

HOUSE COMMITTEE ON TRANSPORTATION

February 9, 2001
9:00 AM

Hearing Room D
Tapes 27, 28, 29

MEMBERS PRESENT: **Rep. Bruce Starr, Chair**
 Rep. Alan Brown, Vice-Chair
 Rep. Jeff Merkley, Vice-Chair
 Rep. Richard Devlin
 Rep. Jeff Knopf
 Rep. Donna Nelson
 Rep. Diane Rosenbaum
 Rep. Joanne Verger
 Rep. Cliff Zauner

STAFF PRESENT: **John Leon, Committee Administrator**
 Kate Campeau, Committee Assistant

MEASURE/ISSUES HEARD: **Cascadia Run**
 HB 2134 Public Hearing and Work Session
 HB 2262 Public Hearing and Work Session
 HB 2303 Public Hearing and Work Session

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 27 A		
004	Chair Starr	Calls the committee to order at 9:05 a.m.
<u>CASCADIA RUN</u>		
010	Chuck McLaran	Mayor, City of Albany. Submits written material (EXHIBIT A) and gives overview of passenger rail in Willamette Valley.
120	Chair Starr	Comments on train travel around the world. Asks what kind of investment is needed to have high speed train service.
130	McLaran	Answers that it will take \$2 to \$4 billion to bring tracks up to speed. Freight lines own rails and infrastructure is not built to withstand high speeds. Talks about dual trackage - it would greatly help travel between Portland and Eugene.
190	Rep. Kropf	Asks if high-speed rail group is a commission.
193	McLaran	Answers that it is an Amtrak Mayors Advisory Council.
200	Rep. Kropf	Comments on potential opportunity of putting high speed rail in unused center of I-5.
219	McLaran	Answers idea has not been specifically talked about. Group was formed to be gathering of mayors to promote corridor concept and high-speed rail.
230	Rep. Rosenbaum	Comments on commute between Salem and Portland. Asks if possible to determine if commuters are beginning to use Amtrak.
240	McLaran	Comments that figures show commuter aspect has picked up.
250	Rep. Rosenbaum	Asks what efforts would it take to make train commuting a more viable means of travel.
270	McLaran	Answers that Portland to points south run would cost approximately \$4-5 million dollars.

293	Claudia Howells	Railway Division, Oregon Department of Transportation (ODOT). Adds that Union Pacific has capacity needs. States that it would require investment of around \$15 million. A bus system is being developed. Comments on parking problem in Portland's Union Station Station, and working with Oregon City suburban station which will build north/south ridership.
333	Rep. Verger	States that commuter testimony stated that cost of gas was comparable to buying permit.
345	McLaran	Answers that this is correct and possibly cheaper to drive.
371	Rep. Devlin	Comments about public workers' commuter club, leasing busses, vehicles, etc. Asks if there are studies about commuting from Portland to Salem.
389	McLaran	Answers that he knows of none.
390	Howells	Answers that commuter studies have been done.
400	Rep. Devlin	Asks how much Oregon has invested vs. how much Washington has invested.
430	McLaran	Answers that Washington invested around \$200 million. Oregon invested about \$25-30 million. France spends 30% of transportation budget on trains, and the United States spends about 3%.
450	Rep. Brown	Asks if fees charged for ridership on trains pay for the operating costs, and if not, how long would this take to accomplish.
449	McLaran	Answers that at the current rise in ridership, that in approximately 3 or 4 years they will be approaching the break-even point for the operation.

TAPE 28, A

005	Rep. Zauner	Asks if the passenger ridership increases in the summer.
010	McLaran	Answers that in the summer it does increase.
040	Rep. Rosenbaum	Asks questions about TALGO, if trains can be challenged for safety standards.
047	McLaran	Answers that train meets every safety specification.
048	Chair Starr	Asks about Northwest Rail Study.
054	McLaran	Answers that he's not really sure about that particular study.
058	Chair Starr	Refers to study done that shows maximum speed is 62 mph and asks what is average speed.
060	McLaran	Answers that in the current system, maximum speed is 79 mph and average speed is 50 mph.
078	Howells	Comments that study was Environmental Assessment Study done by ODOT. This study makes assumption that corridor is actually being used. Funding coming from Federal Rail Administration. She will provide copies of this study to the committee.
095	Rep. Kropf	Comments that Mayor McLaran made point perfectly about using I-5 for high speeds.
110	Rep. Nelson	Asks how does a town qualify for a train stop.
117	McLaran	Answers that there are a number of factors, primarily coordination with Union Pacific that a stop can be provided. AMTRAK is at the mercy of freight train at that juncture.
132	Rep. Nelson	Asks if there are forms or applications to fill out.
135	Howells	Answers that communities are more than welcome to talk to ODOT about interest.

