

SENATE COMMITTEE ON RULES

June 13, 2005

8:30 A.M.

Hearing Room B

Tapes 101 - 102
Corrected 10/27/05

MEMBERS PRESENT: Sen. Kate Brown, Chair
Sen. Ted Ferrioli, Vice-Chair
Sen. Jason Atkinson
Sen. Charlie Ringo
Sen. Frank Shields

STAFF PRESENT: Tiffany Harris, Committee Administrator
Katie Lowry, Committee Assistant

MEASURE/ISSUES HEARD:
SB 1071 – Public Hearing and Work Session
HB 3441A – Public Hearing and Work Session
SB 785 – Public Hearing and Work Session
SB 786 – Public Hearing and Work Session
Approval of Drafting Requests – Work Session
SB 1067 – Work Session
HB 3206 – Work Session
HB 2077A – Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 101, A		
005	Chair Brown	Calls the meeting to order at 8:33 a.m. and opens a public hearing on SB 1071.
<u>SB 1071 – PUBLIC HEARING</u>		
008	Sen. Richard Devlin	Senate District 19. Testifies in support of SB 1071.
050	Chair Brown	Asks if this would be available to K-12 students throughout the state.
051	Sen. Devlin	Replies yes.
052	Chair Brown	Notes SB 1071 has an emergency clause. Wonders when the system will be functional.
053	Sen. Devlin	Believes the Oregon Department of Education (ODE) will have the system functional within 8-12 months after the beginning of the new biennium.
056	Chair Brown	Wonders if there is a requirement that parents are at home while students are virtually attending school.
058	Sen. Devlin	Replies no. Comments on distance learning.
069	Chair Brown	Verifies the credits from the virtual program are treated the same as any other classroom credits.
070	Sen. Devlin	Replies yes. Explains that is the idea of providing some uniform standards.

072	Sen. Shields	Discusses fees of SK-online. Asks if students in the Salem-Keizer school district will have to pay a fee to take a class.
081	Sen. Devlin	Believes the intent of SB 1071 is to develop a system where all of the opportunities are available to students statewide regardless of their location. Believes the intent is to have a uniform fee structure.
084	Sen. Shields	Believes it is more appropriate to ask Ms. Fleming from the ODE.
087	Sen. Ringo	Wonders about the fiscal impact of SB 1071.
089	Sen. Devlin	Replies approximately two million dollars to set up the program.
092	Chair Brown	Recesses the public hearing on SB 1071 and opens a public hearing on HB 3441A.

HB 3441A – PUBLIC HEARING

096	Tiffany Harris	Committee Administrator. Provides an overview of HB 3441A.
104	Sam Adams	Commissioner, City of Portland. Testifies in support of HB 3441A. Explains the bill is only permissive.
130	Chair Brown	Wonders why the bill was passed in 1963.
131	Adams	Explains his understanding of why the bill was passed in 1963.
150	Sen. Shields	Mentions unintended consequences of HB 3441A for Mt. Hood Community College. Wonders if those concerns have been addressed.
155	Adams	Explains those concerns were addressed. Emphasizes HB 3441A is permissive.
158	Sen. Ringo	Remarks it is astonishing that this bill is needed.
160	Adams	Explains voting members cannot be added to the committee without the legislation.
162	Chair Brown	Closes the public hearing on HB 3441A and opens a work session on HB 3441A.

HB 3441A – WORK SESSION

165	Chair Brown	MOTION: Moves HB 3441A to the floor with a DO PASS recommendation.
167	Chair Brown	VOTE: 4-0-1 EXCUSED: 1 - Atkinson Hearing no objection, declares the motion CARRIED. SEN. RINGO will lead discussion on the floor.
170	Chair Brown	Closes the work session on HB 3441A and re-opens the public hearing on SB 1071.

