

## **SENATE COMMITTEE ON EDUCATION**

**April 28, 1999 Hearing Room B**

**1:00 p.m. Tapes 87- 88**

### **MEMBERS PRESENT:**

**Sen. Tom Hartung, Chair**

**Sen. Susan Castillo, Vice-Chair**

**Sen. Peter Courtney**

**Sen. Verne Duncan**

**Sen. Gary George**

**Sen. Avel Gordly**

**Sen. Marylin Shannon**

### **MEMBER EXCUSED:**

### **STAFF PRESENT:**

**Jan McComb, Administrator**

**Karen O'Kelley, Administrative Support**

### **MEASURES HEARD:**

**SB 960 Public Hearing**

**SB 976 Work Session**

**SB 363 Work Session**

**SB 144 Work Session**

**SB 428 Work Session**

**SB 1299 Work Session**

**SB 725 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.

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TAPE/#	Speaker	Comments
<b>TAPE 87, A</b>		
004	Chair Hartung	Convenes meeting at 1:04 p.m. and opens public hearing on SB 960.
<b><u>SB 960 PUBLIC HEARING</u></b>		
008	Sen. Neil Bryant	<p>Senate District 27. Testifies in favor of SB 960 and submits <b>(EXHIBIT A)</b>. States that as an attorney, he represents the Bend-LaPine School District.</p> <p>Explains that SB 184, from the 1997 Session, dealt with alternative education and included an effective date of July 1, 1995. States that this bill was specifically intended to address an issue that happened in Bend-LaPine School District and an alternative education program called the Bend Community School.</p> <p>States that another purpose of this legislation was to clarify some issues that had been raised a result of two cases that had been filed relating to the Bend-LaPine School District's contract with the Bend Community School. Explains that the two cases were consolidated for trial. States that the defendants prevailed at the trial level.</p> <p>States that on November 4<sup>th</sup> 1998, the Court of Appeals reversed a portion of the trial court's decision. States that "the court found that the School District, prior to placement of a student with the Bend Community School, must determine whether or not the proposed placement best serves the student's educational needs" which was a requirement in SB 184.</p> <p>Explains that this requirement did not exist in 1995 when the students were admitted to the Bend Community School. States that the district now must apply the criteria that did not exist in 1995.</p>
		States that the Bend Community School was put together with the encouragement of the Oregon Department of Education (ODE) based upon their interpretation of the prior statute concerning alternative education.
		States that SB 960 addresses the issue that the Court of Appeals raised.
067	Greg Mc Murdo	ODE. States that the purpose of SB 960 is to bring resolution to the Bend Community School case. States that the ODE thought that SB 184, from the 1997 Session, would take care of the case. Urges the committee to support SB 960.
084	Sen. Gordly	Asks when the case will be heard.
087	Sen. Bryant	Responds that the case is still proceeding. States that possibly, the trial court could rule before the end of summer.

