimes it's led to confusion, but we

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have written letters saying that doctors have Oregon licenses that are inactive because the physician has left the state. But they still use that to allow that physician to function in, let's say, an Indian reservation in Washington. The reason we want them to go inactive, though, is if a physician - including a Federal physician - goes and practices in 15 jurisdictions, when they come back to Oregon we want them to file an affidavit to know what happened during that time period. This is similar to what we've done with all physicians, but in no way does this preclude a Federally-employed physician (if he or she is licensed in Oregon) going inactive, to not work with the Feds in another jurisdiction.

308 SEN. TROW: What is the doctor supposed to say in the affidavit?

310 ULWELLING: The affidavit is a form that asks what the doctor has been doing during the time since you left the state - plus all the questions that were asked on the initial application file, about arrests, whether a hospital ever had taken disciplinary action, chemical- or substance abuse problems, etc. The affidavit is a way for us to do a doublecheck on a physician who has been out of state for a long time. There are medical boards who do it and we think it's been very helpful. The classic example: A Missouri hospital proceeds against a physician and as they get ready to proceed, she leaves the state. The medical board never picks it up because this physician is now gone, and

the physician shows up in Oregon. We doublecheck all hospitals in which the physician has practiced and say that the physician has to work out the Missouri situation before s/he can practice medicine in Oregon. The affidavit is crucial in our system and doesn't jeopardize the Federal physician in any way. 335 SEN. TROW: Is this language sufficient to describe your affidavit? It sounds like more than someone else reading this might think it is. I could prepare an affidavit and sign it and say, accept this - I worked in 3 states and 4 hospitals, and that would be my affidavit.

343 ULWELLING: There are administrative rules that go with this as well. They use our form. 348 SEN. KENNEMER: In Doctor Moellenhoffs case, he says he works under supervision out of the Green-Wyatt building in Portland. Is he working out of state, or for purposes of this Act, is he considered an active Oregon physician? 355 ULWELLING: Without knowing all the details, he may be an active Oregon physician. Anybody who is moving back and forth, or having a relationship with anybody in Oregon, we give active licenses to avoid exactly what he is bringing up. Are you now active or inactive, Doctor Moellenhoff?

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360 MOELLENHOFF: I'm semi-retired; I worked 15 weeks during 1990 and I plan to work 8 weeks in May during 1991. I'm scheduled to work among the Spokane and Colville tribes an average of 2 weeks a month for the first 5 months, and I'll probably work 20 weeks this month. I do not practice medicine in Oregon; I live, vote and pay taxes in Oregon. But for 20 weeks of the year, I'll be working in Washington. There are more Indian health facilities there than in Oregon. 382 ULWELLING: I would assure the committee that the language you see before you either has been in our administrative rules, is located in 2 other places in the Practice Act, and the language itself which was inadvertently taken out last session we trace back to at least 1953. We're not changing a thing regarding this position's status. 395 SEN. McCOY: Does that satisfy you, Doctor Moellenhoff? 396 MOELLENHOFF: I was thinking of myself as a model for Oregon-licensed physicians working far away under Federal supervision. 404SCOTT GALLANT, OREGON MEDICAL ASSOCIATION: The OMA has been in discussions with the Board of Medical Examiners, especially with regard to the section that has been discussed the most. We are very supportive in being able to follow physicians who have surrendered licenses and been under investigation. We believe it's very important for the Board to be able to notify other boards to that effect. These amendments allow that to occur and, as Mr. Ulwelling said, encourage people to report cases and/or complaints for investigation. We think this bill is very workable and we hope you'll accept the amendments and move the bill out with a do pass recommendation.

TAPE 26, SIDE B 003 SEN. PHILLIPS: Unlike a lot of boards, this is easier than one might anticipate, given the emotion and some of the complexities around this. From my perspective, it's a pretty positive relationship. How about from the industry side?

