

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.

Measures Heard HB 2258, PH & WS SB 1188, PH HB 2376, WS HB 2377, WS HB 2743, PH SB 521, WS HB 2445, PH & WS SB 957, WS

SENATE COMMITTEE ON JUDICIARY

May 22, 1991Hearing Room C 12:30 p.m.Tapes 178 - 180

MEMBERS PRESENT:Sen. Joyce Cohen, Chair Sen. Jim Hill, Vice-Chair
Sen. Peter Brockman Sen. Jim Bunn Sen. Jeannette Hamby Sen. Bob
Shoemaker Sen. Dick Springer

STAFF PRESENT: Ingrid Swenson, Committee Counsel Bill Taylor,
Committee Counsel Kate Wrightson, Committee Assistant

WITNESSES: Elaine Hallmark, Dispute Resolution
Commission Alice Phelan, Dispute Resolution Commission Lois Kenagy,
Victim-Offender Reconciliation Program Sen. Peg Jolin James Prunty,
Office of the Attorney General Reese Kissler, Office of the Attorney
General Arn Floyd, United Telephone Jenny Lang, U.S. West Communications
Maurice Russell, Debtor\Creditor Section, Oregon State Bar Sen. John
Minnis Tom Williams, Portland City Attorney Bob Tobin, Portland Police
Bureau Vic Mann, Eugene Police Bureau Mark Kramer, Attorney Les Zeitz,
Oregon Newspaper Publishers Association Sen. Shirley Gold Sue Prophet,
Elections Division Paul Saucy, Attorney Karen Berkowitz, Oregon Legal
Services Jim Lockerd, Citizen Dennis Maloney, Children's Services
Division

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TAPE 178, SIDE A

002 CHAIR COHEN: Calls hearing to order at 12:54 p.m.

HB 2258, CLARIFIES THAT DISPUTE RESOLUTION COMMISSION MAY PROVIDE FUNDS FOR STATEWIDE PROGRAMS, PUBLIC HEARING AND WORK SESSION

020 ELAINE HALLMARK, DISPUTE RESOLUTION COMMISSION: Reviews history and intended purpose of bill. -Submits and summarizes written testimony and -2 amendments (Exhibits A & B).

163 CHAIR COHEN: We will want to know how much you have diverted to local programs.

175 HALLMARK: We are just beginning to track those statistics.

199 ALICE PHELAN, DISPUTE RESOLUTION COMMISSION: Reviews submitted testimony.

216 CHAIR COHEN: An amendment which we passed earlier, which is currently in the Committee on Ways & Means, clarifies the funding issues for certain kinds of cases.

245 LOIS KENAGY, VICTIM-OFFENDER RECONCILIATION PROGRAM: We want the Commission to stay alive, whether funding is decreased or not.

299 SEN. HILL: Moves to adopt the -2 amendments to HB 2258.

302 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND BUNN WERE EXCUSED.

304 SEN. HILL: Moves HB 2258, as amended, to the floor with a "do pass" recommendation.

310 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

SB 1188, RELATING TO PAY-PER-CALL TELEPHONE MESSAGES, PUBLIC HEARING

321 SEN. PEG JOLIN: Reviews intended purpose of bill. Submits and summarizes written testimony (Exhibit C).

337 JAMES PRUNTY, OFFICE OF THE ATTORNEY GENERAL: Submits and summarizes written testimony (Exhibit D).

401 TAYLOR: Submits amendments and a hand-engrossed version of the bill (Exhibit E & F).

404 PRUNTY: Begins a section by section review of the bill.

TAPE 179, SIDE A

001 PRUNTY: Continues review.

020 CHAIR COHEN: Is there a contract between the 900-number provider and the phone company, as opposed to a contract between the consumer and the provider?

024 PRUNTY: Yes.

072 SEN. HILL: Can a customer be reimbursed for use of a 900-number by minors?

073 PRUNTY: Yes.

088 SEN. HILL: How can this be proved?

090 PRUNTY: It is incumbent on the provider; the consumer does not need to provide proof.

096 SEN. HILL: The consumer only has to notify the phone company that someone under 18 made the calls?

097 PRUNTY: Yes.

099 SEN. HILL: How are the 900-number people supposed to dispute this?

102 PRUNTY: The bill leaves the option of a case against the consumer, if the provider can prove their case in court.

111 CHAIR COHEN: It is part of the cost of doing business.

125 PRUNTY: The bill presupposes an innocent and legitimate consumer.

137 TAYLOR: Under current law, is a contract with an unemancipated minor enforceable?

141 REESE KISSLER, OFFICE OF THE ATTORNEY GENERAL: I don't know if it's still true.

161 PRUNTY: Continues review.

188 SEN. HILL: Has any state completely banned 900-number calls?

193 KISSLER: I don't know. Banning may pose constitutional problems.

241 ARN FLOYD, UNITED TELEPHONE: The bill requires separate billing statements; that is too expensive for us to do. Customer statements are itemized anyway. -We can provide complete 900-number blocks, but we can't block specific numbers.

283 CHAIR COHEN: The bill requires that you separate 900-calls from the remainder of the statement?

290 FLOYD: In practice, yes.

302 CHAIR COHEN: The statement does provide the prefix. It is visible enough to the consumer.

310 FLOYD: The bill provides that we forgive customer charges if they deny having placed the calls, in subsection 2 of section 7. Is that a one-time action, or are we supposed to forgive charges repeatedly?

319 CHAIR COHEN: Can we give you the authority to place a block without consumer request?

325 FLOYD: Maybe.

334 JENNY LANG, U.S. WEST COMMUNICATIONS: We also provide blocking services. -Our concern relates to advertising. Subsection 3 deals with print advertising; does this include the White Pages? Time and lottery information are 976-numbers. -We need more space to provide this information; since print deadlines close 4-5 months before publication, publishing prices may be a difficulty.

