

SENATE COMMITTEE ON
BUSINESS AND CONSUMER AFFAIRS

Hearing Room
Tapes , 42, 43 & 44

MEMBERS PRESENT:

Sen. Bill Kennemer, Chair
Sen. John Lim, Vice-Chair
Sen. Gene Derfler
Sen. Joan Dukes
Sen. William McCoy

MEMBER EXCUSED:

STAFF PRESENT:

Darrell W. Fuller, Committee Administrator
Carol A. Smith, Committee Assistant

MEASURES HEARD:

SB 406: Public Hearing
SB 733: Public Hearing and Work Session
SB 413: Public Hearing
SB 466: Public Hearing
HB 2481: Public Hearing and Work Session
SB 431: Public Hearing

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , A

002 CHAIR: Calls the meeting to order at 3:15 p.m.

003 CHAIR: Opens PUBLIC HEARING on SB 406.

004 DARRELL FULLER, Committee Administrator: Gives overview of the bill.

WITNESSES: Frank Brawner, Oregon Bankers Association
Richard Nockleby, Division of Finance and Corporate Securities

009 FRANK BRAWNER, Independent Bankers Association: Submits written testimony in support of the bill.
(EXHIBIT A). Explains the bill. Mentions speaking with CECIL MONROE who approves of the bill.

018 CHAIR: Asks for a copy for a copy of MONROE's statement.

022 SEN. DERFLER: Question regarding state-chartered banks.

034 BRAWNER: Gives information regarding audits.

036 SEN. DERFLER: So you have three audits?

037 BRAWNER: More than that. We have a financial statement review that has been in the statutes for more than a decade.
That will remain.

045 SEN. DERFLER: Comments there is plenty of protection.

049 SEN. MCCOY: Questions removal of financial statement review.

050 BRAWNER: Responds to SEN. MCCOY regarding internal controls. States that is a redundancy today and an expense we ought not to have to go through. There is an Audit Committee on the Board.

080 CHAIR: Reads from MONROE's statement to BRAWNER stating the bill will not affect the safety and soundness of financial institutions.

090 RICHARD NOCKELBY, Division of Finance and Corporate Securities: Addresses the concern voiced by SEN. MCCOY. There are other avenues that can be used for an audit in the event of safety and soundness issues.

111 SEN. MCCOY: Voices concerns relative to the Board of Directors. Refers to 1983 legislation done with the late Senator L.B. Day.

127 BRAWNER: States that at that time you put in the annual financial statement review done by a Certified Professional Accountant. That will continue to be in the statute. All Federal examiners have agreed that institutions below five-hundred million do not need such an audit as our statute requires.

144 SEN. LIM: How many state-chartered banks have outside or inside audits in a year?

BRAWNER: All. The statute requires that. All will have either FDIC or the Federal Reserve examination.

159 SEN. LIM: Refers to London Bering Bank problem.

169 NOCKELBY: Audit is to catch problems like that. An outside audit is not necessarily designed to find specific areas of fraud as much as it is to detect problems with internal controls and procedures. Explains the main point of an outside audit is to make sure that the internal procedures and controls of that bank are set up to catch any difficulties like that.

188 CHAIR: Comments regarding waiver of an operational audit under existing law. Did you do that?

192 NOCKELBY: Yes, usually for the better-rated banks that requested it.

293 CHAIR: So it has already been done.

193 CHAIR: Closes PUBLIC HEARING on SB 406.
CHAIR: Opens PUBLIC HEARING on SB 733.

DARRELL FULLER, Committee Administrator: Reads overview of the bill and the measure it will amend.

199 WITNESSES: Frank Brawner, Oregon Bankers Association
Greg Aube, First Consumers National Bank
Richard Nockleby, Division of Finance and Corporate Securities

206 FRANK BRAWNER, Oregon Bankers Association: Submits written testimony in support of the bill (EXHIBIT B). Gives overview of the bill and criteria for late charge levies. The credit marketplace has changed since 1985 and the expense of delinquency has changed also. First Consumers is a credit card bank invited to Oregon by Governor Goldschmidt. Gives size and scope of the bank and qualifications. It is a wholly-owned subsidiary of Spiegel, and an affiliate of Eddie Bauer.

