

SENATE COMMITTEE ON LABOR

April 24, 1991 HEARING ROOM 50 03:00 P.M. TAPES 71 - 76
MEMBERS PRESENT: SEN. GRATTAN KERANS, CHAIR SEN. LARRY HILL,
VICE-CHAIR SEN. PETER BROCKMAN SEN. BOB KINTIGH SEN. BOB SHOEMAKER STAFF
PRESENT: ANNETTE TALBOTT, COMMITTEE COUNSEL ROBERTA WHITE,
COMMITTEE ASSISTANT MEASURES HEARD: SB 840 - REQUIRES EMPLOYERS
TO PROVIDE USER ADJUSTABLE VIDEO DISPLAY WORK STATIONS - PUBLIC HEARING
SB 520 - ALLOWS COST OF LIVING ADJUSTMENT TO ALLOWANCE BEING RECEIVED BY
MEMBER OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM, OR BY MEMBER'S
BENEFICIARY, IN EXCESS OF TWO PERCENT IN SPECIFIED YEARS - PUBLIC
HEARING SB 1037 - PROVIDES SYSTEM FOR NOTIFICATION OF LAW
--- ENFORCEMENT AGENCIES OF DEATHS OR SERIOUS INJURIES IN
WORKPLACE AND AUTHORIZES INVESTIGATION AND PROSECUTION OF CASES WHEN
CRIMES HAVE BEEN COMMITTED - WORK SESSION SB 135 - PERMITS FOSTER
PARENTS TO PARTICIPATE IN DENTAL BENEFIT PLANS AVAILABLE TO STATE
EMPLOYEES - WORK SESSION SB 24 - SUBJECTS STATE ACCIDENT INSURANCE FUND
CORPORATION TO PROVISIONS OF INSURANCE CODE REGARDING CLAIMS SETTLEMENT
PRACTICES - WORK SESSION SB 43 - SPECIFIES GROUNDS FOR EMERGENCY
SUSPENSION OF FARM LABOR CONTRACTOR LICENSE OR FARM-WORKER CAMP OPERATOR
LICENSE - WORK SESSION HB 2237 - ALLOWS PUBLIC EMPLOYEES' RETIREMENT
BOARD TO TRANSFER TO ANOTHER ACCOUNT OR RESERVE IN PUBLIC EMPLOYEES'
RETIREMENT FUND ANY BENEFIT PAYABLE AS RESULT OF DEATH OF MEMBER OF
PUBLIC EMPLOYEES' RETIREMENT SYSTEM, OR EMPLOYEE ACCOUNT BALANCE - WORK
SESSION SB 660 - PROVIDES METHOD OF COMPUTING BENEFITS UNDER PUBLIC
EMPLOYEES' RETIREMENT SYSTEM FOR ABSENCE FROM EMPLOYMENT BECAUSE OF
CERTAIN COMPENSABLE INJURIES SUBJECT TO WORKERS' COMPENSATION - WORK
SESSION Senate Committee on Labor April 24, 1991- Page 2

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.

TAPE 71, SIDE A

001 CHAIR KERANS calls the meeting to order at 3:17 p.m. > Announces
that SB 24 will not be heard until Friday, April 26, 1991 at 3:00 p.m.

WITNESSES: LINDA WISHER, COMMUNICATIONS WORKERS OF AMERICA LAURIE
WIMMER, OREGON CONFERENCE FOR WOMEN, PRESENTED BY: MARI ANNE GEST,
OREGON CONFERENCE FOR WOMEN GARY WILHELMS, U.S. WEST EDWIN DOWNEY,
INDUSTRIAL HYGIENIST, U.S. WEST DAVID HELLER, RISK MANAGEMENT ATTORNEY,
U.S. WEST MADELYN ELDER, COMMUNICATIONS WORKERS OF AMERICA MARGARET
BUTLER, COMMUNICATIONS WORKERS OF AMERICA DIANE ROSENBAUM, OREGON STATE
INDUSTRIAL UNION COUNCIL DAVE OVERSTREET, GTE NORTHWEST JACK POMPEI,
ADMINISTRATOR, OREGON OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
BARBARA CLARK, AUDITOR, CITY OF PORTLAND C.W. POSEY, OREGON RETIRED
EDUCATORS ASSOCIATION LESTER VAN MOUTH, UNITED SENIORS MARIA KELTNER,
ASSOCIATION OF OREGON INDUSTRIES/LEAGUE OF OREGON CITIES SENATOR CLIFF
TROW, CORVALLIS, DISTRICT 18 ERNEST OILMAN, PRIVATE CITIZEN SGT. MIKE
RAM iBY, CRIMINAL INVESTIGATION DIVISION, OREGON STATE POLICE

SB 520 - ALLOWS COST OF LIVING ADJUSTMENT TO ALLOWANCE BEING RECEIVED BY
MEMBER OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM OR BY MEMBER'S BENEFICIARY.
IN EXCESS OF TWO PERCENT IN SPECIFIED YEARS - PUBLIC HEARING

016 SENATOR CLIFF TROW, CORVALLIS, DISTRICT 18 > Testifies in support
of SB 520. > Inflation reduces the buying power of retirees, which may

be further diminished if the decision is made to tax PERS pensions. > This bill was originally designed to maintain the 95% buying power over time, but the cost for doing that is prohibitive, so he is requesting that the bill be amended to do this on a one-time basis, so that the costs would not be so great.

