

**WORK SESSION: HB 3344**

**PUBLIC HEARING & WORK SESSION: SB 718, SB 873, SB 497**

**TAPES 171, 172 A/B, 173 A**

## **HOUSE REVENUE COMMITTEE**

**MAY 5, 1999 ñ 8:15 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Rep. Ken Strobeck, Chair

Rep. Anitra Rasmussen, Vice Chair

Rep. Deborah Kafoury

Rep. Jeff Merkley

Rep. Diane Rosenbaum

Rep. Lane Shetterly

Rep. Jim Welsh

Rep. Max Williams

Rep. Bill Witt

Staff: Paul Warner, Legislative Revenue Officer

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Steve Meyer, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

Barbara Guardino, Committee Assistant

Witnesses: Sen. Ted Ferrioli, District 28

Rep. Bob Montgomery, District 56

John Marshall, Oregon School Boards Association

John Fairchild, Salem-Keizer School District

Doug Tindall, Oregon Dept. of Revenue

Burton Weast, Special Districts Association of Oregon

Rob Carnahan, Clackamas County Fire District

Al Shannon, Oregon School Boards Association

Dave Tyler, Oregon Dept. of Revenue

Paul Romain, Portland

Jim Manary, Oregon Dept. of Revenue

Sen. Bill Fisher, District 23

Sen. Marilyn Shannon, District 15

Grace Crunican, Oregon Dept. of Transportation

Mike Marsh, Oregon Dept. of Transportation

Greg Del Ponte, Dept. of Transportation Motor Carrier Division

**TAPE 171, SIDE A**

005 Chair Strobeck Called meeting to order at 8:25 a.m. Opened public hearing on SB 718.

**PUBLIC HEARING ñ SB 718**

014 Sen. Ferrioli Spoke in support of the measure. Reviewed SB 718-1 amendments (**EXHIBIT 1**). Would allow an exemption for governmental units that haven't previously been granted refunds under ORS 319.831. Number of special taxing districts are required to pay fuel taxes. Districts are moving money from one pocket to another, requiring local districts (school, fire, etc.) to pay fuel taxes.

Questions and discussion on what is exempted.

050 Rep. Montgomery Continued review of SB 718-1 amendments. They treat local governments the same with respect to diesel tax. Cities and some county operations do not pay the tax, while special districts do. This means a city fire department would not pay the diesel tax, while a fire district does. Amendments end this confusion and treat all local governments the same. Urged committee to adopt ñ1 amendments.

087 John Marshall Spoke in support of the measure. Oregon School Boards Association introduced this bill. Benefits to schools are two-pronged:

1. Reduction in tax reduces amount of transportation reimbursement from state school fund
2. Benefits all school districts proportionately

Would not object to ñ1 amendments as long as it doesn't jeopardize passage of the bill. Amendment was proposed in Transportation Committee and was not adopted. Senate Revenue Committee didn't adopt it either.

114	Doug Tindall	Spoke in support of measure and of SB 718 ñ1 amendments. See written testimony <b>(EXHIBIT 2)</b> . All city vehicles and road maintenance vehicles are excluded from current use fuel tax.
133	Burton Weast	Spoke in support of the measure and of SB 718 ñ1 amendments. Special district fire departments pay diesel tax on their fire equipment, while city fire departments don't pay it. This amendment is an attempt to straighten this out. Does not want this amendment to jeopardize the bill. Senate Transportation Committee said they would not object to adding this amendment in the House.
165	Rob Carnahan	Spoke in support of the measure and of SB 718 ñ1 amendments. See written testimony <b>(EXHIBIT 3)</b> paraphrased. Clackamas Fire District has closed one of its fire stations. Legislation will save the district money.
209	Rep. Kafoury	Questions concerning Revenue Impact statement for SB 718-1.
215	Steve Meyer	Will provide a breakdown of revenue figures including savings for ODOT, school districts.
235	Rep. Williams	Would support bill and ñ1 amendments. Asked whether the bill would be in trouble in the Senate with inclusion of ñ1 amendments.
242	Chair Strobeck	Mixed messages, yes and no.
249	Rep. Witt	Does this bill make impact retroactive for one year? Yes. Why?
256	Meyer	This bill is a duplicate of one offered during 1997 session. Possibly some school districts did not pay their diesel fuel tax timely and this would have grandfathered them in.
267	Al Shannon	Bill was a copy of a 1997 bill. ODOT was doing aggressive collections of arrears. This provision was to recoup some money.
286	Rep. Witt	Why make it retroactive? Is this good public policy?
302	Weast	The tax is paid one year in arrears then refunded.
321	Carnahan	Tax is paid retroactively on a quarterly basis.

