

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**May 11, 1999 Hearing Room 357**

**1:00 p.m. Tapes 155-157**

**MEMBERS PRESENT: Rep. Lane Shetterly, Chair**

**Rep. Max Williams, Vice-Chair**

**Rep. Judy Uherbelau, Vice-Chair**

**Rep. Vic Backlund**

**Rep. Randall Edwards**

**Rep. Vicki Walker**

**Rep. Larry Wells**

**Rep. Bill Witt**

**MEMBER EXCUSED: Rep. Kathy Lowe**

**STAFF PRESENT: Aaron Felton, Counsel**

**Nancy Richards, Administrative Support**

**MEASURE/ISSUES HEARD: SB 690A - Public Hearing & Work Session**

**SB 756A - Public Hearing**

**SB 396A - Work Session**

**HB 2758 - 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 155, A**

004	Chair Shetterly	Calls meeting to order at 1:40 p.m.
<b><u>SB 690A - PUBLIC HEARING</u></b>		
009	Counsel Felton	SB 690A requires licensing of persons conducting money transmission business. Presents the -A3 amendments ( <b>EXHIBIT A</b> ).
022	<b>Ezra Levine</b>	<b>Non-Bank Funds Transmitters Group</b> Testifies and submits written testimony in support of SB 690A ( <b>EXHIBIT B</b> ). Explains what companies comprise Non-Bank Funds Transmitters Group. Discusses what other states have a similar statute. Explains why the Non-Bank Funds Transmitters Groups support SB 690A.
061	Rep. Uherbelau	Do the companies that provide traveleris checks and money orders have to be licensed?
064	Levine	Yes.
065	Rep. Uherbelau	Could you identify the money transmission companies that are not regulated?
068	<b>Jim Harlan</b>	<b>Division of Finance and Corporate Securities (DFCS)</b> Testifies in support of SB 690A. There are a lot of money transmitting companies that are unknown and no one knows how to get in contact with them if there is any business discrepancy.
075	Levine	The reason Western Union is regulated is because they also sell money orders.
078	Harlan	Explains the -A3 amendments which clarifies and modifies the definition of a money transmitting company.
087	Rep. Williams	Asks Mr. Levine who he works for.
089	Levine	Explains that he works for Western Union, American Express, Traveleris Express, and City Corp Services.
091	Rep. Williams	Did they organize the Non-Bank Funds Transmitters Group?
091	Levine	Yes, about eleven years ago.

100	<b>Kathy Figley</b>	<b>Woodburn Downtown Association</b>  Testifies and submits written testimony in support of SB 690A ( <b>EXHIBITS C</b> ). Discusses the number of money wiring outlets in some of the cities in Oregon. Discusses why money wiring businesses contribute to economic and crime issues.
181	<b>Dallas Figley</b>	<b>Woodburn Downtown Association</b>  Testifies and submits written testimony in support of SB 690A ( <b>EXHIBIT D</b> ). Discusses which money wiring businesses are conducting illegal money transactions.
197	Rep. Walker	Do you have a significant number of title loan companies, Pay Day loan companies, and check cashing companies in Woodburn?
206	Ms. Figley	We do not. Woodburn has mostly money wiring and phone parlor companies.
215	Rep. Walker	Are most of the money wiring customers Latino agriculture workers?
217	Ms. Figley	Yes. The people that use these money wiring companies usually have a fear of banks.
227	Rep. Uherbelau	Could someone's money to be transmitted be kept by the money wiring business?
230	Ms. Figley	Yes. Expresses concern about how the money transmitting companies make money.
260	Chair Shetterly	Closes public hearing.
<b><u>SB 690A n WORK SESSION</u></b>		
267	Rep. Uherbelau	Asks for explanation of a bonding factor.
275	Harlan	Explains the bonding provision as stated in ORS 7.17.
279	Levine	Explains a security device which is a bond and a revocable letter of credit.
288	Rep. Uherbelau	What size are the money transmissions?
292	Levine	The typical money transmission is under \$300 and takes about 2 days to reach the destination.