HB 2134 PUBLIC HEARING

148	John Leon	Committee Administrator. Reads brief synopsis of HB 2134. No
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163	Kelly Taylor	revenue impact and minimal fiscal impact. Legislative Liaison, Oregon Department of Transportation. Submits written material (EXHIBIT B) and gives brief overview of HB 2134.
235	Chair Starr	Asks if \$1,000 civil penalty is in line for other penalties.
242	Taylor	Answers yes.
245	Chair Starr	Asks what is the process for appealing this penalty.
247	Taylor	Answers that there would be a notice sent to the person and it gives them rights to due process and instructions for requesting hearing.
250	Rep. Verger	Asks for name of program and if any input from dealers.
256	Taylor	Answers that the name of this group is Oregon Dealer Advisory Committee (ODAC) and on ODAC committee is a used car dealer's representative.
273	Rep. Verger	Comments that if ODOT puts stamp of approval on something they should make sure the change of process is constructive.
276	Rep. Merkley	Asks when there is a driving school that is part of a curriculum, does it come under this arrangement.
283	Taylor	Answers no.
287	Monty King	Executive Director, Oregon Independent Auto Dealers. Submits written testimony (EXHIBIT C) and testifies in support of HB 2134.
340	Chair Starr	Explains amendment procedure: Amendment will be in draft form, amended on Senate side, and when it comes back to the House for concurrence there will be agreement.
359	Rep. Rosenbaum	Asks if there are other schools.
315	King	Answers that yes there are other schools, and his organization wants to create a state licensing "package".
396	Rep. Nelson	Asks if there are other tests.
401	King	Answers no.
407	Rep. Nelson	Asks what the cost is for this program.
373	King	Pre-licensing cost for program is \$250, \$75 audit - which does not entitle participant to certificate.
419	Rep. Nelson	Asks about the subject matter covered in the four-hour session.
400	King	Answers that subject matter covers DMV rules, DEQ regulations, Department of Justice, Unfair Trade Practices, trade-in rules, etc.
450	Rep. Zauner	Asks where does the money go.
455	King	Answers that the school has lost money in the last year. Not a cheap process to run 1300 people through a continuing education process.
471	Gerald Fuller	Oregon Auto Dealers Association. Advocates passage of bill.
<u>TAPE 27, B</u>		
008	Rep. Nelson	Asks if large dealers have civil penalties.
010	Fuller	Answers that if people they hire don't meet obligations that they can be fined.
014	Rep. Nelson	Asks what is that fine.
021	Fuller	Answers that fines vary based on offense.
027	Rep. Nelson	Asks what differentiates the groups that are included and not included in the bill.
035	Fuller	Answers that if group has a franchise agreement with a recognized manufacturer of automobiles then the group is exempt from the law.

040	Chair Starr	Closes the public hearing and opens a work session on HB 2134.
<u>HB 2134 WORK SESSION</u>		
042	Rep. Rosenbaum	MOTION: Moves HB 2134 to the floor with a DO PASS recommendation.
044	Rep. Verger	Asks if bill will not be coming back to committee after the Senate.
046	Chair Starr	Explains the legislative process that will occur.
065	Rep. Nelson	Expresses concern that committee is not preempting the need for an amendment.
070	Chair Starr	Explains that there is uniformity.
		VOTE: 9-0
074	Chair Starr	AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
		REP. ROSENBAUM will lead discussion on the floor.
076	Chair Starr	Closes the work session on HB 2134 and opens a public hearing on HB 2262.
<u>HB 2262 PUBLIC HEARING</u>		
089	Leon	Reads synopsis of the bill. Notes that there is no revenue fiscal impact on this bill.
090	Mike Marsh	Executive Director, Oregon Department of Transportation. Submits written material (EXHIBIT D) and details background and issue of HB 2262.
137	Chair Starr	Asks if there is an agreement to collect gas tax.
138	Marsh	Answers that gas tax is collected at a higher level not at the pump.
150	Quintin Hess	Fuels Tax Group Manager, Oregon Department of Transportation. Clarifies that gas tax is being charged in Washington but currently not paying any Oregon tax.
164	Rep. Nelson	Where is other truck stop.
170	Hess	Answers that truck stop is in Canyonville, Oregon, once called Fat Harveys now called 7 Feather Truck and Travel.
175	Rep. Nelson	Where do they obtain gas and diesel.
180	Hess	Answers that they are buying fuel from Oregon dealers.
183	Rep. Merkley	Asks if 7 Feather's Truck Stop is on tribal land.
190	Hess	Answers yes.
193	Marsh	Clarifies that process is ongoing.
196	Rep. Merkley	Asks if we are concerned about people who drive diesel autos.
198	Marsh	Answers that diesel autos as well as pickups.
202	Rep. Merkley	Asks about agreement and the way the bill is worded. Is ODOT seeking to negotiate a refund arrangement.
210	Marsh	Answers that intent is to be able to negotiate a good-faith agreement of what is reasonable.
216	Rep. Verger	Asks that tribes are recognized as a sovereign nation and therefore exempt from state licensing.
227	Hess	Answers that attorney general's office answer is unclear, but they think state can require license.
233	Rep. Verger	States that tribes were very eager to have good public relations with community and government.
314	Marsh	Responds to ORS 198.110 per Attorney General's perspectives.
333	Rep. Verger	Restates previously stated concern. Stresses that ORS 198.110 reads so clearly that state has absolute authority to have agreement, so finds attorney general's decision confusing.
363	Marsh	Comments that ODOT will be more than willing to come back during the interim to the Transportation Committee for further