098	Sen. Gordly	Asks if there is a reason for not waiting for that resolution.
101	Sen. Bryant	Responds during the 1997 Session, through SB 184, he thought they had addressed the issues. Explains that an issue remains because of the Court of Appeals decision. States that the school district is being asked to apply a standard that did not exist at the time the students were admitted into the community program.
120	Tricia Bosak	Oregon Education Association (OEA). Introduces Monica Smith.
122	Monica Smith	<p>Attorney. Testifies against SB 960. Represents the three plaintiffs who sued the Bend-LaPine School District, the board members, and the Oregon Department of Education (ODE).</p> <p>States that today she is representing the OEA. Indicates that she disagrees with Sen. Bryant's interpretation of the case and the law. Explains that in the court case she represented the plaintiffs, and Sen. Bryant and his firm represented the Bend-LaPine School District. Disagrees with Sen. Bryant's earlier testimony. States that there was a requirement at the time for placement of students in a private, alternative education program. Comments that this requirement was even more stringent than the existing requirement that the committee is being asked to delete from the current statute.</p> <p>Refers to the Court of Appeals decision in Ellis vs. ODE. Refers to page 6, heading B. States that this section covers the case against the school board. States that on page 7 the court indicates that prior to the 1997 amendments, the statute was even more limited in its application. Explains that it was intended for "at-risk students." Comments the statute was intended for students with demonstrated problems who did not "fit the system." Explains that the district had an obligation to try and place those students in an alternative education program before they were "kicked out of school or lost." States that there are public alternative education schools and private alternative education programs in districts. States that under the constitutional requirements, it should be a limited exception when state school money is spent on private schools.</p> <p>States that in 1997, the program was broadened by changing the language to "when necessary to meet the student's educational needs and interests." Explains that the lawsuit stated that the district violated the law, at the time, because they did not do an evaluation of 40 students before they sent public money to a private school. Adds that the Courts of Appeals agreed that it would be bad public policy to change the law. States that the proposal in Section 1, to remove the terminology "when necessary to meet a student's educational needs and interests" is bad public policy because it appears to remove a school district's responsibility for evaluating an individual student's needs.</p>
197	Smith	<p>States concern about an another change. Refers to Section 3 which states that "the determination required in a separate statute about individualized need does not apply to a student enrolled in a private, alternative education program from July 1, 1995 to July 10, 1997." Explains that this section would cover Sen. Bryant's client, the Bend-LaPine School District, and the action that it took in 1995 which according to the Court of Appeals, violated the law that existed at the time.</p> <p>States that it would be bad public policy to pass SB 960 in order to address the needs of one client of one attorney. Comments that the committee should be</p>

		<p>looking more broadly at the education system to determine if this change serves the system at large.</p> <p>Believes that Section 3 is an attempt to cleanup a legal mistake that a school district made almost four years ago.</p> <p>Responds to Sen. Gordly that a summary judgement has been filed. States that it would be inappropriate to pass legislation that simply interferes with the resolution of an ongoing suit.</p>
233	Sen. Duncan	Asks if the bill only covers the period of time from 1995-1997.
235	Smith	Responds that Section 3 is dealing with 1995-1997. Explains that Section 1 removes a requirement that currently exists and would apply to any future placements as well.
259	Sen. Gordly	Asks which criteria Sen. Bryant was referring to in <b>EXHIBIT A</b> "the district now must apply criteria that did not exist in 1995."
289	Smith	Refers to the Court of Appeals decision.
368	Sen. Duncan	Asks if the Oregon School Boards Association (OSBA) has testified on this bill.
377	Chair Hartung	Responds that they have not.
395	Chair Hartung	Closes public hearing on SB 960 and opens work session SB 976.
<b><u>SB 976 WORK SESSION</u></b>		
403	Jan McComb	Explains that Sen. Shields would like to have the ñ2 amendments considered in place of the ñ1 amendments which were already passed out of committee.
417	<b>Chair Hartung</b>	<b>MOTION: Moves to SUSPEND the rules for the purpose of reconsidering the vote for SB 976.</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Shannon</b>
420	<b>Chair Hartung</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
424	<b>Chair Hartung</b>	<b>MOTION: Moves to RECONSIDER the vote by which "we passed SB 976".</b>

		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Shannon</b>
427	Chair Hartung	Hearing no objection, declares the motion <b>CARRIED</b> .
430	McComb	Discusses the ñ2 amendments included in <b>(EXHIBIT B)</b> .
435	Sen. Duncan	<b>MOTION: Moves to ADOPT SB 976-2 amendments dated 04/28/99.</b>
438	Vice-Chair Castillo	Asks why the ñ2 amendments are necessary.
440	McComb	Responds that Sen. Shields wanted to have the bill amended such that it would not have a funding impact. Explains that the committee also has the option to send the bill to the Ways and Means Committee.
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Shannon</b>
454	Chair Hartung	Hearing no objection, declares the motion <b>CARRIED</b> .
455	Sen. Duncan	<b>MOTION: Moves SB 976 to the floor with a DO PASS recommendation and the SUBSEQUENT REFERRAL to the committee on Ways and Means BE RESCINDED.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - Shannon</b>
471	Chair Hartung	<b>The motion CARRIES.</b>  <b>SEN. SHIELDS will lead discussion on the floor.</b>
475	Chair Hartung	Closes work session on SB 976 and opens work session on SB 363.
<b>TAPE 88, A</b>		

