

HOUSE COMMITTEE ON EDUCATION

January 20, 1999 Hearing Room E

1:00 PM Tapes 7 - 8

MEMBERS PRESENT: Rep. Ron Sunseri, Chair

Rep. William Morrisette, Vice-Chair

Rep. Chris Beck

Rep. Betsy Close

Rep. Elaine Hopson

Rep. Bob Jenson

Rep. Tim Knopp

Rep. Lynn Lundquist

Rep. Carl Wilson

Rep. Jackie Winters

MEMBER EXCUSED:

STAFF PRESENT: Norm Fox, Administrator

Joan Diaz, Administrative Support

MEASURE/ISSUES HEARD: HB 2370 ñ Public Hearing

HB 2262 ñ Public Hearing

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 7, A		

005	Chair Sunseri	Calls meeting to order at 1:00 p.m. Opens public hearing on HB 2370.
<u>HB 2370 PUBLIC HEARING</u>		
007	Norm Fox	Committee Administrator. Presents brief description of the bill which directs school districts to admit nonresident students in grades 9 through 12, if space is available.
021	Chair Sunseri	Comments there are no witnesses present to give testimony. Closes public hearing on HB 2370. Opens public hearing on HB 2262.
<u>HB 2262 PUBLIC HEARING</u>		
022	Fox	Presents brief description of the bill which relates to disclosure of information about students and amends ORS 336.187.
030	Steve Carmichael	President, Oregon Juvenile Department Directors' Association. Supports HB 2262 (EXHIBIT A). Asks committee to consider drafting an amendment (EXHIBIT B).
105	Chair Sunseri	Expresses concern that passage of the amendment would give authorities "carte blanche" to disseminate sensitive information.
112	Carmichael	Responds by referring to scenario #2 in the exhibit. States there would have to be a formal accountability agreement signed by the parent before information would be released to a treatment agency.
122	Rep. Wilson	Asks for further definition of "difficulty in school" as indicated in scenario #1 in the exhibit.
125	Carmichael	Responds that a student's behavior rather than a student's academic progress would be the cause for concern.
138	Rep. Wilson	Asks is the parent involved in scenario #1 as in scenario #2.
142	Carmichael	Responds there is no legal provision in scenario #1 to inform parents.
150	Rep. Morrisette	Asks does the agreement between the school district and the juvenile justice system provide that information disclosed is not to be used for adjudication.
152	Carmichael	Responds that is not correct, and refers to scenario #3.
163	Rep. Beck	Asks for clarification of information to be released.

172	Carmichael	Responds that he is unsure what kind of information can be released.
190	Rep. Beck	Asks is there a danger in violating privacy rights.
204	Carmichael	Responds that a balance must be weighed. Cites the violent incident in Springfield. Agrees there is some risk, but it is minimal in his opinion.
226	Rep. Jenson	Expresses concern of what is "identifiable information." Comments it is too broad a statement. Requests committee receive a copy of the administrative rule covering this topic.
243	Chair Sunseri	Asks Committee Administrator to do follow up research on that administrative rule.
245	Rep. Close	States there is a problem with wording in the proposed amendment. Asks if a parent is removed, who would be the child's advocate.
256	Carmichael	Responds and clarifies that 70-80% of students who are arrested are not repeat offenders.
278	Rep. Close	Asks do parents lose their rights under this amendment.
279	Carmichael	Responds that information is shared, but parents do not lose their rights.
280	Rep. Close	Asks do parents lose the right to keep records confidential.
281	Carmichael	Responds affirmatively.
298	Rep. Jenson	Receptive to amendment which addresses "children at risk." Comments private schools should be included in the bill.
313	Mark Comstock	<p>Private Attorney. Favors HB 2262 (EXHIBIT C). Explains:</p> <ul style="list-style-type: none"> • Definition of educational records. • Only educational records are provided to juvenile authorities. • Limited area for disclosure to other entities without parental consent. • Under Federal statute and State rule, school records can be challenged by a parent. • Reason for bill is to address an exception in Family Educational Rights and Privacy Act (FERPA).
TAPE 8, A		
003	Chair Sunseri	Comments that the language is too broad. Suggests language be changed.