299	Rep. Wells	We currently have no regulation over the money transmitting companies?
301	Harlan	There is no regulation over money transmitting funds because it is not a physical thing like a money order.
313	Rep. Uherbelau	Why the reduction of the \$1,000 Department Consumer & Business Services (DCBS) annual fee requirement to \$500?
320	Harlan	Explains why the DCBS annual fee requirement should be \$500.
336	Rep. Witt	Would SB 690A drive out money transmitting businesses?
339	Levine	No. It shouldn't drive anybody out of business.
347	Rep. Witt	Are the money transmitting businesses small?
349	Levine	Yes.
350	Rep. Witt	Does SB 690A require audited financial statements?
351	Levine	Yes.
352	Rep. Witt	Is it typical for the money transmitting businesses to have audited financial statements?
353	Levine	Yes.
356	Rep. Witt	Are the businesses currently required to submit a business plan with their license application which SB 690A requires?
358	Levine	Explains a business plan.
<b>369</b>	<b>Rep. Williams</b>	<b>MOTION: Moves to ADOPT SB 690-A3 amendments dated 05/10/99.</b>
		<b>VOTE: 8-0</b> <b>EXCUSED: 1 - Lowe</b>

	Chair Shetterly	Hearing no objection, declares the motion <b>CARRIED</b> .
374	Rep. Williams	<b>MOTION: Moves SB 690A to the floor with a DO PASS AS AMENDED recommendation.</b>
	Rep. Backlund	<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</b> <b>EXCUSED: 1 - Lowe</b>
	Chair Shetterly	<b>The motion CARRIES.</b>  <b>REP. BACKLUND will lead discussion on the floor.</b>
<b><u>SB 756A n PUBLIC HEARING</u></b>		
448	Counsel Felton	SB 756A establishes Oregon Qualified Tuition Savings Program and Oregon Qualified Tuition Savings Board.
468	Rep. Randall Edwards	<b>State Representative, House District 15</b>  Testifies and submits written testimony in support of SB 796A ( <b>EXHIBITS E &amp; F</b> ). Discusses the problem of the high number of Oregon student loans.
<b>Tape 156, A</b>		
020	Rep. Edwards	Explains the success of the Delaware statute that SB 796A was modeled after and that there are 25 states which have some sort of tuition savings program in place. Discusses how SB 796A will provided a better way to meet diverse college savings needs. Presents the -A10 and the -A11 amendments to SB 796A ( <b>EXHIBIT G</b> ).
060	Sen. Peter Courtney	<b>State Senator, District 17</b>  Testifies in support of SB 796A. Discusses the safety factor for the investment loan program. States that SB 796A is an option for some people, but not for all people. Gives examples of tuition for Oregonis colleges. States that SB 796A passed overwhelmingly in the Senate.
129	Rep. Wells	Will the beneficiary pay the tax on the account money?

135	Rep. Edwards	Explains the federal statutes concerning taxing the money invested in the loan program when withdrawn.
145	Rep. Wells	How is the capitol in the account taxed?
146	Rep. Edwards	Explains the tax structure of the invested money.
159	Rep. Wells	Is this program treated like a 401K program concerning taxes?
162	Rep. Edwards	The money that goes into the account has already been taxed. The earnings on the money invested in the account will be taxed when withdrawn.
169	Rep. Uherbelau	When is for the capitol earned on the money account taxed?
176	Rep. Edwards	Explains the tax rate for the capitol earned on the money account at the time of withdrawal.
181	Rep. Witt	Is the money invested into the savings account already taxed?
184	Rep. Edwards	Yes.
185	Rep. Witt	In a 401K account they are pre-taxed dollars.
192	Rep. Walker	What would the tax rate be on the capitol money withdrawn from the account if a student has no income and is living on loan money?
201	Rep. Edwards	Explains the tax rate on the earnings accrued on the account for an independent student.
213	Rep. Witt	Would the State Treasurer have to be involved in this program to get the tax benefits allowed through the federal law?
216	Rep. Edwards	Yes.
220	Rep. Witt	Are the savings accounts going to be different according to age of the student?
228	Rep. Edwards	Explains how the loan program will be tailored for each individual account.
236	Rep. Witt	Will there be fees to manage the investments?

