

SENATE COMMITTEE ON
JUDICIARY

Hearing Room
Tapes - 64

MEMBERS PRESENT:

Sen. Neil Bryant, Chair
Sen. Randy Miller, Vice-Chair
Sen. Ken Baker
Sen. Jeannette Hamby
Sen. Peter Sorenson
Sen. Dick Springer
Sen. Shirley Stull

STAFF PRESENT:

M. Max Williams II, Committee Counsel
Bill Taylor, Committee Counsel
Julie Clemente, Committee Assistant

MEASURES HEARD:

Work Session	SB - 75
Public Hearing	SB - 496
	SB - 597
	SB - 751
Public Hearing & Work Session	SB - 483
	SB - 620
	SB - 622
	SB - 736

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 , SIDE A

002 CHAIR BRYANT Calls meeting to order at 3:00 p.m.

OPENS PUBLIC HEARING ON SB 736

Witnesses: Senator Gordon Smith, SD29, Senate President
Representative Chuck R. Norris, HD 57
Peter H. Wells, City Attorney, City of Pendleton

006 SEN. GORDON SMITH, Senate President, Representing Senate District 29:
Testifies in favor of SB 736. [EXHIBIT A]

032 SEN. SORENSON: Any restrictions on where they could meet?

SEN. SMITH: Wherever they have reason to meet.

063 PETER H. WELLS, City Attorney, City of Pendleton: Testifies in favor of
SB 736. [EXHIBIT B]

108 REPRESENTATIVE CHUCK R. NORRIS, Representing House District 57:
Testifies in favor of SB 736. Should be restricted to federally recognized
tribes only.

142 SEN. SORENSON: Where does the term "federally recognized tribes"
appear?

WELLS: Has not found definition in state statute. Continues.

177 CLOSES PUBLIC HEARING ON SB 736
OPENS WORK SESSION ON SB 736

180 MOTION: SEN. BAKER: Moves that SB 736 be sent to the Floor with a DO
PASS recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All
members are present.

yield to SEN. SORENSON will lead discussion on the Floor. Senator Sorenson will
Senator Smith if he decides to carry bill to Floor.

CLOSES WORK SESSION ON SB 736

199 OPENS PUBLIC HEARING ON SB 483

Witnesses: Senator Mae Yih, SD 19
Joseph Sullivan, member of the Tangent Mennonite Church, Tangent
Wayne Miller, Deacon, Conservative Mennonite Church
Joanne Fairchild, RN, CCRN, Trama Coordinator, Legacy Emanuel Hospital
Claudia Black, Bicycle Helmet Program Coordinator, Department of Human
Resources, Health Division

200 SEN. MAE YIH, Representing Senate District #19: Testifies in favor of
SB 483. [EXHIBIT C]

249 WAYNE MILLER, Deacon, Conservative Mennonite Church: Testifies in favor
of SB 483. [EXHIBIT D]

282 JOHN SULLIVAN, member, Tangent Mennonite Church: Testifies in favor of
SB 483. [attachment to EXHIBIT C]

315 JOANNE FAIRCHILD, RN, CCRN, Trama Coordinator, Legacy Emanuel Hospital:
Testifies in opposition to SB 483. [EXHIBIT E]

376 CHAIR BRYANT: In agreement the law is good. In voting for the law in
1993, failed to think of the exception for religious head gear. Relates
Oregon Supreme Courts decision granting a religious exception to the Sikh
community.

398 FAIRCHILD: Rebutts comment based on religious grounds.

437 SEN. SORENSON: Asks for examples that would contradict the Mennonite
statements?

489 SEN. MILLER/FAIRCHILD: Debate subject.

TAPE 63, SIDE A

046 MILLER/FAIRCHILD: Continue.

100 SEN. BAKER: Comments on her willingness to talk to religious orders to
come to some agreement.

114 SEN. HAMBY: Most legislators would put right of religious freedom
ahead.

CLOSES PUBLIC HEARING ON SB 483
OPENS WORK SESSION ON SB 483

121 VOTE: SEN. BAKER: Moves SB 483 be sent to the Floor with a DO PASS
recommendation.

122 SEN. SORENSON: Asks Counsel to address the need for this legislation
based on the court rulings on the constitutionality of various laws that
interfere with religious freedom.

133 MAX WILLIAMS: Agrees with underlying premise that an exemption would
remove doubt and prevent the eventual need for some kind of an appeal.
These type of cases are treated on an individual basis.