343	Dave Tyler	Explained, depending on annual tax liability for use fuel, some filers pay quarterly or annually. Clarified, Oregon Dept. of Transportation has only five people full-time to process all fuel taxes. Can find out what percentage pay quarterly and what percentage pay annually.
367	Chair Strobeck	Asked sense of committee on SB 718 ñ1 amendments.
374	Rep. Kafoury	Would support ñ1 amendments.
379	Vice Chair Rasmussen	Would support bill, uncertain about ñ1 amendments. Would like to talk about cost responsibility. Since ODOT is administering the tax, it should also fill out the forms as well as create them.
394	Rep. Witt	Will oppose bill. Not good public policy for public agencies to pay less for use of the roads than private citizens do.
401	Chair Strobeck	Serious shortfall in school funding, sees value in taking school districts out. Fire districts also have a case. ODOT should continue to pay the tax. Would like amendment to add school districts and fire districts only.
427	Rep. Merkley	Would support Chair Strobeck's idea to add fire districts only.
451	Rep. Williams	Would support bill and ñ1 amendments. Would not oppose a second amendment as suggested by Chair Strobeck.
467	Chair Strobeck	Closed public hearing on SB 718. Opened work session on SB 718.

**TAPE 172, SIDE A**

**WORK SESSION ñ SB 718**

024	Chair Strobeck	<b>MOVED TO SUSPEND RULES IN ORDER TO MOVE A CONCEPTUAL AMENDMENT INTO SB 718-1 AMENDMENTS TO INCLUDE FIRE DISTRICTS.</b>
030	Vice Chair Rasmussen	Objected to hurrying passage of this bill. Good policy sometimes takes longer. Wants information on cost responsibility issues.
058	Chair Strobeck	<b>ASKED FOR ANY OBJECTIONS MOVING A CONCEPTUAL AMENDMENT</b>

**INTO SB 718-1 AMENDMENTS. NOTING THE OBJECTION OF REP. WITT, THE CHAIR SO ORDERED.**

Questions and discussion concerning whether to conceptually amend the bill or to return with another amendment.

077 Chair Strobeck Because of objections, committee will revisit the bill with a written amendment. Closed work session on SB 718. Opened public hearing on SB 873.

**PUBLIC HEARING n SB 873**

090 Paul Romain Spoke in support of the measure. See written testimony **(EXHIBIT 8)** verbatim. Bill corrects an unintended problem that arose for a few personal income taxpayers.

Questions and discussion.

154 Chair Strobeck Closed public hearing on SB 873. Opened work session on SB 873.

**WORK SESSION n SB 873**

155 Rep. Witt **MOTION: MOVED SB 873 TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION.**

158 **VOTE** **ROLL CALL VOTE: MOTION PASSES: 8-0-1**  
**REPRESENTATIVES VOTING AYE: KAFOURY, MERKLEY, ROSENBAUM, SHETTERLY, WILLIAMS, WITT, VICE CHAIR RASMUSSEN, CHAIR STROBECK**

**REPRESENTATIVES EXCUSED: WELSH**

**REP. ROSENBAUM WILL CARRY THE BILL.**

167 Chair Strobeck Closed work session on SB 873. Opened public hearing on SB 497.

**PUBLIC HEARING n SB 497**

170 Chair Strobeck Asked if anyone is present to testify on bill. There being no one to testify, closed public hearing. Opened work session on SB 497.

**WORK SESSION n SB 497**

175

211	Lizbeth Martin-Mahar	<p>Clarified distinction between SB 497-2 amendments and ñ4 amendments.</p> <p>The ñ2 amendments adds in late filing fee that Roseburg Urban Sanitary Authority would have to pay. The ñ4 amendments, together with ñ2, would mean the amount paid back would not be the entire taxes and interest, it would just be the tax. See <b>EXHIBITS 11, 12, 13, 14.</b></p> <p>Questions and discussion.</p>
278	Sen. Fisher	<p>Spoke in support of the measure (<b>EXHIBIT 15</b>). Believes this was a lease arrangement that did not cover taxes. The person leasing the vehicle is expected to pay taxes and licenses. Those taxes were not figured in.</p>
305	Rep. Witt	<p>Assumption is that lessee will pay the tax. If lessee is tax exempt, this creates a problem.</p>
315	Sen. Fisher	<p>Lessor didn't anticipate a lower price, it was just a modified lease. Nobody was trying to break the law. Bank paid the tax. This legislation would return the money to the bank.</p>
361	Chair Strobeck	<p>Suspended work session on SB 497. Reopened public hearing on SB 718.</p>

