

SENATE COMMITTEE ON EDUCATION

May 01, 2001 Hearing Room B
3:00 p.m. Tapes 92 - 95

MEMBERS PRESENT: **Sen. Charles Starr, Chair**
 Sen. Susan Castillo, Vice-Chair
 Sen. Ryan Deckert
 Sen. Ted Ferrioli
 Sen. Bill Fisher
 Sen. Avel Gordly
 Sen. Tom Hartung

MEMBER EXCUSED:

STAFF PRESENT: **Jan McComb, Committee Administrator**
 Jennifer Simmons, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2483 – Public Hearing and Work Session**
 HB 3395 – Public Hearing and Work Session
 SB 596 – Work Session
 SB 450 – Work Session
 SB 592 – Work Session
 HB 2291A – Work Session
 SB 746 – Work Session
 SB 594 – 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 92, A		
001	Chair Starr	Begins meeting at 3:12 p.m. Opens a public hearing on HB 2483A.
<u>PUBLIC HEARING – HB 2483A</u>		
006	Rep. Witt	Testifies in favor of the bill. States that he has collaborated with others and wishes to pass the –A8 amendments to the bill. Explains how the amendments change the A engrossed version of the bill.
071	Chair Starr	Asks if the amendments are agreed upon by all parties involved.
072	Rep. Witt	Answers yes.
089	Sen. Gordly	Asks Rep. Witt to explain some of the concerns that were presented on the House side.
095	Rep. Witt	Answers by explaining that people were concerned that their students, whom are attending private schools, would not be able to participate in some of the extracurricular activities.
114	Sen. Deckert	Asks if the Governor's Office is also in approval of this bill.
116	Rep. Witt	Answers yes.
128	Richard Simmons	Oregon Interscholastic Ski Race Association. Reads from written testimony and submits written materials (EXHIBIT A).
213	Molly Luoto	Wilsonville Christian Academy. Testifies in favor of the bill. Says that she would like her daughter to be able to participate in

230	Patty Vanier	extracurricular activities with her neighbors. Wilsonville Christian Academy. Reads from written testimony (EXHIBIT B) .
244	Mark Siegel	Oregon Association of Independent Schools. States his support of the bill. Speaks about encouraging interaction and diversity.
271	Jim Green	Oregon School Boards Association. Speaks about the ski program specifically.
296	Chair Starr	Asks if it will interfere the existing program.
298	Green	Answers that he does not believe so.
314	Cindy Hunt	Legislative Counsel. Says that she does not see a problem in passing out a conceptual amendment.
326	Sen. Fisher	Asks if there are funding implications to this bill.
330	Chair Starr	Answers no. Closes public hearing and opens a work session on HB 2483A.

WORK SESSION – HB 2483A

356	Sen. Starr	MOTION: Moves to SUSPEND the rules for the purpose of adopting a conceptual amendment to A8.
359		VOTE: 6-0 EXCUSED: 1 - CASTILLO Hearing no objection, declares the motion CARRIED.
265	Chair Starr Sen. Ferrioli	MOTION: Moves to ADOPT HB 2384A-8 amendments dated 05/01/01 and that the measure be FURTHER AMENDED on page 1, line 7, by deleting "to the extent possible" and on page 1, line 8, by deleting "shall".
378		VOTE: 6-0 EXCUSED: 1 - Castillo Hearing no objection, declares the motion CARRIED.
397	Chair Starr Sen. Deckert	MOTION: Moves HB 2483A to the floor with a DO PASS AS AMENDED recommendation.
400	Chair Starr	VOTE: 6-0 EXCUSED: 1 - Castillo Hearing no objection, declares the motion CARRIED. SEN. STARR will lead discussion on the floor. Closes work session and opens a public hearing on HB 3395.