369 SEN. HAMBY: Section 6 provides for suspension because of non-payment. Is this a problem?

376 LANG: It is already covered by a PUC rule.

380 CHAIR COHEN: If you can't terminate service, can you place a block for non-payment?

402 LANG: We have that option under the PUC rule if the person becomes abusive.

TAPE 178, SIDE B

HB 2376, ENACTS UNIFORM TRANSFER-ON-DEATH SECURITY REGISTRATION ACT,
WORK SESSION

007 TAYLOR: Reviews intended purpose of bill.

013 SEN. HAMBY: Moves HB 2376 to the floor with a "do pass" recommendation.

017 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

HB 2377, ALLOWS LIEN ON REAL PROPERTY TO INCLUDE RENTS AND PROFITS OF REAL PROPERTY, WORK SESSION

021 TAYLOR: Reviews intended purpose of bill.

037 SEN. SHOEMAKER: Lines 11-13 do refer to a subsequent lien creditor or bona fide purchaser, don't they?

044 MAURICE RUSSELL, DEBTOR/CREDITOR SECTION, OREGON STATE BAR: That is our intent, but we would not object to adding the word "subsequent" to those lines.

102 SEN. SHOEMAKER: Moves to amend HB 2377 by adding the word "subsequent" to lines 12 and 13.

105 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS. SENATORS BROCKMAN AND BUNN WERE EXCUSED.

106 SEN. SHOEMAKER: Moves HB 2377, as amended, to the floor with a "do pass" recommendation.

110 MOTION CARRIES UNANIMOUSLY, WITH SENATORS BROCKMAN AND BUNN EXCUSED.

HB 2743, EXEMPTS FROM DISCLOSURE UNDER PUBLIC RECORDS LAWS CERTAIN LAW ENFORCEMENT OPERATIONAL PLANS, PUBLIC HEARING

117 REP. JOHN MINNIS: Reviews intended purpose of bill.

160 TOM WILLIAMS, OFFICE OF THE PORTLAND CITY ATTORNEY: Reviews intended purpose of bill.

182 SEN. HILL: How are you able to block disclosure of this information?

183 WILLIAMS: We have relied on the exemption from public disclosure for criminal investigatory information, and on an exemption for internal advisory communication.

198 SEN. SHOEMAKER: How would this work?

206 WILLIAMS: In the context of a lawsuit, there would be a discovery motion by the defendant. In the public records context, a request would be made by a citizen and we would claim exemption.

232 SEN. HAMBY: Could you expand on the definition of "materials" in the bill?

238 WILLIAMS: Information handed out to police officers, statements of location, and other such information.

249 SEN. HAMBY: Is it more than information?

250 CAPTAIN BOB TOBIN, PORTLAND POLICE BUREAU: Yes. It includes information about the tactical situation.

269 SEN. SPRINGER: What about a civil rights investigation into police activity during the visit of a controversial political figure?

296 TOBIN: If it was a serious civil rights investigation, then we would disclose that information. We don't want regular disclosure of routine plans for certain special tactical operations.

325 SEN. BUNN: The bill as written would not just apply to information on a given case, but in perpetuity?

330 TOBIN: Yes. Although one particular situation might be over, we use similar strategies for similar situations. We don't want our standard plan to get out.

345 SEN. BUNN: If there were a disagreement over police action in a particular case, someone couldn't obtain that information?

352 TOBIN: Not as public disclosure. An internal investigation would still be a possibility.

366 VIC MANN, EUGENE POLICE DEPARTMENT: Submits and summarizes written testimony in favor of bill (Exhibit G). -This information would become available through discovery for federal civil rights cases.

TAPE 179, SIDE B

018 MARK KRAMER, ATTORNEY: Testifies in opposition to bill. -Bill is fine as written, but interpretation may cause serious problems.

056 LES ZEITZ, NEWSPAPER PUBLISHERS ASSOCIATION: Testifies in opposition to bill.

SB 521, PRESCRIBES CIVIL PENALTY FOR FAILURE TO FILE ELECTION CONTRIBUTION & EXPENDITURE REPORTS, WORK SESSION

116 SEN. SHIRLEY GOLD: Reviews intended purpose of bill. Submits and reviews -A8 amends and hand-engrossed version of bill (Exhibits H & I).

147 SUE PROPHET, ELECTIONS DIVISION: We support the bill.

154 SEN. BUNN: Moves to adopt the -A8 amendments to SB 521.

219 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

221 SEN. BUNN: Moves SB 521, as amended, to the floor with a "do pass" recommendation.

227 MOTION CARRIES UNANIMOUSLY.

HB 2445, RELATING TO REINSTATING OF SPOUSAL SUPPORT AFTER OBLIGATION HAS BEEN TERMINATED, PUBLIC HEARING & WORK SESSION

243 PAUL SAUCY, ATTORNEY: Submits and summarizes written testimony (Exhibit J).

263 TAYLOR: Submits -1, -2, and -3 amendments (Exhibits K, L, & M).

267 SAUCY: Continues to review testimony.

345 KRAMER: Submits and summarizes written testimony (Exhibit N).

400 SEN. BUNN: This does not limit spousal support to the level determined at the time of the original settlement?

406 KRAMER: The case is reevaluated in light of existing circumstances.

TAPE 180, SIDE A

004 SEN. SHOEMAKER: Reinstatement cannot extend past the length given in the original order?

006 SAUCY: The court determines length and amount at the new hearing.

011 SEN. SHOEMAKER: Then what is the reason for Section 2?

013 SAUCY: I do not want to leave this an open issue.

035 KAREN BERKOWITZ, OREGON LEGAL SERVICES: We take no position on the -3 amendments, but we are in support of the bill and the -2 amendments.

