

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

May 20, 1993 Hearing Room B 3:00 p.m. Tapes 68 and 69

MEMBERS PRESENT: Senator Grattan Kerans, Chair Senator Neil Bryant
Senator Rod Johnson Senator Dick Springer

MEMBERS EXCUSED: Senator Joan Dukes

STAFF PRESENT: Annette Talbott, Committee Counsel Tamara
Brickman, Committee Assistant

MEASURES CONSIDERED: Public Hearing SB 700 SB 355 SJR45

Work Session SB 355 SJR33

Public Hearing and Work Session SB 326 [--- Unable To Translate Graphic
---]

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. [--- Unable To Translate Graphic
---]

TAPE 68, SIDE A

006 CHAIR KERANS: Calls meeting to order at 3:12 p.m.

PUBLIC HEARING ON SB 700

013 CHAIR KERANS: Submits testimony for Sen. Jim Bunn. Delegates to
Sen. Bryant and Committee Counsel the task of developing amendments
to SB 700, with the advice and consent of Sen. Bunn. (EXHIBIT A)

PUBLIC HEARING ON SB 355

028 CHAIR KERANS: Refers to the computer engrossed SB 355.
Discusses what the amendments do. Discusses lines 14-21, page 1.
Comments that sections 3 and 4 makes the substantive changes. (EXHIBIT
C)

049 SEN. BRYANT: Asks if a lobbyist and legislator would exceed the
limit if the meal plus the tip was \$11.

051 CHAIR KERANS: Explains that is correct. Discusses current
law. Discusses page 3, subsection 9. "It allows the out of state
boondoggle." (EXHIBIT C)

079 SEN. BRYANT: Discusses the exception for accepting money in
relation to speaking engagements in relation to the legislator's
profession in SB 159 . Asks if that exception still stands.

085 CHAIR KERANS: Comments "that was in the question of honoraria.
This is in furtherance of your legislative business, between a
legislator and a lobbyist." Discusses certain situations that it might

be acceptable for a lobbyist to pay expenses in relation to business out of state.

100 SEN. BRYANT: "Myself as a member of the Oregon State Bar and the California Bar invites me to come down and talk about campaign reform?"

102 CHAIR KERANS: "You'd be OK on that if they.."

103 SEN. BRYANT: "They were not a registered lobbyist."

CHAIR KERANS: "And it wasn't paid for by a lobbyist...You would have to declare the honoraria. We'd have to cross reference those."

PUBLIC HEARING ON SJR45

WITNESSES: SENATOR BILL BRADBURY, Senate District 24 JANET ARENZ, American Civil Liberties Union

112 SENATOR BILL BRADBURY, Senate District 24: Testifies in support of SJR45. Explains that SJR 45 adds "a Legislative review to initiated Constitutional amendments."

149 CHAIR KERANS: "Does this change the threshold number all together?"

151 SEN. BRADBURY: Explains that it would be 4% before the individuals submitted the initiative to the Legislature. If the Legislature did nothing with the measure than the petitioners would need to go out and get the additional 4% to add up to 8% to get the measure on the ballot.

153 CHAIR KERANS: Asks if the signatures would have to be verified, by the County Clerks. "Then the Legislature would take it up as a bill."

159 SEN. BRADBURY: Explains that the Legislature could do nothing, something else, or refer the actual measure.

163 CHAIR KERANS: Discusses that certain initiatives could get on the ballot with a 4% signature requirement, rather than the current 8% requirement."

171 SEN. BRADBURY: Provides an example of how SJR45 would work.

181 SEN. BRYANT: Asks if the bill allows the petitioners, if the Legislature doesn't do anything with the bill because of certain problems, to make the changes and then get the other 4% to get it on the ballot.

188 SEN. BRADBURY: Explains that the petitioners would have to start over. SEN. BRYANT: Discusses the issue of giving the Legislature the authority to make changes to the measure.

