

Madame Secretary: Vote explanation for the record please. Senator Boquist

“SB 296 is flat out a bad bill despite it’s intent. In short, it allows the suspension of habeas corpus by the Chief Justice of the Oregon Supreme Court anytime the Governor declares an emergency. Meaning a citizen can be jailed indefinitely with zero due process. The Chief Justice does need some tools for the Judicial Branch in a catastrophic emergency under the Oregon Constitution. While the present Chief Justice has used her temporary emergency powers prudently, laws are not passed on the personalities of elected politicians like Judges. Citizens might think the present political pandemic is a constitutional catastrophic emergency but it is not. And has not been declared as such despite the historic deprivation of individual rights. Nor does this bill limit the suspension of individual rights to catastrophic emergencies. It allows the Chief Justice, who did recuse herself from *Elkhorn v. State* (2020) that gave Governor Brown her existing dictatorial powers, the authority to suspend laws, and constitutional rights, in all emergencies under ORS 401.165. Yes the bill does not impact constitutional rights but a citizen gets to argue that point before the same court given the powers to suspend laws. See how that works out. Under ORS 401.165, the declaration of emergencies could be done by the Secretary of State or State Treasurer in the absence of the Governor. Under ORS 401.165 and practice there is no real definition of ‘emergency’ meaning about anything can be called an emergency therefore allowing the Chief Justice to suspend Oregon laws along with the Governor As example, the Governor has declared Nike and Intel needing a tax cut was an emergency. Yes, declared emergencies have included forest fires, floods, train wrecks, and even volcanoes. Then there have been declared statewide emergencies for winter storms, eclipses and Y2K. Then there have been declared emergencies requiring the legislature to meet. The bill should be limited to constitutionally declared emergencies where the three branches of government are forced to work together to address disaster response.”