063 JIM LOCKERD, CITIZEN: Submits and summarizes written testimony concerning division of pensions (Exhibit O).

103 SEN. HILL: Moves to adopt the -2 amendments to HB 2445.

113 HEARING NO OBJECTIONS, CHAIR COHEN SO ORDERS.

114 SEN. HILL: Moves HB 2445, as amended, to the floor with a "do pass" recommendation.

122 MOTION CARRIES UNANIMOUSLY.

SB 957, RELATING TO COURT APPOINTED SPECIAL ADVOCATES, WORK SESSION

134 SWENSON: Reviews intended purpose of -1 amendments (Exhibit P).

140 CHAIR COHEN: Reviews history of bill.

169 SEN. HAMBY: Submits written testimony (Exhibit Q).

214 DENNIS MALONEY, CHILDREN'S SERVICES DIVISION: We strongly support the CASA program, but you should not cut into Citizen Review Board funding for CASA's.

295 SEN. BUNN: Moves SB 957 to the Committee on Ways & Means with a "do pass" recommendation.

325 MOTION CARRIES, WITH SENATORS BROCKMAN, BUNN, SPRINGER, & HILL VOTING AYE, SENATORS HAMBY & COHEN VOTING NAY, AND SENATOR SHOEMAKER

EXCUSED.

339 CHAIR COHEN: Adjourns hearing at 3:12 p.m.

Reviewed by: Reviewed by:

Bill Taylor Ingrid Swenson Counsel Counsel

Submitted by:

Kate Wrightson Assistant

EXHIBIT LOG:

A - Testimony on HB 2258 - Elaine Hallmark - 10 pages
B - Amendments to HB 2258 - Elaine Hallmark - 3 pages
C - Testimony on SB 1188 - Sen. Peg Jolin - 2 pages
D - Testimony on SB 1188 - James Prunty - 89 pages
E - Amendments to SB 1188 - Staff - 5 pages
F - Hand-engrossed version of SB 1188 - Staff - 9 pages
G - Testimony on HB 2743 - Vic Mann - 1 page H - Amendments
to SB 521 - Sen. Shirley Gold - 2 pages I - Hand-engrossed version
of SB 521 - Sen. Shirley Gold - 2 pages J - Testimony on HB 2445 -
Paul Saucy - 3 pages K - Amendments to HB 2445 - Staff - 1 page
L - Amendments to HB 2445 - Staff - 1 page M- Amendments to
HB 2445 - Staff - 1 page N - Testimony on HB 2445 - Mark Kramer -
4 pages O - Testimony on HB 2445 - Jim Lockerd - 34 pages
P - Amendments to SB 957 - Staff - 1 page Q - Testimony on
SB 957 - Sen. Jeannette Hamby - 1 page

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Measures Heard HB 2594 (PUB) HB 2127 (PUB) HB 2250 (WRK) HB 2530 (WRK) SB 1212 (WRK) HB 2594 (PUB) HB 3055 (PAW) HB 2994 (PAW) HB 2218 (PAW) HB 2082 (PAW) SB 1064 (PAW) HB 3545 (PUB) HB 2593 (WRK) HB 2668 (WRK)

SENATE COMMITTEE ON THE JUDICIARY

May 22, 1991Hearing Room C 5:12 p.m.Tapes 181 - 184

MEMBERS PRESENT:SEN. JOYCE COHEN, CHAIR SEN. JIM HILL, VICE CHAIR
SEN. PETER BROCKMAN SEN. JEANNETTE HAMBY SEN. DICK SPRINGER

MEMBER EXCUSED: SEN. JIM BUNN SEN. BOB SHOEMAKER

STAFF PRESENT: BILL TAYLOR, COMMITTEE COUNSEL INGRID SWENSON,
COMMITTEE COUNSEL MARK THORBURN, COMMITTEE ASSISTANT

WITNESSES: STAN MAYFIELD, OREGON REAL ESTATE AGENCY
FRED MENDOZA, THOUSAND TRAILS INC. AND NACO WEST CORP. OF OREGON CLAIRE
DROSDICK, THOUSAND TRAILS INC. AND NACO WEST CORP. OF OREGON JAMES
KULLA, OREGON STATE MEMBERSHIP RESORT CAMPGROUND ASSOCIATION JOHN
MARTIN, LEISURETIME RESORTS OF AMERICA JOAN PLANK, MOTOR VEHICLES
DIVISION JIM CARLSON, OREGON MEDICAL ASSOCIATION DR. JAMES LACE, OREGON
PEDIATRIC SOCIETY AND OREGON MEDICAL ASSOCIATION CHARLES WILLIAMSON,
OREGON TRAIL LAWYERS ASSOCIATION CHUCK TAUMAN, OREGON TRIAL LAWYERS
ASSOCIATION MARK THORBURN, ATTORNEY AT LAW JUDITH ARMATTA, OREGON
COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE MAUREEN MCKNIGHT, OREGON
LEGAL SERVICES JOHN ELLIS, DEPARTMENT OF JUSTICE CARL STECKER, MARION
COUNTY DISTRICT ATTORNEY DAVID NEBEL, OREGON COALITION AGAINST DOMESTIC
AND SEXUAL VIOLENCE HOLLY PRUETT, OREGON COALITION AGAINST DOMESTIC AND
SEXUAL VIOLENCE MARY ALICE HAMMOND, WORKERS' COMPENSATION BOARD ROGER
LENT, EMPLOYMENT DIVISION KAREN HIGHTOWER, STATE COURT ADMINISTRATOR'S
OFFICE

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TAPE 181, SIDE A

HB 2594

003 CHAIR COHEN: Calls meeting to order at 5:12 p.m.

- Let's wait for the moment.