SB 1071 – PUBLIC HEARING

172	Vicki Fleming	Oregon Department of Education (ODE). Testifies in support of SB 1071.
203	Jim Green	Oregon School Board Association (OSBA). Remarks there are not many statutes on distance education. Testifies in support of SB 1071. Discusses cost of the program.
237	Laurie Wimmer Whelan	Oregon Education Association. Testifies in support of SB 1071.
256	Sen. Shields	Asks about fee structure. Discusses example.
265	Fleming	Discusses fee structure and intent of SB 1071.
280	Sen. Shields	Wonders about students who are expelled from school and if they would be able to access the program.
284	Fleming	Replies yes. Explains in detail.
291	Green	Explains this program provides the opportunity for students unable to attend classes to continue their educational program.
298	Sen. Shields	Verifies this could be provided at a juvenile detention facility.
301	Green	Believes that is part of what is envisioned.

306	Sen. Ferrioli	Remarks there is already a lot of distance learning online. Asks why it is necessary to have a central portal.
315	Fleming	Discusses why a central portal system is necessary.
332	Sen. Ferrioli	Asks if the ODE would be responsible for accreditation of all the course content.
335	Fleming	Explains the idea of uniform and statewide standards would be to have those who are currently providing online education to advise the ODE on reasonable requirements for teacher licensure and qualifications and the content of the coursework.
342	Sen. Ferrioli	Wonders if the ODE would be responsible for accrediting the instructor and the course content if a high school student wanted to take MIT math courses.
344	Fleming	Replies no. Explains this portal would allow access to that kind of opportunity by virtue of linking, but the ODE could not oversee anything outside of the K-12 system.
350	Sen. Ferrioli	Asks if the student would receive credit for the course taken.
353	Fleming	Explains the transaction would be accessed through the portal, but the financial transaction would take place between MIT and the student. Remarks the ODE cannot regulate or provide a fee structure outside of the K-12 system.
358	Green	Comments about contracts between other educational institutions and school districts.
370	Sen. Ferrioli	Comments on the necessity of having a mechanism to control course content. Wonders about the structure of the portal and expresses concerns about the administration of the portal.
389	Fleming	Believes this infrastructure would allow access rather than inhibit it.
403	Sen. Ferrioli	Mentions SB 1071 restricts the number of students that can take online courses to 50 percent of the students that reside in the school. Asks why this is necessary.
411	Fleming	Explains the reference in the bill is to mitigate the circumstance of school districts that begin virtual schools to recruit on a statewide basis. Provides an example of a circumstance.
429	Green	Provides further explanation of the reasoning for the provision.
TAPE 102, A		
017	Sen. Ferrioli	Wonders about a conflict resolution process.
026	Fleming	Explains the ODE has staff that are in constant communication with those who are developing charter applications. Comments on the online environment. Expresses intent to encourage any good idea that provides more opportunity for children.
034	Green	Explains there is already a mediation process if a charter school application is denied. Mentions provision in ORS 338.
048	Sen. Ferrioli	Remarks on the subjective nature of a good idea. Asks if witness believes the mediation process for setting up a charter school is efficacious.
055	Green	Replies yes and explains he believes it is a process that has worked very well. Comments on the mediation process between charter schools and school districts.
066	Sen. Ferrioli	Requests to work with the chief sponsor regarding language on virtual charter schools mediation. Asks witness if the virtual portal needs to be a bricks and mortar process or if the whole system can be located virtually.
082	Fleming	Replies yes and explains in detail.

