

## HOUSE REVENUE COMMITTEE

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JULY 22, 1999 - 9:00 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING

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Members Present: Rep. Ken Strobeck, Chair

Rep. Anitra Rasmussen, Vice Chair

Rep. Lane Shetterly

Rep. Max Williams

Rep. Bill Witt

Members Absent: Rep. Deborah Kafoury

Rep. Jeff Merkley

Rep. Diane Rosenbaum

Rep. Jim Welsh

Staff: Paul Warner, Legislative Revenue Officer

Richard Yates, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Invited Witnesses:

### TAPE 225, SIDE A

005      Chair Strobeck      Meeting called to order at 9:07 a.m.

WORK SESSION ON HB 2567 A-ENG.

010 Chair Strobeck MOTION: MOVED HB 2567 A-ENG. BE RETURNED TO THE SPEAKER OF THE HOUSE WITHOUT RECOMMENDATION AS TO PASSAGE BUT REQUESTING REFERRAL TO JOINT COMMITTEE ON WAYS AND MEANS.

012 Chair Strobeck WITHDREW MOTION.

WORK SESSION ON HB 3344 A-ENG.

017 Chair Strobeck The (-A36) amendments are essentially SB 881, with a few changes that staff will discuss. (Exhibit 1)

021 Richard Yates Sections 36 and 37 are essentially the same as SB 881, (Pages 48-52, Exhibit 1). The first part of the bill assumes that HB 2082 will become law; §36 would apply if HB 2082 does not become law. Section 36 takes the existing weight-mile tax rates and factors them down by about 12% to obtain the new rates, which would be the heavy vehicle share according to the latest cost allocation study, (Page 48, Exhibit 1).

Section 37 is the contingencies upon which that would take effect, (Page 52, Exhibit 1).

051 Chair Strobeck The sunset provision is written in §1?

053 Yates Yes, the first part of the (-A36) amendment outlines what would happen if HB 2082 becomes law. The bulk of the (-A36) amendment is changing section references. (Exhibit 1)

063 Rep. Shetterly The (-A36) amendment is the default if HB 2082 passes and becomes law and if the sunset is not removed in 2006?

067 Yates Concurred.

068 Chair Strobeck The purpose of the six-year sunset is to test whether the new system works or not.

073	Rep. Shetterly	Would a 3/5 vote or a majority vote be required in 2005 to extend the sunset?
076	Chair Strobeck	It is revenue raising so I would assume it would require a 3/5 vote.
081	Yates	Concurred.
087	Chair Strobeck	MOTION: MOVED (-A36) AMENDMENT TO HB 3344 A-ENG. BE ADOPTED.
088	Vice Chair Rasmussen	"I will support this amendment and the movement of the measure out of Committee, but that does not signify my support for or against the bill on the floor."
092	VOTE	HEARING NO OBJECTION, THE CHAIR SO ORDERED.
099	Chair Strobeck	Recessed to 9:15 a.m.
099	Chair Strobeck	Reconvened at 9:30 a.m.
100	Chair Strobeck	MOTION: MOVED TO RECEDE FROM THE (-A4), (-A9), (-A10), (-A11), (-A12), (-A15), (-A16), (-A17), (-A18), (-A20), (-A22), (-A23), (-A24), (-A25), (-A30) AMENDMENTS ADOPTED ON MAY 18: HEARING NO OBJECTION, THE CHAIR SO ORDERED.

REOPENED WORK SESSION ON HB 2567 A-ENG.

103	Chair Strobeck	HB 2567 A-Eng. will contain the new school distribution formula and the bill needs to go to Ways and Means Committee.
105	Chair Strobeck	MOTION: MOVED HB 2567 A-ENG. BE RETURNED TO THE SPEAKER OF THE HOUSE WITHOUT RECOMMENDATION AS TO PASSAGE BUT REQUESTING REFERRAL TO JOINT COMMITTEE ON WAYS AND MEANS.
107	Vice Chair Rasmussen	What will happen to the measure in Ways and Means?

- 108 Chair Strobeck "Based on discussions and the fact that the Governor either has or will veto HB 2566 this measure will be the vehicle for the same distribution in all ways except the high growth factor will be removed. A portion of the monies from the high growth factor will be put into the facilities factor, as people had requested, and the balance into general distribution, to be shared by all school districts."
- 115 Rep. Merkley Will it retain the urban enhancement grant for the Portland Public School District?
- 120 Chair Strobeck All other elements of HB 2566 will be unchanged, inclusive of the Education Service Districts, the small schools, urban enhancement grant, etc.
- 122 Rep. Merkley "The school districts of east Portland would prefer that all monies go through the formula. However, since the urban enhancement grant is needed to accommodate other challenges in the formula, the other school districts in the Portland area would like to see future funds from such a grant distributed to all Portland area schools."
- 145 Vote HEARING NO OBJECTION TO REFERRING HB 2567 A-ENG., WITHOUT RECOMMENDATION, TO JOINT WAYS AND MEANS COMMITTEE, THE CHAIR SO ORDERED. (EXCUSED: REP. WITT)

REOPENED WORK SESSION ON HB 3344 A-ENG.