**SB 363 WORK SESSION**

018	McComb	Explains that SB 363 would change Oregon statute to conform with the newly revised statutes. States that a workgroup worked on the bill. Refers to the ñ3 amendments included in <b>(EXHIBIT C)</b> .
032	Jim Green	OSBA. States that some of the participants in the workgroup still have concerns with the ñ3 amendments. States that the Juvenile Rights Project and the Oregon Advocacy Center still have concerns and are willing to work on their issues on the House side.
<b>055</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 363-3 amendments dated 04/19/99.</b>
057	Sen. Gordly	States that on April 21 <sup>st</sup> she asked the ODE how many persons currently incarcerated would be affected by the exemption. Comments that she would like a response.
060	Steve Johnson	Associate Superintendent, ODE. States that he will submit that information to Sen. Gordly. Estimates that close to 700 students could possibly be impacted by this bill.
071	Vice-Chair Castillo	Asks if the federal law creates the exemption.
074	Johnson	Responds that the opportunity is stated in federal law.
078	Vice-Chair Castillo	Asks if the exemption is required.
080	Johnson	Responds that it is not.
082	Vice-Chair Castillo	Asks why the decision was made to put the exemption into statute.
086	Suzy Harris	ODE. Responds that the legislature directed the ODE to meet the minimum federal requirements related to special education. Explains that SB 363 would meet the minimum requirements.
173	Sen. Gordly	States that she does not support the amendments or the bill. Comments that there could possibly be an impact on 700 students. Feels that this bill is being rushed through the committee.
		<b>VOTE: 4-2</b>  <b>AYE: 4 - Courtney, Duncan, George, Hartung</b>  <b>NAY: 2 - Castillo, Gordly</b>

		<b>EXCUSED: 1 - Shannon</b>
192	Chair Hartung	The motion CARRIES.
194	Sen. Courtney	<b>MOTION: Moves SB 363 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 4-2</b>  <b>AYE: 4 - Courtney, Duncan, George, Hartung</b>  <b>NAY: 2 - Castillo, Gordly</b>  <b>EXCUSED: 1 - Shannon</b>
203	Chair Hartung	The motion CARRIES.  <b>SEN. COURTNEY will lead discussion on the floor.</b>
206	Chair Hartung	Closes work session on SB 363 and opens work session on SB 144.
<b><u>SB 144 WORK SESSION</u></b>		
210	Steve Marks	<p>Senior Policy Advisor, Governor's Office. Testifies in support of SB 144 and the ñ3 amendments included in <b>(EXHIBIT D)</b>. States that this bill is a good effort to increase the focus in Oregon on school safety. States that it has been beneficial to have Dr. Hill Walker's national expertise so readily available.</p> <p>States that a center for school safety would provide a much needed service. Comments that this effort parallels some of the things that the Governor has been trying to accomplish. States that it is important to serve at-risk students both at school and in the community.</p>
		States that the school improvement fund, proposed in the Governor's budget, can be used to hire school counselors and to fund alternative learning environments.
263	Sen. Duncan	<b>MOTION: Moves to ADOPT SB 144-3 amendments dated 04/28/99.</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - Shannon</b>