Those 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 Labor April 24, 1991- Page 3

Public Hearing on SB 520 re!opens on page 8.

TAPE 71, SIDE A

SB 840 - REQUIRES EMPLOYERS TO PROVIDE USER ADJUSTABLE VIDEO DISPLAY WORK STATIONS - PUBLIC HEARING

083 LINDA WISHER, OREGON COUNCIL, COMMUNICATION WORKERS OF AMERICA (EXHIBIT A) > Testifies in support of SB 840. > Details the portion of Exhibit A which refers to a Task Force which was recommended in 1982.

105 STEPHANIE FORSBERG, U.S. WEST (EXHIBIT B) > Testifies in support of SB 840. MONA BEECH-VENARDI, AREA VICE PRESIDENT, LOCAL 7906, COMMUNICATION WORKERS OF AMERICA > Testifies in support of SB 840.

188 SENATOR KINTIGH: Have you ever reported these conditions to Oregon OSHA? BEESH-VENARDI: No, I personally have not. 230 GARY WILHELMS, DIRECTOR, GOVERNMENT RELATIONS, U.S. WEST COMMUNICATIONS IN OREGON > Testifies in opposition to SB 840. > U.S. West is a company concerned about its workers. They know there are problems in the work place, but the company is addressing those problems. 267 EDWIN DOWNEY, DIRECTOR OF INDUSTRIAL HYGIENE, U.S. WEST (EXHIBIT C) > Testifies in opposition to SB 840. > Details Exhibit C.

TAPE 72, SIDE A

001 DOWNEY, CONTINUED > Continues to detail Exhibit C. 028 DAVID HELLER, RISK MANAGEMENT ATTORNEY, U.S. WEST > States that he is here to answer questions. 030 CHAIR KERANS: When the company gets cited, you go out and buy ergonomic equipment. But you are saying that you're not sure there is a relationship. Why are you going out and buying equipment when you don't know that you have a relationship between the injury and the equipment. Why are you spending rate payers money to do that when you are telling me that you have no relationship? - Senate Committee on LaSB or April 24, 1991- Page 4

DOWNEY: We are buying new equipment for offices as they get remodeled or changed out, that doesn't necessarily happen just in the offices where we receive OSHA citations.

039 CHAIR KERANS: What relationship is there, then, between the repetitive motion or traumatic injuries that you were talking about, and the equipment that you're buying when it's list price is higher than the price of what you're taking out. You're spending money to bring in new equipment - on a scale of one to ten, what is the relationship between the equipment and office furniture, etc., that you're buying, and the injury? You're buying the equipment to avoid the injury in the future, you're not sure what the relationship is, how close is the relationship? DOWNEY: I would add that we're seeing constant changes in terms of what manufacturers of office equipment may call state of the art. And, since

some of this equipment has been around for a while, as we change it, we certainly do look for a more flexible work environment. You ask me to put a number on the scale of one to ten, and I'm suggesting that from the evidence, that we haven't enough evidence at this point to substantially answer that question.

CHAIR KERANS: It's something more than .5, I assume, because that's just the middle point. It's 50/50 at that point. You wouldn't be buying furniture that was ergonomically sound to replace equipment that is not ergonomically sound at a higher price, unless you thought there was something above statistically insignificant chance that it would have a relationship with the disease or the injury. How much do you think this equipment that you don't want us to mandate is worth, given the fact that you're buying it already to meet the injury that your employees are suffering?

062 HELLER: I'm not sure I can answer that in a statistical sense, but I can tell you that there are three ways in which equipment are generally changed out: either an individual care provider requires a change out (in a given workers' comp case), or and OSHA action, or as a matter of routine, we are changing out the equipment in a given operation. Given the fact that this is an unknown, I don't think there is anyone within U.S. West who would argue that it's not prudent and worth the extra amount of dollars to change out equipment with state of the art equipment when it otherwise would have been required to be changed out. Maybe that gets to your question. The problem is, and I don't think that anyone denies that this is not a problem in the workplace, the problem is identifying which occupational factors are causing the problem, which are the most significant, and which non-occupational factors are causing the problem. It is, in our opinion, unwise to go into a work place that doesn't otherwise need to have the equipment changed out, and do that wholesale - it doesn't serve the rate payer, and it probably doesn't serve the bulk of the employees who do or do not have problems. > The preferred method of changing equipment is based on preventive education and training, and identify those individuals who are high risk and are identified by experts as requiring ergonomic equipment as the answer. There are other ways of handling the problem, whether it is occupational or non-occupational.