PUBLIC HEARING – HB 3395
TAPE 93, A

001	Jim Green	Oregon School Boards Association. Gives a background of the bill. Describes the group that helped draft this bill. Speaks about why the changes are necessary.
022	Sen. Hartung	Says that he does not understand since the charter schools are public schools.
027	Green	Explains that there is already prohibition of a school employee from serving on their school board.
040	Sen. Hartung	Says that he still does not understand.
042	Green	Further explains why the bill is necessary.
052	Sen. Gordly	Asks if Green knows the history of the prohibition of any school employee serving on a school board.
058	Green	Answers that this is because as a school board member, they vote on pensions and pay raises, etcetera. Explains that this presents a conflict of interest.
064	Sen. Gordly	Asks Green to explain the nay votes in the House committee.
070	Green	Answers that he will respond to that when he gets to that part of

		the bill.
073	Sen. Fisher	Says that some places do not even allow family members of school employees to serve on school boards.
080	Green	Further explains the amendments.
125	Sen. Deckert	Asks about the change on line 24.
128	Green	Answers that this change was as a result of a Eugene charter school that was becoming a military style school that wanted to require physical requirements for not complying with school rules.
136	Sen. Deckert	Asks if there is a definition of corporal punishment.
138	Green	Answers no, but that if was found to be corporal punishment, the Eugene School District would have been liable. Explains a section that House committee members had concerns with. Speaks about the funding issues for charter schools. Says that they would be putting into statute what they have been practicing in all of the charter schools.
212	Chair Starr	Asks what type of students are attending charter schools in Oregon.
224	Green	Answers that the students seem to be reflective of the districts that they live in.
235	Sen. Gordly	Says that at least two of the charter schools are predominantly black.
260	Sen. Castillo	Asks if education legislation automatically applies to charter schools.
269	Green	Answers that it is applicable to charter schools only if specifically mentioned.
281	Laurie Wimmer-Whalen	Oregon Education Association. Explains the section of the bill that they have concerns with.
311	Tricia Smith	Oregon School Employees Association. Explains their concerns with a school district being able to waive any of the provisions.
348	Sen. Deckert	Asks what else would be waivable besides PERS.
355	Smith	Answers that the three primary concerns are with the Public Employees Retirement System, Licensing Requirements, and Public Employees Collective Bargaining Act.
368	Sen. Deckert	Says that he thought that charter schools are not allowed to perform collective bargaining anyway.
373	Smith	Responds that they are currently allowed to organize as a bargaining unit.
405	Sen. Castillo	Asks if these amendments include things that were purposely discluded in the first charter school bill.
415	Smith	Answers yes.
420	Green	Says that they would be happy to amend this bill to handle their concerns.
TAPE 92, B		
009	Smith	Says that another issue of concern is the requirement that students be transported to school.
018	Chair Starr	Closes public hearing on HB 3395 and opens a work session on SB 596.
<u>WORK SESSION – SB 596</u>		
024	Jan McComb	Administrator. Reviews previous work on this bill by the committee. Speaks about the –3 amendments presented to the bill.
144	Laurie Wimmer-Whalen	Oregon Education Association. Explains their concern with the – 3 amendments.

167	Cindy Hunt	Legislative Counsel. Clarifies the process to amend the amendments in committee.
197	Chair Starr	
200	Sen. Castillo	Says that she is not going to support this bill in committee but may change her vote on the floor.
220	Sen. Gordly	States her opposition to the bill.
239	Sen. Deckert	MOTION: Moves to SUSPEND the rules for the purpose of adopting conceptual amendments.
240		VOTE: 7-0
	Chair Starr	Hearing no objection, declares the motion CARRIED.
260		VOTE: 7-0
	Chair	Hearing no objection, declares the motion CARRIED.
248	Sen. Starr	MOTION: Moves to ADOPT SB 596-3 amendments dated 05/01/01 and that the measure be FURTHER AMENDED on page 1, line 2, by deleting "ORS 338.015", on page 1, delete lines 18-24, and on page 2, delete lines 1-19.
261		VOTE: 7-0
	Chair Starr	Hearing no objection, declares the motion CARRIED. Closes work session on SB 596 and opens a work session on SB 450.
<u>WORK SESSION – SB 450</u>		
271	Jan McComb	Explains the purpose of the bill and reviews prior activity on the bill.
285	Sen. Deckert	Says that this was one of the most interesting hearings before the committee, but he will be voting nay on the bill.
300	Sen. Castillo	States her opposition to the bill due to public health reasons.
314	Sen. Gordly	Comments that her vote will also be in opposition to the bill.
334	Chair Starr	Says that he has a strong interest in seeing this bill pass. Closes the work session due to insufficient votes to pass the bill and opens a work session on SB 592.
<u>WORK SESSION – SB 592</u>		
386	Jan McComb	Explains background of the bill. Speaks about –5 amendments.
TAPE 93, B		
004	Wayne Neuberger	Department of Education. Says the amendments do address some issues that they had. Comments that there is a concern regarding the assessments' requirements to demonstrate that the student is meeting state standards.
068	Sen. Gordly	Says that it is her understanding that this legislation would show embracing the NAEP test.
072	Neuberger	Responds that this test is given every four years and does not report at student, school, or district levels.
083	Sen. Deckert	Asks if the department has an opinion on making the CIM and CAM optional.
085	Neuberger	Answers that Superintendent Bunn has expressed opposition to this idea.
090	Chair Starr	Asks if the pilot program would reduce the fiscal impact.
102	Neuberger	Answers that the fiscal impact comes from developing the system.
107	Chair Starr	Asks if the system developed by ESDs would work.
111	Neuberger	Answers that it would not work in its current form.
138	Sen. Fisher	MOTION: Moves to ADOPT SB 592-5 amendments dated 05/01/01.
195		VOTE: 5-2

