

SENATE COMMITTEE ON EDUCATION

May 7, 1991 Hearing Room 137 3:00 p.m. Tapes 74 - 75

MEMBERS PRESENT: Sen. Shirley Gold, Chair Sen. Bill McCoy, Vice-Chair
Sen. Joan Dukes Sen. Ron Grensky Sen. Paul Phillips Sen. Cliff Trow
MEMBER EXCUSED: Sen. Peter Brockman VISITING MEMBER: Rep. Margaret
Carter STAFF PRESENT: Jan Barga, Committee Administrator Angela
Muniz, Committee Assistant

MEASURES HEARD: SB 973 - Disabled Access to Education Advisory
Committee, WS SB 974 - Higher Education Physical Access Committee, WS SB
113 - Coordinating Services to Children and Families, WS SB 1084 -
Religious Release Time, WS . 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 74, SIDE A

005 CHAIR GOLD: Calls meeting to order at 3:15 p.m. Sen. Gold, Sen.
Dukes, Sen. McCoy and Sen. Grensky present. SB 973 - DISABLED ACCESS
TO EDUCATION ADVISORY COMMITTEE - WORK SESSION:

007 GOLD: This bill has a subsequent referral to Ways and Means.
Summarizes bill. You have the 2 amendment (Exhibit A).

Work Session on SB 973 re-opens on page 2.

SB 1084 - RELIGIOUS RELEASE TIME - WORK SESSION: Witnesses: Rep.
Margaret Carter, Oregon State Representative District 18 021 MARGARET
CARTER, OREGON STATE REPRESENTATIVE DISTRICT 18: I understand there are
some possible problems that the Oregon Education Association (OEA) would
need to correct. Our religious release time program in Northeast
Portland has taken kids involved in gang activity. It has been very
instrumental in being able to give these kids some positive direction
in their lives. This bill would take away all the leave time and not
give parents some choice or voice in saying they want their kids to
have some religious orientation. I hope we can Senate Co ~ - ee on
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strike a compromise and allow parents to still have the choice in giving
their children the leave for religious activity. I have constituents
here today that can answer community questions. Discusses success
stories of program. We really need this in our district. 067 GRENSKY: I
think there's going to be an amendment proposed that would leave it up
to the rule of the district school board. What's your position on that?
Is that the kind of balance you want to see? 073 CARTER: That's the
kind of balance I want to see. Our superintendent is very supportive of
what we're doing in the district right now. I appreciate that this has
been made possible. 076 GRENSKY: What if you have a school board that
doesn't like the idea? If we were to adopt this amendment, we would be
leaving it up to all the school districts state wide - some may do it,
others may not. What do you think about that? 082 CARTER: I don't like
the state telling local districts what to do. I think that right now,
the state is playing a very meaningful role by allowing local school
boards to make decisions. That is a toleration we can deal with on the
local level. If people are out-voted on the local level, then we'd have
to find other ways of dealing with it. But at least the state is not
being the godfather on this issue, and OEA is telling the school boards
to make that decision on their own. 097 BARGEN: On that point, I've

been assured by Legislative Counsel (LC) that the local school board would not be able to supersede the hours allowed in the law. They couldn't decide not to do at least that much.

103 CARTER: I think it's about 2 hours now. 104 BARGEN: Two hours for elementary school level and up to five for high school levld. Work Session on SB 1084 = - pens on page 6.

SB 973 - DISABLED ACCESS TO EDUCATION ADVISORY COMMITTEE - WORK SESSION: Witnesses: Lynn Pinckney, Oregon Student Lobby Melinda Greer, Department of Higher Education Debbie Lincoln, Office of Community College Services 112 BARGEN: Presents -2 amendments and hand-engrossed amendments from student lobby, Exhibits A, B. Discusses amendments, Exhibit B. SEN. GRENSKY LEAVES THE HEARING ROOM AT 3:25 P.M. 155 DUKES: In §3 it says they should provide training, but it doesn't say what they should provide the training on.

159 BARGEN: Loolc at line 8. That was meant to include "inforrnation of those following four subjects". Also, line 12 should read, "ways to recognize and accommodate". I want to add that I've talked with these three people, plus Eugene Organ from the Oregon Disabilities Commission. We have all conferred on this version of the amendments.