145 SEN. SORENSON: Is there a way to protect the intent of the legislation
and a way to protect the people who are to benefit by this exception?

159 CHAIR BRYANT: Requires to be a "serious" religious belief.

168 MAX WILLIAMS: U.S. Supreme Court has been trying to deal with the issue
of what is a "serious" religious belief.

172 SEN. SPRINGER: Has Senator Cease given an opinion on this topic?

CHAIR BRYANT: No, other than Claudia Black's testimony in opposition to
the bill. She is testifying presently for another committee.

SEN. SPRINGER: Do we have to move on this now or can we wait until she
returns?

CHAIR BRYANT: Would like to move on this today.

186 CLOSES WORK SESSION ON SB 483
REOPENS PUBLIC HEARING ON SB 483

ADRIAN GREEN, Oregon Health Sciences University: Reads testimony of
CLAUDIA BLACK, Bicycle Helmet Program Coordinator in opposition to SB 483.

[EXHIBIT F]

228 SEN. SORENSON: Has there ever been a successful challenge to a
motorcycle helmet law on the basis of religious freedom?

GREEN: Doesn't know.

260 CLOSES PUBLIC HEARING ON SB 483
REOPENS WORK SESSION ON SB 483

262 SEN. HAMBY: Asks if Sen. Baker would consider the deletion of "or spiritual" on page 1 line 29 following the word "religious".

SEN. BAKER: No objection

MOTION: SEN. HAMBY: Moves that SB 483 be amended as follows: Line 29, following the word "religious" delete the words "or spiritual."

VOTE: CHAIR BRYANT: SENATORS BAKER, HAMBY, SORENSON, SPRINGER, STULL AND CHAIR BRYANT vote AYE. SENATOR MILLER votes NAY. The amendment is ADOPTED.

274 SEN. SORENSON: Is there a way we can get a sense from the bill's sponsors that this was put in to make it as narrow as possible?

MAX WILLIAMS: Makes wording suggestions.

330 SEN. SORENSON/MILLER: Discuss the creativity of the public. Sen. Miller not in favor of further limiting this exception.

364 SEN. SPRINGER: Comments - Potential problem only at this point, will vote no.

MOTION: SEN. BAKER: Moves that SB 483, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

385 SEN. SORENSON: Makes reference to his prior commend regarding the legal issue of whether or not the state can compel people to wear bicycle helmets.

410 CHAIR BRYANT: Will have Mr. Williams research and try to have an answer before bill goes to the Floor.

VOTE: CHAIR BRYANT: In a roll call vote, SENATORS BAKER, HAMBY, MILLER, SORENSON, STULL AND CHAIR BRYANT vote AYE. SENATOR SPRINGER votes NAY.

CHAIR BRYANT: The motion CARRIES.

SENATOR YIH will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 483

441 OPENS PUBLIC HEARING ON SB 597

Witnesses: Kelly T. Hagen, Outside Counsel, Oregon Medical Association
Scott Gallant, Oregon Medical Association

461 SCOTT GALLANT, Oregon Medical Association: Testifies in favor on SB 597.

475 KELLY T. HAGAN, Outside Counsel, Oregon Medical Association: Testifies in favor of SB 597 and proposes amendments. [EXHIBIT G]

TAPE 62, SIDE B

053 HAGAN: Continues.

062 GALLANT: Would we have an objection to having the ability to subpoena the attorney?

CHAIR BRYANT: Yes. Continues.

079 SEN. MILLER: References suggested amendments.

090 SEN. SPRINGER: Has Council on Court Procedure considered this issue? If not, why?

121 GALLANT: Just received fax from the Practice and Procedure Section at 3:00 p.m. which states that the bar wants all rule changes to go through the Council on Court Procedures and that the bar believes that SB 597 has certain unintended consequences.

133 CHAIR BRYANT: Wants to know what the unintended consequences are before proceeding.

CLOSES PUBLIC HEARING ON SB 597

OPENS PUBLIC HEARING ON SB 620

Witnesses: Robert Bovett, Assistant County Counsel, Lincoln County

149 ROBERT BOVETT, Assistant County Counsel, Lincoln County: Testifies in favor of SB 620. [EXHIBIT H]

186 SEN. SORENSON: Is there any reason that anyone else would be opposed to this?

BOVETT: Couldn't think of any. Explains.