123 SENATOR SHOEMAKER: What kind of financial impact would this have on you? You're arguing on the one hand that it doesn't prove that it makes a difference, and yet I think there is pretty good evidence that it does make a difference. The bill spells out pretty precisely what would be asked of you in each work station - have you determined what it would cost U.S. West to change a work place or station so that it conforms with this bill? . These minutes contain materials which perefhrnse end/or eu ~enze stl emenb mace' during this session. Only text enclosed in quotation rmarks report a speaker's exact words. For co ~ fete contents of die proceedi Igs, please refer to tne tepee. _ Senate Commi~ee on Labor April 24,1991 - Page S

WILHELMS: We have not, at least not in this state in this session. We have done it in the past. I can recall that in 1985 when the issue was before us before that we actually had more video display terminal stations than we had employees who worked inside. I would think that in our company it is fairly safe to say that for every inside employee these days we probably have a video display terminal work station of one kind or another.

SENATOR SHOEMAKER: What would it cost to bring it up to snuff? WILHELMS:

It would be a guess if I told you now - I'll get you the information because we can run an estimate. SENATOR SHOEMAKER: I think it would be interesting to know that, and also to know how that compares to your payroll costs for the employee that's effected by that work station.

142 CHAIR KERANS: And avoided workers' comp costs, too. DOWNEY: One more point - we do dispute the evidence, and in fact, there are many, many good world health organization positions and others who have worked on this problem in other countries - Australia - who dispute, in terms of good medical and clinical evidence and data, published articles, whether the work station itself is a significant factor. I don't think anyone disputes that it's a factor. Furthermore, we do have work locations where the equipment has changed out, is "state of the art", and the OSHA cases, the recordables, do not go away. I think that's a very important point.

156 SENATOR SHOEMAKER: Do you dispute the validity of the health and safety guidelines that have been developed by Oregon OSHA?

DOWNEY: Rather than addressing the validity, I would rather address that style of regulation or advising documents, and we support advisory documents. In our view that type of document allows an employer enough flexibility because it doesn't have the force and effect of law unless Oregon OSHA attempts to in some way enforce another general duty clause, to approach through research, prevention and training each individualizes situation. SENATOR SHOEMAKER: The premise of this guideline is that this kind of equipment is necessary for the health and safety of the worker. I guess you question that premise. You don't agree that this is a worthwhile document.

173 HELLER: That point within the document, yes, we're arguing with the validity of that. But the form in which it's presented, that is non-mandatory, does not carry the force of law, doesn't pose a problem for us. We in fact encourage the various states who are proposing this type of legislation, as well as on the federal level, non-mandatory, nonbinding guidance documents in this area. They can be quickly changed as the studies suggest they should be over a period of time, and once the evidence is more clear, that sort of document can easily be converted through the rule-making process into law in the various jurisdictions. To answer your question, yes we do not agree with the provisions that would suggest that work station adjustability is absolutely in every case the answer. SENATOR SHOEMAKER: I don't suppose any of us would contend that absolutely in every . . . These minutes contain materials which paraphrase and/or summarize elements made during this session. Only text enclosed in quotation marks report the speaker's exact words. For complete content of the proceedings, please refer to the tapes. - Senate Committee on Labor April 24, 1991- Page 6

case it would be the answer, but is it an important consideration?

190 HELLER: It may be an important consideration in a given case. SENATOR SHOEMAKER: Does it usually, in a good majority of cases, make a real difference to the worker, whether they have the kind of adjustable equipment that we're talking about?

HELLER: That's a fair way to state the question, and I would say that in a percentage of the population, my view is that in reviewing the workers' comp cases and the OSHA cases, that yes, work station adjustability will be an important factor. The question is, what percentage of the population, based on the individual facts, based on

all of the occupational factors, based on the non-occupational factors.

201 SENATOR SHOEMAKER: So you acknowledge it is of substantial importance? I think I heard you say that. HELLER: I would say that it is of importance in a percentage of cases. SENATOR SHOEMAKER: And I think it is a good percentage of cases. HELLER: That has not been my experience. It has been a small percentage. SENATOR SHOEMAKER: Do you think that we need to wait until all the evidence is in on that and we absolutely know the answer before U.S. West and others get that information and do what seems to be indicated? HELLER: Absolutely now, and again, that's why we promote research in public and private sector, beyond that, that's why we have a union/management committee, that's why we're doing preventive sorts of activities through that committee, which is basically training and looking at trying to identify what groups are high risk, based on needs of individuals, what is appropriate. That may in a case be an adjustable work station, or it may not be. On the other side of that, what is the appropriate care once either an incident does occur or you find a high risk individual? 247 DOWNEY: In some offices we have installed "state of the art" equipment, whatever "state of the art" equipment is, and in some cases these are in new locations, where these employees haven't had a history of using the old equipment, and we've seen cases of cumulative trauma disorders (CTD). In areas where we've seen substantial rates of CTD, and have done substantial expensive change outs, we have seen little if any change in the rate. I think it suggests that there are a lot of other factors that play a very large role in this whole complex issue, beyond the physical work site. Although our training and our move to change out some of the offices does address this, we try to keep perspective and recognize there are other issues that play here too. 294 WILHELMS: There are a lot of folks suffering from carpal tunnel syndrome besides operators of VDT's. He hates to see VDT's get a bum rap, when it might be something much larger than just working at a video display terminal.