096	Chair Brown	Asks Sen. Ferrioli to work with the chief sponsor on this bill in the Senate Budget Committee on technical amendments.
099	Sen. Ferrioli	Expresses concern that this will become a portal and not a restrictor valve.
102	Sen. Ringo	Asks about comment by Mr. Green that there were charter schools who were receiving weighted average daily memberships (ADMws) by offering online courses to out of state children. Asks if that is what the witness said.
106	Green	Replies that was what was envisioned. Explains that the Coquille School District was going to offer curriculum and education offerings to home school students in the state but also to students beyond the borders of Oregon. Explains the school district would not be able to claim students outside of Oregon as ADMws and receive state school fund dollars.
111	Sen. Ringo	Asks for assurance that nobody is offering online courses to out of state students and receiving ADMws for them.
114	Green	Replies yes and explains they are not receiving ADMws for out of state students.
115	Chair Brown	Makes comment.
116	Sen. Ringo	Verifies that the Oregon virtual school district can obtain their courses from a variety of sources. Asks if an online math course that the Portland School District has developed could be purchased by the Oregon virtual school district and then be offered statewide.
125	Fleming	Replies yes and explains there would be a fee structure for uniformity of price.
129	Sen. Ringo	Wonders about school districts and education service districts (ESDs) using their resources to develop that kind of curriculum as opposed to focusing on educating the children within its district.
133	Fleming	Believes development of the curriculum is currently happening. Provides an example.
139	Green	Explains it is not only an entrepreneurial aspect. Discusses alternative education services.
152	Sen. Ringo	Expresses concern that ESDs might be entrepreneurial with regards to a virtual school district. Prefers ESDs focus on providing education to students within the district.
162	Fleming	Believes the online providers that currently exist were created at the request of rural districts in order to have access for children. Discusses education in rural districts in Oregon.
178	Sen. Ringo	Believes that school districts and ESDs should respond to the needs of the children in that district.
186	Sen. Charles Starr	Senate District 13. Testifies regarding SB 1071. Submits sample advertisement for virtual education (EXHIBIT A). Discusses SB 684 (2005). Discusses virtual schools in Ohio.
284	Chair Brown	Verifies that Sen. C. Starr is not opposed to online education, but is opposed to the ODE having control and creating uniformity in terms of course content.
290	Sen. C. Starr	Discusses denial of a charter application. Remarks on local control versus state control.
302	Sen. Shields	Remarks on the advertisement for virtual education. Comments on the 1911 Encyclopedia Britannica and the 1913 Noah Webster's Dictionary. Asks if those are the years that are being used.

310	Sen. C. Starr	Replies yes.
311	Sen. Shields	Asks for reasoning.
312	Sen. C. Starr	Offers an explanation.
321	Chair Brown	Remarks about the No Child Left Behind Act and federal mandates. Asks how Sen. C. Starr sees virtual education fitting in with the No Child Left Behind Act.
330	Sen. C. Starr	Believes it will fit in very well. Discusses the No Child Left Behind Act.
345	Chair Brown	Closes the public hearing on SB 1071 and opens a work session on SB 1071.

SB 1071 – WORK SESSION

358	Chair Brown	MOTION: Moves SB 1071 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Budget.
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360		VOTE: 3-2-0
		AYE: 3 - Ringo, Shields, Brown
		NAY: 2 - Atkinson, Ferrioli
	Chair Brown	The motion CARRIES.

362	Sen. Ferrioli	Provides vote explanation.
373	Chair Brown	Closes work session on SB 1071 and opens public hearings on SB 785 and SB 786.

SB 785 AND SB 786 – PUBLIC HEARING

381	Tiffany Harris	Committee Administrator. Provides an overview of SB 785 and SB 786. Submits the -1 amendments to SB 786 for the record (EXHIBIT B) .
392	Mark Simmons	Oregon Association of Nurseries. Provides an explanation of SB 785.
411	Dan Hilburn	Oregon Department of Agriculture. Testifies in support of SB 785.

TAPE 101, B

013	Simmons	Explains SB 786 with the -1 amendments.
021	Sen. Ringo	Verifies that witness is currently explaining the -1 amendments to SB 786.
022	Simmons	Confirms this. Explains that the -1 amendments are intended to replace the entire bill.
026	Simmons	Continues explaining SB 786 with the -1 amendments.
035	Ted Lorensen	Oregon Department of Forestry (ODF). Testifies in support of SB 786 with the -1 amendments. Submits written testimony (EXHIBIT C) .
044	Mike Bordelon	ODF. Provides background information on this issue. Expresses support for the -1 amendments.
052	Chair Brown	Refers to lines 19-23 of the -1 amendments regarding creating an exemption from unlawful trade practices in Oregon and federal anti-trust laws. Asks if witness had a specific conversation with Legislative Counsel (LC) regarding this specific issue and asks witness to enlighten the committee.
057	Simmons	Explains reasoning for language in lines 19-23 of the -1 amendments. Points out the bill does not bind ODF to follow this model, but it allows them to follow this model if there is agreement between all the stakeholders.
072	Sen. Ferrioli	Understands the need for the language. Discusses federal anti-trust laws. Believes the last four words of line 23 amount to a prayer.

