

SENATE COMMITTEE ON BUSINESS & CONSUMER AFFAIRS

March 1, 1999 Hearing Room C

1:00 P.M. Tapes 49 - 50

MEMBERS PRESENT: Sen. David Nelson, Chair

Sen. Lee Beyer, Vice-Chair

Sen. Rick Metsger

Sen. Randy Miller

Sen. Charles Starr

MEMBER EXCUSED:

STAFF PRESENT: Y. Sherry Sheng, Administrator

Nancy Masee, Administrative Support

MEASURE/ISSUES HEARD:

Introduction of Committee Bills

SB 214 Public Hearing and Work Session

SB 142 and SB 143 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 49, A		
003	Chair Nelson	Opens meeting at 1:00 p.m. Opens work session on introduction of committee bills.

INTRODUCTION OF COMMITTEE BILLS

005	Chair Nelson	MOTION: Moves LC's: 3866, 3186, and 2670 BE INTRODUCED as committee bills.
006		VOTE: 4-0 EXCUSED: 1 ñ Beyer
007	Chair Nelson	Hearing no objection, declares the motion CARRIED.
		LC 3866 becomes SB 915, LC 3186 becomes SB 914, and LC 2670 becomes SB 913.
008	Chair Nelson	Closes work session on introduction of LCs. Opens public hearing on SB 214.
<u>SB 214 PUBLIC HEARING</u>		
018	Richard Nockleby	Administrator, Division of Finance and Corporate Securities (DFCS). Supports SB 214. Introduces Sharlyn Rayment.
024	Sharlyn Rayment	Program manager, Credit Union Section, DFCS. Explains what their division does. Explains how SB 214 will affect ORS 723. Presents (EXHIBIT A) .
033	Rayment	<p>Explains that the division is updating the law through SB 214 in:</p> <ul style="list-style-type: none">• Interstate activity• New IRA products• Corporate center credit union functions• Simplifying language <p>States the bill does not have controversial issues. The Government Affairs Committee of the Oregon Credit Union League has made suggestions to the bill. No opposition to the bill is known. Explains the dual chartering system which says state credit unions can:</p> <ul style="list-style-type: none">• Compete with federal chartered credit unions• Operate across state borders• Merge with credit unions in other states• Offer products and services, such as the new education IRAs• Provide liquidities, investment products, and payment services
048	Chair Nelson	Asks what changes the committee should look for.
050	Rayment	Explains the highlighted print shows the changes.

052	Sen. Metsger	Asks for the major changes to be made by the act.
075	Rayment	Explains the section on interstate activity. Section 4 is on the amendments and articles of incorporation. Section 4 reduces the timeframe for documentation from 60 to 30 days. Section 11 gives new powers and relocates other powers. Section 13, the withdrawal and expulsion of members, is dealt with, in order for credit unions to be able to deal with members' abuse. Section 16 restricts procedures for insider loans. Sections 17 through 37 are repeat language from the banking act, which is in SB 125 (1997), dealing with minor accounts, claims of deposits, and multiple party accounts. Says the exemption from personal liability is from the banking act. Section 56 deals with places of business and says a branch application is to be approved or denied within 30 days after being received in the DFCS office.
105	Chair Nelson	Asks about the dual charter system.
110	Rayment	Explains that a financial institution has the choice of becoming a state or national charter member and abiding by the rules of whichever they choose.
120	Chair Nelson	Thanks the testifiers.
122	Pamela Leavitt	Assistant Vice President for Legislative Affairs for the Oregon Credit Union League. Introduces Hal Scoggins. Supports SB 214. Explains there are amendments to be presented. Presents (EXHIBIT B) .
124	Hal Scoggins	Counsel for the Oregon Credit Union League. Supports SB 214. Explains that credit unions need power to carry on services. SB 214 adds the Roth and education IRAs. Emphasizes that interstate operations need to be addressed and reciprocal agreements need to be available. Sections 17 through 37 update provisions for joint accounts. States the old provisions were incomplete and confusing.
207	Scoggins	Highlights the -4 proposed amendments. Presents (EXHIBIT C) . The amendments add explicit leasing power, explicit power to indemnify volunteers from liability in performing duties, modernize the membership language, and make LLCs permissible. Finally, the amendments add a provision that clarifies the nature of the credit union loans.
260	Chair Nelson	Asks for questions. Closes public hearing on SB 214. Opens work session on SB 214.
<u>SB 214 WORK SESSION</u>		
261	Sen. Beyer	MOTION: Moves to ADOPT SB 214-5 amendments dated 2/8/99.
262		VOTE: 5-0