266	Chair Hartung	Hearing no objection, declares the motion <b>CARRIED</b> .
267	Sen. Duncan	<b>MOTION: Moves SB 144 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
273	Sen. Gordly	States that the Northwest Regional Educational Laboratory in Portland has received federal funds to operate the National Center for School Safety. Comments that the committee should investigate what resources or "dollars" might be available to carryout the program outlined in SB 144.
297	Sen. George	Asks for a rough estimate of the fiscal impact.
302	McComb	Responds that Hill Walker estimated between \$200,000-\$300,000 a year.
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 ñ Shannon</b>
330	Chair Hartung	<b>The motion CARRIES.</b>
335	Chair Hartung	Closes work session on SB 144 and opens work session on SB 428.
<b><u>SB 428 WORK SESSION</u></b>		
339	Sen. Courtney	Explains that the ñ5 amendments ( <b>EXHIBIT E</b> ) are consensus amendments from the workgroup.
359	McComb	Explains that SB 428 would allow high school students to take classes at a community college or a university and have school districts pay for the cost. States that the ñ5 amendments would: <ul style="list-style-type: none"> <li>• Limit the institutions to Oregon.</li> <li>• Remove the reference to the Certificate of Initial Mastery (CIM).</li> <li>• Require higher education institutions to academically counsel students.</li> <li>• Have school districts enter into agreements with institutions.</li> <li>• Change the ADMW calculation figure.</li> <li>• Clarify the confusion surrounding the cost of textbooks and equipment.</li> </ul>
403	McComb	Explains that the ñ6 amendments ( <b>EXHIBIT F</b> ) clarify that if a student goes to a community college, then the community college would receive 90 percent of the statewide ADMW. States that if a student takes only two or three classes at a community college, 90 percent would still go to the community college.



		<p>Explains that the ñ7 amendments (<b>EXHIBIT G</b>) clarify that only "actual costs" would go to the community college or the higher education institution.</p> <p>Explains that the ñ8 amendments (<b>EXHIBIT H</b>) limit what is considered "an eligible post-secondary institution."</p> <p>Refers to the ñ1 and ñ2 amendments (<b>EXHIBIT I</b>).</p>
<b>TAPE 87, B</b>		
002	Sen. Courtney	Believes that the ñ5 amendments were agreed to by all parties in the workgroup.
<b>008</b>	<b>Sen. Courtney</b>	<b>MOTION: Moves to ADOPT SB 428-5 amendments dated 04/27/99.</b>
014	John Marshall	OSBA. Believes that the ñ5 amendments improve the bill.
018	Sen. Gordly	Asks Marshall to elaborate on how the amendments improve the bill.
021	Marshall	<p>Discusses the reasons:</p> <ul style="list-style-type: none"> <li>• Assures that the institutions are within Oregon.</li> <li>• Eliminates the CIM.</li> <li>• Provides academic counseling.</li> <li>• Removes the involvement of the State Board of Education.</li> <li>• Uses the Average General Purpose Grant.</li> <li>• Allows students to be reimbursed for textbooks, materials, and equipment that are necessary for the course which would become property of the school district.</li> <li>• Allows school districts to provide transportation.</li> <li>• Removes the requirement that parents be reimbursed for transportation.</li> </ul>
081	Vice-Chair Castillo	Asks if the institutions are pubic or private.
083	Chair Hartung	Responds that it could be either a public or private institution located in Oregon.
084	Vice-Chair Castillo	States that she is concerned about using public money for private institutions.
123	Laurie Wimmer	OEA. States that currently, by district option, there are partnerships among private schools and private universities. Explains that the OEA "was trying to capture the existing status quo without extending it."
139	Gary Andeen	Oregon Independent Colleges Association (OICA). States that as a matter of equity, the private institutions should be treated the same way as public institution in this bill. Believes that it is not an issue of public money going to support an alternative form K-12 education. States that this provides a kind of service that K-12 does not provide.

