

SENATE COMMITTEE ON JUDICIARY

March 30, 1999 Hearing Room 343

3:00 p.m. Tapes 100-101

MEMBERS PRESENT: Sen. Bryant, Chair

Sen. Courtney, Vice-Chair

Sen. Brown

Sen. Burdick

Sen. Nelson

Sen. Qutub

Sen. Tarno

STAFF PRESENT: Anne Tweedt, Counsel

Judith Minnich, Administrative Support

MEASURE/ISSUES HEARD: SB 937, Public Hearing and Work Session

SB 1008, Public Hearing and Work Session

SB 690, Public Hearing and Work Session

SB 397, Work Session

SB 889, Work Session

HB 2388, Reconsideration and 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 100, A

003

Chair Bryant

Calls the meeting to order at 3:12 p.m.

SB 889 WORK SESSION

005

Sen. Bryant

MOTION: Moves SB 889 WITHOUT RECOMMENDATION as to passage BE REFERRED to the President's Desk.

VOTE: 4-0

EXCUSED: 3 - Brown, Burdick, Tarno

Chair Bryant

Hearing no objection, declares the motion CARRIED.

HB 2388 WORK SESSION

010

Sen. Bryant

MOTION: Moves to SUSPEND the rules for the purpose of RECONSIDERING the vote by which the committee adopted the -A amendments to HB 2388.

VOTE: 5-0

EXCUSED: 2 - Brown, Burdick

Chair Bryant

Hearing no objection, declares the motion CARRIED.

012

Sen. Bryant

MOTION: Moves to RECONSIDER the vote by which the HB 2388-A amendments were ADOPTED.

VOTE: 5-0

EXCUSED: 2 - Brown, Burdick

Chair Bryant

Hearing no objection, declares the motion CARRIED.

022	Sen. Bryant	MOTION: Moves to ADOPT SB 2388-2 amendments dated 3/3/99 (EXHIBIT A).
		VOTE: 5-0 EXCUSED: 2 - Brown, Burdick
	Chair Bryant	Hearing no objection, declares the motion CARRIED.
025	Sen. Bryant	MOTION: Moves SB 2388 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 5-0 EXCUSED: 2 - Brown, Burdick
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. BURDICK will lead discussion on the floor.
<u>SB 690 PUBLIC HEARING</u>		
040	Ezra Levine	Non Bank Funds Transmitters Group Submits written testimony and testifies in support of SB 690 (EXHIBIT B). Indicates that SB 690 is an adaptation of model legislation that has been adopted in a number of states to regulate those companies that sell and issue money orders and traveleris checks as well as funds transmitters. Supports the ñ1 amendments that make technical changes to the bill (EXHIBIT C).
075	Sen. Qutub	Who sponsored the ñ1 amendments?
077	Levine	These amendments were suggested by the Division of Finance and Corporate Securities.
087	Kathy Figley	President, Woodburn City Council Submits testimony and testifies in support of SB 690 (EXHIBIT D). Discusses the money transfer outlets in Woodburn. Indicates that non-bank transfers need regulation.

122	Dallas Figley	Secretary, Woodburn Downtown Association Submits written testimony and testifies in support of SB 690 (EXHIBIT E).
141	Jim Harlan	Division of Finance and Corporate Securities Testifies in support of SB 690 including the ñ1 amendments.
154	Sen. Tarno	Discusses a recent legal opinion regarding the use of cash in Oregon.
171	Dave Barrows	Non-Bank Fund Transmitters Group Indicates that the Oregon Bankerís Association and the Oregon League of Financial Institutions are in support of SB 690.
193	Sen. Qutub	Asks for an explanation as to why this bill is needed.
200	Barrows	The Division of Finance and Corporate Securities regulates banks and credit unions. Non Bank Funds Transmitters Groups are not regulated. This bill is to regulate these groups. Problems can occur anywhere in the non-bank transaction without regulation.
238	Sen. Qutub	Do you have evidence that the money is not getting to its destination?
242	K. Figley	I understand there are approximately 20 complaints a year regarding funds not arriving.
249	Sen. Qutub	These services would be regulated through what agency?
251	Harlan	The Department of Consumer and Business Services, Division of Finance and Corporate Securities.
<u>SB 690 WORK SESSION</u>		
263	Sen. Courtney	MOTION: Moves to ADOPT SB 690-1 amendments dated 3/26/99.
		VOTE: 6-0 EXCUSED: 1 - Brown