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SEN. PHILLIPS JOINS THE HEARING AT 3:30 P.M. 177 LYNN PINCKNEY, OREGON STUDENT LOBBY: These hand-engrossed bills, Exhibit B, are close to perfect. 179 MELINDA GREER, DEPARTMENT OF HIGHER EDUCATION: Agrees with amendments and bill. They are things we can live with. 184 DEBBIE LINCOLN, OFFICE OF COMMUNITY COLLEGE SERVICES: Our expert on this is real excited about this bill. We're happy with it.

191 MCCOY: Do you have new buildings on any of the campuses? 192 GREER: We do have new buildings that are currently being constructed.

196 MCCOY: Are they going to be accessible? 197 GREER: They are to the best of our ability to do so. The programs are accessible, but our attempt now is to make every new construction and remodel accessible to the best of our ability. The reason I say "to the best of our ability" is because sometimes what's accessible for some disabilities is not for another. The building codes vary and we have an ongoing educational process for our architects. 210 MCCOY: We had a student visit here some time ago who testified that a new dormitory and cafeteria at WOSC was not made accessible by a wheelchair. 216 GREER: As I understand, the dormitory is accessible. The cafeteria is not new. It was modified with a ramp that then met the standards in design but not in actuality. We would like to change that. Not every shower space is accessible, but the standard is to have a number of spaces available that are.

234 MOTION: SEN. MCCOY MOVED THE HAND ENGROSSED -2 AMENDMENTS TO SB 973 AS AMENDED BY THE STUDENT LOBBY. MOTION CARRIED BY ACCLAMATION. 242 MOTION: SEN. MCCOY MOVED SB 973 AS AMENDED TO WAYS AND MEAN WITH A DO PASS RECOMMENDATION. 253 VOTE: MOTION CARRIED, 4 0. EXCUSED: SEN. BROCKMAN, SEN. GRENSKY, SEN. TROW. SB 974 - HIGHER EDUCATION PHYSICAL ACCESS COMMITTEE - WORK SESSION:

Witnesses: Lynn Pinckney, Oregon Student Lobby Melinda Greer, Department of Higher Education Debbie Lincoln, Office of Community College Services

260 BARGEN: Distributes and discusses -1 amendments, Exhibit C, and

hand-engrossed amendments Senate Committee on Education May 7, 1991 -
Page 5 from the Chancellor's Office, Exhibit D. Reviews bill and
summarizes past discussion. . 320 DEBBIE LINCOLN, OFFICE OF COMMUNITY
COLLEGE SERVICES: We are very supportive of these amendments, Exhibit D.

322 MEUNDA GREER, DEPARTMENT OF HIGHER EDUCATION: We support the
amendments, Exhibit D.

327 LYNN PINCKNEY, OREGON STUDENT LOBBY: Supports bill.

331 MOTION: SEN. MCCOY MOVED THE HAND-ENGROSSED AMENDMENTS, EXHIBIT
D, DATED 5/17/91, TO SB 974. MOTION CARRIED BY ACCLAMATION.

340 MOTION: SEN. MCCOY MOVED SB 974 AS AMENDED TO THE FLOOR WITH A DO
PASS RECOMMENDATION. 349VOTE: MOTION CARRIED, 40. EXCUSED: SEN.
BROCKMAN, SEN. GRENSKY, SEN. TROW. SEN. DUKES WILL LEAD THE FLOOR
DISCUSSION. SB 113 - COORDINATION OF SERVICES TO CHILDREN AND FAMILIES -
WORK SESSION:

363 GOLD: Opens work session, summarizes SB 113. 370 BARGEN:
Summarizes previous discussion on SB 113. Presents and discusses 4
amendments, Exhibit E. Look at the bill and replace 14 with the
amendments. Presents a new fiscal statement for SB 113, Exhibit F. 468
GOLD: So do we have a new fiscal for this bill?

470 BARGEN: Yes, it is in your folders. Discusses new fiscal statement,
Exhibit F. We've stayed away from using the word "report" in the bill so
it's clear that it didn't have to be a separate written report. It could
be accompanying the budget process and/or oral presentations to the
Legislature.

487 GOLD: So the -4 amendments, last 11-14, Exhibit E, get to what
the Committee was looking for. I think Sen. Roberts also talked about
how to make this information useful to the next session. 497 MCCOY:
The definition of "families" means a group of individuals related by
blood, marriage or adoption. TAPE 75, SIDE A 024 GOLD: You mean the
part on ln. 7 of the original bill? That's been in there since the
beginning, but it makes me wonder.