251 GREG AUBE, First Consumers National Bank: Testimony in support of the bill (EXHIBIT C). Addresses late fees on credit cards, open-end credit arrangements. Refers to a Mastercard study, refers to four categories of credit cards; second, allows high limits. The most restrictive category is less than five percent or ten dollars. Refers to national credit flexibility and pricing flexibility.

(3:30 SEN. KENNEMER leaves the meeting.)

302 AUBE: Refers to trend to pricing deregulation example in his testimony. Gives figures on delinquency rates on cardholders. Gives comments regarding slowing economy and impact on lenders.

339 SEN. MCCOY: Question regarding present fee.

353 BRAWNER: Responds to SEN. MCCOY's question on how this delinquent charge benefits consumers. States businesses leaving the state is expensive.

377 SEN. MCCOY: Question relating to surrounding states and what they do.

385 RICHARD NOCKLEBY, Division of Finance and Corporate Securities: Responds to SEN. MCCOY.

395 BRAWNER: Nevada does not have a ceiling on their late fees. Explains origination of credit card issuer fees.

TAPE 42, SIDE A

001 NOCKELBY: Responds to question from SEN. LIM. regarding competition. Nationwide we have six million customers. Less than one percent of our customers are in Oregon.

016 SEN. LIM: Questions why the state has to involve itself in the regulation of their late charges. States it should be up to the bank.

018 BRAWNER: Seventeen states have no statutory limit on the late charges. We have always had a limit and we chose to continue that.

(3:40 CHAIR returns to the meeting.)

022 CHAIR: Closes PUBLIC HEARING on SB 733.

024 CHAIR: Opens WORK SESSION on SB 406.

028 MOTION: SEN. DERFLER moves SB 406 to the floor with a DO PASS recommendation.

VOTE: MOTION PASSES.

AYES: DERFLER, MCCOY, LIM and KENNEMER

EXCUSED: DUKES

CARRIER: LIM

(3:45 SEN. DUKES enters the meeting.)

030 CHAIR: Closes WORK SESSION on SB 406.

CHAIR: Opens PUBLIC HEARING on SB 413.

050 DARRELL FULLER, Committee Administrator: Gives overview of the bill.

WITNESSES: Chuck Lenard U.S. West Communications
Bob Jenks, Citizens Utility Board
Roger Hamilton, Commissioner, Public Utility Commission
Joe Gilliam, Northwest Payphone Association
Paul Romain, MCI Telecommunications
Gary Bauer, Oregon Independent Telephone Association
Senator Ray Bradbury
Mike Dewey, Oregon Communication Trade Society
Scott Girard, Public Utility Commission

060 CHUCK LENARD, U. S. West Communications: Submits written testimony in support of the bill (EXHIBIT D). Explains bill, marketplace. Public Utilities Commission wants to be granted ability to modify regulations. States it doesn't change the rules, but authorizes Public Utility Commission to modify rules if compatible with the public interest.

080 LENARD: Gives specifics of the bill. Refers to past legislation and regulation; refers to rate of return base. States SB 413 would allow price limit regulation and explains. Refers to:

111 --competitive pricing;
--price regulation plan;
--uncertainty eliminated under the plan;
--investment ability;
--earnings and price caps;
--price regulation catching on.

163 CHAIR: Question regarding quality.

166 LENARD: Responds to the question.

182 SEN. MCCOY: Invites witness to convince him that this is the right thing to do.

190 LENARD: The bill calls for the commission to run public interest test. Gives comments regarding rural customers and refers to the commission.

207 CHAIR: Can you expand on technology and competition?

212 LENARD: Refers to convergence of technology; cable and telephone service.

(3:48 SEN. DERFLER leaves the meeting.)

228 LENARD: Continues, discusses cross subsidies.

238 CHAIR: Comments regarding emergence of competitive elements and interaction of the regulated market.

248 LENARD: Competition will cause rates to go up in some areas and explains. Feels it causes competitors to move to other areas.