237	Rep. Edwards	The fees would be negotiated through the Treasury Department.
242	Rep. Witt	Who pays the fees and how are they collected?
244	Rep. Edwards	Explains how the fees would become a part of the account.
255	Rep. Wells	How does this savings program compare to an annuity?
264	Rep. Edwards	Explains the difference between an annuity and the College Savings Plan.
275	<b>Rollie Wisbrock</b>	<b>Chief of Staff, Oregon Treasury</b>  Explains how SB 796A would not exempt the contribution and would defer the tax until the money is withdrawn. Explains how the tax deferral works with the -A11 amendments. Discusses why banks are brought into the operation of the savings program.
316	Rep. Uherbelau	Who pays the fees that run the program as stated on page 4, line 7 of SB 796A?
332	Rep. Edwards	Generally, it would be the account that pays the fees. Explains why the federal government had to be a part of the savings program.
344	Rep. Wells	Does the savings program give a break on state taxes? Are you paying any taxes on the money invested into the College Savings Plan?
353	Wisbrock	Yes.
354	Rep. Wells	Is any tax being paid on the money going in to the account?
360	Rep. Edwards	The -A11 amendments allows no tax on the first \$2,000 going into the saving account.
378	Rep. Wells	Is tax paid on the withdrawn money?
373	Rep. Edwards	Tax would be paid only on the interest earned.
375	Rep. Wells	What would be the fiscal impact on SB 796A?
377	Wisbrock	Explains what the fiscal impact would be with the passage of SB 796A.
384	Rep. Edwards	There is a fiscal impact on the -A11 amendments.

387	Wisbrock	In response to a previous question from Rep. Uherbelau concerning fees; the fees and expenditures are to come out of the program and the program is designed to be self-sufficient.
400	Rep. Witt	The -A11 amendments allows no taxes on a \$2,000 contribution. Is the tax-free contribution per donor and who gets the tax break?
420	Rep. Edwards	Explains who gets the \$2,000 tax break.
428	Rep. Witt	Who escapes taxation on the contributed amount?
438	Rep. Edwards	I do not know.
440	Rep. Witt	Does the savings program go beyond federal tax allowances?
455	Wisbrock	Explains federal tax constraints in relationship to the College Savings Plan.
473	Rep. Witt	Does this College Savings Plan stay within federal boundaries?
480	Wisbrock	The State Treasury would control how the College Savings Plan would coincide with federal law.
<b>Tape 155, B</b>		
034	Rep. Edwards	Federal law does not allow state control over the distribution of the savings account.
038	Sen. Courtney	Explains sections 3-6 of SB 756A which addresses the compliance with federal law.
057	Rep. Edwards	This College Savings Plan does not go beyond the federal constraints.
061	Rep. Witt	Have other states exempted these contributions from state income tax and what would be the revenue impact?
065	Sen. Courtney	Discusses the statistics concerning the College Savings Plan in the 24 other states that have similar plans <b>(EXHIBIT H)</b> .
089	Rep. Uherbelau	Could the College Savings Plan go beyond the federal credit if there were several contributors to the same plan?



102	Rep. Edwards	Yes, when state credit allows for infinite contributions.
104	Rep. Uherbelau	SB 756A does not make it clear whether it is federal or state credits.
107	Rep. Edwards	Explains the -A11 amendments which allow a \$2,000 contribution deduction off of income tax on the state tax form.
112	Rep. Uherbelau	Should SB 756A use clarifying language regarding a \$2,000 contribution per person?
120	Sen. Courtney	The Civil Law Committee needs to clarify the exemption issue.
126	Wisbrock	Explains why the Oregon State Treasury supports the -A11 amendments to SB 756A concerning exemptions.
138	Rep. Walker	How would the federal tax college credit relate to SB 756A?
146	Wisbrock	I do not know, I believe that the exemption is a separate exemption
151	<b>Jim Edmunds</b>	<b>Teachers Insurance Annuity Association College Retirement Equities Fund (TIAA)</b>  Testifies in support of SB 756A.
161	<b>Ann Allen</b>	<b>Teachers Insurance Annuity Association College Retirement Equities Fund (TIAA)</b>  Testifies in support of SB 756A. Explains the purpose of TIAA. Explains the structure of the College Savings Plan and its tax deduction.
234	Rep. Walker	Does only the owner of the College Savings Plan get the tax credit?
237	Allen	Explains how you can have several donors for the same beneficiary which would be different accounts and the tax rate on the withdrawal is based on the beneficiary.
248	Rep. Uherbelau	You could have more than one account owner, so who get the tax credit?
258	Allen	There would be a designated account owner for the College Saving Plan.
283	<b>Dexter Johnson</b>	<b>Legislative Counsel Office</b>  Was the question regarding multiple account owners about whether there could