	Chair Nelson	Hearing no objection, declares the motion CARRIED.
263	Sen. Beyer	MOTION: Moves SB 214 to the floor with a DO PASS AS AMENDED recommendation.
264		VOTE: 5-0
265	Chair Nelson	Hearing no objection, declares the motion CARRIED. SEN. METSGER will lead discussion on the floor.
266	Chair Nelson	Closes work session on SB 214. Opens work session on SB 142 and SB 143.
<u>SB 142 AND SB 143 WORK SESSION</u>		
270	Chair Nelson	Explains the proposed amendments to SB 142 and SB 143 will be discussed. Asks Legislative Counsel to explain the ñ5 amendments, section by section. Presents (EXHIBIT D).
292	Chris Crean	Deputy Legislative Counsel. Explains the ñ5 amendments to SB 142, dated March 1, 1999. Describes the changes, which delete lines 4 through 28 of SB 142 and insert the ñ5 amendments. Section 1 would be added to Chapter 759, the telecommunications chapter. Section 2 supplies definitions to retail telecommunications services. Section 3 establishes the beginning of the alternative regulatory structure. It allows a telecommunications carrier to elect to be subject to Sections 3 and 4 and frees them of any other regulation based on earnings, rates, or rate of return.
311	Sen. Beyer	Asks if Section 2 excludes the carriers that sell services only to other telecommunications.
348	Crean	Responds that is correct, Section 2 specifically excludes services from one carrier to another carrier. States it regulates retail telecommunications service.
362	Sen. Beyer	Asks if that would include sales between carriers.
365	Crean	Answers that is correct, sales between carriers are not subject to this. Section 3, lines 23 and 24, subsection 2 applies to telecommunications infrastructure account. Lines 2 through 6 say the amount is equal to 5 percent of the telecommunications carriers gross regulated interstate revenue for the calendar year previous to election. In subsection 3, line 11, the carrier must expend

		monies on one or more projects approved by the telecommunications carrier and the connecting Oregon Communities Board. Paragraph C says if a participating carrier does not spend the monies in their telecommunications infrastructure account in a way that is satisfactory to the Oregon Communities Board or if they violate the act, the carrier returns to rate of return regulation and will no longer be subject to regulation under this act.
TAPE 50, A		
017	Crean	Page 3 says that 50 percent of the money in the Telecommunications Infrastructure Account is to be deposited in the Connecting Oregon Communities Fund. Subsection 5 protects the cities' right of way fees on telecommunications carriers. Section 4, establishes price regulation structure. Lines 10 through 14 say that if one is subject to price regulation under this act, they are not be subject to a rate of return regulation, earnings based regulation, or any kind of rate-based regulation. Says the carrier is subject to price regulation under this act. Subsection 2, line 15, regular service tariff rate on the date of election shall be the maximum price. (price cap) Subsection 3 establishes the price floor. Subsection 4 addresses prices for telecommunications services introduced the after date of this act.
057	Crean	Explains page 4, lines 16 through 20 that protect the rights of cities to establish fees. Section 5, subsection 1, lines 21 through 28 say that a rate proceeding against a carrier would be dismissed by a participating carrier. Subsection 2 says if a carrier dismisses a rate proceeding, that carrier shall reduce its prices for services equal to 5 percent of the carrier's gross regulated interest rate revenue for the year preceding election. Lines 6 through 9 says reduced prices need to be approved by the PUC.
095	Crean	Explains the amendment provisions refund. Lines 21 and 22, page 5, PUC determines how the refund is distributed. Section 6, line 23, page 5, establishes the Universal Service Fund. Lines 23 to page end are definitions. Subsection 2, line 7, says basic telephone service subsidies are established by the Public Utility Commission (PUC). Subsection 3, line 24, relates to subsidies and the establishment of a universal service surcharge provided by the Universal Service fund.
133	Crean	Explains surcharge to provide for Universal Service Fund.
165	Crean	Discusses the increase in basic services, the carrier is required to offset the price increase by reductions in prices for other telecommunications services. Subsection 4 allows PUC to establish the Universal Service Fund in the state Treasury. Line 26 says PUC shall contract with an independent third party to administer the Universal Service Fund. Section 7, line 31, establishes Connecting Oregon Communities Board. Subsections 2 and 3 require at least one voting member appointed from different regions.
223	Crean	Section 9 establishes the Connecting Oregon Communities Fund. Line 31 relates to grants of money and gives guidelines to the board on how money should be spent.