271 SEN. LIM: Reads statement from witnesses testimony; asks what is too high and too low.

283 LENARD: Responds to question; when earnings are low they file for increase in rates and vice-versa. Investment base is involved; mentions capital, debt and equity, et cetera.

304 SEN. LIM: So the commission decides.

324 ROGER HAMILTON, Public Utilities Commission: Testimony in support of the bill. Refers to 1992 legislation. States what the bill would do without regard to rate of return on the investment. We cannot say how we will implement this legislation; will examine the results later. In 1996 will review whether to continue the plan. Gives criteria that will be used, including input from customers.

383 CHAIR: The commission then, is in support of this legislation. This allows us to have greater flexibility.

410 SEN. LIM: Is there a chance rates will go up if this is passed?

TAPE 41, SIDE B

010 HAMILTON: Refers to regulatory burden, rate-of-return regulation is quite complex.

016 MCCOY: Question for GIRARD.

SCOTT GIRARD, Public Utility Commission: States that providing for flexibility is advisable. There is ample need.

039 CHAIR: We will admit testimony for Carla, even though she is not present (EXHIBIT E).

050 JOE GILLIAM, Northwest Payphone Association: Refers to sec. 4, line 26 of the bill. Gives an analysis of Subsection 4, Paragraph 2, Line 26. Would like to be on record regarding rate caps and rate returns.

087 GIRARD: Responds to the concern voiced by GILLIAM. Refers to economist definition of subsidy. Refers to last session and HB 2203.

104 BOB JENKS, Citizens Utility Board: Submits written testimony in support of the bill (EXHIBIT H). Gives anecdotal evidence, Portland 911 for instance. Refers to service incentives, profits. Comments on normal marketplace. Gives examples of districts that are affected by this legislation. It takes place after 1997; suggests talking to US West in your areas.

164 PAUL ROMAIN, MCI Telecommunications: Submits written testimony in support of the bill (EXHIBIT F). Addresses proposed amendments to bill. Refers to:

- falling cost of technology
- should look at price caps;
- recipient of benefit of falling price;

--PUC is supposed to decide;
 --page 1 of the bill; rates and review;
 --inefficiencies in the system;
 --Subsection 2 of the plan; rate case review;
 --monopoly;
 --access;
 281 --placing a complaint mechanism into the statute;
 --proposed amendments.

308 GARY BAUER, Oregon Independent Telephone Association: Testimony in support of the legislation. Remarks regarding:
 --competition;
 --three applications;
 --MCI telecommunications metro;
 --quality of service, not a main component today.

344 MIKE DEWEY, Oregon Telecommunication Trade Society Association: Explains purpose. Members are concerned because U.S. West is a large company promoting this bill. The cable companies see huge competition on the horizon. We are regulated; this competition will be difficult. We will need federal legislation to keep up with what is happening in the states.

409 DEWEY: Refers to the speed of the changing competition.

TAPE 42, SIDE B

008 DEWEY, continues: Refers to overseas competition; states it is very useful.

015 CHAIR: Guarded endorsement.

017 CHAIR: Closes PUBLIC HEARING on SB 413.

019 CHAIR: Comments he would like WILHELM and ROMAIN to meet, perhaps by a week from Thursday and hopefully move forward. FULLER will work with people.

032 CHAIR: As a point of information to the committee we will be bringing HB 2135 back to the committee at a later time.

050 CHAIR: Opens PUBLIC HEARING on SB 466.

WITNESSES: Sen. Bill Bradbury
 Shirley Williams, Dogs Unlimited
 Joseph Fowler, Oregon Health Department
 Merle Herrmann, World Class Fish and Chips

052 SEN. BILL BRADBURY, District 24: Gives history and reasons for bringing the bill. Gentleman from the coast has a mobile food unit that is not different from a restaurant, but is subject to inspection in each county that they go to. They do not change. Essentially, the bill says that once inspected that that is adequate to travel to other jurisdictions in the state.

