

## SENATE COMMITTEE ON JUDICIARY

June 02, 2003 Hearing Room 343  
8:00 a.m. Tapes 146-147

**MEMBERS PRESENT:**        **Sen. John Minnis, Chair**  
                                  **Sen. Ted Ferrioli**  
                                  **Sen. Charlie Ringo**  
                                  **Sen. Charles Starr**  
                                  **Sen. Vicki Walker**

**MEMBER EXCUSED:**        **Sen. Ginny Burdick, Vice-Chair**

**STAFF PRESENT:**            **Bill Joseph, Counsel**  
                                  **Jane Bodenweiser, Committee Assistant**

**MEASURE/ISSUES HEARD:**        **HB 3370A Work Session**  
                                  **HB 2986A Work Session**  
                                  **SB 100 Work Session**

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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.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 146, A</b>		
004	Chair Minnis	Calls the meeting to order at 8:20 a.m. and opens a work session on HB 3370A that consolidates laws governing eminent domain.
<b><u>HB 3370A WORK SESSION</u></b>		
012	Sen. Walker	<b>MOTION: Moves to RECONSIDER the vote by which HB 3370 was sent to the floor with a DO PASS recommendation.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 – Sen. Burdick</b>
114	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
019	Bill Joseph	Committee Counsel. Introduces the -1 amendments to HB 3370A that resolve a conflict ( <b>EXHIBIT A</b> ).
024	Sen. Walker	<b>MOTION: Moves to ADOPT HB 3370A-1 amendments dated 5/29/03.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Burdick</b>
026	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b>
033	Sen. Walker	<b>MOTION: Moves HB 3370A to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Burdick</b>
038	Chair Minnis	<b>Hearing no objection, declares the motion CARRIED.</b> <b>SEN. BURDICK will lead discussion on the floor.</b>
040	Chair Minnis	Closes the work session on HB 3370A and opens a work session

on HB 2986A.

**HB 2986A WORK SESSION**

044	Bill Joseph	Committee Counsel. Introduces the –A5 amendments to HB 2986 that provides immunity from civil liability for physician or health care provider who does not report to Department of Transportation person’s impairments affecting ability to safely operate motor vehicle ( <b>EXHIBIT B</b> ).
049	Sen. Walker	<b>MOTION: Moves to RECONSIDER the vote by which HB 2986A was sent to the floor with a DO PASS AS AMENDED recommendation.</b> <b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Burdick</b> <b>Hearing no objection, declares the motion CARRIED.</b>
052	Chair Minnis	<b>MOTION: Moves to ADOPT HB 2986A-A5 amendments dated 5/23/03.</b>
054	Sen. Walker	<b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Burdick</b> <b>Hearing no objection, declares the motion CARRIED.</b>
057	Chair Minnis	<b>MOTION: Moves HB 2986A to the floor with a DO PASS AS AMENDED recommendation.</b>
060	Sen. Walker	<b>VOTE: 5-0-1</b> <b>EXCUSED: 1 - Sen. Burdick</b> <b>Hearing no objection, declares the motion CARRIED.</b>
064	Chair Minnis	<b>SEN. BURDICK will lead discussion on the floor.</b>
066	Chair Minnis	Closes the work session on HB 2986A and opens a work session on SB 100.

**SB 100 WORK SESSION**

074	Andrea Meyer	American Civil Liberties Union (ACLU). Testifies in opposition to SB 100 that establishes rules and procedures for transmission of record to court when petition is filed in circuit court challenging order other than contested case issued by state agency.
171	Sen. Ringo	Asks, with regard to school athletics, if this statute specifically requires a hearing in the case of a dispute.
187	Meyer	Explains that there is no opportunity to contest a case hearing. Continues testimony in opposition to SB 100.
228	Sen. Walker	Refers to prior testimony given and asks about the cost to the state.
252	Meyer	Explains that this is anything but cost-saving.
278	Sen. Ringo	Asks if the “Nordon Case” changed existing law.
280	Meyer	Says that while unfamiliar with the practice prior to “Nordon”, it must have changed existing law.
298	Chair Minnis	Asks for a summary of the objection by the ACLU.
298	Meyer	Summarizes that it alters the standard of review by the courts to agency decisions and makes it much more difficult for the court to have any authority.
332	Sen. Walker	Asks if counsel is allowed in an administrative hearing with an agency.
333	Meyer	Says, yes.
323	Steve Bushong	Department of Justice. Testifies in favor of SB 100. Discusses the case in dispute.
388	Sen. Ringo	Asks where in statute the threshold for getting a contested-case hearing is addressed.
399	Bushong	Says it is in the administrative rules that the Superintendent has

		adopted.
428	Sen. Ringo	Asks for further clarification of determination of a substantial showing.
431	Bushong	Says that is at the discretion of the Superintendent of Education.
453	Sen. Ringo	Asks if the “Nordon Case” changed the construct.
457	Bushong	Explains that it expands the process.
<b>TAPE 147, A</b>		
020	Philip Schradle	Department of Justice. Testifies in support of SB 100 and explains that it is important not to get bogged down with one particular case.
045	Sen. Walker	Asks if granting exceptions to automatic contested-case hearings and discrimination claims would be acceptable to the ACLU.
050	Meyer	Expresses concerns.
077	Sen. Walker	Asks if there has been an increase in cases and costs in the 3 ½ years since the “Nordon Case.”
081	Bushong	Says the cases he has tried have been very expensive cases.
091	Sen. Walker	Asks if those cases would have gone to a contested-case hearing anyway.
091	Bushong	Says they would not.
100	Sen. Ringo	Asks for a definition of substantial showing.
102	Bushong	Says it is determined on a case-by-case basis.
116	Chair Minnis	Explains that his understanding of the administrative rule allows for appeal of a decision.
123	Meyer	Explains that there is more involved.
180	Sen. Walker	Asks if there is an opportunity for discovery if you don’t have a contested-case hearing.
185	Meyer	Explains that the Freedom of Information Act allows for certain information, but without representation by counsel, a person would not know what to ask for.
207	Sen. Ringo	Contends there must be a way to reconcile the differences.
231	Joseph	Clarifies what the procedure currently is and how it would be changed by this legislation.
268	Chair Minnis	Asks what the -4 amendments would do ( <b>EXHIBIT C</b> ).
271	Schradle	Explains how the -4 amendments add a clarification to assure the circuit court can address the questions whether a person is entitled to a contested case.
286	Chair Minnis	Closes the work session on SB 100 and adjourns the meeting at 9:30 a.m.

**EXHIBIT SUMMARY**

**A – HB 3370, -1 amendments submitted by staff, 1 p**

**B – HB 2986A -A5 amendments submitted by staff, 1 p**

**C – SB 100, -4 amendments submitted by staff, 5 pp**