340 MARGARET BUTLER, EXECUTIVE VICE PRESIDENT, LOCAL 7901,
COMMUNICATION WORKERS OF AMERICA

Senate Committee on Labor April 24, 1991- Page 7

> Testifies in support of SB 840. > Employees in her office responded to a questionnaire, with the following results: · 82% of the operators have neck or back pain. · 72 % had some sort of problem with their arms or shoulders. · 63 % had hand or wrist problems. · 50% had numbness or tingling. · Only 7 people had filed workers' compensation claims. · 35 people had been diagnosed with either carpal tunnel, ganglion cysts, or tendinitis, so the workers' comp claims are only the tip of the iceberg. · One-third of the workers in that office have been disabled by the work that they do, and her office is one of the offices which has ergonomic equipment, or somewhat ergonomic equipment in it. > People, when they do get ergonomic equipment their conditions improve as individuals.

401 MADELYN ELDER, LOCAL 7901, COMMUNICATION WORKERS OF AMERICA > CWA is not fighting U.S. West through the legislative process. > 80% of the VDT operators in this state do not have unions to fight for them. They do not have companies to work for which are interested to try to solve the problem together.

TAPE 71, SIDE B

017 ELDER, CONTINUED > In 1989, OSHA was invited by management into a U.S. West communications building to inspect an office where there was a

particularly high incidence of carpal tunnel syndrome and other repetitive motion injuries. The recommendations were for ergonomic equipment, as well as for education. The results of that study were that two years later, upon reinspection, the education component had been fulfilled, but the rest of the recommendations were largely untouched. CWA is currently negotiating with the company to implement these recommendations. 053 DIANE ROSENBAUM, OREGON STATE INDUSTRIAL UNION COUNCIL > Testifies in support of SB 840. - > The "General Duty" clause is an after-the-fact remedy which is not appropriate to the problem being addressed by this bill because it is not preventive in nature. > It is unrealistic to expect that Administrative Rules will ever be enacted in this area without a message being sent from this legislature. The Agency will be reluctant to enact legislation that they know will be opposed by at least some employers which they know will have far reaching consequences. 116 SENATOR SHOEMAKER: Asks her if she has any cost data on the cost of changing a work place from present equipment to what is called for in the bill, and how that would compare with payroll costs. CHAIR KERANS: The fiscal report attached to the bill as printed says that the Executive Department assumed a \$1,500 cost per work station to do the whole thing. Assuming you had nothing to build on.

131 ELDER: The information that I've gotten from people who have had their individual stations - These minutes contain material a wDich paraphrase and/or summanzc statema" made during thia seuioD. Only text enclosed ;D quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Committee on Labor April 24, 1991- P - e 8

replaced, I'd say \$1,500 is about right. In addition there would be the cost of the ambient lighting. The cost you have to weigh that against is the average \$16,000 per case of tendinitis or carpal tunnel resulting from a work place injury.

CHAIR KERANS: About 10 to 1. For every one tendinitis/carpal tunnel you can buy ten work stations.

152 MARIANNE GEST, ON BEHALF OF LAURIE WIMMER, EXECUTIVE DIRECTOR, OREGON COMMISSION FOR WOMEN (EXHIBIT D) > Testifies in support of SB 840. > Details Exhibit D. 193 DAVE OVERSTREET, STATE MANAGER OF GOVERNMENT AFFAIRS IN OREGON, GTE NORTHWEST (EXHIBIT E) > Testifies in opposition to SB 840. > Details Exhibit E. 247 SENATOR SHOEMAKER: In the normal course of replacing equipment that becomes obsolete or is wearing out, how long does it take to turn that over in the normal course? Does a work station last five years, three years, seven years? OVERSTREET: I don't know how long a work station lasts. I do know that as U.S. West indicated in their testimony earlier, we are updating our work stations as we go with the latest state of the art sort of equipment, but I can't tell you how long a work station would last before it would be replaced. SENATOR SHOEMAKER: This bill puts an outside date of January 1, 1996, to get this done. That's more than four and one-half years from now. Is that an unreasonable amount of time to make these kinds of changes? 266 OVERSTREET: Our safety people did not address that specific issue when I ran this bill by them. I would be happy to address that with them to see how they feel about that. > Their concern is that this bill will mandate that all work stations be changed out, not necessarily the date itself. 301 SENATOR HILL: Federal law allows you to depreciate your equipment every 5 or 7 years. How often do you turn it over? OVERSTREET: I don't know, I believe that's the same basic question Senator Shoemaker asked. I don't know the turnover rate.

SENATOR HILL: But you do roll your equipment over. When you roll that equipment over, are you buying the ergonomic equipment? OVERSTREET: To the best of my knowledge we are. SENATOR HILL: So insofar as the bill requires you to do that, you are already doing it and it has no effect on your operation. . . . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks is the exact words of the speaker. For complete contents of the proceedings, please refer to the tapes Senate Committee on Labor April 24, 1991- P - e 9

TAPE 71, SIDE B

SB 520 - ALLOWS COST OF LIVING ADJUSTMENT TO ALLOWANCE BEING RECEIVED BY MEMBER OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM. OR BY MEMBER'S BENEFICIARY, IN EXCESS OF TWO PERCENT IN SPECIFIED YEARS - PUBLIC HEARING

354 BARBARA CLARK, AUDITOR, CITY OF PORTLAND (EXHIBIT F) > Testifies in opposition to SB 520. > Details Exhibit F.

TAPE 72, SIDE B

001 CLARK, CONTINUED > Continues to detail Exhibit F. 015 CECIL POSEY, OREGON RETIRED EDUCATORS ASSOCIATION (EXHIBIT G) > Testifies in support of SB 520. > Details Exhibit G. 074 FOSTER VAN MOUTH, UNITED SENIORS > Explains the amendment to SB 520 which reduces the fiscal impact. 142 MARIA KELTNER, ASSOCIATION OF OREGON COUNTIES/LEAGUE OF OREGON COUNTIES > Testifies in opposition to SB 520.