	Chair Bryant	Hearing no objection, declares the motion CARRIED.
267	Sen. Courtney	MOTION: Moves SB 690 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 EXCUSED: 1 - Brown
	Chair Bryant	Hearing no objection, declares the motion CARRIED. SEN. COURTNEY will lead discussion on the floor.
<u>SB 937 & SB 1008 PUBLIC HEARING</u>		
327	Brad Popovich	The Oregon Genetic Privacy Advisory Committee Submits written testimony and testifies in support of SB 1008 (EXHIBIT F). Discusses the history of genetic testing and the concerns that have arisen because of the increased knowledge in this area. When we originally began protecting the privacy of individual's DNA, we used the concept of property to do this. In 1997, SB 1107 was enacted, which allows the use of genetic material for science as long as the individual's identity is removed. Certain legitimate research can't be done if genetic information is not connected to individuals.
Tape 101, A		
038	Popovich	We need a middle ground between full informed consent and anonymous research. Discusses the exceptions for genetic material written into SB 1008. Indicates that he believes that there is broad agreement among interested parties on this approach. Believes with a little more work a good compromise between SB 937 and SB 1008 can be crafted.
095	Ted Falk	Attorney, Health Law Submits written testimony and testifies in support of SB 1008 (EXHIBIT G). Indicates he was a member of the work group that drafted SB 1008. Discusses genetic privacy principles that he believes can form the basis for a compromise. Suggests that perhaps the privacy statutes rather than property statutes could be used.
229	James Gardner	PhRMA

		<p>Submits written testimony and testifies in support of SB 937 (EXHIBIT H). Discusses the biotechnology industry and economic development in this area for Oregon. Discusses the problems posed with ensuring genetic privacy through property rights. Discusses a consortium of groups who are interested in biotech research and want to protect genetic information, but through privacy laws rather than property rights. Submits a statement from PhRMA containing draft enforcement and penalty language under the privacy statutes of Oregon law (EXHIBIT I). Submits a sample release form treating genetic material as property (EXHIBIT J). Submits a news journal publication regarding Bioscience and Medical Technology in Oregon (EXHIBIT K).</p>
Tape 100, B		
002	Gardner	<p>Discusses the difficulties of using property rights to protect genetic privacy. Discusses the shape of the consensus between SB 937 and SB 1008. Submits a statement from PhRMA in opposition to SB 1008 (EXHIBIT L).</p>
044	Leslie Bevan	<p>Director of Research Compliance at Oregon Health Sciences University (OHSU)</p> <p>Submits written testimony and testifies in support of SB 1008 (EXHIBIT M). Discusses the difficulties with current law on genetic privacy. Clinical data cannot be connected with tissue samples therefore follow-up research cannot be done. Property rights do not adequately cover both the needs of researchers and patients. SB 1008 would do this.</p>
165	Jim Mattis	<p>Attorney, OHSU</p> <p>Testifies in support of SB 1008. Agrees that the concept of privacy can be substituted for property rights. OHSU is firmly in favor of a compromise to allow legitimate research to occur.</p>
211	Larry Simonsmeier	<p>Executive Director, Oregon Bioscience Association</p> <p>Submits written testimony and testifies in support of SB 937 (EXHIBIT N). Discusses the development climate needed for bioscience industries to grow. Partnering with medical institutions is critical to the success of these industries. Believes that genetic information should be treated the same as all other medical information.</p>
330	Emily Harris	<p>Genetic Researcher at Kaiser Center for Health Research</p> <p>Submits written testimony and testifies in support of SB 1008 (EXHIBIT O). Indicates that the last page of her testimony has suggested amendments and discusses these.</p>
378	Peter Jacky	<p>Director of Cytogenetics, Kaiser Permanente</p> <p>Testifies in support of SB 1008.</p>