080	Simmons	Makes comment.
082	Chair Brown	Explains that committee staff is calling LC to ask someone to testify.
091	Sen. Shields	Points out the witness is setting up mechanisms to respond to an emergency potentially because of globalization. Wonders about proactive responses.
105	Simmons	Discusses proactive measures being implemented.
115	Sen. Ringo	Notes the original bill would have phased out the DL Phipps Nursery and the amendments do not. Wonders about the long range goal.
120	Lorensen	Explains the DL Phipps Nursery is a necessary contingency to keep in place to ensure there is a seedling supply in Oregon.
128	Sen. Ringo	Wonders if the ODF believes it can acquire the seedlings cheaper from the DL Phipps Nursery or from a private cooperative.
131	Bordelon	Explains running a nursery which provides speculative seedlings for family forestland owners is a high-risk business that requires higher costs. Points out these costs are passed back to the consumer. Believes a cooperative would be more effective and efficient because the risk can be shared with private growers. Remarks their interest is not in running a nursery, it is in providing seedling stock that covers the range of private forestland interest around the state.
153	Chair Brown	Asks Chuck Taylor about line 23 of the -1 amendments regarding federal anti-trust laws. Assumes we don't have the ability to exempt ourselves from them.
162	Chuck Taylor	LC. Explains he did not know what the question was.
165	Chair Brown	Asks if Mr. Taylor would like a moment to look at it.
168	Taylor	Replies yes.
170	Chair Brown	Recesses the public hearing on SB 785 and SB 786 and opens a work session on approval of drafting requests.

APPROVAL OF DRAFTING REQUESTS – WORK SESSION

	Tiffany Harris	Committee Administrator. Submits memo explaining the drafting requests (EXHIBIT D).
172	Chair Brown	MOTION: Moves LC 3666 be approved for re-drafting by Legislative Counsel and BE INTRODUCED as a committee bill.
180	Chair Brown	VOTE: 5-0-0
	Chair Brown	Hearing no objection, declares the motion CARRIED.
184	Chair Brown	Closes the work session on approval of drafting requests and opens a work session on SB 1067.

SB 1067 – WORK SESSION

187	Tiffany Harris	Committee Administrator. Provides an overview of SB 1067.
196	Chair Brown	Makes comments regarding SB 1067. Verifies there are no amendments to SB 1067.
198	Harris	Confirms this.
200	Chair Brown	MOTION: Moves SB 1067 to the floor with a DO PASS recommendation.
201	Chair Brown	VOTE: 5-0-0
	Chair Brown	Hearing no objection, declares the motion CARRIED.
	Chair Brown	SEN. JOHNSON will lead discussion on the floor.
202	Chair Brown	Closes the work session on SB 1067 and opens a work session on HB 3206.

HB 3206 – WORK SESSION

205	Chair Brown	Discusses HB 3206.
211	Chair Brown	Verifies there are no amendments, but the parties did attempt to try and work something out.
212	Jessica Adamson	Associated General Contractors. Replies yes.
213	Chair Brown	Verifies they were unsuccessful.
214	Adamson	Confirms they were unsuccessful.
215	Chair Brown	MOTION: Moves HB 3206 to the floor with a DO PASS recommendation.
217	Chair Brown	VOTE: 5-0-0 AYE: In a roll call vote, all members present vote Aye. The motion CARRIES. SEN. RINGO will lead discussion on the floor.
225	Sen. Ferrioli	Expresses hope that this measure will be tracked throughout the interim because he believes there will be reciprocation.
229	Chair Brown	Points out that Oregon education service districts (ESDs) do not have the ability to be entrepreneurial as Washington ESDs do. Comments that it will not be very easy to reciprocate.
232	Sen. Ringo	Makes comment.
233	Sen. Ferrioli	Makes comment.
234	Chair Brown	Comments that they believe there will be consequences.
235	Chair Brown	Closes the work session on HB 3206 and opens a work session on HB 2077A.