		be more than one?
291	Rep. Uherbelau	The question was, would the state income tax be hurt if there were more than one account owner with a \$2,000 tax credit? Which account owner would receive the credit?
300	Johnson	The tax credit is per designated beneficiary.
312	Rep. Uherbelau	But, who gets the \$2,000 tax credit when there is more than one donor to the savings plan?
314	Johnson	The Internal Revenue Department would require that the credit be pro-rated among all the donors per account.
318	Rep. Witt	Suggests that the language in SB 796A clarify the \$2,000 tax credit be per donor per beneficiary. Do married couples that file jointly need to set up separate accounts to get the tax credit?
330	Allen	The tax credit would apply to each separate contributor.
340	Rep. Edwards	In regards to Rep. Wells previous question, why is the College Savings Plan different from annuities?
342	Allen	Explains how the College Savings Plan is different from an annuity.
358	Rep. Edwards	Asks for explanation of the College Savings Plan contracts
361	Allen	Explains the implementation process for terminating a contract with the College Savings Plan.
397	Rep. Edwards	Asks the Legislative Counsel for clarification concerning the College Savings Plan contracts.
412	Johnson	Explains how the -A10 amendments clarify the process of terminating a college savings plan.
421	Edmunds	Explains why vendors might not find the plan appealing if the contract could be terminated for no reason.
440	Rep. Edwards	The intent of SB 796A is to attract as many vendors as possible.
465	Rep. Wells	I would like to see a comparison of this College Savings Plan with other savings

		plans.
472	Rep. Edwards	There really isn't a savings plan that could compare with the savings offered by this College Savings Plan.
<b>Tape 156, B</b>		
030	Allen	There isn't any other savings plan that would give you the tax deferral that the College Savings Plan gives.
050	<b>Pamela Leavitt</b>	<b>Oregon Credit Union League (OCUL)</b> Testifies and submits written testimony in support of SB 756A ( <b>EXHIBIT I</b> ). Explains the purpose of the Oregon Credit Union League concerning college loans and savings plans. Discusses why the OCUL is in support of SB 756A which qualifies more people for a college savings accounts.
087	<b>John Wrenn</b>	<b>U.S. Bancorp Piper Jaffray</b> Testifies and submits written testimony in support of SB 756A ( <b>EXHIBIT J</b> ). Explains why the U.S. Bancorp is in support of SB 756A that provides a college savings plan that would work better than any other plan.
146	<b>Dave Barrows</b>	<b>Oregon League of Financial Institutions (OLFI)</b> Testifies in support of 756A. States that OLFI is in complete support of SB 756A.
167	<b>Grattan Kerans</b>	<b>Oregon University Systems (OUS)</b> Testifies in support of SB 756A. Defines loan grants that colleges provide and explains the improvements in loan grants. States that SB 756A is one way to help students obtain a college degree. Discusses the support of OUS to add a member to the board that SB 756A requires. Gives a definition of an account owner who would qualify for the tax deferral for the \$2,000 contribution for the College Savings Plan. Someone can take advantage of both the federal and Oregon tax college credit. States that the College Savings Plan would be tax-free for the donor.
259	Rep. Wells	What would be the revenue impact to the universities with passage of SB 756A?
271	Kerans	Discusses the revenue impact of SB 756A to the universities.
281	Rep. Edwards	Who is getting a college loan?
293	Kerans	Explains what students need to obtain financial aid or loans.