HB 2127

016 CHAIR COHEN: Let's take up 2127.

- There are amendments.

030 STAN MAYFIELD, OREGON REAL ESTATE AGENCY: Exhibit A is a memorandum attached to a hand engrossed version of the bill that includes the dash B4 amendments (Exhibit B).

- Gives history of the bill and the B4 amendments.

- Understand that there is another amendment being proposed regarding access to records; we oppose any attempt to modify language dealing with regulatory agencies' access.

050 CHAIR COHEN: What access to records do you have now?

051 MAYFIELD: The access is found on page 9, lines 15 and 16, which is basically the same type of authority that we have in our other land development laws for sub-divisions, etc. They allow us access to sales records so, if we receive a complaint, we can investigate.

- Points out a misspelling in the amendments.

062 CHAIR COHEN: Line 10 of what?

063 MAYFIELD: Page 3, line 10, at the end of that line.

067 CHAIR COHEN: Are you talking about the amendments or the

068 MAYFIELD: My hand engrossed version.

072 CHAIR COHEN: It doesn't seem to be there.

073 MAYFIELD: Reads page 3, line 10.

074 CHAIR COHEN: This is the hand engrossed bill.

075 MAYFIELD: Page 3.

077 CHAIR COHEN: Reads line 10.

- I think somebody hand engrossed the wrong bill.

082 MAYFIELD: That's a different hand engrossed version. Mine is attached to Exhibit A.

085 CHAIR COHEN: What's the B5 amendments?

086 MAYFIELD: That's the one that wants to modify the language

- The B4 is the one that I worked on.

090 CHAIR COHEN: We've got two hand engrossed versions and you're talking about the one in the back of your memo.

092 MAYFIELD: Sorry; did not know that you had another one.

093 CHAIR COHEN: Directs committee's attention to B4 amendments, hand engrossed, line 10.

- "Purchaser;" that's what you want?

095 MAYFIELD: Right.

097 SEN. SPRINGER: Who represented the proprietary interests here that you worked with to come up with these amendments?

101 MAYFIELD: Names the individuals and describes their activities.

111 SEN. SPRINGER: Why was section eleven taken out?

114 MAYFIELD: The bill originally required a fee interest to be conveyed along with the camp ground membership; explains two fold intent and the two ramifications of it.

- Believes that section four and the new section that was added contain needed protections.

139 SEN. SPRINGER: Does a time share person take a fee interest?

142 MAYFIELD: Yes.

- Discusses treatment of time share interests under bankruptcy law.

149 SEN. SPRINGER: I'm going to want to hear more on those issues.

151 CHAIR COHEN: Anything else?

152 MAYFIELD: No.

- This is an important bill; explains why.

162 CHAIR COHEN: Invites Mr. Mendoza to testify.

166 FRED MENDOZA, THOUSAND TRAILS INC. AND NACO WEST CORP. OF OREGON: Opposes the bill as passed out of the House; support it with the B4 amendments.

- As to Sen. Springer's question, all members have interrelated rights. If we create a new system where members who purchase after the effective date of this act become fee owners in the property, we are creating a class system that creates differing rights among our members. That changes our product.

- Members in a membership camp ground receive a fee interest. That does not protect their interest in a bankruptcy which was the purpose of including it in the amendment. Explains intent of the amendment.

- Few campgrounds owned outright. There's really nothing to protect members in the event of a bankruptcy. There is no practical distinction between the two.

209 SEN. SPRINGER: Trying to sense whether this is an even-handed bargain. Sense that people, when they sign the contract, they're on the hook and they have few remedies if they don't like the deal.

- If somebody goes out of business because they're not a good manager, these folks don't have a remedy.

225 MENDOZA: In effect, that's true; very little to do on state level to protect a member in a bankruptcy context. The industry is in an evolutionary process. The people who want to be members are so sought

after that none of them become orphans; describes the orphan adoption section in this bill.

258 SEN. SPRINGER: Are the individual campgrounds franchise operations?

260 MENDOZA: No. Cites statistics.

- This bill protects both consumer and the business.

275 SEN. BROCKMAN: The amendments protect you; not the bill as it came to us?

277 MENDOZA: Correct; the bill as it came to you will put many out of business and disenfranchise a lot of people; explains why.

284 SEN. BROCKMAN: If you do get a fee interest in the time that you get your campsite and you go belly up, and if I have a fee simple, then your liable for the debts of the corporation.

300 MENDOZA: There has been a difference of opinion on that, but that opinion has been expressed.

301 SEN. BROCKMAN: I know that I am in the time shares that I own.

302 MENDOZA: You are an owner.

302 SEN. BROCKMAN: Ya.

303 MENDOZA: And down the chain somewhere is some potential liability.

- The main problem is that a member of my organization who has been a faithful user all of a sudden finds a person coming in after the effective date of this act having a fee interest.

313 SEN. BROCKMAN: Not a better position for the owner if they go bankrupt.

314 MENDOZA: Definitely not for the owner.

317 BILL TAYLOR, COMMITTEE COUNSEL: In the case of a bankruptcy or foreclosure under this bill, the member would have a right to buy into the new person who is running the organization?

321 MENDOZA: Yes.

322 TAYLOR: They may be required to pay a fee again?

323 MENDOZA: Yes.

324 TAYLOR: They would not necessarily be getting into a new organization free of charge?

325 MENDOZA: No, but that probably wouldn't happen. Explains why.

351 CHAIR COHEN: Thanks witness and calls Claire Drosdick to testify.

354 CLAIRE DROSDICK, THOUSAND TRAILS INC. AND NACO WEST CORP. OF OREGON: Emphasizes that there is a difference between the types of operators who are involved. For national organizations, there's some confusion about the product the consumer wants and what they're purchasing; explains. The types of protections addressed in the non-disturbance provisions in the amended bill are what will give consumers the type of protections the consumers need; explains.