008 GALLANT: Through the years, we've always tried to work with the Board and address issues, quite often prior to other states' actions I think, to give the authority to the Board to be progressive. For

example, this Committee last session considered legislation regarding impaired physicians, creating a very unique circumstance to address their needs early, so patients, physicians and citizens would be protected where we have those very unfortunate circumstances. As the members of the Ways and Means Committee have heard from Mr. Ulwelling, that program is going very well. We think it's a positive step and want to encourage the Board anywhere we can to be aggressive where appropriate. Obviously, due process is appropriate as well. We want to make sure that you have an even balance in the process.

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024 SEN. TROW: Are the amendments you're supporting in the marked-up bill here? 025 GALLANT: Yes.

026 SEN. TROW: Have those amendments been formally proposed or are they just marked up, proposed here?

028 CHAIR McCOY, FIEGENER: Yes, just mark-ups. 031 CHAIR McCOY: Closes public hearing on SB 139.

(Tape 26, Side B) WORK SESSION. SENATE BILL 139 034 MOTION: SEN. TROW moves to adopt the amendments presented by the State Board of Medical Examiners to SB 139 (Exhibit F-1), subject to review by legislative counsel.

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

041 FIEGENER: This bill has a subsequent referral to the Judiciary Committee, so we'll need to clarify it. I was told that if we deleted the confidentiality portion, that it most likely would not mean a referral to Judiciary. But we still have the license-surrender issue. I'd have to doublecheck that. 045 SEN. TROW: So we shouldn't take action on the bill until we find whether it needs to go to Judiciary?

046 FIEGENER: Definitely.

-CHAIR McCOY: Okay.

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(Tape 26, Side B) WORK SESSION. SENATE BILL 47 051 FIEGENER: We held a hearing on the bill February 4. This has gone through Legislative Counsel, we've met with the Mental Health Division and community-health representatives. The bill allows the Mental Health and Drug and Alcohol divisions to charge fees, and to certify private providers to receive third-party payments. At the last hearing, we discussed 3 possible amendments. Legislative Counsel has advised us we only need one at this point. We've reached an agreement with the Division and the community providers on the third. -Details amendments to SB 47 (Exhibit G).

081 DAN BARKER, MENTAL HEALTH DIVISION: We've discussed this with your committee administrator and we're pleased with the single amendment on line 14 as the only remaining piece of business that needs to be done on this. The other items were acceptable. 087 MOTION: SEN. TROW moves to adopt the dash one LC amendments dated 2/9/91 (Exhibit G) to SB 47. VOTE: In a roll-call vote, the motion carries with all members voting AYE. 101 MOTION: SEN. TROW moves SB 47 to the Ways and Means Committee with a "do pass" recommendation.

VOTE: In a roll-call vote, the motion carries with all members voting AYE. (Tape 26, Side B) WORK SESSION. SENATE BILL 48 108 FIEGENER: We also discussed this bill in the February 4 public hearing. It expands the current confidentiality statute to include consumers of services from private non-profit providers. It includes subcontractors and community mental-health programs. Current statute applies just to the Mental Health and Developmental Disabilities Services Division, and to county providers.

-Details proposed amendments to SB 48 (Exhibit H).

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120 MOTION: SEN. KENNEMER moves to adopt the dash one LC amendments dated 2/8/91 (Exhibit H) to SB 48. VOTE: Hearing no objection, Chair McCoy so moves. 124 MOTION: SEN. KENNEMER moves SB 48 to the Judiciary Committee with a "do pass" recommendation. VOTE: In a roll-call vote, the motion carries with all members voting AYE.

(Tape 26, Side B) WORK SESSION. SENATE BILL 92 132 FIEGENER: This bill goes directly to the Senate floor. It was discussed in the February 4 public hearing, as were the proposed amendments, at the request of the Vocational Rehabilitation Division. The original bill repealed a section of statute that the Vocational Rehabilitation Division decided it didn't want to be repealed. That's what most of the amendments are. -Details proposed amendments (Exhibit I). 148 LYNNAE RUTTLEDGE, VOCATIONAL REHABILITATION DIVISION: SB 92 essentially was technical in nature, in terms of updating language from sheltered workshops - which we'd hope is a term of the past - to rehabilitation facilities, which is current terminology within the rehabilitation field. We worked with the Oregon Disabilities Commission, the Client Assistance Program and the Oregon Rehabilitation Association (the provider organization with the most interest in this language). 159 SEN. KENNEMER: There has been an additional amendment proposed on page 4, defining rehabilitation