**PUBLIC HEARING ñ SB 718**

367	Sen. Shannon	<p>Spoke in opposition to SB 718 ñ1 amendments. Diesel fuel tax is a big chunk out of school budgets. Asked that school districts be exempt from paying it. Truckers would have to make up this loss. They agreed to, but if other exemptions are included, the truckers won't do it. Asked committee to accept truckers' offer and not include fire districts and others.</p>
417	Chair Strobeck	<p>Closed public hearing on SB 718. Reopened work session on SB 497.</p>

**WORK SESSION ñ SB 497**

423	Rep. Merkley	<p><b>MOVED -1 AMENDMENTS TO SB 497 BE ADOPTED.</b></p>
426	Chair Strobeck	<p><b>ASKED FOR ANY OBJECTIONS TO MOVING ñ1 AMENDMENTS INTO SB 497. NOTING OBJECTION FROM REP. SHETTERLY, THE CHAIR SO ORDERED.</b></p>

**TAPE 171, SIDE B**

008	Rep. Merkley	<p><b>MOVED ñ2 AMENDMENTS TO SB 497 BE ADOPTED. NOTING OBJECTION FROM REP. SHETTERLY, THE CHAIR SO ORDERED.</b></p>
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011	Rep. Merkley	<b>MOTION: MOVED SB 497, AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.</b>
020	Rep. Shetterly	Will oppose measure. Statutory requirements were clear at the time of the lease. It is not appropriate to ask the legislature to relieve someone of their mistake seven years after the fact.
029	Rep. Witt	Will oppose measure. Requirements of law are clear, lessors should be aware of law.
041	Rep. Williams	Will oppose measure.
051	Rep. Merkley	Will support measure. Not clear whose mistake it was.
061	Rep. Welsh	Will reluctantly support measure.
075	Rep. Rosenbaum	Will oppose measure.
086	Rep. Merkley	<b>WITHDREW MOTION.</b>
089	Chair Strobeck	Closed work session on SB 497. Opened work session on HB 3344.

**WORK SESSION n HB 3344-A**

109	Chair Strobeck	<p>Asked questions from list entitled HB 3344A Questions for ODOT (<b>EXHIBIT 17</b>).</p> <p style="padding-left: 40px;">1. Can ODOT administer the diesel fuel tax as embodied in HB 3344A?</p>
111	Grace Crunican	Introduced Oregon Dept. of Revenue staff.
116	Mike Marsh	Yes, ODOT can administer the diesel fuel tax. Suggested some amendments for efficiency of the bill.
123	Chair Strobeck	<ul style="list-style-type: none"> <li>• Can the tax be put into effect by January 1, 2000?</li> </ul>

126	Marsh	Jan. 1, 2000 is too soon to establish administrative procedure, set up forms, educate the trucking industry on ODOT's expectations, develop system, work flow analysis, modifications, testing. ODOT is currently focusing on Y2K work through September.
169	Crunican	Can not say for certain that Y2K work will be done on time. ODOT would need extension in implementing diesel fuel tax, perhaps Jan.. 1, 2001.
189	Rep. Williams	What would implementation of the bill cost?
194	Marsh	Computer costs of approximately \$82,000, and other costs, are included in the bill.
209	Rep. Williams	How would ODOT handle enforcement of diesel fuel tax?
218	Marsh	ODOT is making assumptions about the level of enforcement. Some states contract with state police to do additional enforcement work, but Oregon is depending on current employees.
227	Greg Del Ponte	<p>Enforcement has two distinct components:</p> <p>Ongoing enforcement activities (dyed fuel program); audit program Ongoing: 106 motor carrier enforcement officers would need to be trained and certified.</p> <p>Audit: Staff of 31 field audit staff would conduct audits.</p>
262	Dave Tyler	<p>Motor carrier audit group is currently responsible to audit International Registration Program (IRP) and International Fuels Tax Agreement (IFTA). Both programs have minimal audit compliance requirements of 15% of carriers over five years, or 3% per year. Policy question in future is, at what level should audit function be performed in Oregon? Under weight mile program, 1/3 of carriers are audited each year. Oregon could choose to increase the percentage of in-state audits.</p>
329	Rep. Williams	Concerning elimination of 106 positions, would Motor Carrier Division have to hire more people?
348	Del Ponte	<p>Variety of ways to attend to diesel fuel tax enforcement issues. Would like to see escalation in level of dyed fuel scrutiny. Believes this would be a reasonable addition to duties of existing staff. Would not need additional staff.</p> <p>Questions and discussion concerning reductions of 106 positions, shifting of responsibilities from old system to new system.</p>