408 CHAIR COHEN: Calls John Martin and James Kulla to testify.

418 JAMES KULLA, OREGON STATE MEMBERSHIP RESORT CAMPGROUND ASSOCIATION:
Supports the amendment.

433 CHAIR COHEN: So are you in disagreement with the dash four amendments or are you offering an additional one?

436 KULLA: Offering an additional one; we support the dash four.

440 CHAIR COHEN: Please continue.

443 KULLA: Supports the dash four. Would have been difficult to comply with provision regarding fee interests; explains why.

TAPE 182, SIDE A

032 KULLA: We have dash five amendments (Exhibits C and D). They would affect page nine of Exhibit A; explains effect.

068 CHAIR COHEN: What if we say you can't use membership lists for commercial purposes?

069 KULLA: That would help. Our concern would still be

070 CHAIR COHEN: I understand.

071 KULLA: Concern would be that the information would be available to any other person or agency.

078 CHAIR COHEN: What's the experience in time shares and those type of things? Do you have people searching out who has membership, etc?

082 KULLA: I don't know; I don't know that industry. In this industry, there are people doing that. The commercial side is just one aspect of it; another is that any other agency could obtain that information.

090 CHAIR COHEN: What agency are you concerned about?

091 SEN. HAMBY: Justice; Support Division.

092 CHAIR COHEN: Child support can probably have that any way.

093 KULLA: Those agencies, if they go to court, could obtain that information even if it were exempt.

097 CHAIR COHEN: We'll a little more research and get back to you.

101 TAYLOR: You're concerned about membership lists?

101 KULLA: Yes.

102 TAYLOR: Yet your amendment would exempt all records sent to the real estate division, correct?

104 KULLA: Yes; explains why.

112 CHAIR COHEN: We're going to ask the others about the experience they've had in the other states in terms of this issue.

- Invites John Martin to testify.

114 JOHN MARTIN, LEISURETIME RESORTS OF AMERICA: Supports the B4 amendments and the bill with the amendments. Opposes the bill as it passed the House; it would defeat the intent of protecting the consumers; explains why.

138 CHAIR COHEN: We're not talking about that old bill anymore.

139 MARTIN: Very strongly support the new bill with the amendments.

- Understands the concern the B5 amendment addresses. The proprietary interests in membership lists is very frightful to the industry; explains why.

164 CHAIR COHEN: We'll take a look at narrowing this down.

HB 2250

169 CHAIR COHEN: Let's take up 2250.

- We have conflict amendments (Exhibit E). Explains the amendments.

182 MOTION: The Chair moves the amendments.

183 CHAIR COHEN: Further explanation of the amendments.

- Calls for objections; hearing none, so ordered. Sen.s Bunn, Shoemaker, and Springer excused.

190 MOTION: Sen. Hill moves HB 2250 as amended to the floor with a "do pass" recommendation.

194 VOTE: Motion passes unanimously; Sen.s Bunn, Shoemaker, and Springer excused.

HB 2530

197 CHAIR COHEN: House Bill 2530.

- Bill?

201 TAYLOR: Explains the bill. There are no amendments.

212 CHAIR COHEN: Anyone have a problem with this bill?

213 MOTION: Sen. Hill moves HB 2530 to the floor with a "do pass" recommendation.

217 VOTE: Motion passes unanimously; Sen.s Bunn, Shoemaker, and Springer excused.

SB 1212

223 CHAIR COHEN: Let's take up 1212.

- It comes from Ways and Means and is going back there.

236 TAYLOR: Explains the bill. There is an engrossed version of the bill (Exhibit F) to the dash four amendments (Exhibit G).

258 CHAIR COHEN: And the amendments take out the habitual offender, right?

263 TAYLOR: I'm not sure.

264 CHAIR COHEN: I am. That's the biggest thing the amendments do.

268 JOAN PLANK, MOTOR VEHICLES DIVISION: That's correct.

269 CHAIR COHEN: Any other questions? There was some concern about people having to drive a 100 miles to attend hearings, but they said that they already have that authority for the other hearings that they do and they haven't abused it.

- Asks for Sen. Brockman's opinion of the bill.

279 SEN. BROCKMAN: It was O.K. until he saw the amendments., but they apparently don't do a great deal more than what the measure was intended to do.

282 CHAIR COHEN: Please go through them.

283 CHAIR COHEN: The dash one, two, and three amendments have all been combined into the dash four.

288 SEN. BROCKMAN: I'm O.K.

289 MOTION: Sen. Brockman moves the dash four amendments.

291 SEN. BROCKMAN: Comments on his position on the bill.

294 CHAIR COHEN: Calls for objections. Hearing none, so ordered; Sen.s Bunn, Shoemaker, and Springer excused.

297 MOTION: Sen. Brockman moves SB 1212 as amended to Ways and Means with a "do pass" recommendation.

303 VOTE: Motion passes; Sen.s Bunn, Shoemaker, and Springer excused.

HB 2594

311 CHAIR COHEN: Let's go to 2594.

324 JIM CARLSON, OREGON MEDICAL ASSOCIATION: Discusses history of the bill. There is one area of the bill still under contention; i.e., the cap on damages.

349 DR. JAMES LACE, OREGON PEDIATRIC SOCIETY AND OREGON MEDICAL ASSOCIATION: Discusses unavailability of some vaccines to immunize children and efforts to correct the situation. Details intent of the bill. Paraphrases Exhibit H.

465 CARLSON: There is one final point.

466 CHAIR COHEN: Senator Hamby has a question?

467 SEN. HAMBY: Just remembering that she voted against the mandating of vaccinations.

472 CARLSON: The final point is that the bill, in current form, is very similar to the minority report that came out last session.