TAPE 72, SIDE B SB 520 - ALLOWS COST OF LIVING ADJUSTMENT TO ALLOWANCE BEING RECEIVED BY MEMBER OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM. OR BY MEMBER'S BENEFICIARY. IN EXCESS OF TWO PERCENT IN SPECIFIED YEARS - WORK SESSION 194 MOTION: SENATOR HILL moves the "-1" amendments (EXHIBIT H) be adopted.

VOTE: Hearing no objection, the motion carries.

200 MOTION: SENATOR HILL moves SB 520 as amended to the Ways and Means Committee by prior referral with a "do pass" recommendation.

206 SENATOR SHOEMAKER: I have problems with this because of the human resources budgets which are being cut to shreds. Is it realistic to think that this is going to go through Ways and Means? And should we be referring a bill to Ways and Means that we know very well is not going to get through that process? When you stack up the needs of the PERS retirees against the needs of those suffering under Measure 5, they simply don't make it. I cannot in good conscience vote for that. I sympathize with the retirees and their issues, but I just do not think that 1991 is the year that we should be raising PERS retirement benefits. I'm sorry. I also know that we are probably going to raise their benefits in order to cover the additional taxes that will . . . 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 Labor April 24, 1991- Page 10

be imposed upon them, I support that because I think there is a contract obligation there, but I think this goes beyond what we should responsibly do, nor what we should responsibly put to Ways and Means and force them to say no. I think it has to stop. We know that this cannot

survive the Ways and Means prioritization process. 227 CHAIR KERANS: It can't survive the Ways and Means process if it's not present to be considered in the mix, and we understand that it has to take its place in the queue of things that have to be considered.

258 SENATOR SHOEMAKER: What are we doing to local governments through this? CHAIR KERANS: They are going to have to go through the same questions based upon the determination of the Ways and Means Committee if an adjustment is made either to take up the amended bill as they find it, to make further amendments to it, to set it aside.

SENATOR SHOE MAKER: Can they ignore our law? CHAIR KERANS: No, they can't ignore our law, they have to fund it if we enact it. SENATOR SHOEMAKER: So we are imposing on local governments who are suffering under Measure 5 a \$4 million gorilla to deal with. How can we do that?

CHAIR KERANS: What we've got to do is determine whether we have an ability to meet the obligation we have to retirees in their income and their relationship to their former employers and make a balance between that. I would assert to you that the Ways and Means Subcommittee is going to make just that determination. It may be zero.

292 The meeting is recessed at 4:58 p.m.

CHAIR KERANS calls the meeting back to order at 6:14 p.m. > Announces that SB 520 is going to be set aside.

SENATOR HILL withdraws his motion.

CHAIR KERANS: Leave the bill as amended, but let it rest.

TAPE 72, SIDE B SB 135 - PERMITS FOSTER PARENTS TO PARTICIPATE IN DENTAL BENEFIT PLANS AVAILABLE TO STATE EMPLOYEES - WORK SESSION

327 ANNETTE TALBOTT, COMMITTEE COUNSEL: Explains the "-1" amendments (EXHIBIT I) to SB 135, plus explaining the reduction of the fiscal impact. 351 TONI PETERSON, CHILDREN'S SERVICES DIVISION > Federal OBRA 90 budget does allow for SEBB funds to purchase dental insurance, and then use Title XIX dollars to pay for that insurance, but only if the cost of the insurance premium was less than the cost Medicaid was paying for the cost of care for the children. Unfortunately, the

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average cost of dental care for children is \$8, and the average cost of the insurance premium would be \$11. It was more expensive to purchase the SEBB dental policy. However, they are very interested in exploring this further to see if some kind of public/private arrangement could be worked out for improved dental insurance coverage for children in foster care.

SENATOR HILL: I'm not exactly sure where that leaves us, except I don't see this as a reason to halt the bill.

410 MOTION: SENATOR HILL moves the adoption of the "-1" amendments.

VOTE: Hearing no objection, the motion carries.

TAPE 73, SIDE A 028 MOTION: SENATOR HILL moves the SB 135 as amended to the Ways and Means by prior referral with a "do pass" recommendation. Also notes for the record that there is a continuing effort to urge a solution of inadequate dental care for the foster children.

VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.)

TAPE 73, SIDE A

SB 660 - PROVIDES METHOD OF COMPUTING BENEFITS UNDER PUBLIC EMPLOYEES' RETIREMENT SYSTEM FOR ABSENCE FROM EMPLOYMENT BECAUSE OF CERTAIN COMPENSABLE INJURIES SUBJECT TO WORKERS' COMPENSATION - WORK SESSION

054 TALBOTT: Explains the "-1" amendments (EXHIBIT J).

067 CHAIR KERANS: Explains the bill to Senator Hill. SENATOR BROCKMAN: When the employee is getting temporary total disability, is he also drawing his full salary?