report on agreement.

379 Rep. Zauner Comments that he also wants ODOT to follow-up with further discussion during interim.

385 Rep. Brown Asks that if the tribe is buying from the State of Washington, can we recover fuel tax back from Washington.

389 Hess Answers no.

398 Rep. Kropf Asks for clarification. Asks about other taxes that tribe is exempt from.

400 Marsh Answers that there is an agreement between the Oregon Department of Revenue and the tribes with respect to the sale of cigarettes.

413 Rep. Kropf Asks if tribal members are exempt from licensing of vehicles.

422 Marsh Answers not to his knowledge.

Questions and responses between Rep. Kropf and Mr. Marsh regarding the details of what the tribes are liable to pay as far as diesel tax, road upkeep, figuring tax, etc., is concerned.

TAPE 28, B

010 Rep. Nelson Asks if it wouldn't be better to know the rights before it can be decided what is feasible.

021 Marsh Answers that this bill is allowing a balanced situation.

030 Rep. Nelson Comments on the Spirit Mt. Casino and how wonderful it's been for the community.

046 Marsh Responds that state needs to be able to assess what portion of tax from selling of diesel fuel should be coming to the state.

085 Rep. Devlin Comments that tribes already have authority to operate in good faith. Question, when a supplier comes from out of state and paying tax do we automatically get the tax remitted to Oregon.

087 Hess Answers that it depends on the fuel, if gasoline, in order to bring an untaxed product one must be licensed with ODOT, then dealer remits the tax to the State of Oregon. If fuel is diesel, there are no tax requirements between states. It does not become a taxable item until physically placed into the fuel tax of a vehicle.

109 Ted Hughes Representing the Cow Creek Band of the Umpqua Tribe. Expresses support to this bill on behalf of the Indian tribes of Oregon.

075 Michael Mason Legal Counsel, Confederated Tribes of Warm Springs. States that tribes have had ability to enter into this agreement for sometime. Briefly addresses tax status of Indian tribes.

135 Rep. Kropf Asks what happens if this bill isn't passed.

140 Hughes Answers that the tribes equally want this cleared so tribes can pay fair share.

154 Rep. Nelson Asks why tax has not been collected.

157 Hughes Responds that the tribes are a sovereign nation and everything that is done between governments must be a compact, one-nation negotiating with another nation.

174 Mason Continues that the tribes feel they should be able to make agreements with state agencies. Tribe has authority to make this agreement.

180 Rep. Kropf Asks how do tribes pay for maintenance of roads.

190 Mason Answers that there are tribal maintenance funds and money directly from the Bureau of Indian Affairs and the U.S. Department of Transportation.