019	Comstock	Responds that he will work with Legislative Counsel to redraft the bill and clarify language. Continues citing sections of the bill.
039	Rep. Winters	Asks for a typical scenario.
040	Comstock	Responds and lists procedures as they currently exist.
050	Rep. Winters	Asks for further clarification citing the violence at Springfield.
055	Carmichael	Responds that the educational records could have been provided without a court order under this bill.
064	Rev. Knopp	Asks which personnel at school can disseminate this information.
066	Carmichael	Responds that the ideal situation would be for anyone to share information that could be helpful, but he is unsure of the legality of the release of the information.
074	Comstock	Responds that currently only academic records can be shared.
076	Rep. Close	Suggests another scenario regarding work records being disclosed without offender's permission.
082	Comstock	Responds that he would advise client not to disclose work records.
092	Rep. Close	Asks why would an attorney want records kept confidential.
093	Comstock	Responds that information to be disclosed might not be relevant. Comments that the juvenile justice system is not a criminal procedure, but one of assistance.
109	Rep. Close	States that privacy rights are for one's protection. Asks about a child's right to privacy.
113	Comstock	Explains the difference between the adult vs. juvenile justice system.
120	Rep. Morrisette	Asks are there any circumstances where information from school records would not be used for adjudication.
144	Comstock	Responds that the bill's intent is to assist the juvenile department in providing services to the juvenile before adjudication.
155	Carmichael	Responds information is not used for adjudication, but is used by the judge in disposition.

164	Rep. Morrisette	Asks for further clarification of exactly what is privileged information.
182	Rep. Lundquist	Asks staff to obtain specific definition of "educational records."
183	Rep. Jenson	Asks if a parent has the right to see a student's records, how are disagreements handled.
197	Comstock	Explains process for clarifying student's records. Comments "educational records" are probably defined in the administrative rules.
200	Rep. Knopp	Asks staff to obtain the federal statute which describes "educational records."
219	Rep. Wilson	Asks if bill should clarify that the release of information is "with permission of parent or guardian."
225	Carmichael	Responds that is the current wording in the law. States that Lane County has approximately 5,000 juvenile referrals per year.
243	Rep. Winters	Asks for the cost of the referral process.
244	Carmichael	Responds he does not have that information.
245	Rep. Winters	Asks if having a probation officer and mental health worker at the school is a good idea.
266	Carmichael	Responds mental health workers have been reduced in number.
267	Comstock	States that a probation officer is indicated after adjudication and not before. States process under discussion is before adjudication.
286	Rep. Beck	Observes that intent of the bill is good, but legal questions are still unanswered. Suggests referring to the judiciary committee for review.
305	Chair Sunseri	Comments the committee will ask witnesses to work with Legal Counsel; the staff attorney will then review bill with the committee.
310	Rep. Beck	Suggests that private schools be included in the bill.
320	Polly Nelson	Education Director, American Civil Liberties Union (ACLU), Oregon. Testifies that ACLU is neutral on the bill, but is opposed to the suggested wording in the amendment. Gives information regarding confidentiality issues.