485 CHAIR COHEN: By removing the manufacturers, you've

488 CARLSON: They will not receive any liability protections at all in this legislation. Explains why.

TAPE 181, SIDE B

030 CHAIR COHEN: So we're just now talking about whether the \$250,000 corresponds to the federal law on administrators.

032 CARLSON: It's important that the cap on the state level correspond to the federal cap. Explains why.

042 LACE: About 30% of children are receiving the vaccines through the Health Department; would be happy if the state would do all of that. This is a request to control the liability associated with the administration of the vaccines.

047 SEN. HAMBY: Supports the bill.

- What are the precautionary measures that are taken prior to the vaccine being administered?

053 LACE: Gives example of measures taken.

056 SEN. HAMBY: With a normal appearing child?

056 LACE: Describes the measures taken.

- Parents still have the option to say "I don't want them."

063 SEN. HAMBY: Scratch skin test doesn't show anything?

065 LACE: Discusses use of scratch skin tests.

073 CHAIR COHEN: Invites Chuck Tauman, Charles Williamson, and Janna Starr to testify. Is Janna here?

074 CHARLES WILLIAMSON, OREGON TRIAL LAWYERS ASSOCIATION: She's submitted testimony (Exhibit I).

075 CHUCK TAUMAN, OREGON TRIAL LAWYERS ASSOCIATION: Supports the amendments.

083 WILLIAMSON: There's no hand engrossed amendments; just want the committee to change the cap from \$250,000 to \$500,000.

085 TAUMAN: Have short video tape to show committee; tells committee what they'll see.

091 -160Video of a television news segment; verbal part of video can be heard on the tape.

160 -208Video of a client of Mr. Tauman's who was rendered severely mentally retarded through an injury caused by a vaccine; verbal part of video and explanation of video by Mr. Tauman can be heard on tape.

209 TAUMAN: Paraphrases (Exhibit J). There's no evidence that this bill addresses the problem of children being under-immunized. The \$500,000 cap that applies to all litigants has been declared unconstitutional (Exhibits K, L and M); this one would surely be found unconstitutional. Discusses negligent use of vaccines and constitutionality.

289 WILLIAMSON: We're are participating in the federal system. Every case has to be submitted to the federal government; the only time someone would use the state law is if they're shut out of the federal system.

306 CHAIR COHEN: Can you do both?

306 WILLIAMSON: You can't do both; explains.

309 CHAIR COHEN: But if you go to federal court and don't get enough, you can come back?

311 WILLIAMSON: You can come back.

- There is a federal cap; nobody is going to take a reasonable federal award and risk losing it in state court. Explains why.

- No reason to discriminate against vaccine victims.

341 SEN. HILL: What figure did we pass out last session?

342 SEN. HAMBY: Half a million.

343 WILLIAMSON: The 1987 cap that Judge Haas found unconstitutional was \$500,000 for noneconomic damages.

345 SEN. HILL: What was this the last session that we did this bill?

346 WILLIAMSON: It was \$250,000.

348 SEN. HAMBY: This speaks to a vaccine administrator, so it's more than a physician, such as a nurse?

354 WILLIAMSON: It's whoever does it.

357 SEN. HAMBY: That contracts your rationale as far as going through the federally

359 WILLIAMSON: Generally, nurses who do the administration are covered by the doctors' malpractice premiums. Discusses decrease in premiums and the Tort Claims Act.

375 CHAIR COHEN: Thanks witnesses.

HB 3055

376 CHAIR COHEN: 3055.

- Asks Mark Thorburn if someone is going to take minutes while he testifies.

381 MARK THORBURN, ATTORNEY AT LAW: I can cover both.

382 CHAIR COHEN: O.K.

388 JUDITH ARMATTA, OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE: Supports bill. Paraphrases Exhibit N.

415 CHAIR COHEN: Explains why Committee Assistant Mark Thorburn is being allowed to testify.

421 THORBURN: Supports the bill.

(Tape ends at 431; Mr. Thorburn's testimony picks up immediately on Tape 182 , Side B)

TAPE 182, SIDE B

000 THORBURN: Paraphrases Exhibit Q. Explains the dash two amendments (Exhibit P).

044 CHAIR COHEN: So this is a noncontroversial amendment?

045 THORBURN: Yes.

046 CHAIR COHEN: And that does allow us to change the form as well as change the statute?

047 THORBURN: That is correct.

- There are also dash one amendments (Exhibit O).

048 CHAIR COHEN: Please go through it.

050 THORBURN: Explains the amendment; continues paraphrasing Exhibit Q.

- Mentions the various positions of other interested parties.

135 CHAIR COHEN: Thanks witness; invites Maureen McKnight to testify.

138 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: Opposes the dash one amendments; explains why. Offers better approach.

186 SEN. HAMBY: What about the individual who can afford the additional obligation to pick the premium for their family? That's not too much to ask.

195 MCKNIGHT: I agree. I know of no trier who would not order the insurance in those circumstances.

- Same concerns about life insurance.

203 JOHN ELLIS, DEPARTMENT OF JUSTICE: Opposes the dash one amendments; explains why; submits Exhibit R.

220 CARL STECKER, MARION COUNTY DISTRICT ATTORNEY: Opposes most of the dash one amendments; explains why. Would endorse a part of the amendments; specifies the portion.

253 CHAIR COHEN: Do you all want that piece of this amendment?

254 MCKNIGHT: No objection to it, but there are some enforcement concerns.

260 ELLIS: Echo McKnight's comments.

263 CHAIR COHEN: So your suggestion is that we leave the dash one alone?

263 ELLIS: I would.

265 CHAIR COHEN: Sorry Mark about the dash one amendment.

268 MOTION: Sen. Hill moves the dash two amendments.

269 CHAIR COHEN: Calls for objections; hearing none, so ordered. Sen.s Brockman, Bunn, and Shoemaker excused.

- Asks Sen. Springer if he is O.K. on the bill.