028 MCCOY: It struck me today as being sort of odd. What does that
mean? Senate Committee on Education May 7, 1991- Page 5

030 BARGEN: The reason that wording is in the bill is because the
Interim Committee wanted to address the concern that in order have the
best for the child, you have to deal with the adults offering the child
support, regardless of blood relationship. This definition was devised
by the Coordinating Counsel for Children and Families for their own
working purposes. It's not necessary for what we do in the rest of this
bill. If you have an adult with a parental relationship to a child that
is not that child's legal guardian, and that adult has a drug or alcohol
problem, s/he is still putting that child in danger and you have to deal
with that, regardless of the fact that s/he is not the child's parent.
This would be making a policy statement to that effect. I can get more
information.

069 MCCOY: This would try to maintain the child in this situation?

071 BARGEN: Not necessarily. 073 GOLD: It just defines it. It
doesn't encourage or discourage it.

073 MCCOY: But someone could read it and think that's what you would
encourage. 079 BARGEN: I don't think so. This language doesn't do that.

It might be a situation that doesn't merit taking the child out of the home but does prevent the child from learning. You'd have to address all the child's needs, if the child is going to be ready to learn. 086
DUKES: The language is basically what Children Services Division (CSD) operates on now and what the state has always operated on. We want them at home with their family, first. If that can't work, then we do something else.

093 BARGEN: This definition includes instances where the environment of the child includes someone that isn't blood family. This says that you treat the situation as you find it. 097 DUKES: I think "family" is a broader term than just blood, adoption or marriage.

100 GOLD: We have struggled with that in the past and this is the best we could come up with. 112 DUKES: Thanks Committee. I appreciate the language that is in the bill.

120 MOTION: SEN. DUKES MOVED THE -4 AMENDMENTS, DATED 5/7/91, EXHIBIT E. MOTION CARRIED BY ACCLAMATION. 128 MOTION: SEN. DUKES MOVED SB 174 TO THE FLOOR AS AMENDED WITH A DO PASS AND REQUESTS RESCINDING THE REFERRAL TO WAYS AND MEANS. 133 GOLD: I'm trying to remember, why did it originally have a Ways and Means referral? 137 BARGEN: I don't know why. It had no fiscal impact statement before we amended it. It does now, but it doesn't have a dollar figure on it. SEN. GRENSKY RETURNS TO THE HEARING AT 3:50 P.M. Senate Committ~e on ~n Ma~ 7, 1991 -
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142 GOLD: Summarizes discussion to Sen. Grensky.

160 GRENSKY: I liked the bill conceptually last time it was here.

167 VOTE: MOTION CARRIED, 5 0. EXCUSED: SEN. BROCKMAN, SEN. TROW. SEN. GRENSKY WILL LEAD THE FLOOR DISCUSSION.

SB 1084 - RELIGIOUS RELEASE TIME - WORK SESSION: Witnesses: John Danielson, Oregon Education Association Gaylen Brannon, Public School Teacher, Vernon School Fred Bass, HillsB oro Elementary School Board Jamie France, Associate Direction, Child EvangelismFellowship 180 GOLD: This is the bill that allows time for students to be excused from public school for religious instruction. 184 BARGEN: Presents -2 amendment, Exhibit G. These amendments take a different track than what was discussed in our last meeting. Reviews -2 amendments, Exhibit G. The proponents suggested this route. 214 GOLD: Have you talked to the opponents of this bill? 215 BARGEN: No, I just got this today. I think everyone picked it up today. 217GOLD: Reads SB 1084 including the new language in the -2 amendments. The manner in which this happens would be according to the rules of the district school board. Is that an effort to get at this concern about what time of the day the kids should go? 238 BARGEN: It ensures that the class schedules of the students are considered. 242 GOLD: So they would be allowed to go but at the convenience their schedule allows. 242 GRENSKY: The teacher who testified said it was illegal for them to participate in scheduling the release time. How is that prohibited under the present law? I understood that the problem was the separation of church and state. 253 GOLD: I think they were referring to the law. Individual school districts probably advised them that if the law didn't specifically state there could be an accommodation, then there couldn't be. 260 GRENSKY: It seems absurd that this isn't happening already. 275 JOHN DANIELSON, OREGON EDUCATION ASSOCIATION: There is a long history in Oregon to have the school board an extension of the state, thus limiting their

functions. It has not been litigated whether or not a school board can regulate the time for religious instruction. Our counsel doesn't believe you can do that. 289 GRENSKY: So it is better safe than sorry, and you let kids go whenever they schedule the the Bible classes. This amendment gives you the freedom to adjust your schedule accordingly? Senate Committee on Education May 7, 1991- Page 7

295 DANIELSON: Yes. The religious release is cooperative in many areas and not in others. This would allow us to solve most of the problems.