- 152 Yates Described the (-A08) amendment, which relates to the cost responsibility studies and implementing the results of those. (Exhibit 2)
- 171 Chair Strobeck The amendment states that part of the study will be to work on classes, as well as trucks, as a category. The amendment needs to be conceptually adopted because Legislative Counsel will need to put it into the appropriate section and make sure that the effective date is reconciled with HB 2082.
- 177 Chair Strobeck MOTION: ADOPTED BY CONCEPTUAL AMENDMENT THE (-A08) AMENDMENT, (EXHIBIT 2). HEARING NO OBJECTION, THE CHAIR SO ORDERED.
- 180 Chair Strobeck Will recess because there is still an open question about the ratchet mechanism. Final action on the measure will occur after the recess. That will give the Governor the opportunity to review the final details on the amendments adopted this morning.

186	Rep. Merkley	Are we expecting another amendment regarding the ratcheting mechanisms?
187	Chair Strobeck	"There is discussion right now about that. The question is whether it is constitutional to have the provision that says the Governor can adjust the tax rates if the Legislature fails to do so. If that part is removed it could jeopardize the agreements that have been made with the Senate. The first cost allocation study to which this legislation would apply would not be conducted until 2003 so the 2001 legislature could address it if it is a problem, otherwise it would remain unless challenged in court."
200	Rep. Merkley	Wasnit there a cost allocation study every two years?
201	Chair Strobeck	"Yes, there is a constitutional amendment (SJR 44) states there will be a cost allocation study every two years and the legislature will adjust the rates. This is the implementing language and there is some concern about what would happen if the legislature did not adjust the rates."
210	Chair Strobeck	Recessed until further notice.
215	Chair Strobeck	Reconvened at 1:57 p.m.
218	Chair Strobeck	<p>Reported on the conversations regarding HB 2082. The (-A39) amendment corrects two issues:</p> <ol style="list-style-type: none"> <li>1. Corrects the constitutional issue; directing the Governor to adjust rates if the Legislature fails to; it is unconstitutional for the Governor to impose taxes.</li> <li>2. Deletes the second step of the implementation of the cost allocation study based on the passage of the constitutional amendment. (Exhibit 3)</li> </ol>
249	Chair Strobeck	MOTION: MOVED (-A39) AMENDMENT TO HB 3344 A-ENG. BE ADOPTED.
250	Rep. Merkley	With the removal of this language what mechanism is there to tie down facts that there will be adjustments to sustain cost responsibility?
265	Chair Strobeck	It is the constitutional requirement that it is done and that it is on a two-year basis by the Legislative Assembly.

274	Rep. Merkley	If there is a legislature in the future that can not reach agreement on the adjustment how does the constitution become a compelling force; in practice how would this work?
282	Chair Strobeck	Requested one of the members that is an attorney answer; restated the question.
289	Rep. Shetterly	There is probably no penalty.
290	Rep. Williams	Discussed the various legal remedies that would be available through the courts, if a class of individuals felt they would not be treated in a cost responsible manner.
302	Rep. Merkley	"I was afraid that would be the answer."
303	Chair Strobeck	Where this jeopardizes the constitutional nature of the bill the whole bill might go down, if this is included. Spoke to compelling interests that would prevail and does not believe that it would fall through the cracks.
315	Rep. Witt	If this language that is being taken out was constitutional one could still file a suit that the Governor wasn't adjusting the rates. The remedy is the same no matter who the authority is vested in and someone felt there was not compliance with the constitution.
325	Chair Strobeck	There is no constitutional mandate that the legislature make adjustments on the cost responsibility currently, but we do.
330	Rep. Merkley	"Noted for the record that there was an alternative before us, which was an automatic mechanism based on a percentage discrepancy, with a clear way of addressing it. It was only in place for 1-2 bienniums before it was sunsetted, but it did provide a model of a mechanism that wouldn't require legislative action. A default was created so that if the legislature didn't act there was a prescribed course; while leaving the opportunity open for the legislature to amend that course, if it felt that those automatic adjustments were inappropriate to make. The default action now may be the absence of action and I think we may see a picture ahead in which this course becomes a highly litigious exercise."
347	Chair Strobeck	Spoke to that being possible, just as it is today. "That automatic mechanism was foregone in favor of this method because it ties more to the constitutional amendment and furthermore with the 6-year sunset that is a part of HB 3344 we will have very solid data to see whether this works. It is in everybody's interest to make sure this works and that rates are adjusted to make it work."

363	VOTE	HEARING NO OBJECTION TO ADOPTION OF THE (-A39) AMENDMENT, THE CHAIR SO ORDERED.
364	Chair Strobeck	MOTION: MOVED HB 3344 A-ENG., AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.
366	Vice Chair Rasmussen	Noted again that her affirmative vote in committee on the amendments and to move the measure to the floor does not indicate how she will vote on the floor.
372	Rep. Kafoury	Which amendments to the measure were adopted today?
375	Chair Strobeck	The (-A08), the (-A36) and the (-A39), (Exhibits 1-3). The Committee also receded from amendments adopted in the May 18 meeting.
380	VOTE	ROLL CALL VOTE: MOTION PASSED 9-0-0  REPRESENTATIVES VOTING AYE: Kafoury, Merkley, Rosenbaum, Shetterly, Welsh, Williams, Witt, Vice Chair Rasmussen, Chair Strobeck  Chair Strobeck will carry the bill.
378	Chair Strobeck	Recessed until further notice.  The Committee did not reconvene on this day.

Submitted by, Reviewed by,

Joan Green Kim T. James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HB 3344, Yates, (-A36) amendment, (JR/ps) 07/21/99, 52 pages
2. HB 3344, Governor's Office, (-A08) amendment, (JR/ ) 07/21/99, 1 page