**TAPE 172, SIDE B**

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| 014 | Chair Strobeck | <ul style="list-style-type: none"><li>• How would the Department verify that vehicles claiming reduced registration fees under Section 45(10)(d) actually traveled less than 30,000 miles?</li></ul>   |
| 017 | Marsh          | Individual would certify through documentation how many miles they traveled.   |
| 024 | Del Ponte      | Two relevant situations: Renewal of ongoing existing fleet, and addition of new equipment. Under penalty of perjury, they would give beginning and ending odometer readings. In addition, audits will compare and contrast data. Oregon has to audit 15% of licensees yearly.  |
| 042 | Chair Strobeck | <ul style="list-style-type: none"><li>• How would the Department assess the single trip non-divisible load fee in Section 42?</li></ul>  |
| 045 | Del Ponte      | <p>On its face, Section 42 suggests that road use assessment fee shall be \$3 per ton in excess of maximum weight established in statutes. Statutes provide three weight tables. Language in bill draft might be misread.</p> <p>Clarification may be necessary.</p> <p>Questions and discussion.</p>  |
| 136 | Chair Strobeck | <ul style="list-style-type: none"><li>• How would the Department track the quarterly payment provisions allowed for apportioned registration fees in Section 47?</li></ul>   |
| 140 | Marsh          | In addition to sticker reading "2000," would move to quarters. New sticker would show the quarter number.  |
| 153 | Del Ponte      | Provision in this bill that allows for quarterly payment of apportioned registration fees is for Oregon-based interstate motor carriers only.  |
| 165 | Chair Strobeck | <ul style="list-style-type: none"><li>• How would the Department administer the fuel inventory tax in Section 80?</li></ul>  |
| 168 | Marsh          | <p>Would develop a form that would require licensee to complete inventory. That would be filed by the end of the first month of implementation. That information would then be used to verify how much diesel fuel they had. This would depend on honesty of those involved. Could develop an audit system, but does not believe it would be worth the return on investment.</p> |

185	Yates	Who would MVD send the forms to?
190	Tyler	MVD doesn't yet know everyone who would need licensing; it depends on some amendments. Intent is to allow Oregon to tax diesel fuel that was pulled off pipeline but not yet consumed. Everyone with storage on Jan. 1, 2000 would be required to pay a tax to the state. Under current weight mile operations, there is no benefit to Oregon to tracking quantities of diesel fuel that moves outside the state. There is no beginning point to tracking, which makes it tough to design an audit program.
227	Chair Strobeck	7) What, if any, administrative problems does the Department foresee?
229	Marsh	Concerns include power takeoff discounts, statutory backing for motor carrier enforcement officers, bonding level, 60-day notice of rate change, and implementation of timeline, Jan. 1, 2000.
263	Chair Strobeck	8. Will the Department have adequate funding to track fuel movements and enforce the diesel fuel tax?
265	Marsh	Yes.
274	Yates	Interprets in the bill that everyone handling diesel fuel has to keep records, but the only people reporting to state are licensed fuel suppliers. No records from distributors, brokers, wholesalers, etc. To know where fuel is going, MVD would need. Other states require reporting by everyone that touches fuel. Are the bill's provisions adequate to do this?
288	Tyler	Does not believe bill gives the ability to provide adequate enforcement and audit program. ODOT does not have access to everyone who will possess fuel. This is a weakness.
306	Marsh	Staff has copy of suggested technical adjustments. Can provide same information to committee upon request.
317	Rep. Williams	Does ODOT anticipate an increase in evasion?
322	Tyler	Does not have enough information to determine this, but increased evasion is very possible.
336	Rep. Merkley	Current system provides incentives to put additional axles under truck. That disappears with this bill. Does ODOT have an estimate of cost of additional road damage that this bill might incur? Follow-up questions.

