

## SENATE COMMITTEE ON TRANSPORTATION

February 10, 1999 Hearing Room C

3:05 p.m. Tapes 23 - 24

**MEMBERS PRESENT:** Sen. Marylin Shannon, Chair

Sen. Mae Yih, Vice-Chair

Sen. Susan Castillo

Sen. Ted Ferrioli

Sen. Gary George

**MEMBERS EXCUSED:** Sen. Joan Dukes

Sen. Lenn Hannon

**STAFF PRESENT:** Don Scott, Administrator

Valerie Luhr, Administrative Support

**MEASURE/ISSUES HEARD:** Oregon Department of Transportation  
(ODOT) Audit Results Informational Meeting

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
<b>TAPE 23, A</b>		
004	Vice Chair Yih	Calls the meeting to order at 3:15 p.m. Explains Sen. Shannon's absence. States she is convening the meeting for informational purposes, since there is not a quorum. Opens an informational meeting.
<b><u>ODOT AUDIT RESULTS</u></b>		
012	Jim Pitts	Audits Division, Secretary of State's Office. Introduces Cathy Pollino, who will discuss the audits.

016	Cathy Pollino	Deputy Director, Audits Division, Secretary of State's Office. Introduces herself.
021	Sen. Castillo	Asks if the committee will be reviewing the five audits they previously discussed.
023	Pollino	Responds affirmatively. States Mike Marsh will discuss his response to some of the audit findings and the Dye Management report.
027	Vice Chair Yih	Requests Pollino to identify herself.
028	Pollino	Identifies herself, again. States she is responsible for performance audits in the Audits Division. States the ODOT audits were conducted after the 1997 Session. States the Audits Division put a committee together to look at the intent of a bill that did not pass and would have required detailed audits of ODOT.
037	Vice Chair Yih	Asks for the bill number.
038	Pollino	Reiterates the bill did not pass. Restates the Audits Division put together a plan to provide the information that would answer the legislature and public's major questions about ODOT.
044	Vice Chair Yih	Clarifies this was not done at request of the Joint Legislative Audit Committee (JLAC).
047	Pollino	States the Audits Division gathered feedback on questions that would be beneficial to the legislature in response to the bill that did not pass and JLAC. States in the last session there were many questions about how ODOT spends its money and where the money comes from. The Audits Division wanted to focus on major policy questions, such as administrative and overhead costs.
078	Mike Marsh	ODOT. States his support of Pollino's comments. Submits a letter from the Joint Legislative Audit Committee to President Adams and Speaker Lundquist and a summary and status of issues for ODOT [EXHIBIT A]. Cites the second paragraph in the letter. Emphasizes there are not major issues, but issues of process improvement. Submits the "Management Review of Construction and Maintenance" fact sheet [EXHIBIT B] from the Dye Management report. Reviews the strengths and needed improvements.
128	Marsh	Continues review of needed improvements. Restates ODOT has no major problems in terms of management. States he is willing to go into more detail with the committee or spend one-on-one time to review specific recommended actions and ODOT's response (holds up a chart for the committee). Asks Vice Chair Yih how he should proceed.
150	Vice Chair Yih	References the third bullet under "strengths." References the committee's February 8 meeting at which the witnesses stated they have gone to ODOT meetings around the state expressing their concerns for highways 18 and 22. Asks why the highways are not in the Statewide Transportation Improvement Program (STIP).
161	Marsh	States the projects are in the STIP, but have not received funding and have not moved up on the STIP. The projects are not under safety, but under operations.
178	Vice Chair Yih	Asks if the projects are in ODOT's long-range plans.
180	Marsh	States there are elements of the projects in the STIP. The long-range plan is

		reconnaissance or looking at how the project would fit into the STIP in the future. Points out that he can transition to the budget discussion or he can continue the audit discussion.
185	Vice Chair Yih	Asks Marsh to go ahead with his presentation, and the committee will ask questions.
188	Marsh	Extends his thanks to the Audits Division staff. States the question arose about how much of ODOT's budget involves on-the-highway work. The Audits Division found that \$.70 of each dollar goes "to the highway."
199	Sen. George	Expresses concern about the \$.70. References ODOT's administrative costs and the amounts paid to contractors.
211	Marsh	States the Audits Division's term is "goes to highway." States he can hand out a tracking of this kind of information. Requests the Audits Division staff remain.
218	Sen. George	States it must be by definition and not by what is actually getting on the roadways in the sense of material or improvements.
221	Jim Pitts	States the \$.70 goes back to the ODOT overhead audit. Using the consultant's numbers, by taking the administration and overhead dollars from highway construction, engineering and maintenance dollars, \$936 million remains.
241	Sen. George	Asks Pitts to repeat the dollar amount.
242	Pitts	Restates \$936 million is considered to be direct expenditures in the transportation system operations (TSO) area.
247	Sen. George	Asks how much of that actually went to contracts for roads.
249	Pitts	States about \$481 million was in contracts.
252	Sen. George	States Gary Johnson testified there was \$95 million relative to pavement in a breakdown of \$476 million.
257	Marsh	States there are amounts for pavement and rock. States beyond asphalt and pavement, there are engineering costs relating to projects and they are critical to project development.
266	Sen. George	References \$260-270 million that went to construction. Comments on reducing the Governor's preliminary budget from \$2.825 billion to \$2.582 billion. The \$2.825 billion is \$541 million more than the 1997-99 biennium. Arrives at a difference of \$298 million. References Marsh's testimony at the previous committee meeting in which he stated the reduction was a "two-pronged" answer. States he asked Marsh if it was true asphalt could be purchased cheaper now than at any time in the last generation, and with that in mind why not take the budget out to \$2.825 billion. Asks Marsh to clarify the decisions made.
301	Marsh	States Sen. George is correct; there are two reasons—debt service and short-term costs. Reviews issues revolving around debt service and costs.
332	Sen. George	States the contractors could handle the workload with \$2.582 billion. Asks why ODOT is asking the legislature to consider a \$368 million gas tax increase if the