080 MERLE HERRMANN, World Class Fish and Chips: Submits written testimony in support of the bill (EXHIBIT K). States that as the law currently stands, once licensed, when he goes to another county, they say they do not accept state inspection and charge him again. He refers to expenses, in addition to the state licensing fees. Gives examples of the problems that he has run into for a three-day event and the window of opportunity that is missed. States the competition is required to pay the fee once.

136 SEN. MCCOY: Question regarding vice-versa with the competitors.

147 SEN. BRADBURY: Refers to the types of questions that are asked and the practicality.

156 CHAIR: Asks SEN. BRADBURY to meet with the parties.

173 SHIRLEY WILLIAMS, Dogs Unlimited: Gives example of problem, in support of the bill.

183 SEN. LIM: How are you charged?

187 SEN. LIM: If you have two units, is each charged?

190 WILLIAMS: Responds yes, per unit, per event.

192 JOSEPH FOWLER, Oregon Health Department: Explains reasons behind rules, water supplies, temperature, et cetera. Believes an appropriate comment would be they continue to inspect, but charge a lesser fee.

217 SEN. MCCOY: Questions if the units are up to par and whether the water is the city water that people drink.

232 FOWLER: Not always, sometimes they bring their own water.

238 FOWLER: Refers to how food is stored.

243 SEN. MCCOY: Have you closed down anybody lately?

247 FOWLER: We do find lots of problems with these units.

252 CHAIR: Asks SEN. BRADBURY to work with parties on the bill.

255 SEN. LIM: Question of taking time away from the vendor to conduct business.

266 FOWLER: We try to accommodate regarding the time element.

CHAIR: Closes PUBLIC HEARING on SB 466.

273 CHAIR: Opens PUBLIC HEARING on HB 2481.

289 FULLER: Reads overview on the measure.

298 WITNESSES: Don Miner, Oregon Manufactured Housing Association
Ray Gribbling, Oregon Automobile Dealers Association
Julie Evey, Department of Motor Vehicles

(5:00 P.M. SEN. MCCOY leaves the meeting.)

310 DON MINER, Oregon Manufactured Housing Association: Submits written testimony in support of the bill (EXHIBIT L). Explains the bill. Refers to the Department of Motor Vehicles. They are about to repeal the administrative rule.

330 RAY GRIBBLING, Oregon Automobile Dealers Association: Testimony in support of the bill. Gives a brief explanation.

357 JULIE EVEY, Department of Motor Vehicles: In response to question from SEN. LIM, states they have no reservations regarding the bill.

379 SEN. LIM: Question regarding other states.

430 CHAIR: Closes PUBLIC HEARING on HB 2481.

TAPE 43, SIDE A

002 CHAIR: Opens WORK SESSION on HB 2481.

MOTION: SEN. DUKES moves HB 2481 to the Floor with a DO PASS recommendation.

004 VOTE: MOTION CARRIES.

AYES: DUKES, LIM, and KENNEMER
EXCUSED: DERFLER and MCCOY
CARRIER: DUKES

008 CHAIR: Closes WORK SESSION on HB 2481.

016 CHAIR: Opens PUBLIC HEARING on SB 431.

017 FULLER: Gives overview of the bill.

WITNESSES: Larry Harvey, Oregon Lodging Association
Donn DeBernardie, 6th Avenue Motel
Pauline Jarrett, Carriage Inn
Ron DeSemples, Your Host Motel
David Nebel, Oregon Legal Services
Emily Cedarleaf, Multifamily Housing Council

025 LARRY HARVEY, Oregon Lodging Association: Submits written testimony in

support of the bill (EXHIBIT N).
He addresses the problem that is created with a loophole in the Resident
Landlord Tenant Act. Refers to the delineation
in the statute between a landlord-tenant situation and a
transient-occupancy situation. He addresses Item "D" and
gives examples of abuses and fraud under the law. Refers to a letter
submitted to the committee from O'Donnell,
Ramis, Crew, Corrigan and Bachrach (EXHIBIT M).

(CHAIR: For the record we have received that and will add it to the
official record.)