195 SEN. BRADBURY: "Another possible alternative is that the petitioners come in with a concern, and the Legislature says well we don't really quite like the way you've approached this because we think it does more things then you think it does, here's how we'd approach that and solve your problem. They refer that. The petitioners then have a choice. They can either say this does what we want it to do and it does it in a better way, or they can say this doesn't do what we want to do and we're going to collect the rest of the signatures and put

our initiative on the ballot."

209 CHAIR KERANS: Discusses having to have the "people's agreement" on SJR45.

215 SEN. BRYANT: Asks if any other states have adopted something such as this.

217 CHAIR KERANS: Comments that there are other approaches. Discusses the other approaches.

230 JANET ARENZ, American Civil Liberties Union of Oregon: Testifies in support of SJR45. Discusses the issue of other states' requirements in regards to initiatives.

WORK SESSION ON SB 355

266 CHAIR KERANS: Updates Sen. Springer on issues in SB 355.

287 SEN. SPRINGER: Comments that it seems to be a good idea to prohibit lobbyists from paying for trips for Legislators outside the state.

290 CHAIR KERANS: Discusses that lobbyists have "lots of places to go and meet Legislators and talk to them" in Oregon.

301 SEN. BRYANT: Asks if it would be possible for him to go and speak to a group in Seattle if PGE wanted to send him and pay.

307 CHAIR KERANS: Discusses that Sen. Bryant could do it by teleconference, but that he couldn't go at PGE's expense to Seattle.

320 SEN. BRYANT: "On the \$10 a day for food, refreshments, and entertainment. Would that include if their driving their car, gasoline mileage?"

325 CHAIR KERANS: Asks who is driving whose car.

327 SEN. BRYANT: Asks if he is in the lobbyist's car and the lobbyist is driving it.

331 CHAIR KERANS: Asks what the word expend means.

334 ANNETTE TALBOTT, Committee Counsel: Explains that the amendment as written "meant expend specifically on behalf of that particular person. If the lobbyist was in the car driving as well then it's not on behalf of that Legislative official." Comments that they could clarify the language. (EXHIBIT C)

344 CHAIR KERANS: Discusses Sen. Bryant's example. Asks if SB 355 impacts the provision regarding honoraria in SB 159.

363 TALBOTT: Comments that it amends some of the same sections. Explains that a conflict amendment would be needed if both passed. "Section 4 represents what was amended in SB 159 in section 9 to address the honoraria issue, and basically exclude that from the issue of financial gain, which is how it was written in SB 159."

377 CHAIR KERANS: "We don't need to change the words here?"

380 TALBOTT: Discusses a possible suggestion of adding an additional paragraph to subsection 9 "that this does not affect honoraria as described in section 9 of SB 159."

390 MOTION: CHAIR KERANS: MOVES a conceptual amendment to add a paragraph to section 3, subsection 9 which cross references SB 159.

VOTE: Hearing no objection the MOTION IS ADOPTED. EXCUSED: Sen. Dukes.

392 SEN. BRYANT: Ask Chair Kerans how the figure of \$10/day was arrived at.

393 CHAIR KERANS: Explains how the suggestion for \$10/day came about.

416 SEN. BRYANT: "What's the penalty?"

419 TALBOTT: "I believe it would be the general ethics commission penalty which is up to a \$1,000."

422 CHAIR KERANS: Explains that the penalty is usually 2 to 3 times the amount in question.

425 SEN. JOHNSON: "If a lobbyist wanted to take somebody to a half way decent restaurant, you'd have to arrange it so that you begin eating at about 11:30 at night, so you could carry it on over after midnight."

429 CHAIR KERANS: Explains that it wouldn't work that way. Discusses that there is case law and an administrative rule that makes it in all one day. "It's all one sitting."

446 SEN. BRYANT: Asks what the current amount is that can be expended per day.

447 CHAIR KERANS: Comments that it is unlimited. "Everything over \$54 dollars has to be reported by name. All expenditures have to be reported in gross amount and any person upon whom the lobbyist spent \$54 at a sitting has to be reported by name." Discusses a specific example. Explains what SB 355 would do.