		agency cannot spend more than it currently has.
345	Marsh	States he cannot speak beyond what is in the Governor's budget. States if ODOT had to incur debt and had a short-term increase, the marketplace's response would be "difficult to meet your need" and then ODOT would need to pay a premium.
364	Sen. George	References a list of highway projects that have not been completed. States the project costs fall \$20 million short of the \$298 million he mentioned. References more projects. Believes these projects could be completed with available monies. Believes the public is concerned about increases in ODOT's budget when there are no results. References the OTC's comments about the need for a \$.47 per gallon gas tax increase before any of the projects would be completed.
<b>TAPE 24, A</b>		
006	Marsh	States the \$.47 assumes putting all potential projects on the list. Offers to hand out materials relating to the budget.
013	Vice Chair Yih	Submits her questions concerning the Dye Management report [EXHIBIT C]. Wants answers to the questions before discussing the budget.
019	Marsh	States ODOT has been working on written responses to Vice Chair Yih's questions. States he would be happy to review the responses with Vice Chair Yih and also send copies to committee member
024	Vice Chair Yih	States the committee will proceed with the questions and responses because she wants the members to hear the responses.
033	Marsh	States he does not have a copy of his responses.
037	Sen. Castillo	Asks if Marsh could return to another committee meeting with his written responses.
041	Vice Chair Yih	Requests Marsh to respond today. States there is still enough time for discussion on ODOT's budget. Requests Marsh to provide his written response to the committee members.
062	Marsh	Reads question 1.
066	Vice Chair Yih	Repeats question 1.
070	Marsh	States an increase in vehicle miles traveled, product costs, and challenges of inflation have had major impact on ODOT's ability to keep up with roads. ODOT is putting emphasis on preservation to reverse the trend.
082	Vice Chair Yih	States the audit report indicated increases of 58.2 percent for planning and research and 45.6 percent for support services and overhead between 1991-93 and 1995-97. Asks why so much money is going into these areas since the number of state highways changed by 1.5 percent.
093	Marsh	Discusses the changes in the statistics, which were in the revised audit. Discusses issues for administration cost increases. Further states the amount of work delivered went up at a higher percentage.

120	Vice Chair Yih	States Pitts indicated ODOT's administrative costs were 38.2 percent and the fiscal analysis report indicated 44 percent. Asks for a breakdown of administrative and operating costs.
131	Pitts	Clarifies Vice Chair Yih is referring to DMV.
133	Marsh	Explains DMV has a higher percentage of administration given the nature of its function.
144	Vice Chair Yih	Reiterates the 38 percent in administration is very high even though DMV does revenue collection. Asks if ODOT has any plans to reduce administrative costs.
148	Marsh	States the current figure is significantly different. Discusses changes between the 1991-93 and 1995-97 bienniums, such as waiting times at DMV field offices and changes in the agency's computer programming.
155	Vice Chair Yih	Requests a report of DMV administrative costs at budget hearing time. Believes the public will not approve a gas tax unless they are convinced ODOT is putting more money into roads and construction.
170	Marsh	States ODOT will provide a report. States ODOT has been trying to find those efficiencies over the past year.
175	Vice Chair Yih	States she wants the committee to hear the report.
179	Scott	States he will work with Chair Shannon to schedule a meeting.
182	Marsh	Reads question 2.
185	Sen. George	References the road inventory percentage increase. States the list of state highways indicates a decrease of 90.5 miles from 1985 to 1995.
195	Marsh	Explains centerline miles have decreased. Also explains lane miles have increased and this relates to the 1.5 percent cited by Vice Chair Yih.
203	Sen. George	States he has numbers from last session indicating a certain number and the number from ODOT was several hundred less lane miles.
208	Pitts	Explains there is a published number and there is another number that is slightly higher. States the higher number includes such things as ramps and frontage roads, and it accounts for the 1.5 percentage.
217	Marsh	States when ODOT considers lane miles (surfaced miles) that includes ramps and frontage roads or other connections.
220	Sen. George	States the numbers he has indicate a decrease.
221	Marsh	Believes the numbers ODOT sent to Sen. George indicate an increase in lane miles.
226	Sen. George	Requests reconciled figures. States his appreciation for ODOT's efforts to provide good numbers.