305	<b>Tamara Dykeman</b>	<b>Oregon Community College Association</b> Testifies in support of SB 756A. Gives thanks for those that brought about SB 756A.
314	Rep. Wells	What college expenses can the College Savings Account be used for?
317	Kerans	The money in the savings plan can be used for all college associated costs.
320	Chair Shetterly	Closes public hearing.
<b><u>SB 396A n WORK SESSION</u></b>		
335	<b>Steve Bouchand</b>	<b>Assistant Attorney General, Department of Justice (DOJ)</b> Explains the purpose of SB 396A which requires notice to Attorney General for certain requests for state agency records relating to litigation or claims.
346	Counsel Felton	Explains the -A2 amendments ( <b>EXHIBITS K</b> ).
376	Rep. Uherbelau	Discusses the Ethics Rule concerning the request of public records. Expresses concern about passing out SB 396A because of the Ethics Rule in relationship to the request of public records.
429	Bouchand	It is common for parties in litigation with the state to make public records requests and the Ethics rule has never been viewed as a deterrent in obtaining those records.
437	Rep. Uherbelau	States that attorneys requesting records have never been questioned as to the validity of the request.
449	Bouchand	That is the normal practice.
450	Rep. Witt	Why are the public records being protected when there is a litigation involved?
457	Bouchand	SB 396A is to let attorneys know what public records have been released to the opposing side.
475	Rep. Witt	SB 396A would not prohibit a party from making a request for public records and then give them to the opposing party.
480	Bouchand	The information could be passed on if it was an unrelated public records request.

**Tape 157, A**

031	Chair Shetterly	<b>MOTION: Moves to ADOPT SB 396-A2 amendments dated 05/10/99.</b>
		<p><b>VOTE: 5-0</b></p> <p><b>EXCUSED: 4 - Edwards, Lowe Wells, Williams</b></p>
Chair Shetterly		<b>Hearing no objection, declares the motion CARRIED.</b>
035	Chair Shetterly	<b>MOTION: Moves SB 396 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<p><b>VOTE: 5-0</b></p> <p><b>AYE: 5 - Backlund, Uherbelau, Walker, Witt, Shetterly</b></p> <p><b>EXCUSED: 4 - Edwards, Lowe, Wells, Williams</b></p>
Chair Shetterly		<p><b>The motion CARRIES.</b></p> <p><b>REP. BACKLUND will lead discussion on the floor.</b></p>
<b><u>HB 2758 n WORK SESSION</u></b>		
049	Counsel Felton	HB 2758 modifies provisions for notice and priority of construction liens. Presents the -1 amendments ( <b>EXHIBIT L</b> ).
065	<b>Phil Donovan</b>	<p><b>Oregon Equipment Rental Association</b></p> <p>There was consensus around the -1 amendments because it harmonizes the law as to who can post a bond, who shall pay a bond, and when those bonds would be effective.</p>
080	Rep. Witt	<b>MOTION: Moves to ADOPT HB 2758-1 amendments dated 05/11/99.</b>
		<p><b>VOTE: 5-0</b></p> <p><b>EXCUSED: 4 - Edwards, Lowe, Wells, Williams</b></p>

	<b>Chair Shetterly</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
<b>095</b>	<b>Rep. Witt</b>	<b>MOTION: Moves HB 2758 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 5-0</b> <b>AYE: 5 - Backlund, Uherbelau, Walker, Witt, Shetterly</b> <b>EXCUSED: 4 - Edwards, Lowe, Wells, Williams</b>
	<b>Chair Shetterly</b>	<b>The motion CARRIES.</b>  <b>REP. UHERBELAU will lead discussion on the floor.</b>
<b>103</b>	<b>Chair Shetterly</b>	<b>Adjourns meeting at 3:40 p.m.</b>

Submitted By, Reviewed By,

Nancy Richards, Sarah Watson,

Administrative Support Office Manager

## **EXHIBIT SUMMARY**

- A - SB 690A, Proposed -A3 amendments, Counsel, p. 1**
- B - SB 690A, Written testimony, Ezra LeVine, p. 4**
- C - SB 690A, Written testimony, Kathy Figley, p. 2**
- D - SB 690A, Written testimony, Dallas Figley, p. 2**
- E - SB 756A, Written testimony, Rep. Edwards, p. 6**
- F - SB 756A, Proposed -A10 amendments, Rep. Edwards, p. 1**
- G - SB 756A, Proposed -A11 amendments, Rep. Edwards, p. 5**
- H - SB 756A, Written testimony, Sen. Courtney, p. 1**
- I - SB 756A, Written testimony, Pam Leavitt, p. 1**
- J - SB 756A, Written testimony, John Wrenn, p. 1**
- K - SB 396A, Proposed -A2 amendments, Counsel, p. 1**
- L - HB 2758, Proposed -1 amendments, Counsel, p. 1**