479 SEN. BRYANT: "The reporting requirements as far as the number of reporting dates is the same?"

CHAIR KERANS: Comments that the reporting period is not being changed.

483 SEN. BRYANT: "We're just increasing, theoretically, what would be included in those reports, but not the number of reports?"

486 CHAIR KERANS: "That is correct. Is possible, yes."

490 SEN. BRYANT: Asks if Chair Kerans "is receptive at all to moving it to more than \$10 a day?"

492 CHAIR KERANS: Comments that it is possible and asks what how much.

TAPE 69, SIDE A

034 CHAIR KERANS: Continues the discussion of the amount.

040 SEN. JOHNSON: Comments that the question should be whether or not to allow a lobbyist to take a Legislator to lunch or dinner, or not. Suggests \$25.00.

056 CHAIR KERANS: Comments that \$25 is a "a little rich." Asks Sen. Bryant what his suggestion is.

057 SEN. BRYANT: "I was thinking \$20." Asks if "food, refreshments, entertainment" also includes the cost of the tip.

CHAIR KERANS: Discusses that it is the entire bill, so a tip would be included.

063 CHAIR KERANS: Discusses the suggestion of Committee Counsel to tie the expenditures to the reimbursement rate for state employees on official business. Asks how much that would entail.

067 TALBOTT: Comments that it depends on whether the person is in or out of state. Discusses the ranges.

072 CHAIR KERANS: "Why don't we find out how much that is and just ties ourselves to the state employee reimbursement rate and say we're state workers just like everybody else?"

075 SEN. BRYANT: Comments that the amounts are broken down between breakfast, lunch, and dinner.

076 CHAIR KERANS: Discusses that the committee can reference that statute and then it would be indexed.

080 SEN. BRYANT: Suggests an alternative option "any meal other than dinner \$10 and dinner \$25."

082 CHAIR KERANS: Asks Committee Counsel to find out what the reimbursement rate is.

104 SEN. BRYANT: Asks if the prohibition would include going to a lobbyist's home at which the lobbyist has prepared dinner. "I would think that would be an exception because it would be one, hard to monitor, and two, you go out and buy a quantity of something and you eat half of it...How do you divide that up?"

111 TALBOTT: Comments that Mr. Hearn is on his way from the ethics commission to discuss how this has been interpreted in the past.

WORK SESSION ON SJR33

114 CHAIR KERANS: Refers to the amendments to SJR33-2 amendments. (EXHIBIT F)

115 ANNETTE TALBOTT, Committee Counsel: Explains how the amendments clarify how SJR33 would actually operate. (EXHIBITS F,G)

162 MOTION: CHAIR KERANS: MOVES the SJR33-2 amendments as found in the hand engrossed versions dated 5/20/93.

VOTE: CHAIR KERANS: Hearing no objection THE MOTION IS ADOPTED.
EXCUSED: Sen. Dukes, Sen. Springer.

166 MOTION: CHAIR KERANS: MOVES SJR 33 AS AMENDED to the FLOOR with a DO PASS recommendation.

VOTE: CHAIR KERANS: Hearing no objection THE MOTION CARRIES. EXCUSED: Sen. Dukes, Sen. Springer.

RETURN TO WORK SESSION ON SB 355

175 CHAIR KERANS: Discusses that the reimbursement rate is \$6.00 for breakfast, \$6.75 for lunch, and \$14.00 for dinner.

183 PATRICK HEARN, Executive Director, Oregon Government Ethics Commission: Introduces himself for the record.

189 SEN. BRYANT: Comments that the committee decided that gasoline would not be included in the definition if a lobbyist is in the car.

193 HEARN: "I would concur with that and I believe that the commission would also."

195 CHAIR KERANS: Comments "that wouldn't be an expenditure on you alone."

SEN. BRYANT: "I guess if you borrowed the lobbyist's car and he was not present then that.."