231	Sen. Beyer	Asks who the grants are for.
240	Crean	Page 10 states the purpose is to allow members of the local community to provide funding for special projects.
257	Sen. Beyer	Asks if there are restrictions, if the board will set out how monies are spent, and what applicants will be accepted.
262	Crean	Page 10, lines 7 through 16, establishes priorities, first to address critical unmet needs of the community and to stimulate demand for advanced telecommunications. Section 10 staggers the terms of members of the board. Section 11 provides enforcement authority that increases fines and increases penalties imposed by PUC.
311	Chair Nelson	Asks what the reason for the emergency clause was.
315	Crean	Answers it may depend on who is asked.
318	Sen. Metsger	Asks about page 2, line 1, the telecommunications infrastructure account, and page 3, lines 1 ñ3, which says 50 percent of those monies in the telecommunications infrastructure fund . . . Asks where the other 50 percent goes. Refers to expenditures by the Oregon Connecting Communities Fund.
334	Crean	Describes on page 2, line 20, monies in the accounts shall be used primarily to ensure Oregonians have equal access to telecommunications technology and services. Explains the 50 percent should be used for those purposes as determined by the carrier and the Oregon Connecting Communities Board and the Board has its own 50 percent to spend.
366	Sen. Metsger	On page 2, lines 11 through 13, it says telecommunications carriers shall expend monies. Asks who determines the value of the carriers expenditure.
390	Crean	Answers that the PUC would be able to determine by rules a process for arriving at a figure. Responds that because the project must be approved, it is assumed that the board and carrier have to come to a determination of value.
TAPE 49, B		
016		The committee study ñ5 amendments.
030	Sen. Beyer	Asks where in the bill service quality is addressed.
037	Crean	Service quality standards are addressed by increasing the PUC authority to impose more penalties.

048	Sen. Beyer	Asks where PUC's authority to set quality standards exists.
052	Crean	Currently, in existing law, they have the authority to establish service quality standards. Refers to ORS 759, in the area of 180 to 200. Says to look in the statutes that create the regulatory authority of the commission, in chapter 756.
055	Chair Nelson	Asks if Section 11 deals with provisions of another bill from PUC.
055	Sherry Sheng	Committee Administrator. Answers SB 292 proposed by PUC is in this committee.
070	Sen. Beyer	Asks if levels defined in Section 11 are those under existing law or if they were suggested by PUC in another bill.
074	Chair Nelson	Says the \$50,000 was in another bill. States the \$50 is in existing law. Asks for further comments.
077	Sen. Miller	On page 2, line 25, refers to the board and its expenditures. Comments that, if the carrier is not complying in its approved expenditures, the board can recommend to the PUC that the carrier be returned to rate of return regulation
109	Crean	Replies that is right.
112	Sen. Miller	Asks how regions are determined for appointments.
114	Crean	Responds that the Governor appoints the board members.
117	Sen. Beyer	Asks about staffing of the board.
120	Crean	Says provision is made on Section 9, page 9, lines 24 through 26.
122	Sen. Beyer	Comments that he thinks some of the staff should be from one of the existing agencies, either DAS or PUC.
140	Terry Edvalson	Rural Oregon Telecommunications Consortium (ROTC). Answers Sen. Metsger that the board would have oversight over 100 percent of the monies. Asks who would hire the staff. Regarding the technology fund, suggests 25%-75% division of funds, rather than the 50-50 designated. Emphasizes the major thrust must be to get the infrastructure between central switches. Proposes amendments to Section 3, after line 22, and page 2, Section 33A, line 16, to further restrict the Connecting Oregon Communities Board from approving telecommunications infrastructure account projects for implementation after January 2003. Says ROTC believes the bill covers the majority of concerns they have. Presents (EXHIBIT E) .