CHAIR KERANS: No, they do not double dip. This is in lieu of.

TALBOTT: If they are receiving any other kind of disability allowance, they will not be able to be eligible for the benefits that we're allowing here. > Explains memo (EXHIBIT K) to committee which outlined provisions of the bill.

125 SENATOR SHOEMAKER: This bill merely treats the temporary disability for purposes of retirement as if they had not been temporarily disabled. CHAIR KERANS: That's it. It's a fictitious calculation for purposes of computation of the retirement benefit, and permits people to retire at the time they were going to, and not give them a double hit. You get an injury and that requires you to work longer in order to exclude the period of the disability from the base calculation. It improves your retirement because it adds another year or two, or up to three, years for the calculation.

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141 MOTION: CHAIR KERANS moves the adoption of the "-1" amendments to further restrict the bill. VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.) 145 MOTION: SENATOR SHOEMAKER moves the bill to the Ways and Means Committee with a "do pass" recommendation. VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.)

TAPE 73, SIDE A HB 2237 - ALLOWS PUBLIC EMPLOYEES' RETIREMENT BOARD TO TRANSFER TO ANOTHER ACCOUNT OR RESERVE IN PUBLIC EMPLOYEES' RETIREMENT FUND ANY BENEFIT PAYABLE AS RESULT OF DEATH OF MEMBER OF PUBLIC EMPLOYEES' RETIREMENT SYSTEM. OR EMPLOYEE ACCOUNT BALANCE - WORK SESSION

154 MOTION: SENATOR BROCKMAN moves the "-2" (EXHIBIT L) amendments. VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.) 165 MOTION: SENATOR BROCKMAN moves HB 2237 as amended to the floor with a "do pass" recommendation. VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.)

TAPE 73, SIDE A

SB 840 - REQUIRES EMPLOYERS TO PROVIDE USER ADJUSTABLE VIDEO DISPLAY
WORK STATIONS - WORK SESSION

218 SENATOR SHOEMAKER: The strongest testimony against the bill was that we don't need to do this, we should leave it to OSHA to do it. You guys are in the position to do it. You have already set up the guidelines, here they are and all you've got to do is go out and enforce it, and everything will be accomplished and we shouldn't need a law. There is also testimony that OSHA's only authority is after the fact - you can punish a violator, but you can't require compliance as the bill would do. JACK POMPEI, ADMINISTRATOR, OREGON OCCUPATIONAL HEALTH AND SAFETY ADMINISTRATION > As a state entity we can enforce guidelines that have to be placed in Administrative Rules. These guidelines are put there for specifically the state government and the private sector. > By law, OSHA can invoke the general duty clause, meaning that the employer must maintain and health and safe work place. > It could be after the fact, but not necessarily. If OSHA is called in by an employee for purposes of inspecting their work station, the general duty clause can be invoked prior to any injury which might occur. > We do not have a policy or scheduling system to go out and look at ergonomically designed

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work station. It is a case by case or complaint driven.

269 SENATOR SHOEMAKER: If you had Rules as opposed to Guidelines, that would be a different situation.

POMPEI: That is correct.

SENATOR SHOEMAKER: What are the prospects of adopting rules that would more or less correspond to this bill?

273 POMPEI: I have no problem adopting rules regarding this scenario, however, to be quite frank, I am not going to sit there and write rules or additional rules, because we have quite a few federal rules that companies and workers have to abide by. If I were to take it upon myself without legislative intent, I would have a rough time getting these rules through the administrative process. SENATOR SHOEMAKER: How do you respond to this bill, as one who does understand ergonomics, does it make sense to you? POMPEI: The bill makes sense, but I don't want to take a position on the bill. I was quite concerned with the U.S. West involvement because I have been in this business for 20 years, and I would like to think that employers take care of their employees because of moral and ethical obligations. However, if you look at it realistically, it's a monetary and a productivity situation. 55% of the claims filed in this state are repetitive motion/cumulative trauma. Backs, strains and sprains, carpal tunnel syndrome. I have 5 ergonomists on staff now helping companies in consultation. There is a problem there, and I think they down played the problem, and I don't agree with them. I think they are doing it because it is necessary to do, to become competitive and productive. There is a need for ergonomic involvement in the work site - not only at a VDT station or cathode ray tube, but all

lifting. ~ My concern with the bill is that if OSHA does adopt rules down the road, the Federal Government, and I have to adopt them, if they are more stringent than a law passed by our Oregon legislature, I would have to void the Oregon law.

349 SENATOR SHOEMAKER: Wouldn't Federal law pre-empt contrary state law anyway?

POMPEI: It would not if our law is more stringent.

TAPE 74, SIDE A

028 SENATOR SHOEMAKER: If a statute directs you to do certain things, and it's the most recent statute, does the variance authority apply?