303 GRENSKY: Have these amendments been distributed before today so people can respond? 310 GOLD: I think the people calling thought we were going to repeal the whole thing. 309 GRENSKY: That's what I thought the bill would do in our last hearing. The amendments seem logical and I want to make sure the people concerned about the bill are aware of them. 315 DANIELSON: I talked to Rep. Meek and he thought the amendments were reasonable.

328 GAYLEN BRANNON, PUBLIC SCHOOL TEACHER, VERNON SCHOOL: Testified at the last hearing. Also thought the bill would repealed. The amended bill will still need the level of cooperation from both side, so why amend the bill? We can't mandate cooperation. What is the point of the bill if still needs the cooperation? 348 GOLD: What we need is a representative of the school board association to tell us about the law. 357 DANIELSON: I did talk to Tom Marshall of Oregon School Boards Association and they did not have a position on the bill. 359 GOLD: Are they aware of this amendment? 359 DANIELSON: Yes, that's what I'm talking about. 361 DUKES: Several times I've sat in this committee and wanted to remind the people from Portland that the rest of the state is here and our problems are often unique. My children go to a rural district, and during release time some children sit in the classroom and play games when other children go on religious release. Portland has the resources to coordinate and put the program together but rural districts don't. It's hard for me to justify a program that has the children who don't participate losing at least an hour a week of their education. The amendments say we want it to work out, but we want our children to receive an education during that time. We forget that there are a number of kids being left behind who aren't participating in this program and are not receiving educational instruction during this time. We need to take some responsibility to work that out and not leave it to the superintendent who gives into one side or the other. I'd love to see them have some rules and respond to this need. 413 BRANNON: That's a good point, but the parents of the children playing games in the classroom at that time have the prerogative to go to that teacher and complain. The teacher has the responsibility to teach those children during that time. 422 DUKES: But my school district has decided that there aren't enough kids left to make that worthwhile. Instead of re-teaching something when the other children come back, they've decided to handle it that way. Also, lots of parents don't get involved. 435 FRED BASS, HILLSBORO ELEMENTARY SCHOOL BOARD: I'm a parent and a school board member. It is a legal question that would concern me. We've never had something like . .

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this at Hillsboro until this year. We've felt this could be worked out between the principal and the program organizers. I'm not aware of the situation that Sen. Dukes talks about where there are students being left behind. There needs to be some teaching going on there. I'm concerned that it seems it will be left to the school board to decide

whether to have the program.

481 GOLD: No, they can't because it's still in the law. Nothing is changed in the law, the school district only devises the rules. TAPE 74, SIDE B 031 BASS: So instead of the principal working it out, we will work it out on our level? 034 GOLD: Yes, give it some general direction according to how you feel it should be done. 034 BASS: I like our general direction now-to leave it with the school principal to do it.

035 GOLD: That could be the rule.

036 BASS: If we leave it like that, doesn't Sen. Duke's problem still exist. SEN. TROW JOINS HEARING AT 4:10 P.M. 036 DUKES: At least I could go to the school board and make my case. They would be required to take some action because they are required to make rules. You can't tell me every school board is responsive. They would rather not get into this issue. If you want coordination, you can get in a dialogue with the school board over the rule making they are doing.

051 BRANNON: It seems like this just keeps changing. Is this going to be amended? 052 GOLD: You've testified once before, there was some change desired, there's a change that may or may not be acceptable, that is the way the Legislature works. If we choose not to do anything with it today, it could change again.

057 BASS: The way it is now, it doesn't touch the hour limitation or the law. 058 GOLD: I'm not a lawyer.

060 BRANNON: Wants to make sure that the release time program is not touched in this amendment. 062 BARGEN: I have asked LC about the limits of changing the hours. Their response was that the time limit is ok as so long as it is not so strict as to defeat the purpose. Reads memo from LC, Exhibit H.

075 GOLD: The purpose of the current law is to afford that time. So the board can't adopt rules that would defeat the purpose of allowing the free time.

080 GRENSKY: John, has OEA ever taken a position about excusing a child for religious purposes? Senate Comminee on Educatioo Ma' 7, 1991 - Page ~

091 - DANIELSON: Our people are not in the position to deny this leave.