AYE: 5 - Deckert, Ferrioli, Fisher, Hartung, Starr

NAY: 2 - Castillo, Gordly

The motion CARRIES.

209

**Chair Starr
Sen. Hartung**

MOTION: Moves SB 592 to the floor WITHOUT RECOMMENDATION as to passage and BE REFERRED to the committee on Ways and Means.

212

Chair Starr

VOTE: 5-2

AYE: 5 - Deckert, Ferrioli, Fisher, Hartung, Starr

NAY: 2 - Castillo, Gordly

The motion CARRIES. Closes work session on SB 592 and opens a work session on HB 2291A.

WORK SESSION – HB 2291A

225 McComb

Speaks about the bill and the proposed amendments.

278 Rep. Chris Beck

Speaks about the –A23 amendments. Submits written material **(EXHIBIT C)**.

325 Sen. Gordly

Asks if there is a fiscal impact on Portland Public Schools as a result of the amendments.

333 Rep. Beck

Answers that he does not know. Says the amendments should not affect the agreement between PPS and Riverdale.

351 Chair Starr

Asks if this opens up students to take their ADMw to Riverdale in place of tuition.

372 Rep. Beck

Answers that it does not require PPS to send their ADMw with the student.

394 Sen. Ferrioli

Says that these amendments appear to make it economically unfeasible for Riverdale to operate.

402 Rep. Beck

Answers that he can understand how they would feel that way.

TAPE 94, A

002 Sen. Ferrioli

Asks how many students can be charged tuition.

008 Rep. Beck

Answers approximately seventy to seventy five students.

010 Sen. Ferrioli

Asks if the amendments would make it impossible for Riverdale to operate.

020 Rep. Beck

Answers that he believes that the amendments would help schools to cooperate to create other options for funding transfers.

024 Sen. Ferrioli

Says that those kind of relationships do not exist presently.

031 Rep. Beck

Maintains that it is not his intention to prevent Riverdale from operating.

041 Sen. Ferrioli

Points out that there has been a lot of work put into this bill. Asks for a guarantee that if these amendments were adopted, local children would still be able to attend Riverdale.

060 Rep. Beck

States that he cannot give a guarantee, but he strongly believes that it is feasible.

092 Sen. Ferrioli

Points out that Portland was well aware of the fact that tuition paying students would be attending Riverdale. Wonders what would be done with the building if the school does not open.

109 Rep. Beck

Says that there are a number of interested parties to occupy the building.

141 Sen. Gordly

Says that she is questioning whether this issue should even be before the legislature as it seems to be a local issue.

175 Sen. Hartung

Says that this should be before the legislature because Riverdale would not be in this situation if we had not forced them to create K-12 schools.

182 Sen. Fisher

Says that the issue is whether or not a district can seek facilities

213 Rep. Beck outside of their district. Says that he believes that the issue is if a public school can operate off of private tuition.

242 Dave Barrows Riverdale School District. Speaks about the –A19 amendments.

322 Sen. Ferrioli Asks if they have had any discussions regarding the ADMw following the student to Riverdale.

364 Patty O’Sullivan Says that this was not discussed. Explains how the process currently works.

420 Sen. Ferrioli Asks if Riverdale believes that the -A23 amendments would put their school in jeopardy.

424 Barrows Answers that they do believe that it will cause problems with the programs.

436 O’Sullivan Says that Portland Public Schools was previously told to get their facilities costs under control. Indicates that this is one way for them to do so.

TAPE 95, A

061 Sen. Ferrioli MOTION: Moves to ADOPT HB 2291A-19 amendments dated 04/23/01.

062 VOTE: 7-0

Chair Starr Hearing no objection, declares the motion CARRIED.