277 SEN. SPRINGER: O.K.

278 MOTION: Sen. Hill moves HB 3055 as amended to the floor with a "do pass" recommendation.

282 VOTE: Motion unanimously passes; Sen.s Brockman, Bunn, and Shoemaker excused.

HB 2994

288 CHAIR COHEN: 2994.

297 DAVID NEBEL, OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE: Supports the bill and the amendments made by the House; paraphrases Exhibit S.

419 CHAIR COHEN: Have you heard from judges on this?

- Our Clackamas County judges won't like this.

422 NEBEL: Judge Herrell in Multnomah County feels strongly that it is a good idea to delete the authority for mutual orders. Comments on practice in Multnomah County.

- Submits and explains Exhibit T.

- Continues paraphrasing Exhibit S.

464 CHAIR COHEN: Please wrap it up.

466 NEBEL: We don't want to chill people's access to the court system. Continues paraphrasing Exhibit S.

TAPE 183, SIDE A

017 NEBEL: Continues paraphrasing Exhibit S.

043 CHAIR COHEN: There's no reason to say that in the original award of the restraining order?

044 NEBEL: The petitioner has to state the grounds for the restraining order when they seek one. The respondent does not need to say why their asking for a hearing; this bill would require the respondent to do so.

047 CHAIR COHEN: Thanks witness for testimony.

050 HOLLY PRUETT, OREGON COALITION AGAINST DOMESTIC AND SEXUAL VIOLENCE: Her office receives dozens of calls a week relating to enforcement of restraining orders; the problem of mutual arrest is consistently getting worse.

- Submits Exhibit U; it is a typical case illustrative of the problem of mutual arrests.

097 ARMATTA: Supports the bill.

098 CHAIR COHEN: Any amendments?

099 TAYLOR: No.

100 MOTION: Sen. Springer moves HB 2994 to the floor with a "do pass" recommendation.

102 VOTE: Motion unanimously passes; Sen.s Brockman, Bunn, and Shoemaker excused.

HB 2218

105 CHAIR COHEN: House Bill 2218.

111 MARY ALICE HAMMOND, WORKERS' COMPENSATION BOARD: Explains the bill.

126 CHAIR COHEN: Any questions?

- Any amendments?

128 TAYLOR: No.

129 MOTION: Sen. Hill moves HB 2218 to the floor with a "do pass" recommendation.

132 VOTE: Motion unanimously passes; Sen.s Brockman, Bunn, and Shoemaker excused.

HB 2082

135 CHAIR COHEN: Invites Roger Lent to testify.

139 ROGER LENT, EMPLOYMENT DIVISION: Explains the bill. Paraphrases Exhibit V.

156 CHAIR COHEN: What do the counties say about that?

157 LENT: They didn't care.

157 CHAIR COHEN: Does the county clerk care?

157 LENT: No.

- The bill would reduce the amount of work that they would have to do; explains why.

172 CHAIR COHEN: Wonders whether the committee should wait until Sen. Shoemaker looks at the bill.

- Anyone else have questions?

177 SEN. SPRINGER: Any one who cares about liens would show up; did they appear on the House side?

183 TAYLOR: Did call Frank Brawner the other day and told him about the bill; he said that he'd look at it and he's not here.

187 CHAIR COHEN: I suppose

189 SEN. SPRINGER: I'm ready to move it.

191 SEN. HILL: Was there any opposition at all?

192 LENT: No opposition. It passed the House unanimously.

193 CHAIR COHEN: That has very little weight here.

198 MOTION: Sen. Springer moves HB 2082 to the floor with a "do pass" recommendation.

200 CHAIR COHEN: Asks Bill Taylor to run this by Sen. Shoemaker and anyone else who might have a concern about it.

- Further discussion?

207 VOTE: Motion passes unanimously; Sen.s Brockman, Bunn, and Shoemaker excused.

HB 3545

211 CHAIR COHEN: 3545. Invites Karen Hightower to testify.

216 KAREN HIGHTOWER, STATE COURT ADMINISTRATOR'S OFFICE: Supports the bill. Paraphrases Exhibit W.

235 CHAIR COHEN: How are you going to insure that this get's done?

236 HIGHTOWER: Instead of saying the court clerk is suppose to do this, it just says that the petitioner is suppose to. It would be enforced in the same manner as it is enforced against the court clerk.

241 CHAIR COHEN: I'm afraid this bill may not go.

- Asks Sen. Springer if he remembers when we dealt with support enforcement and didn't collect information or send notices to people and then we came back a few years and found out that people

247 SEN. SPRINGER: Recalls it very well.

248 CHAIR COHEN: It's probably not the same issue.

249 SEN. SPRINGER: It's not the same issue.

250 CHAIR COHEN: So your expecting my ex-huSB and, who's made at me, to send me a notice about health care?

254 HIGHTOWER: The policy issue for the committee is whether the state should be responsible to inform the parties of what the impact of the dissolution is on their health insurance or should the petitioner be responsible for sending a notice to the respondent.

267 CHAIR COHEN: Sometimes, if we don't have health care coverage, the state gets the bill in any event.

269 SEN. SPRINGER: Do we have an example of what the document is that's mailed?

270 HIGHTOWER: Yes.

271 CHAIR COHEN: And this is the document that you mail, but there's no requirement that any private party mails this.

- For \$50,000, this may not be worth it.

279 HIGHTOWER: This is the notice (Exhibit X) written by the Insurance Division and provided by the courts.

283 SEN. HILL: Is there a sanction if the petitioner does not do this?

285 HIGHTOWER: No.

288 SEN. SPRINGER: Not issue a decree.

289 CHAIR COHEN: You don't get your divorce until you
(Inaudible).

- It would take more clerk's time to try to explain to the petitioner why he has to send this out than if clerk sends the notice.