(5:05 SEN. DUKES leaves the meeting.)

070 DONN DEBERNARDIE, 6th Avenue Motel: Testimony in support of the bill.
Cites a personal example having
been harmed by a tenant using the Resident Landlord Tenant Act. It cost
him \$1500 in legal fees and settlement to get
this person out. Two days later he was in another motel doing the very
same thing. Explains his motel is close to Health
Sciences Center. He honors vouchers from Red Cross, Dornbecher Children's
Hospital and Shriner's. The person
came to them with a voucher for two day's lodging from Oregon Health
Sciences Center. He paid for one night
himself, then he got the Catholic Church to pay for two more days, then he
got another church, St. Michael's, to pay for
two more days. Then they got a call from a church asking them to ask him
to please stop bothering them because he
wasn't in their church jurisdiction. They had to call the police to try to
have him evicted. The man went to Legal Aid
who called and threatened to sue him and the City of Portland for illegal
eviction. States he was advised to make a cash
settlement, otherwise they were going to sue the heck out of all of them.
I don't think you people intended that law to
be used that way in the first place when you enacted it.

105 CHAIR: Our committee will ask to have your name corrected on the bill.

110 PAULINE JARRETT, Manager, Carriage Inn: Submits written testimony in
support of the bill (EXHIBIT P).
Gives a personal story about a problem that resulted after honoring voucher
from the Red Cross. Upon extension of
vouchers and time frame the man would not leave and made himself
inaccessible so that he could not be evicted. After
finally locking him out they heard from Legal Aid who called and threatened
legal action. An attorney was contacted
and an agreement made for the man to move in two weeks. When the time
limit was up, the man again refused to
leave. We finally had to pay him to get him out; that was at Legal Aid's
insistence.

150 SEN. LIM: Question regarding Legal Aid. Comments.

152 JARRETT: Referring to Legal Aid; states they call you up and they
threaten you.

155 DEBERNARDIE: Cites telephone call from Legal Aid, threatening him; the
man wanted \$2500 cash in order for him
to move out. They did settle out of court for \$850 in cash; stated he was
given two hours to go to the bank and get
\$850 in cash and take it up to the Legal Aid Department and have them sign
it to get that man out of there, otherwise he
would have 45 days of trying to get him out of there.

174 SEN. LIM: Will this bill do it?

174 CHAIR: MR. HARVEY, will this bill do that?

176 HARVEY: This bill will completely remove hotels and motels from any
provisions that are covered by the current
statutes for landlord tenants. As you can tell, as a result of this type
of activity even police departments are hesitant to
respond to the calls of hotel operators now. We have calls every day.
States he has had calls from city attorneys who
assisted in an eviction and are being sued by Oregon Legal Aid Services.

202 SEN. LIM: Questions if eliminating Item D will solve all of the problem
and asks how that could be handled.

203 HARVEY: I have been told most city attorneys have advised their law
enforcement agencies that because of the

particular criteria it allows transients who are attempting to defraud a merchant to claim protection under the Resident Landlord Tenant Act. If Item D were removed there would be no way that they could do that. Refers to distinction between residential hotel and a transient lodging accommodation. We objected in 1989 and predicted it would cause these kinds of problems. It did, and that is why we are here.

218 JARRETT: Comments regarding additional burden of being forced to provide the maid services, et cetera at the behest of Legal Aid Services for someone they declare is a tenant.

227 RON DESEMPLE, Your Host Motel: Submits written testimony in support of the bill. (EXHIBIT Q). The same tenant that had been at DEBERNARDIE's came to his establishment next. When asked to leave he said he would, but asked to stay until the next day. The very next day DESEMPLE got a letter from Legal Aid Services. In the letter he was threatened with being in violation of the Landlord Tenant Act. DESEMPLE got an attorney. It took from the fifth of January to the 21st of February to get them removed. The bills for legal fees were approximately \$1900. After other expenses including painting, a total of \$3300 plus. States that after playing the system and getting many extensions, they leave the night before the police are to be there. The unit was completely trashed. DESEMPLE went to Multnomah County and found five FED's on file. That tenant also took around to the other tenants a document that they get from the Oregon Legal Services explaining in detail how to play the system. States that after that his tenants weren't so interested in paying their rent. As a result of that, it has cost him, in the first two months of the year, \$4500 in lost rents, legal fees, et cetera.