facility. Perhaps you could explain the basic substance of this. Also, it is my understanding that there was agreement with a number of parties. I'd like to know who they are, and whether there was any disagreement. 164 RUTTLEDGE: We brought forward the amendment of which you're speaking. It was to update the definition of rehabilitation facility to include language reflecting community integration, which is now the goal of rehabilitation facilities - to ensure people no longer just work in sheltered workshops or warehouses but are out into the community. We did get agreement from the Oregon Disabilities Commission and the Client Assistance Program, as well as the Oregon Rehabilitation Association. They worked together with us on that language.

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173 SEN. KENNEMER: And there's unanimity there?

-RUTTLEDGE: Absolutely.

175 SEN. TROW: Do other states with similar kinds of programs call them this, and have the same kind of definition of rehabilitation facility?

178 RUTTLEDGE: I understand this is the language rehabilitation facilities are using. There may be some states still using the old language. 181 SEN. TROW: This definition would describe what other states are doing?

182 RUTTLEDGE: Yes, it does. This is the evolution of rehabilitation - to work with supportive employment providing community integration rather than in shelters. It's also intended to work with independent-living services. 191 MOTION: SEN. TROW moves to adopt the dash two and three amendments dated 2/1/91 and 2/18/91 (Exhibit I) to SB 92. VOTE: Hearing no objection, Chair McCoy so moves. 200 MOTION: SEN. TROW moves SB 92 to the floor with a "do pass" recommendation. VOTE: In a roll-call vote, the motion carries with all members voting AYE.

(Tape 26, Side B) WORK SESSION. SENATE BILL 207

210 FIEGENER: We heard this bill February 11; it's the third in the trio of psychologist-licensing bills. It goes directly to the Senate floor. 218 BONNIE WILSON, ADMINISTRATOR, BOARD OF PSYCHOLOGIST EXAMINERS: I reviewed the proposed amendments with staff, and the Board reviewed them during a conference-call Friday, February 15. The Board is very agreeable to the amendments. 224 FIEGENER: On page 1, line 10, we deleted the language reading comparable program as determined by the Board. We were trying to get the Board away from having to determine comparability, and leaving that in was somewhat conflicting. We've just echoed the language from sections 1 and 3 and said an accredited college or university as defined in ORS 75.010.

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234 SEN. KENNEMER: I don't think it's going to be exclusionary. It simply takes the Board out of an awkward decision-making situation.

237 WILSON: That is correct.

238 MOTION: SEN. PHILLIPS moves to adopt the dash one amendments dated 2/18/91 (Exhibit J) to SB 207. VOTE: Hearing no objection, Chair McCoy so moves. 245 MOTION: SEN. PHILLIPS moves SB 207 to the floor with a "do pass" recommendation. VOTE: In a roll-call vote, the motion carries - with all members voting AYE. 252 SEN. GOLD: Requests unanimous consent to record aye votes on Senate bills 501 and 476.

266 CHAIR McCOY: Hearing no objection, he so moves.

(Tape 26, Side B) INTRODUCTION OF COMMITTEE BILLS

280 FIEGENER: The bill is requested by the Long-Term Care Financing Task Force, staffed by the Senior Services Division. It establishes a program which enables eligible elderly homeowners to mortgage their homes and use the proceeds to pay for long-term, in-home care services. This would not cover nursing-home services. It establishes a trust fund which advances money and provides a line-of-credit mortgage. There is no second mortgage; it's a reverse-annuity mortgage.

There are some qualifications as to the elderly who are eligible to participate: they need to require assistance for at least 2 activities of daily living. Senior Services would take part in the assessment. There also are some asset limitations - they could have no more than \$15,000 worth of assets excluding their homes, the contents of their homes, and one automobile. They must be unable to finance in-home care from their monthly income or assets. It works this way: when the home is sold or ownership transferred, or the person dies or ceases to use his/her home as a primary residence, the state is entitled to recover the amount of money paid out for the long-term care, plus 6%. This bill does have a fiscal impact.