348	Chair Sunseri	Asks that the committee obtain copies of the confidential document the witness refers to.
361	Rep. Hobson	Comments that while the bill's intent is to protect children, she would like to see clarified what kind of records can be released, and what protection exists for people who are releasing that information.
388	Chair Sunseri	Closes public hearing on HB 2262. Recesses committee for five minutes in order to locate a witness.
396	Chair Sunseri	Reopens meeting and opens public hearing on HB 2370.
TAPE 7, B		
<u>HB 2370 PUBLIC HEARING</u>		
004	Rep. Roger Beyer	Representative, District 28. Supports HB 2370. Clarifies bill further.
052	Rep. Beyer	Explains bill directs school districts to admit nonresident students in grades 9-12, if space is available.
059	Rep. Morrisette	Comments on students transferring into athletic programs.
073	Rep. Beyer	Responds that he is amenable to drafting changes to the bill.
076	Rep. Jenson	Asks why is the bill limited to grades 9-12 and not grades 7-12.
085	Rep. Beyer	Responds that parents are more likely to enroll younger children in schools closer to home.
105	Rep. Lundquist	Comments that funding follows the student, and in some cases it is not adequate to cover costs. Cites example of cost for special needs student.
110	Rep. Beyer	Discusses the Average Daily Membership (ADM) weighted system.
118	Rep. Lundquist	Explains a hypothetical situation wherein an opening exists, but ADMw doesn't cover all costs. Asks for a provision that a school district could refuse the transfer.
126	Rep. Beyer	Explains that, in theory, district-wide costs "even out."
139	Rep. Jenson	Requests Cindy Hunt, Legislative Counsel, be consulted regarding the special

		needs students' rights as defined in federal law.
145	Rep. Hopson	Asks for clarification of "space available."
153	Rep. Beyer	Responds space available means a chair for the student is available; some classes are full and some are not.
160	Rep. Hopson	Asks do procedures under this bill allow students to transfer to another school to obtain specialized training in, for example, music.
170	Rep. Beyer	Responds affirmatively; cites example of two schools in his district. States that both accepting and releasing district have to approve the transfer. Comments he does not know if open enrollment concept exists in any of the other 49 states.
199	Rep. Beck	Expresses concerns with the 11% funding cap regarding special needs students.
225	Rep. Beyer	Responds that there is a bill forthcoming to raise the cap.
244	Rep. Beck	Poses a hypothetical question regarding exodus of students. If $\frac{1}{3}$ of Molalla students go to Canby, what happens to Molalla. Asks does Molalla close, if it gets too small to operate effectively.
282	Rep. Beyer	Responds that is possible, but available space is the first consideration.
290	Rep. Beck	Comments that his concern is for the resultant smaller schools after numerous student transfers.
304	Rep. Beyer	Discusses the possibility that this bill will force schools to compete thereby raising the level of all schools. States that the bill puts school boards "on notice."
324	Rep. Morrisette	Expresses concern that student transfers may occur due to a substandard building which requires a bond issue to resolve. Comments school board has no control over that.
353	Rep. Beyer	Continues discussing funding issues.
372	Rep. Morrisette	Clarifies last statement concerning constructing new school buildings.
381	Rep. Beyer	Concedes that the bill needs amending.
402	Ozzie Rose	Legislative Representative, Confederation of School Administrators. Opposes HB 2370.

TAPE 8, B

003	Rose	Discusses: <ul style="list-style-type: none">• Current process for student transfers.• ADMw follows the student.• 11% cap not related to special education student.• Of 198 school districts, 50+ have fewer than 600 students.
045	Rose	Discusses an open enrollment system which this bill would create.
084	Rep. Morrisette	Asks what are the current criteria.
086	Rose	Explains student transfers are decided by the two districts.
094	Rep. Close	Asks are not transfers based on space available, as stated in the bill.
096	Rose	Responds affirmatively.
100	Rep. Beck	Asks is witness aware of the State of Delaware's open enrollment.
103	Rose	Responds he is not familiar with that state's laws.
107	Rep. Morrisette	Asks if school became crowded would the likelihood of removing transferred students be feasible.
110	Rose	Comments if the interest of student is "paramount," that would not be a good precedent.
117	Rep. Hopson	Comments on small class sizes, local control and special education students.
135	Chair Sunseri	Closes public hearing on HB 2370. Adjourns at 2:35 p.m.

Submitted By, Reviewed By,

Joan Diaz, Norm Fox,

Administrative Support Administrator

EXHIBIT SUMMARY

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A ñ HB 2262, written testimony, Steve Carmichael, 5 pp

B ñ HB 2262, written material, Steve Carmichael, 1 p

C - HB 2262, written testimony, Mark Comstock, 3 pp.