CLOSES PUBLIC HEARING ON SB 620
OPENS WORK SESSION ON SB 620

196 MOTION: SEN. HAMBY: Moves SB 620 be sent to the Floor with a DO PASS
recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All
members are present. SENATOR BAKER IS EXCUSED.

SENATOR BUNN will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 620

OPENS PUBLIC HEARING ON SB 622

Witnesses: Robert Bovett, Assistant County Counsel, Lincoln County

204 ROBERT BOVETT, Assistant County Counsel, Lincoln County: Testifies in
favor of SB 622. [EXHIBIT I]

250 BOVETT: Continues. Refers to [EXHIBIT J]

CLOSES PUBLIC HEARING ON SB 622
OPENS WORK SESSION ON SB 622

271 MOTION: SEN. MILLER: Moves SB 622 be sent to the Floor with a DO PASS
recommendation.

VOTE: CHAIR BRYANT: Hearing no objection the motion CARRIES. All members
are present. SENATOR BAKER IS EXCUSED.

SEN. BUNN will lead discussion on the Floor

CLOSES WORK SESSION ON SB 622

OPENS PUBLIC HEARING ON SB 496

Witnesses: Russell Lipetzky, Family & Juvenile Law Section, Oregon State Bar

289 CHAIR BRYANT: Gives brief background on bill. Under current law, an
attorney can file a judgment lien within three years after the judgment is
given. Only requires notice be sent to the attorney's client. Bill
changes length of time an attorney has to file a claim from three years to
30 days. Notice must be sent no later than the 10th day after the claim of
lien has been filed and must be sent to the client and all parties named in
the action.

330 CHAIR BRYANT: Continues.

341 RUSSELL LIPETZKY, Family & Juvenile Law Section, Oregon State Bar:
Testifies in support of SB 496. [EXHIBIT L]

369 CHAIR BRYANT: Your concerns would be taken care of if domestic
relations cases were specifically excluded?

LIPETZKY: It certainly would.

370 CHAIR BRYANT: Reads into record two letters in opposition to SB 496.
[EXHIBIT K]

- Marsha M. Morasch who practices family law. Opposes the bill for the
same concerns just mentioned.

- Memo from the Civil Practice and Procedure Committee dated March 20,
1995. Concerned about the change from three years to a 30-day limitation
without any prior discussion.

403 Will ask for comment from the Bar before bill is moved.

CLOSES PUBLIC HEARING ON SB 496

OPENS WORK SESSION ON SB 75

Invited Testimony: Russell Lipetzky, Legislative Chair, Family & Juvenile
Law Section, Oregon State Bar for the Oregon Student Lobby

417 CHAIR BRYANT: Explains SB 75. Oregon State Bar is proposing a set of
amendments to satisfy the concerns that the Committee and the Oregon
Student Lobby raised. Still concerns from the Oregon Student Lobby.

465 RUSSELL LIPETZKY, Legislative Chair, Family & Juvenile Law Section,
Oregon State Bar: Testifies on SB 75. Primary purpose of this bill was to

recognize the fact that the Child Support Guidelines were never intended to
apply to college-age children. Designed to apply to minor children living
at home.

TAPE 63, SIDE B

045 Continues: Problem - if you call it child support, it has to be collected by the 4-D agencies and administered by the Department of Human Resources. Explains.

069 Secondary problem; concerns expressed by the Student Lobby. -1 amendments were designed to address those concerns.

087 Additional concerns of the Student Lobby: In setting support, can the court look at the student loans of the student. Loans should be specifically excluded.

095 CHAIR BRYANT: New problem is: if you take it out of the Support Guidelines requirement by giving it another title, you lose you ability to collect the support and enforcement through the 4-D process.

LIPETZKY: As the bill's sponsor, we have no problem with that. There are other groups, specifically Oregon Legal Services, strongly opposed to not having support collected by the 4-D agencies. Student Lobby would also want those enforcement remedies available.

117 CHAIR BRYANT: How much money do they currently collect?

LIPETZKY: Don't have that figure.

132 The Court should consider those things. Student Lobby wants to specifically exclude loans.

147 SEN. SORENSON: What are the other items covered by their proposed amendment?

LIPETZKY: Deleting lines 22 through 25 would delete the provision of SB 75 that requires the release of the academic records to both parents. That is the language that is covered in the -1 amendments beginning on line 5.