153	Vice-Chair Castillo	Comments that she supports the private institutions in the state. States that public institutions are highly scrutinized in order to receive public dollars. Comments that private institutions do not have the same requirements.
174	Andeen	States that this bill provides a service that a K-12 education does not. Comments that private institutions will lose money with this program. Believes that many people would appreciate the opportunity to choice between a public or private institution.
201	Sen. Duncan	States that he is concerned about the "weighted factor."
234	Ozzie Rose	Confederation of Oregon School Administrators (COSA). Refers to research from Minnesota. States that the key issue for COSA has been "the average per district." States that a college should only receive the cost of a service that a student receives.  Believes that SB 428 is a workable bill with the ñ5 amendments.
281	Sen. Gordly	Asks Rose if he knows the "profile of the students electing to take advantage of the program in Minnesota."
286	Rose	Responds that he does not know.
291	Tricia Smith	Oregon School Employees Association (OSEA). States that the workgroup is not in consensus about the bill. Explains that there are points within the ñ5 amendments that the workgroup agreed on.  States that OSEA opposes the bill.
350	Gary Carlson	Associated Oregon Industries (AOI). States that AOI supports the original bill, but not the ñ8 amendments with regard to private higher education institutions. Believes that there should be a broad array of opportunities and choices for students.
		Believes that if this bill passes, it will increase Oregonís ability to retain students rather than lose them to other states. States that this bill will expose kids to both public and private institutions.
377	Wimmer	States that OEA still has "grave concerns" about the bill. Refers to policy issues outlined in <b>(EXHIBIT J)</b> .  States that OEA will not support SB 428 with the amendments that clarify AOI's original intent on the funding. Comments that the ñ8 amendments will need to be adopted in order for OEA to support the bill.
427	Sen. Gordly	Asks Sen. Courtney if the workgroup reached a consensus about the ñ5 amendments.

430	Sen. Courtney	Responds that they did.
445	Gratten Kerans	Oregon University System (OUS). States that the OUS supports the ñ5 amendments and are neutral on the other amendments.
<b>TAPE 88, B</b>		
020	Sen. Shannon	Asks Kerans if there is a part of this bill that he does not agree with.
022	Kerans	Responds that the ñ5 amendments reflect a set of amendments from the OUS. States that the ñ5 amendments were designed to ensure that the receiving institution had an obligation to provide academic advising.
034	Sen. Shannon	Asks if the OUS always supported this bill.
036	Kerans	Responds that the OUS supported the concept. Explains that their concerns are addressed in the ñ5 amendments.
		<b>VOTE: 5-2</b>  <b>AYE: 5 - Courtney, Duncan, George, Gordly, Hartung</b>  <b>NAY: 2 - Castillo, Shannon</b>
059	Chair Hartung	The motion CARRIES.
065	Sen. Courtney	<b>MOTION: Moves to ADOPT SB 428-7 amendments dated 04/27/99.</b>
071	Sen. Duncan	States that he disagrees with the wording "student bill of rights." States that he will vote against this bill on the floor.
		<b>VOTE: 7-0</b>
082	Chair Hartung	Hearing no objection, declares the motion CARRIED.
084	Sen. Courtney	Discusses the ñ8 amendments.
093	Sen. Shannon	Asks if there will be a problem with the dollars going to a religious school.

101	Rose	Responds that the bill states that the courses taken must be "a non-sectarian course."
109	Sen. Gordly	Asks if the ñ8 amendments would leave the choice up to the school district to determine if and where the student could attend.
112	Sen. Courtney	Responds that is his understanding of the ñ8 amendments.
114	Sen. Gordly	States that she will be voting no on the ñ8 amendments.
116	Sen. Duncan	States that a school board has the discretion to pick either a public or a private school.
118	Wimmer	States that the OEA does not want to force a mandate on every district.
122	Sen. Duncan	States that a school board would have to allow a student to attend a public institution, but they would have the discretion to decide whether or not a student could attend a private institution.
126	Smith	States that the ñ8 amendments change the decision maker from the student to the school board.
		States that the OSEA opposes the ñ8 amendments. Believes that public school boards currently do not have the authority to send public students to religious schools and this amendment might change that.
170	Sen. Shannon	States the ñ8 amendments give the decision to the school boards. Comments that she does not support the ñ8 amendments.
176	Sen. Hartung	<b>MOTION: Moves to ADOPT SB 428-8 amendments dated 04/27/99.</b>
		<b>VOTE: 3-4</b> <b>AYE: 3 - Castillo, Courtney, Hartung</b> <b>NAY: 4 - Duncan, George, Gordly, Shannon</b>
183	Chair Hartung	<b>The motion FAILS.</b>
191	Carlson	States that the ñ2 amendments were incorporated into the ñ5 amendments. States that he would like the committee to consider the ñ1 and the ñ6 amendments.