223	Sen. Metsger	Asks about page 2, lines 26-28, if the language changes the authority of PUC.
228	Crean	Explains the existing statute. Given the provisions of SB 142, the recommendation of Connecting Oregon Communities Board, would be the only way a carrier could return to rate of return regulation (ROR).
262	Sen. Metsger	On Page 6, line 25, concerning the Universal Service Fund, asks if this surcharge would apply to wireless as well as hard line carriers.
267	Crean	Retail telecommunications services includes wireless for surcharges.
282	Joan Smith	Public Utility Commissioner. Neither ORS 756 nor 759 mentions service quality.
286	Chair Nelson	Says PUC sets service quality by rule or negotiation.
308	Smith	Says SB 142-5 does not mention the wholesale level or company to company. SB 292 sets out service quality.
318	Chair Nelson	Asks the difference between retail and wholesale.
322	Smith	Wholesale is when a company buys services from another company. Retail is when services are bought from a company by citizens.
330	Sen. Beyer	Asks about the resale market.
335	Smith	Says that would be covered under the 1996 Telecommunications Act and under the various interconnection agreements, which set up the discount rates.
361	Sen. Beyer	Asks if PUC deals with that now.
369	Smith	Answers they do.
377	Sen. Beyer	Asks if the bill would question PUC authority.
380	Smith	Answers she does not think so, but it needs to be clarified that PUC authority can set up enforcement mechanisms between carriers.
390	Crean	Says the bill consistently addresses retail communication services. Wholesale transactions that are inconsistent with federal law would be unenforceable.
392	Sen. Beyer	Asks if you could you say the legislature did not intend to address wholesale telecommunications transactions through SB 142.

395	Crean	Answers it is not the intention of SB 142 to cover wholesale transactions.
TAPE 50, B		
020	Sen. Metsger	Asks PUC if this bill impedes PUC's ability to change regulation.
024	Smith	Answers that the 5 amendments would not preclude imposition of ROR by PUC on a carrier that has erred in the judgment of the board. PUC will be moving on from ROR. Says any carrier who does not elect would remain under ROR.
030	Sen. Metsger	Asks how basic telephone service for land line and wireless will change the costs.
058	Smith	Answers it is confusing, as yet, to know how the Universal Service Fund would relate to basic service.
070	Sen. Metsger	Says wireless carriers would want funds from the Universal Service Fund and asks if it is fair to have them all in one fund.
073	Smith	Answers that every retail carrier should pay to the Universal Service Fund.
094	Sen. Metsger	Asks if fund paid by a wireless carrier could be used by a land carrier.
	Smith	Replies yes, with the basic service.
109	Smith	Discusses 142-5 amendments. Says access to bandwidth and high speed service are discussed and says many people have worked very hard on the issues. Says 142-5 amendments make a mockery of all the good works of the original SB 142. Says the bill itself is flawed. It settles the rate case without due process, without facts, review, or record. Sets rates for US West without due process. Says there is no guarantee in the bill of how the funds will be spent. Comments on lack of basic service in some places. Says US West has the means to invest in Oregon. Says PUC opposes SB 142.
182	Edvalson	Discusses the telecommunications market. States that significant legislative changes need to be made to implement telecommunications this session. Fears that PUC will not meet the immediate needs. Emphasizes that doing nothing will not cause changes. Says ROTC does not find the faults with US West that PUC finds.
248	Chair Nelson	Asks Crean if the legislature has the authority to remove US West from the rate case with PUC, through implementation of SB 142.
252	Crean	Replies the legislature can do that.

263	Smith	States that the PUC is appealing to the committee to choose the best way to go. The ratepayers, monies are being considered. Asks if it is fair.
270	Chair Nelson	Asks that the ñ5 amendments be adopted. The committee does not have an impact statement. Asks for questions or discussion.
272	Chair Nelson	MOTION: Moves to ADOPT SB 142-5 amendments dated 3/1/99.
273		VOTE: 5-0
274	Chair Nelson	Hearing no objection, declares the motion CARRIED.
275	Chair Nelson	Adjourns meeting at 2:50 p.m.

Submitted By, Reviewed By,

Nancy Masee, Y. Sherry Sheng,

Administrative Support Administrator

EXHIBIT SUMMARY

A ñ SB 214, Written testimony, Sharlyn Rayment, 5 pp

B ñ SB 214, Written testimony, Pamela Leavitt, 5 pp

C ñ SB 214, -5 amendments, Hal Scoggins, 3 pp

D ñ SB 142, -5 amendments, Senator David Nelson, 12 pp

E ñ SB 142, Letter, Terry Edvalson, 1 p