CHAIR KERANS: "Then you're in trouble."

199 SEN. BRYANT: "As soon as you use \$10 of gasoline, wear and tear, tires, depreciation." Discusses his question asked earlier in regards to having dinner at a lobbyist's home at which the lobbyist has prepared a meal. Comments that the total amount of the grocery bill exceeds \$10, but not all of the dinner is eaten. Asks how something like that would be reported.

209 HEARN: Discusses that something that would have to be a "judgement call." Addresses comments to the example Sen. Bryant discussed.

228 SEN. BRYANT: "I was thinking of the possibility of excluding meals in the individual's home, but that would defeat the purpose of what you're trying to do."

233 CHAIR KERANS: Discusses Sen. Bryant's comments. Comments that if a lobbyist has "three legislators and his or her spouse and a couple of corporate officials and they had dinner it's assumed, unless you do something outlandish, you're probably going to make the mark. Isn't that about the size of that?" 250 HEARN: "I would have to concur with you."

255 ANNETTE TALBOTT, Committee Counsel: Discusses the intent of the "on behalf of legislative official" language.

267 HEARN: Comments that the explanation that Ms. Talbott provided in regards to the language is how he personally understands the language.

270 CHAIR KERANS: Discusses page 3, subsection 9. Asks if Mr. Hearn can see any problem with that.

276 TALBOTT: Discusses the cross reference of this section to SB
159.

288 HEARN: Comments that the commission would not have any opposition
or problem with that.

291 TALBOTT: Asks if there is a need to amend the definition of
honoraria.

314 CHAIR KERANS: Asks Counsel and Mr. Hearn to provide the
appropriate technical amendments for the issue if there is a need for
conformity in ORS Chapter 244 .

336 MOTION: CHAIR KERANS: MOVES conceptually to cross
reference the reimbursement rate for state employees for in state
meals as the limitation for the expenditures by lobbyists or lobbyist
employers for meals.

352 SEN. BRYANT: "This goes to the?"

CHAIR KERANS: Explains the amounts to Sen. Bryant.

355 HEARN: Asks if that would be the daily maximum amount allowable.

CHAIR KERANS: "That's correct. For that particular meal." Explains the
amounts to Sen. Johnson.

375 VOTE: CHAIR KERANS: Hearing no objection THE MOTION IS
ADOPTED. EXCUSED: Sen. Dukes.

379 CHAIR KERANS: "We'll float along with however the meal amounts are
indexed by the executive department."

390 SEN. JOHNSON: Asks if the Legislator could pay the overage
if the meal exceeded the allowable amount.

400 HEARN: Discuss that if the intent is to limit the amount of
money that a lobbyist expends on the Legislator "then I don't know that
the Ethics Commission would have a problem with what Senator Johnson's
suggesting."

407 SEN. JOHNSON: Comments the importance of getting this on the
record.

418 MOTION: CHAIR KERANS: MOVES SB 355 AS AMENDED to the FLOOR with
a DO PASS recommendation.

427 SEN. BRYANT: Explains that he will vote to get the bill to the
floor, but will review it before it comes to a floor vote.

430 VOTE: CHAIR KERANS: Hearing no objection THE MOTION CARRIES.
EXCUSED: Sen. Dukes.

PUBLIC HEARING AND WORK SESSION ON SB 326

WITNESSES: ROLLIE WISB ROCK, Chief of Staff, Oregon State Treasury

440 ANNETTE TALBOTT, Committee Counsel: Refers to the hand
engrossed bill, amendments, and SMS. (EXHIBITS H,I,J)

449 ROLLIE WISB ROCK, Chief of Staff, Treasurer's Office: Testifies in regard to the SB 326-1 amendments. Discusses the Treasurer's problems with the dash one amendments. Discusses section 1. Discusses section 2 asks how long the prohibition, for members of the OIC from taking positions on the Board of Directors in which the state has an investment interest, would be.