162 SEN. SORENSON: Do you agree or disagree on that?

LIPETZKY: Disagree as to whether it should be the burden of a parent to seek a court order requiring disclosure of academic records or whether the burden should be on the student.

- Student Lobby believes a court order should be obtained.
- We believe that the parent should be able to request that from the student and for the burden to shift to the student. Continues.

186 CHAIR BRYANT: If the student falls below a C average for one semester or term.; what would happen?

LIPETZKY: Statue requires notification from the child to the parent.

212 CHAIR BRYANT: Have too many questions, complicated system. Appreciate your efforts in trying to find a solution. Not convinced that the solution

proposed will satisfy the situation.
Inclined not to move the bill.

229 SEN. SORENSON: Who is disadvantaged by the failure to move the bill.

CHAIR BRYANT: Disadvantage is with the non-custodial parent who continues to pay child support.

248 SEN. STULL: Frustration with courts who mandate to broken families what they don't mandate to families who stay intact. Some of the issues raised are valid ones.

CHAIR BRYANT: Agrees, they are valid. Continues.

CLOSES WORK SESSION ON SB 75

OPENS PUBLIC HEARING ON SB 751

Witnesses: Jim Arneson, Oregon Criminal Defense Lawyer's Association
Kingsley Click, Acting State Court Administrator
Ingrid Swenson, Oregon Criminal Defense Lawyer's Association

280 JIM ARNESON, Oregon Criminal Defense Lawyer's Association: Testifies in support of SB 751 and proposes amendments. [EXHIBIT M]

339 35-day rule. Continues.

369 SEN. SORENSON: Do you know the position of other parties in these kinds of issues?

ARNESON: I do not. Did talk to Kingsley Click. Sent out a questionnaire to trial judges for their input.

443 SEN. SORENSON: What about applying the 35-day rule to civil cases?

CHAIR BRYANT: Wouldn't be able to do that in this bill because of the relating clause.

470 KINGSLEY CLICK, Acting State Court Administrator: Have not heard back from the Courts. Not unsympathetic to the OCDLA's concerns.

TAPE 64, SIDE A

047 SEN. BAKER: Doesn't a trial judge have an ability to manage his own docket?

CLICK: Yes. Concerned with word "shall".

CLOSES PUBLIC HEARING ON SB 751
OPENS WORK SESSION ON SB 751

067 MOTION: SEN. BAKER: Moves to ADOPT the OCDLA amendment as follows:
Line 8, after the period, insert, "The trial judge shall allow the entry of

a plea pursuant to a plea agreement at any time in the judicial process prior to conviction or dismissal."

VOTE: CHAIR BRYANT: Hearing no objection the amendment is ADOPTED. All members are present. SENATOR MILLER IS EXCUSED.

MOTION: SEN. BAKER: Moves that SB 751, AS AMENDED, be sent to the Floor with a DO PASS recommendation.

VOTE: Hearing no objection the motion CARRIES. All members are present. SENATOR MILLER IS EXCUSED.

SEN. SPRINGER will lead discussion on the Floor.

CLOSES WORK SESSION ON SB 751

093 CHAIR BRYANT: Discusses with committee the plan for remainder of session regarding bills still to be heard.

109 Adjourns at 5:10 p.m.

Submitted by:

Reviewed by:

Julie Clemente
Committee Assistant

M. Max Williams II
Committee Administrator/Counsel

EXHIBIT LOG

A - Testimony from Confederated Tribe of the Umatilla Indian Reservation on SB 736 -- Gordon Smith -- 2 pages
B - Testimony SB 736 -- Peter Wells -- 2 pages
C - Testimony on SB 483, attached testimony of Joseph Sullivan -- Mae Yih -- 3 pages
D - Testimony SB 483 -- Wayne Miller -- 1 page
E - Testimony SB 483 -- Joanne Fairchild -- 5 pages
F - Testimony SB 483 -- Claudia Black -- 2 pages
G - Testimony SB 597 -- Kelly T. Hagan -- 2 pages
H - Testimony SB 620 -- Robert Bovett -- 1 page
I - Testimony SB 622 -- Robert Bovett -- 2 pages
J - Testimony SB 622 -- Mark S. Schiveley -- 1 page
K - Testimony SB 75 -- Russell Lipetzky -- 2 pages
L -- Comments SB 496, OSB Civil Procedure & Practice Committee & Marsha M. Morasch -- Staff -- 3 pages
M - Proposed Amendments SB 751 -- Jim Arneson -- 1 page