299 SEN. SPRINGER: Wouldn't mind increasing the fee to cover the cost.

- How much do they pay for filing fees? \$85 or \$100?

304 CHAIR COHEN: Asks Mr. Williamson if he wants to comment.

305 WILLIAMSON: It more for divorce than about anything else; it's about double.

306 CHAIR COHEN: Asks Mr. Thorburn.

307 THORBURN: Up to over \$200 for the petitioner; about \$70 for the respondent.

317 CHAIR COHEN: We'll think about this.

HB 2593

321 CHAIR COHEN: Does the committee want to take it up?

325 MOTION: Sen. Springer moves HB 2593 to the floor with a "do pass" recommendation.

326 TAYLOR: Can we adopt the amendments first? Explains the amendments.

331 CHAIR COHEN: Comments on the patience of the committee members and the committee's workload for the upcoming two weeks.

346 SEN. HAMBY: Dash one amendment? Is there a need for the sub five?

349 WILLIAMSON: Yes.

350 MOTION: Sen. Hamby moves the dash one amendment.

351 CHAIR COHEN: I also wondered whether we have a legal guardian.

358 WILLIAMSON: I just remembered that Sen. Shoemaker was upset about the legal guardian and if you want to delete it, no problem.

360 SEN. HAMBY: That's good.

361 CHAIR COHEN: Let's do that; do you mind?

362 WILLIAMSON: No.

363 CHAIR COHEN: Asks Sen. Springer if he minds.

365 SEN. SPRINGER: So be it.

366 AMENDMENT: Sen. Hamby amends her motion to move the dash one amendment by deleting the definition of guardian and, from the bill, the words "legal guardian."

379 CHAIR COHEN: Calls for objections; hearing none, so ordered. Sen.s Brockman, Bunn, and Shoemaker excused.

380 MOTION: Sen. Hill moves HB 2593 as amended to the floor with a "do pass" recommendation.

384 VOTE: Motion unanimously passes; Sen.s Brockman, Bunn, and Shoemaker excused.

HB 2668

388 CHAIR COHEN: Do we want to do 2668? This extends the time for tort actions for child abuse?

394 TAYLOR: Right; up to six years after the age of 18 or three years from the date of discovery. Have an amendment; explains the amendment.

402 CHAIR COHEN: I'm willing to bring this back.

SB 1064

404 CHAIR COHEN: 1064. This is a forfeiture bill.

410 INGRID SWENSON, COMMITTEE COUNSEL: Explains the bill.

TAPE 184, SIDE A

010 CHAIR COHEN: This bill is here for us to review the penalty side of things.

014 SWENSON: The PUC has basically been exempted out of SB 101; they have a very distinct procedure that governs all of the penalties that they impose and this bill would come under that procedure.

020 SEN. HAMBY: I thought the civil penalties have always been they haven't.

024 CHAIR COHEN: Anybody have any problems with this?

026 SEN. SPRINGER: I see there's a fiscal, but I guess Transportation weighed that.

028 CHAIR COHEN: It's \$200,000; let's go to Ways and Means.

035 MOTION: Sen. Springer moves SB 1064 to Ways and Means with a "do pass" recommendation.

039 VOTE: Motion unanimously passes; Sen.s Brockman, Bunn, and Shoemaker excused.

043 SEN. HAMBY: Did we do the one about dispute resolution?

044 CHAIR COHEN: Yes.

045 SEN. HAMBY: Good.

046 CHAIR COHEN: Adjourns meeting at 7:30 p.m.

Submitted by:

Reviewed by:

Mark Thorburn

Bill Taylor Committee Assistant

Committee Counsel

EXHIBIT LOG:

A - Testimony on HB 2127 - Stan Mayfield - 12 pages
B - Amendments to HB 2127 (dash four) - Stan Mayfield - 4 pages
C - Amendments to HB 2127 (dash five) - James Kulla - 1 page
D - Hand Engrossed Version of HB 2127 - James Kulla - 8 pages
E - Amendments to HB 2250 - Committee Staff - 1 page
F - Hand Engrossed Version of SB 1212 - Committee Staff - 27 pages
G - Amendments to SB 1212 - Committee Staff - 13 pages
H - Testimony on HB 2594 - James Lace - 2 pages
I - Testimony on HB 2594 - Janna Starr - 2 pages
J - Testimony on HB 2594 - Charles Tauman - 11 pages
K - More Testimony on HB 2594 - Charles Tauman - 1 page
L - Judge Haas' court decision re: HB 2594 - Charles Tauman - 2
pages M - Newspaper columns re: HB 2594 - Charles Tauman - 1 page
N - Testimony on HB 3055 - Judith Armatta - 2 pages
O - Amendments to HB 3055 (dash one) - Mark Thorburn - 8 pages
P - Amendments to HB 3055 (dash two) - Mark Thorburn - 13 pages
Q - Testimony on HB 3055 - Mark Thorburn - 5 pages
R - Testimony on HB 3055 - John Ellis - 1 page S - Testimony
on HB 2994 - David Nebel - 6 pages T - "Family Violence" re: HB
2994 - David Nebel - 3 pages U - Testimony on HB 2994 - Holly
Pruett - 2 pages V - Testimony on HB 2082 - Roger Lent - 1 page
W - Testimony on HB 3545 - Karen Hightower - 2 pages
X - Notice on Health Coverage re: HB 3545 - Karen Hightower - 2
pages

EXHIBITS DISTRIBUTED TO COMMITTEE BUT NOT REFERRED TO DURING HEARING

Y - Letter re: HB 2994 - John Collins - 5 pages