447	Chair Bryant	Asks about genetic privacy laws in other states.
451	Jacky	Discusses other states' privacy laws.
461	Sen. Burdick	If you use the property approach, what is to prevent the selling of your genetic material?
468	Jacky	As far as I know, nothing. There may be some value in personal genetic information.
486	Sen. Burdick	What would stop an institution from reselling the material?
493	Jacky	Existing law would govern that.
Tape 101, B		
002	Michael Skeels	<p>Director, Center for Public Health Laboratories</p> <p>Submits written testimony in behalf of Elinor Hall, Health Division Administrator, Department of Human Resources (EXHIBIT P). Testifies in support of SB 1008, with amendments (EXHIBIT Q).</p> <p>A portion of his testimony was unrecorded due to equipment malfunction.</p>
011	Scott Gallant	<p>Oregon Medical Association</p> <p>Submits written testimony and testifies regarding SB 937 and SB 1008 (EXHIBIT R). Believes the problem should be clearly defined and shown to exist before changes to the law should be made. No harm to the fields of bioscience or medical technology research has been shown.</p>
100	Chair Bryant	Discusses the chilling effect of unfriendly laws on new businesses. Why wouldn't the OMA want us to change our law along the lines we have discussed?
113	Gallant	It is important to encourage the industry in this state. However, it should be shown our laws have hindered the development of the bioscience industry before the law is changed.
140	Andrea Meyer	<p>Legislative Director, American Civil Liberties Union (ACLU)</p> <p>Indicates that their concern is to maintain informed consent and establish a remedy if this requirement is breached. Would like federal policy statements on informed consent to be in the Oregon statute itself.</p>

171	Gallant	Indicates that an earlier draft of SB 1008 did that.
SB 397 WORK SESSION		
204	Paul Tiffany	Bureau of Labor and Industry (BOLI) Testifies that the Attorney General's Office and the Bureau of Labor and Industry have agreed to disagree and were unable to reach a compromise. BOLI remains in favor of adopting the ñ2 amendments.
215	Amy Veranth	Attorney General's Office Indicates the Attorney General's Office continues to oppose the ñ2 amendments but has no objection to the ñ3 amendments (EXHIBIT V).
219	Chair Bryant	Discusses his thoughts on the use of hearing officers. Suggests a compromise on SB 397.
276	Veranth	The Attorney General has to approve using a hearing officer now. But approval is given based on types of cases, not individual officers.
294	Chair Bryant	SB 397 only covers contested case proceedings.
297	Sen. Brown	Discusses her opposition to the ñ1 amendments. Discusses her interest in hearing officers for child support enforcement with a sunset provision.
372	Sen. Burdick	Discusses the issue of appropriate qualifications for representatives at contested case hearings.
378	Chair Bryant	Discusses the difficulty of screening this type of representative. Discusses legal aid.
414	Chair Bryant	Indicates that an amendment will be written which includes the ñ3 amendment and will also preserve the Attorney General's right to authorize the type of case to be heard by various agencies.
449	Chair Bryant	Adjourns meeting at 5:15 p.m.

Submitted By, Reviewed By,

Judith Minnich, Anne Tweedt,
Administrative Support Counsel

EXHIBIT SUMMARY

A ñ HB 2388, HB 2388-2 amendments (LC 396), 3/3/99, 10 pp

B ñ SB 690, written testimony dated March 30, 1999, Ezra Levine, 4 pp

C ñ SB 690, Sb 690-1 amendments, (LC 1880), 3/26/99, 1 pp

D ñ SB 690, written testimony of Kathy Figley, 2 pp

E ñ SB 690, written testimony dated March 30, 1999, Dallas Figley, 2 pp

F ñ SB 1008, written testimony dated March 30, 1999, Brad Popovich, 4 pp

G ñ SB 1008, written testimony dated March 30, 1999, Brad Popovich, 1 pp

H ñ SB 937, written testimony of James Gardner, 7 pp

I ñ SB 937, written testimony dated March 29, 1999, Jim Gardner, 2 pp

J ñ SB 937, draft of a property donation release from OHSU, Jim Gardner, 1 pp

K ñ SB 937, 1999 Oregon Bioscience & Medical Technology Directory, 48 pp

L ñ SB 1008, written testimony dated March 30, 1999, Jim Gardner, 3 pp

M ñ SB 1008, written testimony dated March 30, 1999, Leslie Bevan, 3 pp

N ñ SB 937, written testimony, submitted by L. Simonsmeier, 1 pp

O ñ SB 1008, written testimony of Emily Harris, 3 pp

P ñ SB 1008, written testimony dated March 30, 1999, Elinor Hall, 2 pp

Q ñ SB 1008, SB 1008-1 amendments (LC 3822), 3/30/99, 11 pp

R ñ SB 1008, written testimony dated March 30, 1999, Scott Gallant, 4 pp

S ñ SB 937, Current Oregon Law Regarding Disclosure of Medical Records (Including Genetic Information), James Gardner, 2pp

T ñ SB 937, written testimony dated March 18, 1999, Felicia Trader, 1 pp

U ñ SB 937, ORS 659.700 to 659.720 and ORS 659.990, Genetic Privacy, 4 pp

V ñ SB 397, hand-engrossed, ñ1, -2, -3 amendments, 8 pp