POMPEI: I have a problem saying yes or no to that, because you're talking about a legislative law now as opposed to a rule, and I defer to you. 033CHAIR KERANS: How about if we were to reference your authority to grant variances? Let's delete Section 7 as we find it and instruct Counsel to provide, with your advice and counsel, boiler plate language there to simply say that you may, under your rule making authority for

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 order of the proceedings, please refer to the tepee. _ _ . Senate Committee on Labor April 24, 1991- Page 14

variances, take up whatever variances come based on the pre-existing power.

SENATOR BROCKMAN: On line 20, Page 1 of the bill, I don't know if "owner" is in statute, but it spells it out there, but U.S. West is a publicly owned corporation as are United Telephone and some of the others. Does "owner" mean a share-holder of common stock in that corporation? They own the assets of the corporation?

CHAIR KERANS: That is not the intent here.

052 TALBOTT: You normally go after the person who has control. POMPEI: We go after the person who has control, but we don't consider owner, we consider control factor. SENATOR SHOEMAKER: I think that the shareholder does not have ownership of employment. The shareholder has ownership of the company that owns the place of employment. I think you're okay.

058 CHAIR KERANS: That's your existing statute. 067 MOTION: CHAIR KERANS moves adopting the hand-engrossed amendments (EXHIBIT M) with the exception of striking Section 7, and have Counsel add the necessary words to reference the various powers of the Director. VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.)

072 There is a general discussion among the committee and counsel of language changes and further revisions of the language of the amendments and the bill.

TAPE 73, SIDE B

001 The general discussion of changes and revisions continues.

130 MOTION: CHAIR KERANS moves to adopt the scrivener's amendments to the bill.

VOTE: Hearing no objection, the motion carries. (Senator Kintigh is excused.)

132 Further discussion of changes and revisions to the bill among committee and counsel. 216 MOTION: SENATOR HILL moves SB 840 to Ways and Means by prior referral with a "do pass" recommendation. VOTE: Hearing one objection, the motion carries. (Senator Brockman objects, Senator Kintigh is excused.)

TAPE 73, SIDE B

SB 1037 - PROVIDES SYSTEM FOR NOTIFICATION OF LAW ENFORCEMENT AGENCIES - /

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OF DEATHS OR SERIOUS INJURIES IN WORKPLACE AND AUTHORIZES INVESTIGATION AND PROSECUTION OF CASES WHEN CRIMES HAVE BEEN COMMITTED - WORK SESSION

236 ERNEST C. OILMAN, PRIVATE CITIZEN (EXHIBIT N) > Testifies in support of SB 1037. > Details Exhibit N. 419 TALBOTT: > Outlines the "-1" and "-2" amendments. (EXHIBIT O).

TAPE 74, SIDE B

001 TALBOTT: > References the April 10, 1991, letter from the Attorney General's Office, (EXHIBIT P) which says that the Department of Justice's concerns have been addressed. > Continues to outline the amendments. > References the letter from Jack Pompei (EXHIBIT Q), dated April 12, 1991, which contains information about the number of deaths. > Most of the money from the fiscal impact will be spent towards training the State Police as well as the employees from Oregon OSHA.

215 SENATOR HILL: I'm not sure why we have to train the local police. I don't know who we would train. It's the OSHA criminal investigator who will be driving the investigation. CHAIR KERANS: That's included in the budget already. SENATOR HILL: Well then let's save the money. Let's not spend it on training the police. 221 CHAIR KERANS: Let's do this then. Let's start out smaller and see how it goes. \$316,000 is a large amount of money. 226 SGT. MIKE RAMSB Y, CRIMINAL INVESTIGATION DIVISION, OREGON STATE POLICE: > Is present to learn more about the bill and answer questions, if there are any. CHAIR KERANS: You've got some idea of how the bill works, or what the intent is. In the event there is a situation where the person in the field calls the criminal investigator who calls the police, would a police investigator be prepared to deal with this in an industrial setting in the context of a criminal investigation without any other training particularly or knowledge of occupational safety and health laws and regulations. Is a criminal investigation a criminal investigation? Or are some different? 245 RAMSB Y: There are some major differences going on. The laws that are being violated. We have to say that the vast majority of the criminal investigators in this state are unfamiliar with Oregon OSHA laws and Administrative Rules as they would be required to be investigated under these circumstances. I think it's safe to say that a substantial number of criminal investigators would have to be trained and educated in these laws and how they apply. With only one criminal

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investigator available to OR-OSHA officials, that means that the local law enforcement people would be the first ones on the scene, they would be the first ones to be collecting any necessary evidence, and obviously in an industrial setting, when we're not talking about a murder which is more traditionally felt is a crime, there are certain things that they would have to be made aware of.

265 CHAIR KERANS: You understand that we're talking about a small number here.

RAMSB Y: Yes sir, I understand that, and in fact have investigated deaths at industrial sites on the southern Oregon coast, and am fully aware that it is not a large number of investigations that we're talking about, but in the conduct of any criminal investigation, it is extremely important. 273 SENATOR HILL: Despite the capabilities of any particular investigator on a police force, I don't think we would be able to train them to become an industrial hygienist in any short period of time. I don't think it's practical. I think it is practical to develop an investigative capacity at OR-OSHA, as we've begun to do, and perhaps develop someone's capacity on the State Police force. But certainly not a broad capacity state-wide. If we're putting money into training, I think we should target it very specifically to build up the skills and to use those skills state-wide rather than try to broadcast training in a broad area. Let the trained individual go to the accident.