230 Kathy Thole Citizen. Submits written testimony (**EXHIBIT E**) and testifies in

		opposition to HB 2262.
262	Rep. Zauner	Would it help if there were citizen representation on this committee.
265	Thole	Answers that that would be a positive thing.
318	Rep. Merkley	Comments that current law has distinct jurisdictions between public lands vs. tribal lands. Asks how jurisdiction is transferred through this bill.
320	Thole	Answers that any entity that makes consensual agreements with a tribe, the tribe then has taxing and regulatory jurisdiction over this entity. Also, if an area is called Indian County.
381	Chair Starr	Asks Mr. Marsh and Mr. Hess to comment on these issues raised by previous witness.
393	Marsh	Speaks on background of this tax issue and relationship between State of Oregon and Indian tribes. <ul style="list-style-type: none"> • Getting for the state the portion of gas tax that that is used for vehicles on public roads. • Negotiating government to government. Stresses that the state has to negotiate with Indian Tribes. • Involvement of others, i.e., citizen representation on committees. States that it would be possible to publish places and times of meetings, etc, to facilitate participation.
433	Rep. Nelson	Asks why this didn't happen automatically.
461	Marsh	Answers that this must be a government to government agreement.
TAPE 29, A		
004	Rep. Nelson	Asks why committee is presented with this bill.
023	Rep. Devlin	States that the tribes have the authority to negotiate. ODOT does not have this authority and needs this bill under the Attorney General's opinion to obtain that authority.
029	Rep. Nelson	States that if there is no attorney general opinion then the viability of this bill is greatly questioned.
040	Marsh	Answers that this is a necessary step in the process to implement and move to a point where the state can respectfully collect the money.
046	Rep. Verger	Expresses concern about land in trust.
051	Marsh	Answers that these are two different issues.
052	Chair Starr	Closes the public hearing and opens a work session on HB 2262.
<u>HB 2262 WORK SESSION</u>		
057	Rep. Devlin	MOTION: Moves HB 2262 to the floor with a DO PASS recommendation.
062	Rep. Kropf	States that he will vote in favor of the bill with reservations.
064	Rep. Merkley	Asks if when it says ODOT will enter into an agreement, does this require the governor's office to support the agreement or could ODOT simply implement the agreement without the governor's consent.
076	Marsh	Answers that governor's office would be a key player in this negotiation but ODOT will be doing the main negotiating, with the approval of the governor's office.
080	Rep. Merkley	States that the language is a bit misleading. Suggests that it be clarified for the record.
104	Marsh	States that ODOT is comfortable with the fact that the governor will approve what comes out of this negotiation.

107	Rep. Verger	Expresses support for Mr. Marsh's assurance that ODOT will come back to the committee with progress report.
109	Rep. Devlin	States that he intends to vote for this bill and expresses his support for Indian sovereignty. VOTE: 8-1 AYE: 8 - Brown, Devlin, Kropf, Merkley, Rosenbaum, Verger, Zauner, Starr NAY: 1 - Nelson
119	Chair Starr	The motion CARRIES.
121	Chair Starr	REP. DEVLIN will lead discussion on the floor. Closes the work session on HB 2262 and opens a public hearing on HB 2303.

HB 2303 PUBLIC HEARING

123	Leon	Reads brief synopsis of bill.
129	Troy Costales	Transportation Safety Division Manager, Oregon Department of Transportation. Submits written material (EXHIBIT F). States that bill makes a great deal of sense. States that this is an exemption to a law, but will help cut down on confusion for students, instructors and law enforcement.
140	Mike Shurlock	Oregon Traffic Safety Education Association. Speaks in favor of the bill.

Written testimony of the Oregon State Police in support of HB 2303 submitted by staff for the record (**EXHIBIT G**).

160	Janine Moothart	Director, Chemeketa Santiam Campus. Submits written material (EXHIBIT H) and recommends passage of this bill.
182	Chair Starr	Closes the public hearing and opens a work session on HB 2303.

HB 2303 WORK SESSION

188	Rep. Merkley	MOTION: Moves HB 2303 to the floor with a DO PASS recommendation. VOTE: 9-0 AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.
192	Chair Starr	MOTION: Moves HB 2303 be placed on the CONSENT CALENDAR.
194	Rep. Merkley	VOTE: 9-0 Hearing no objection, declares the motion CARRIED.
195	Chair Starr	Closes the work session on HB 2303 and adjourns the committee at 11:00 a.m.
196	Chair Starr	

Submitted By,

Reviewed By,

Kate Campeau,
Committee Assistant

John Leon,
Committee Administrator

EXHIBIT SUMMARY

- A – Cascadia Run, written material, Chuck McLaran, 3 pp.**
- B – HB 2134, written material, Kelly Taylor, 2 pp.**
- C – HB 2314, written testimony, Monty King, 1 p.**
- D – HB 2262, written material, Mike Marsh, 2 pp.**

E – HB 2262, written testimony, Kathy Thole, 3 pp.

F – HB 2303, written material, Troy Costales, 1 p

G – HB 2303, written testimony of Oregon State Police, Staff, 1 p

H – HB 2303, written material, Janine Moothart, 1 p