343	Del Ponte	Section 44 of bill, paragraph 5, states an intention to create incentive for additional axles. Question is whether there is sufficient economic incentive to change behavior.
394	Rep. Merkley	Incentive needs to occur on trip-by-trip basis to make the effort to add axles when carrying a heavier load. If this is a once-a-year fee, how does that translate into any form of incentive to use extra axles?
404	Del Ponte	Corrected, this is not a once-a-year fee.
429	Yates	What is the time period on a variance permit? Follow-up questions.
435	Del Ponte	Variance permit is trip-specific. Not sure whether it is time limited, as is a registration permit. Two types: Continuous are good for one year, and single trip permits. Depending on which kind of permit, both can be time limited or not.
468	Yates	Believed every vehicle that travels over 80,000 pounds would have a one-time fee, not for every trip.

**TAPE 173, SIDE A**

033	Del Ponte	Intention of drafters is that this provision would apply only to continuous trip permits, good for up to one year. Would not apply to single trip. A continuous trip permit requires a single fee.
053	Chair Strobeck	10. Any other comments for the Committee's consideration?
058	Marsh	Changes to assist in administration of tax. Change number of days the permits are valid. Administrative flexibility, clear policies about implementation.  106 positions: ODOT will work with attrition, but wants to make sure there is nothing on the record saying that people have to be laid off. Wants to try to retain everyone.
082	Crunican	ODOT is nervous about this change. Not testifying for or against it, but is concern with the unknown. Sees this bill as a gamble, both administratively and revenue. Nervous about loss to trust fund which ODOT shares with cities and counties. Nervous that plan calls for shifting tax to a registration fee that will be jacked up considerably. Suspects diesel tax and registration fee will be advertised next session as highest truck tax in the country. Lawmakers will be reticent to raise it again. ODOT has a cost responsibility system at this time. Those who damage the roads pay for it. Evasion factor is more of a concern under diesel fuel tax.

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| 137 | Crunican       | Every lobbyist in this matter has an amendment in this bill. This is worrisome. Nervous that bill got passed from Transportation to Revenue with no recommendation.  |
| 155 | Chair Strobeck | Asked whether ODOT is aware of present evasion methods, and what it can do about evasion.  |
| 164 | Crunican       | ODOT worries about evasion, asserts it is fairly low compared with evasion under the diesel tax. If truckers were truly concerned about evasion, they would sit down with ODOT and discuss it. Truckers are not interested in reducing evasion, they are interested in getting rid of the weight mile tax. Concluded that there is more going on than concern for evasion. Commended trucking industry for coming up with a bill that does not make assumptions about evasion. |
| 193 | Chair Strobeck | Closed public hearing on HB 3344. Adjourned meeting at 10:28 a.m.  |

Submitted by, Reviewed by,

Barbara J. Guardino Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

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1. SB 718, Ferrioli, Proposed Amendments to Senate Bill 718 (SB 718-1), 1 p.
2. SB 718, Tindall, Oregon Department of Transportation, testimony of Doug Tindall, 1 p.
3. SB 718, Carnahan, SB 718-Amendments, Testimony prepared for the Oregon House of Representatives Revenue Committee, 3 pp.
4. SB 718, Meyer, Revenue Impact of Proposed Legislation for SB 718-1, 1 p.
5. SB 718, Meyer Revenue Impact of Proposed Legislation for SB 718, 1 p.
6. SB 718, Meyer, Staff Measure Summary, Senate Committee on Revenue, 1 p.
7. SB 718, Meyer, Legislative Fiscal Office, No Expenditure Impact statement, 1 p.
8. SB 873, Romain, testimony of Paul R. Romain, 1 p.
9. SB 873, Waters, Revenue Impact of Proposed Legislation for SB 873 (revised), 1 p.
10. SB 873, Waters, Legislative Fiscal Office, Minimal Fiscal Impact statement, 1 p.
11. SB 497, Martin-Mahar, Revenue Impact of Proposed Legislation for SB 497-1 and -2, 1 p.
12. SB 497, Martin-Mahar, Revenue Impact of Proposed Legislation for SB 497-2 and -4, 1 p.
13. SB 497, Martin-Mahar, Proposed Amendments to Senate Bill 497 (SB 497-2), 1 p.
14. SB 497, Martin-Mahar, Proposed Amendments to Senate Bill 497 (SB 497-4), 1 p.
15. SB 497, Fisher, South Umpqua Bank comments concerning RUSA, 14 pp.
16. HB 3344, Yates, Table 7: current Law, Vehicle Miles, Revenue, and Cost Responsibility, 7 pp.
17. HB 3344, Yates, HB 3344A Questions for DOOT, 1 p.