300 CHAIR KERANS: I don't think we're looking at broadcast training every police officer in the state of Oregon. We're talking about having the Department of Insurance and Finance's OR OSHA folks train and prepare their new unit, that their field staff be trained, and then, as the case may be in each jurisdiction, a designated police officer or officers. We're not talking about sending everybody back to the Bureau in order to get everybody up to speed on this as an additional enforcement. We're talking about having an officer or officers in each force. 319 RAMSB Y: Not every officer who is an investigator in the state of Oregon would have to be versed in OR-OSHA. However, I think that we probably, at least from our standpoint, want to provide basic training to our criminal investigators because we never know which investigator is going to be on the scene. We would have to provide some training to our people so that they could then assist the OR-OSHA investigator. 338

CHAIR KERANS: I would like to know what mechanism does OR-OSHA use to investigate a serious injury accident. We've included not just a fatality, but there are also a second class of injuries here - a serious disabling injury. How do you get notice of it? 350 O'SULLIVAN: We don't. We read the newspaper, we have an employee complaint, we have somebody say there's been a catastrophe out here - somebody just got his hand chopped off in an auger, you need to get out here. That's how we get not)fication. CHAIR KERANS: For serious, disabling injury. How do you get notice of a death? O'SULLIVAN: It's required by law to report to us within 24 hours. Usually the insurance company is the one that not)ifies us. I believe it is in the Administrative Rules. 362 TALBOTT: So you could generate an Administrative Rule that states that they have to notify you of a serious disabling injury, so you would then be able to get notification?

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- Senate Committee on Labor April 24, 1991- Page 17

O'SULLIVAN: I suppose we could if we were so ordered to. I don't know how many serious disabling injuries there are in a given year, so I don't know what volume your talking about and whether we have the resources to then go investigate every SDI, I don't know.

TAPE 75, SIDE A

001 The committee discusses various amendments to the amendments.
093 MOTION: CHAIR KERANS moves SB 1037 as amended to the Judiciary Committee by prior reference, with a "do pass" recommendation. VOTE: Hearing no objection, the motion carries. (Senators Kintigh and Brockman are excused.)

TAPE 75, SIDE A SB 43 - SPECIFIES GROUNDS FOR EMERGENCY SUSPENSION OF FARM LABOR CONTRACTOR LICENSE OR FARM-WORKER CAMP OPERATOR LICENSE - WORK SESSION

102 TALBOTT: > Introduces the "-3" amendments (EXHIBIT R) to SB 43.
150 CHAIR KERANS: Deletes §(6) at the request of Michael Dale and Paul Tiffany, Administrator, Wage and Hour Division. 158MICHAEL DALE: > Explains the new amendments to the bill. > The intent was not to have an emergency suspension for any case of using an unlicensed contractor. It was only in the event that an unlicensed contractor was being used who has already been through the mill.

TAPE 76, SIDE A

025 DALE: > Continues to explain the amendments to the bill.
049 MOTION: CHAIR KERANS moves to adopt the amendments as further amended to SB 43. VOTE: Hearing no objection, the motion carries. (Senators Kintigh and Brockman are excused.) 053MOTION: SENATOR HILL moves SB 43 as amended to the floor with a "do pass" recommendation. VOTE: Hearing no objection, the motion carries. (Senators Kintigh and Brockman are excused.)

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058 The meeting is adjourned at 8:44 p.m.

Submitted by: Reviewed by: Roberta White Annette Talbott
Assistant Committee Counsel

EXHIBIT LOG:

A - Testimony on SB 840 - Linda Wisher - 3 pages B - Testimony on SB 840 - Stephanie ForSB erg - 1 page C - Testimony on SB 840 - Edwin Downey - 6 pages D - Testimony on SB 840 - Laurie Wimmer - 1 page E - Testimony on SB 840 - Dave Overstreet - 6 pages F - Testimony on SB 520 - Barbara Clark - 67 pages G - Testimony on SB 520 - Cecil Posey - 3 pages H - Amendments to SB 520 - PERS - 17 pages I - Amendments to SB 135 - Staff- 2 pages J - Amendments to SB 660 - Staff- 1 page K - Memo on SB 660 - Staff- 1 page L - Amendments to HB 2237 - Staff- 2 pages M - Amendments

to SB 840 - Staff- 5 pages N - Testimony on SB 1037 - Ernest C. Gilman -
4 pages O - Amendments to SB 1037 - Staff- 5 pages P - Information on SB
1037 - Jack L. Landau - 3 pages Q - Information on SB 1037 - Jack Pompei
- 3 pages R - Amendments to SB 43 - Staff- 7 pages S - Written Testimony
on SB 520 - Ruth Larson - 1 page T - Information on HB 2237 - Bob
Andrews - 1 page U - Information on SB 660 - Staff- 11 pages V -
Information on SB 660 - Staff- 43 pages W - Preliminary Staff Measure
Summary on SB 520 - Staff - 1 page X - Fiscal Impact Statement -
Legislative Fiscal Office - 1 page

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