HB 2077A – WORK SESSION

238	Chair Brown	Verifies that everyone is okay with the proposed amendments.
242	Tiffany Harris	Committee Administrator. Provides an overview of HB 2077A. Submits and explains the –A4 amendments to HB 2077A (EXHIBIT E) .
250	Sen. Ringo	Wonders what specifically the amendments accomplish.
259	Chair Brown	Asks Sen. Ringo to repeat the question
260	Sen. Ringo	Comments he doesn't remember.
262	Chair Brown	Explains the –A4 amendments.
267	Sen. Ringo	Relates concerns regarding municipalities and local governments.
270	Chair Brown	Explains that is why the –A4 amendments were drafted.
272	Sen. Ringo	Asks how much this will cost the Oregon Department of Transportation (ODOT).
275	Jessica Adamson	Associated General Contractors. Replies they are unsure of the cost. Suggests ODOT will have a better idea of cost. Explains it does exempt local city projects.
278	Chair Brown	Adds that it exempts only those tied to federally funded projects.
280	Adamson	Replies correct. Explains it clarifies that ODOT needs to set up an escalation/de-escalation clause so there is a shared risk, and it establishes an end date for when these claims can be filed. Believes the –A4 amendments address the concerns that were raised at the last hearing.
282	Sen. Ringo	Wants an estimate as to what this will cost ODOT.
287	John Jackley	ODOT. Explains their estimate of the impact of HB 2077A is approximately \$5 million.
293	Chair Brown	Verifies that is the same figure he related to the committee last week.
294	Jackley	Confirms this.
295	Sen. Ringo	Asks if that is \$5 million this biennium.
296	Jackley	Explains it is their total estimate between April 1, 2003 and the close date of October 1, 2005 stated in the –A4 amendments.

305	Chair Brown	MOTION: Moves to ADOPT HB 2077-A4 amendments dated 06/08/05.
307	Chair Brown	VOTE: 5-0-0 Hearing no objection, declares the motion CARRIED.
308	Chair Brown	MOTION: Moves HB 2077A to the floor with a DO PASS AS AMENDED recommendation.
309	Sen. Ringo	Relates concerns regarding retroactive bail-out.
312	Sen. Ferrioli	Makes comments.
330	Chair Brown	VOTE: 4-1-0 AYE: 4 - Atkinson, Ferrioli, Shields, Brown NAY: 1 - Ringo The motion CARRIES. SEN. SHIELDS will lead discussion on the floor.
335	Chair Brown	Reminds committee there will be a hearing at 4:00 p.m. today. Recesses the meeting at 9:55 a.m. and the committee stands at ease.
342	Chair Brown	Calls the meeting back to order at 10:04 a.m. and re-opens the public hearing on SB 785 and SB 786.
<u>SB 785 AND SB 786 – PUBLIC HEARING</u>		
345	Chuck Taylor	Legislative Counsel (LC). Explains line 23 of the -1 amendments to SB 786.
366	Sen. Ferrioli	Wonders if it is appropriate to convey immunity from prosecution with statute. Wonders if rather the intent that there not be a violation of the Anti-Trust Act should be stated.
373	Taylor	Explains it is claiming the state’s exemption and the claiming of that applies that we are acting under the state’s exemption.
380	Chair Brown	Closes the public hearing on SB 785 and SB 786 and opens a work session on SB 785.
<u>SB 785 – WORK SESSION</u>		
385	Chair Brown	MOTION: Moves SB 785 to the floor with a DO PASS recommendation.
387	Chair Brown	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED. SEN. ATKINSON will lead discussion on the floor.
390	Chair Brown	Closes the work session on SB 785 and opens a work session on SB 786.
<u>SB 786 – WORK SESSION</u>		
392	Chair Brown	MOTION: Moves to ADOPT SB 786-1 amendments dated 04/05/05.
395	Chair Brown	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED.
397	Chair Brown	MOTION: Moves SB 786 to the floor with a DO PASS AS AMENDED recommendation.
400	Chair Brown	VOTE: 4-0-1 EXCUSED: 1 - Shields Hearing no objection, declares the motion CARRIED. SEN. ATKINSON will lead discussion on the floor.
402	Chair Brown	Closes the work session on SB 786 and adjourns the meeting at 10:08 a.m.