064 Sen. Deckert MOTION: Moves to ADOPT HB 2291A-23 amendments dated 05/01/01.

072 VOTE: 2-5

AYE: 2 - Castillo, Deckert

NAY: 5 - Ferrioli, Fisher, Gordly, Hartung, Starr

Chair Starr The motion FAILS.

087 Sen. Ferrioli Recognizes Rep. Beck’s hard work on the bill.

103 Sen. Ferrioli MOTION: Moves HB 2291A to the floor with a DO PASS AS AMENDED recommendation.

105 Sen. Castillo Says that she intends to support the motion but has very strong concerns with a public school charging such a steep tuition to students.

139 Sen. Fisher Says that in the past there has been a similar problem in his district.

157 VOTE: 7-0

AYE: 7 - Castillo, Deckert, Ferrioli, Fisher, Gordly, Hartung, Starr

Chair Starr The motion CARRIES.

SEN. HARTUNG will lead discussion on the floor. Closes work session on HB 2291A and opens a work session on SB 746.

WORK SESSION – SB 746

180 McComb Explains the bill and the amendments.

194 Chair Starr Speaks about the testimony that was heard previously. Explains his amendments. Urges the committee to pass the amendments and the bill.

217 Greg Chaimov Legislative Counsel. Declares that the bill is unconstitutional and cannot be written to be constitutional. Says that the Oregon Constitution was written by people very intent on keeping government out of religion and religion out of government.

235 Sen. Ferrioli Asks under which part of the Constitution makes this bill unconstitutional.

247 Chaimov Answers that the Article 1, Section 5 separation of church and state clause urges the greatest possible separation of church and

state.

270 Sen. Deckert Asks if other religions would be as strongly separated.
 276 Chaimov Answers yes.
 280 Chair Starr Says that other religions freely enter into public schools.
 288 Chaimov Says that they do not have any more right than Christianity to be in schools.

290 Chair Starr Says that secular humanism is freely taught in schools.
 296 Chaimov Responds that there has been an Oregon Attorney General opinion that states secular humanism is not a religion.

302 Chair Starr Says that the Supreme Court of the United States has recognized it as a religion.

304 Chaimov Says that he is unaware of the ruling.
 314 Chair Starr Says that he does place weight on the Legislative Counsel's opinion. Discusses the benefits of passage of this bill.

334 Chaimov Reiterates that the founders of Oregon had very strong intent when they created the clause.

345 Sen. Gordly Says that she will give a courtesy vote in favor of the bill. Stresses that this is not a vote for the bill, it is simply to allow the bill to be debated on the Senate floor. Says that this is not a return favor for the scheduling of her bills in the committee.

TAPE 94, B

032 Sen. Ferrioli Says that this is a political question and will also vote to pass this bill to the floor for a full debate.

055 Sen. Fisher Speaks about his feelings on the bill.
 114 Sen. Deckert Says that he appreciates the comments of his colleagues. Says that when government starts promoting one religion over another we are on dangerous ground.

148 Sen. Castillo Says that it is because we have separation of church and state, that we have the kind of freedom that we do.

183 Sen. Hartung Says that he did not learn the Ten Commandments at school and does not support sending this to the floor.

195 Chair Starr States that separation of church and state is not mentioned in the United States Constitution. Says that there should be an understanding of the role of Christianity in our history as a nation.

274 **Sen. Ferrioli** **MOTION: Moves to ADOPT SB 746-1 amendments dated 03/20/01.**

277 **VOTE: 5-2**
AYE: 5 - Ferrioli, Fisher, Gordly, Hartung, Starr
NAY: 2 - Castillo, Deckert
The motion CARRIES.

288 **Chair Starr**
Sen. Ferrioli **MOTION: Moves SB 746 to the floor with a DO PASS AS AMENDED recommendation.**

289 **VOTE: 4-3**
AYE: 4 - Ferrioli, Fisher, Gordly, Starr
NAY: 3 - Castillo, Deckert, Hartung
Chair Starr **The motion CARRIES.**
SEN. STARR will lead discussion on the floor. Closes work session on SB 746 and opens a work session on SB 594.

WORK SESSION – SB 594

372 McComb Explains the bill.
 394 **Sen. Fisher** **MOTION: Moves to ADOPT SB 594-1 amendments dated 04/27/01.**