493 CHAIR KERANS: Explains that it would be during the term of office as a member of the OIC.

496 WISB ROCK: "And any transaction that has transpired in that time frame?"

497 CHAIR KERANS: Responds to Mr. WisB rock.

TAPE 68, SIDE B

038 CHAIR KERANS: Explains that it is what they have a current investment interest in. "During their term office they may not serve as a director of a business in which we have or make an investment."

053 WISB ROCK: Discusses that it may make it hard to attract membership to the OIC. Asks what happens if a member of OIC "as a council member whose company that we do not hold or have an investment interest in, but this company is purchased by a company that we do have an investment interest in" and the company asks the OIC member to stay on as a member of the board of directors?

062 CHAIR KERANS: Explains that it would be the same situation and that the statute would apply in situation such as this. Discusses the intent of the legislation.

071 SEN. BRYANT: Discusses section 2. (EXHIBIT H)

074 CHAIR KERANS: Comments that they need to rework section 2. "We want to say 'is prohibited from accepting or maintaining a position on the board of directors of any business in which the state has a current investment interest.' Or words to that affect." (EXHIBIT H)

078 SEN. BRYANT: Discusses the definition of "investment interest."

080 CHAIR KERANS: Discusses the definition of "investment interest."

085 WISB ROCK: Asks if they can clarify the meaning of "investment interest." 088 SEN. BRYANT: "So you want a board member from US National Bank to serve here as a good board member and why I'm suggesting is it wouldn't include the Treasury running checking or savings accounts through US National, you're talking about the types of investments you just described."

092 TALBOTT: Discusses line 23, page 1 of the SB 326-1 amendments. Discusses adding the words "or serving on" after the word "to." Also adding the word "currently" after the word "state" on line 24. (EXHIBIT I)

100 WISB ROCK: Discusses using the words "direct investment interest."

105 TALBOTT: Discusses and example, with regard to Kohlberg, Kravis, Roberts (KKR).

108 WISB ROCK: Comments that he would consider that included. Comments that he considers that a direct investment.

110 TALBOTT: Discusses that KKR invests for the state and that is why she mentioned the example.

111 WISB ROCK: "In the alternative investment areas is what we're looking at. If that's the intent."

CHAIR KERANS: "Yes. That's what we mean. Equity interest?"

113 WISB ROCK: "I think that would do it." Comments that they don't understand the need for section 3. (EXHIBIT I)

124 TALBOTT: Comments that it was inserted by Legislative Counsel in the original bill. Discusses that it deals with the issue of shadow investing. Explains that people that the Treasury contracts with are regulated on the federal level with regard to investment activity. "It was not intended to say in anyway that this would interfere with state or federal regulatory authority about what a person can and can't do with investments."

135 CHAIR KERANS: "It ought to be subsection 2 of section 4. What's your recommendation there?"

139 WISB ROCK: Discusses concerns with section 4. "We feel that we have an internal policy that addresses them and we monitor trades on a daily basis."

154 CHAIR KERANS: Discusses Mr. WISB rock's remarks "but the information is based on information you received. So if they haven't received it and they've made a parallel investment that certainly wouldn't be included...What we're really after here is not so much what the money manager is doing in the stock market or foreign stocks or those kind of things. What we're really after in section 4 is when folks come to the investment council and certain investments of investment strategies are discussed, money managers hired, information is received and being developed and shadow investments can be made."

167 WISB ROCK: Comments that they still feel that the SEC monitors that activity.

169 CHAIR KERANS: Asks if they monitor the members of the OIC or investment officers and staff that have direct investment authority in the Treasury.

174 WISB ROCK: Discusses the reporting that has been recommended through the Treasurer's policy.

199 CHAIR KERANS: Discusses having the Treasurer establish a policy to prohibit shadow investments by rule. "Is there anything wrong with a person making shadow investments based on the knowledge received from the consultants and the money managers that you employ?"