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313 PAM RUONA, STAFF MEMBER, LONG-TERM CARE FINANCING TASK FORCE: The Task Force is looking at various ways to deal with the issue of financing for long-term care and, in particular, try to keep people in the home. This was one bill the Task Force felt would be a means for financing long-term care. The reason there was no specific amount put for the trust fund was the current budget situation with Measure 5, and financing difficulties. The Task Force felt it would be best to let the legislators define the amount in the trust fund. At the least, we're interested in getting the bill passed, with or without an amount, so it could be set up at some point when there were funds available to start

such a program. 341 SEN. McCOY: This is the same thing we had in 1989, with funds for children who might be handicapped and left in the home. 348 SEN. KENNEMER: This would be limited to seniors who own their homes free and clear, because it's listed as a first mortgage? 351 RUONA: Yes. It's limited to individuals 70 years or older, who need assistance in 2 areas of daily living. 358 SEN. TROW: Let's imagine a scenario - suppose we have an individual 70 years or older who needs help to stay in the home and is agreeable to doing this. What happens if, in 2 years, the person is no longer able to cope in his/her own home and needs to go to a nursing home - then what happens? 367 RUONA: According to this particular bill, the individual can stay outside the particular home for up to 6 months. At that point, the house would have to be sold or the money returned to the fund - there'd need to be some payback to the fund. 375 SEN. TROW: So if the person did that, and went to the nursing home and had to stay there, then the house would have to be sold and the money paid back. 383 RUONA: I'm not certain, but I would guess that would be the case. If they couldn't come back into the home - if they'd left it for more than 6 months for whatever reason - then the monies have to be paid back to the fund. 395 SEN. TROW: I'd not like this to ever be used by the state to force some person into doing what s/he didn't want to do. I presume that wouldn't happen. 399 RUONA: There is a provision in here that states the person has to be told about his/her rights in the Medicaid program, Oregon Project Independence, and other things available to them. This is just one of the means they can use for financing long-term care in their homes.

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405 SEN. TROW: Mortgaging the home has a psychological effect on people. I think it would make them even more anxious. Maybe I'm wrong; I'm just remembering my parents and how they valued owning their home - it was a security blanket. To stay in it, and mortgage it in order to stay, I don't think would have made it better for them psychologically. 420 SEN. KENNEMER: I'm trying to find some ways to deal with the spend-down issue. It is complicated; I see factors on both sides. In a committee bill, we don't have to argue the policy. MOTION: SEN. KENNEMER moves that LC 3232 (Exhibit K) be introduced by this committee at the request of the Long Term Care Financing Task Force. VOTE: Hearing no objection, Chair McCoy so moves. 439 SEN. GOLD: Seeks unanimous consent to be recorded as voting aye on the amendments to SB 139. 448 CHAIR McCOY: Hearing no objection, so orders. 476 CHAIR McCOY: Adjourns meeting at 4:41 p.m.

Submitted by: Reviewed by: Michael Sims Janice J. Fiegener
Assistant Committee Administrator

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EXHIBIT LOG:

A - Testimony on SB 501 - Jim Metcalf - 1 page B - Testimony on SB 501 - Douglas Hutchinson - 1 page C - Testimony on SB 476 - Laurie Wimmer - 1 page C-1 - Testimony on SB 476 - Laurie Wimmer - 9 pages D - Testimony on SB 476 - Eunice Goetz - 16 pages D-1 - Testimony on SB 476 - Eunice Goetz - 6 pages E - Testimony on SB 476 - Mike Clark - 3 pages E-1 - Testimony on SB 476 - Mike Clark - 12 pages F - Testimony on SB 139 - Maralyn Turner - 9 pages G - Amendments to SB 47 - Committee staff- 1 page H - Amendments to SB 48 - Committee staff - 1 page I - Amendments to SB 92 - Committee staff - 2 pages J - Amendments to SB 207 - Committee staff - 1 page K - LC 3232 (Draft Committee bill) - Committee staff - 7 pages

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