199	Sen. Gordly	<b>MOTION: Moves to ADOPT SB 428-1 amendments dated 03/16/99.</b>
201	Carlson	States that the ñ1 amendments were recommended by Ronnie Hearndon, Chair of National Head Start Program. Explains that the concept is for "an accountability piece" at the higher education institution. States that after the first two years, every receiving student must show that 90 percent of the students had achieved at least at a C average in the classes that they took from the institution.
215	Sen. Shannon	Opposes the ñ1 amendments. States that parents should decide, not big businesses. States that she does not "support anything that AOI puts forth in the name of education."
233	Chair Hartung	Closes work session on SB 428 and opens work session on SB 1299.
<b><u>SB 1299 WORK SESSION</u></b>		
246	McComb	States that this bill would instigate an inventory of school facilities. Comments that there would be a fiscal impact.
252	Vice-Chair Castillo	States that she was approached by the state geologists who have an interest in seeing that the schools are earthquake safe. Comments that she would like to add the earthquake portion to the bill when it moves over to the House.
265	Rose	Believes that the bill "makes reference to safe and code, and earthquake is part of that."
286	Sen. Castillo	<b>MOTION: Moves SB 1299 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means by prior reference.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - George</b>
292	Chair Hartung	<b>The motion CARRIES.</b>
294	Chair Hartung	Closes work session on SB 1299 and opens work session on SB 725.
<b><u>SB 725 WORK SESSION</u></b>		

297	McComb	Explains that SB 725 would direct the ODE to award grants to school districts for use of centers informal learning such as museums and performing artists in the schools.
309	Larry Harvey	<p>Cultural Advocacy Coalition. States that the ñ1 amendments (<b>EXHIBIT K</b>) sought to the expand the partnerships included in the bill. Comments that the ODE and Stan Bunn are supportive of the ñ1 amendments.</p> <p>Refers to Sen. Gordlyís question during the public hearing about teacher certification. States that Chris DiArcy can address her question.</p>
324	Sen. Gordly	States she would like DiArcy to testify for the record.
342	Chris DiArcy	Director, Oregon Arts Commission. Believes that this bill would enhance what is being undertaken by classroom teachers. States that the artists and scholars would not be substitutes for teachers, but rather, in addition to teachers.
361	Sen. Gordly	Requests that DiArcy give examples of the quality of artists that exist in various communities.
370	DiArcy	Cites many examples including Bruce Smith, Artistic Director, Northwest African American Ballet.
393	Sen. Gordly	<b>MOTION: Moves to ADOPT SB 725-1 amendments dated 04/21/99.</b>
		<b>VOTE: 6-0</b>  <b>EXCUSED: 1 - George</b>
398	Chair Hartung	<b>Hearing no objection, declares the motion CARRIED.</b>
400	Sen. Gordly	<b>MOTION: Moves SB 725 to the floor with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 6-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 1 - George</b>
412	Chair Hartung	<b>The motion CARRIES.</b>

Submitted By, Reviewed By,

Karen O'Kelley Jan McComb

Administrative Support Administrator

### **EXHIBIT SUMMARY**

**A ñ SB 960, Sen. Neil Bryant, written testimony, SB 184, Court of Appeals case, 22 pp**

**B ñ SB 976, staff, -2 amendments, 1 p**

**C ñ SB 363, staff, -3 amendments, 41 pp**

**D ñ SB 144, staff, -3 amendments, 7 pp**

**E ñ SB 428, staff, -5, amendments, 3 pp**

**F ñ SB 428, staff, -6 amendments, 2 pp**

**G ñ SB 428, staff, -7 amendments, 1 p**

**H ñ SB 428, staff, -8 amendments, 1 p**

**I ñ SB 428, staff, -1 and ñ2 amendments, 3 pp**

**J ñ SB 428, Laurie Wimmer, written testimony, 2 pp**

**K ñ SB 725, staff, -1 amendments, 3 pp**