348 --Gives information on another tenant, a person on disability; there was no way to get compensation from them.

355 --Gives examples of areas where they do provide help and assistance. States these are the people that they want to continue to help.

384 --a narrated video of the motel unit is shown; the counters and floors are completely covered with garbage and filth, there are bags of urine and used hypodermic needles. The appliances are destroyed.

TAPE 44, SIDE A

004 DESEMPLE: Sums up.

013 DAVID NEBEL, Oregon Legal Services: Submits written testimony in opposition to the bill (EXHIBIT O). Refers to HARVEY and a desire to work with the hotel/motel people. States he wants to also protect tenants with legitimate rights.

CHAIR: Even though they are not staying more than a day or two at a time?

038 NEBEL: Yes, and they should be protected by the Landlord Tenant Act. There are many people that represented in these situations that are marginal. Gives an example of a person who paid money to manager who left with it; owner then demanded payment from tenant. That tenant sought help from Legal Aid, and the person was able to get back in.

070 CHAIR: Question regarding recourse.

073 NEBEL: Yes, but they will be out on the street. Refers to areas that perhaps they can come to agreement on.

985 CHAIR: It is very clear that the rights of these owners are being violated massively and some correction is clearly in order. Would like to move the bill next week.

095 SEN. LIM: Remarks on the examples given; asks if he has represented tenants like this before.

112 (CHAIR: Announces we are now in subcommittee.)

114 EMILY CEDARLEAF, Multifamily Housing Council: Testimony in support of the bill. States that the tape shown previously represented what their members go through on a regular basis. Believes that definition of hotel versus landlord is needed. In any kind of situation the average to get someone

out is 27 to 47 days. Addresses screening process of landlords versus motel, hotel operators; credit checks, screening and deposits.

144 CHAIR: I hope what we saw today is intolerable, at the same time our system needs to be one of balance that protects the rights of all. I am hoping you can work together in good faith, promptly. We will try to schedule a work session a week from Thursday, March 23rd.

160 CHAIR: Closes PUBLIC HEARING on SB 431.

CHAIR: Adjourns the meeting at 5:30 p.m.

Submitted by, Reviewed by,

Carol A. Smith Darrell W. Fuller
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Testimony on SB 406, Frank Brawner, Oregon Bankers Association - 3 pages
B - Testimony on SB 733, Frank Brawner, Oregon Bankers Association - 3 pages
C - Testimony on SB 733, Gregory R. Aube, First Consumers National Bank - 6 pages
D - Testimony on SB 413, Chuck Lenard, U.S. West Communications - 6 pages
E - Testimony on SB 413, Carla Floyd, Communications Workers of America - 2 pages
F - Testimony on SB 413, Paul Romain, MCI Telecommunications - 1 page
G - Testimony on SB 413, Roger Hamilton - Public Utility Commission - 2 pages
H - Testimony on SB 413, Bob Jenks, Citizens Utility Board - 3 pages
I - Testimony on SB 466, Bob Wilson, Coalition of Local Health Officials - 1 page
J - Testimony on SB 466, Ronald Hall, Oregon Health Division - 1 page
K - Testimony on SB 466, Merle D. Hermann - 1 page
L - Testimony on HB 2481, Don Miner, Oregon Manufactured Housing Association - 1 page
M - Testimony on SB 431, Larry Harvey, on behalf of O'Donnell, Ramis, et al - 2 pages
N - Testimony on SB 431, Larry Harvey, Oregon Lodging Association - 4 pages
O - Testimony on SB 431, David Nebel, Oregon Legal Services - 2 pages
P - Testimony on SB 431, Pauline Jarrett, Carriage Inn - 7 pages
Q - Testimony on SB 431, Ronald DeSemples, Your Host Hotel - 5 pages