095 GRENSKY: I think this language is leaning towards an option. Can the school board have rules that infringe on the number of hours a child may be released? You're getting closer to the word ~may. and a school district may take the position that this is not mandatory.

106 DANIELSON: The amendments allow a school district board to make the timing work in the district. We do not believe it gives them the authority to prohibit this leave. In many parts of the state there aren't any rules at all. 122 GRENSKY: I wanted to clarify that it is not our intention to misuse the word "may" so that such leave is not an option. 130 DANIELSON: We would concur with that.

143 MCCOY: I want the people in the audience to understand what we've tried to do here.

155 JAMIE PRANCE, ASSOCIATE DIRECTOR, CHILD EVANGELISM FELLOWSHIP: Our

organization sponsors most of the release-time classes held in the state. The state supreme court ruling Dilger vs. School District 24 CJ does deal with the issue you are referring to. This bill was interpreted to a great extent. It is proper to construe "may" as "shall". I have never found any situation where a certain time was demanded. It's always been done in cooperation with the school and the release time class. Since the supreme court has made this ruling, I'm not sure that clause is necessary in this bill. 210 GOLD: Were you at the last hearing? 212 FRANCE: Yes. 212 GOLD: You heard people testifying about that concern?

213 FRANCE: I don't know where any of those people got the idea that it is not permissible for the school to negotiate the time. It's always been negotiated, as far as I know. But sometimes there can be abuse to the other extreme. 231 MCCOY: So everything is ok with you? You understand there are no restrictions? 232 FRANCE: Yes.

232 MCCOY: That is all we wanted to be clear on. That's why I asked.

237 FRANCE: I wanted to bring out the fact that this has already been addressed in a legal setting. What you're saying is clear, but I'm not sure it's necessary to have that.

240 TROW: In regard to the legal interpretation, did the court deal with the terms "not exceeding" the hour limits? 244 FRANCE: I don't remember if they did. Senate Committee on Education Ma' 7, 1991- Page 10

252 TROW: Is there a minimum limit? 253 FRANCE: I've never heard of a minimum limit. Very few are over an hour long.

264 GRENSKY: Can school boards have children go after or before regular class hours or during the lunch hour?

274 GOLD: It defeats the purpose. 277 GRENSBY: This seems vague. It just says "may be excused from school" without defining what the school period is. 278 DANIELSON: You can create situations where there is abuse. This puts the responsibility for controlling it with the governing board of the school district. If it is abused, it will come back to the Legislature to try to fix it. 291 GRENSKY: I'm concerned because the testimony we had was a desire by school districts to start controlling this issue and make it discretionary. Now we're giving them rule making authority and that concerns me. 322 TROW: I have confidence in the school boards.

322 MOTION: SEN. TROW MOVED THE -2 AMENDMENTS, EXHIBIT G, TO SB 1084. 326 PHILLIPS: Clarifies amendments for the record. Gets opponents and proponents on the record as agreeing with the amendments. 345 VOTE: MOTION CARRIED BY ACCLAMATION. 346 MOTION: SEN. TROW MOVED SB 1084 TO THE FLOOR AS AMENDED WITH A DO PASS RECOMMENDATION. 356 GRENSKY: I will vote against this because the court opinion allows them to do this already. I'm concerned that this is an opportunity for the school board to cram something down the minority's throat. The cooperation is the way to go; they can do that now. 370 MCCOY: It is clear on the record what school districts can and cannot do. 387 VOTE: MOTION CARRIED, 42. VOTING NO: SEN. GRENSKY, SEN. PHILLIPS. (EXCUSED: SEN. BROCKMAN.) SEN. GOLD WILL LEAD THE FLOOR DISCUSSION. 396 Meeting adjourned at 4:35 p.m.

Submitted by: Reviewed by: Julie Muniz . Jan Bargaen
Assistant Administrator

EXHIBIT LOG:

A - SB 973-2 amendments, Staff, 3 pages. B - SB 973-2 hand-engrossed amendments by the student lobby, Staff, 3 pages C - SB 974-1 amendments, Staff, 2 pages D - SB 974-1 hand-engrossed amendments by the chancellor's office, Staff, 2 pages E - SB 113-4 amendments, Staff, 2 pages F - SB 113-3 fiscal statement, Staff, 1 page G - SB 1084-2 amendments, Staff, 1 page H - Legislative Counsel memorandum, Staff, 1 page