- A. SB 1071, advertisement, Sen. Charles Starr, 1 p**
- B. SB 786, -1 amendments, staff, 4 pp**
- C. SB 786, written testimony, Ted Lorensen, 1 p**
- D. Approval of drafting and introduction requests, memorandum, Sen. Kate Brown, 5 pp**
- E. HB 2077A, -A4 amendments, staff, 1 p**

SENATE COMMITTEE ON RULES

June 13, 2005
4:00 P.M.

Hearing Room B
Tape 103

MEMBERS PRESENT: Sen. Kate Brown, Chair
Sen. Ted Ferrioli, Vice-Chair
Sen. Jason Atkinson
Sen. Charlie Ringo
Sen. Frank Shields

STAFF PRESENT: Tiffany Harris, Committee Administrator
Dawn Tusso, Committee Assistant

MEASURE/ISSUES HEARD:
HJM 2 A - Public Hearing and Work Session
Approval of Drafting Request - Work Session

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<u>TAPE/#</u>	<u>Speaker</u>	<u>Comments</u>
TAPE 103, A		
003	Chair Brown	Calls meeting to order at 4:09 p.m. Makes opening remarks and opens a public hearing on HJM 2 A.
<u>HJM 2 A – PUBLIC HEARING</u>		
	Tiffany Harris	Committee Administrator. Submits HJM 2 A –A2 amendments for the record (EXHIBIT A).
014	Rep. Donna Nelson	Represents House District 24. Introduces herself.
021	Col. Mike Caldwell	Deputy Director, Oregon Military Department. Submits and discusses PowerPoint slides (EXHIBIT B).
072	Chair Brown	Comments on meeting she attended regarding the process discussed today.
080	Sen. Peter Courtney	Represents Senate District 11. Testifies in support of HJM 2 A. Submits written testimony for the record (EXHIBIT C).
129	Rep. Nelson	Testifies in support of HJM 2 A.
161	Chair Brown	Asks Sen. Courtney if he is planning on attending the hearing scheduled for Friday.
163	Sen. Courtney	Explains that it is being negotiated currently.
169	Chair Brown	Asks Col. Caldwell if their recommendations have been criticized for politics in the past.
177	Col. Caldwell	Responds to question.
247	Sen. Shields	Comments on the scenario.
255	Col. Caldwell	Responds to comment.
262	Sen. Shields	Refers to Sen. Courtney's testimony. Asks about no cost savings.
270	Col. Caldwell	Talks about no cost savings.
309	Chair Brown	Closes public hearing and opens work session on HJM 2 A.
<u>HJM 2 A – WORK SESSION</u>		
310	Chair Brown	Discusses purpose of drafting request for Rep. Donna Nelson.
312	Chair Brown	MOTION: Moves to ADOPT HJM 2 A-A2 amendments dated 6/13/05.

		VOTE: 4-0-1
		EXCUSED: 1 - Sen. Ferrioli
	Chair Brown	Hearing no objection, declares the motion CARRIED.
314	Chair Brown	MOTION: Moves HJM 2 A be sent to the floor with a BE ADOPTED AS AMENDED recommendation.
		VOTE: 4-0-1
		EXCUSED: 1 - Sen. Ferrioli
	Chair Brown	Hearing no objection, declares the motion CARRIED.
		SEN. COURTNEY will lead discussion on the floor.
324	Chair Brown	Closes work session on HJM 2 A and opens work session on approval of drafting request.
<u>APPROVAL OF DRAFTING REQUEST – WORK SESSION</u>		
327	Chair Brown	MOTION: Moves one drafting request be approved for drafting by Legislative Counsel and BE INTRODUCED as a committee bill.
		VOTE: 4-0-1
		EXCUSED: 1 - Sen. Ferrioli
	Chair Brown	Hearing no objection, declares the motion CARRIED.
330	Chair Brown	Closes work session and adjourns meeting at 4:22 p.m.

EXHIBIT SUMMARY

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- A. HJM 2 A, -A2 amendments, staff, 3 pp**
- B. HJM 2 A, PowerPoint slides, Col. Mike Caldwell, 14 pp**
- C. HJM 2 A, written testimony, Sen. Peter Courtney, 2 pp**