223 WISB ROCK: "After the fact, no. Prior to the fact, yes. I don't think I would have a problem with it as a rule."

225 CHAIR KERANS: Discusses the issue regarding policy manuals.

231 SEN. BRYANT: Discusses establishing a policy by rule as opposed to by statute. Comments that it may cause problems getting people to serve on the OIC.

CHAIR KERANS: "We don't want to do that. That's not the intention."

WISB ROCK: Discusses establishing this by rule.

237 CHAIR KERANS: "Let's do it by rule and say that it is based on information based on information received in the person's official capacity as an officer until as such time that is common knowledge to the public and investors in Oregon...Let's make section 3 as a subsection 2 of section 4 and say the requirements of this section are in addition to and not lieu of any other applicable requirements."

254 TALBOTT: Clarifies what section 4 would direct the Treasury to do in regards to adopting a rule.

261 WISB ROCK: "I also think that section 5 would conform to that also and could be addressed by rule." Discusses policies that accomplish that now. (EXHIBIT I)

263 CHAIR KERANS: Discusses making section 5 part of the rule, by placing section 5 into section 4, subsection 1. Discusses section 1. (EXHIBIT I)

299 WISB ROCK: Discusses Chair Kerans' remarks. Comments that the Treasury is being used as a scapegoat, "that allows the legislature and other statewide officials to avoid the responsibility of true campaign reform."

320 SEN. SPRINGER: Discusses campaign finance reform issues.

333 SEN. BRYANT: Agrees with Sen. Springer's comments.

335 WISB ROCK: Discusses the amount of money other statewide officers collected in the last election as compared to Treasurer Hill.

345 CHAIR KERANS: "The problem is that the potential for direct benefit is direct. It's one to one with the Treasury and with the Governor it is not as direct." Discusses campaign finance reform issues relating to the Treasurer's office and the need for campaign finance reform overall.

401 MOTION: SEN. SPRINGER: MOVES SB 326 AS AMENDED to the FLOOR with a DO PASS recommendation.

VOTE: CHAIR KERANS: Hearing no objection THE MOTION CARRIES. EXCUSED: Sen. Dukes.

RETURN TO SJR45

420 CHAIR KERANS: Discusses work plans for several bills.

424 TALBOTT: Comments that the Secretary of State thinks SJR 45 needs technical amendments to address "the question of verification of signatures in the interim."

434 CHAIR KERANS: Discusses the interest of the committee in SJR45

and explains the measure.

474 SEN. JOHNSON: Asks if the measure would go through the process like a regular bill or if special preference would be given to it. Discusses the issue of a legislator submitting a bill if somebody gets 4% of the voters of any one district.

TAPE 69, SIDE B

037 SEN. JOHNSON: Continues.

041 SEN. BRYANT: Discusses requiring a measure submitted in this fashion to get a vote in the House and Senate.

053 CHAIR KERANS: Adjourns meeting at 4:40 p.m.

Submitted by:

Reviewed by:

Tamara Brickman
Counsel

Annette Talbott Assistant

EXHIBIT LOG

A - Testimony on SB 700 - Senator Jim Bunn - 1 page B - Preliminary Staff Measure Summary on SB 700 - Committee Staff - 1 page C - Computer engrossed SB 355 - Committee Staff - 5 pages D - Preliminary Staff Measure Summary on SJR45 - Committee Staff - 1 page E - Fiscal Analysis of SJR45 - Committee Staff - 1 page F - SJR33-2 Amendment dated 5/19/93 - Committee Staff - 1 page G - Hand engrossed SJR33-2 dated 5/20/93 - Committee Staff - 1 page H - Hand engrosses SB 326-1 dated 5/20/93 - Committee Staff - 4 pages I - SB 326-1 Amendment dated 5/20/93 - Committee Staff - 2 pages J - Preliminary Staff Measure Summary on SB 326-1 - Committee Staff - 1 page