234	Marsh	Clarifies lane miles are different than centerline miles. States he will provide accurate information to Sen. George.
238	Vice Chair Yih	States the July 1998 audit report indicated lane miles increased by 1.5 percent but road conditions are still very poor.
246	Marsh	States that is due to increased vehicle miles traveled and wear and tear. States he would be glad to show a comparison to the committee.
253	Vice Chair Yih	States the committee needs to have that information.
256	Sen. George	States ODOT's figures indicate a decline in bridge conditions, but gas tax revenue increased by \$261,509,067. States this gain is far beyond the Consumer Price Index (CPI). States the gains exceed construction cost increases.
273	Marsh	States Sen. George is correct. The CPI does not go up at the same rate as contract costs. States he can provide a chart that makes the comparison.
279	Sen. George	States there should be a way to define the differences. References the reconstruction on I-5 between Salem and Wilsonville. Believes there is very little increase in the costs between now and ten years ago.
285	Marsh	States he does not have the costs for the I-5 project.
288	Sen. Castillo	Comments on increased costs to fix roads by waiting longer to fix them. Asks if ODOT spends more when they delay working on roads.
297	Marsh	States it does cost more when work is deferred. Discusses ODOT's goal to keep 90 percent of the roads in fair or better condition.
318	Vice Chair Yih	Believes ODOT should spend more on road repair, construction, and maintenance, and less on planning, research, support services, and overhead.
324	Marsh	Asks if he should hand out the document that addresses those figures.
328	Vice Chair Yih	States she wants to continue with the questions and review the chart at the end of the discussion.
321	Marsh	Responds to the second question. States the definition of "late" meant "three weeks or more late" in a project and many projects are two years or longer. States if the definition of late meant going beyond three weeks, then ODOT is above 75 percent. Comments on ODOT's attempt to improve the rate of projects completed on time.
365	Vice Chair Yih	States she believes it is important to complete projects on time. Comments on adverse effects to small business owners due to highway maintenance or reconstruction projects.
380	Marsh	Responds to question 3. Pertaining to incentives explains the issues revolve around ensuring that too much incentive is not provided resulting in a perverse incentive.
400	Vice Chair Yih	Asks if ODOT is aware of the incentives offered by other states.

401	Marsh	Explains ODOT uses incentive and disincentives, such as monetary penalties for working outside the timeframe of a project. Discusses ODOT's contractor prequalification process. ODOT uses other states as examples.
<b>TAPE 23, B</b>		
007	Marsh	Responds to question 4. States what is mentioned in the question is only one part of the budgeting process. The audit found ODOT was one percent under budget for the projects. The Dye management review recommended that ODOT put more money in a project up front so initial, preliminary work is as accurate as it can be.
028	Vice Chair Yih	States the Dye Management report (page 2) indicates ODOT is 65 percent over budget.
033	Marsh	States that part of the report is referencing only a portion of the budget process. For the entire process ODOT was one percent under budget, but was high for preliminary work.
038	Vice Chair Yih	Reads from the Dye Management report.
041	Marsh	Restates the estimates were low for the preliminary part of a project. ODOT's philosophy has been to put more money and staffing into the competition process.
046	Vice Chair Yih	Asks Marsh and Pitts if they want to review the Dye report.
047	Marsh	States the answer is that the report is referring to the preliminary engineering portion, not an entire project cost. Will provide a reference to the committee.
061	Vice Chair Yih	Requests the reference.
053	Marsh	Responds to question 5. States the audit staff reviewed correct information about preliminary forecasts. After the review, the amount was six to eight percent over budget. States federal standards require ODOT to be under ten percent or they lose federal funds.
065	Vice Chair Yih	Asks Marsh to repeat his explanation of the percentage over budget for preliminary engineering.
068	Marsh	Explains the auditors asked for information that was provided, but the information was not specifically what the auditors needed.
074	Vice Chair Yih	States the auditors were given wrong information.
075	Marsh	Explains it was not done on purpose, but it was how the auditors asked for information. The auditors eventually revised their analysis.
083	Pitts	Explains the auditor requested estimates for 260 projects, but should have requested the "biddable estimates."
098	Vice Chair Yih	Asks if the Dye report is a reliable source of information.
102	Pitts	States he would rely on the Dye report. States they were aware of the issue and used the correct numbers in their evaluation.

103	Vice Chair Yih	Asks about receiving a corrected report.
105	Marsh	States corrected sheets were submitted for the sources and uses audit and there is no errata sheet for the Dye Management report.
113	Vice Chair Yih	Comments on the difference between 22 percent and six to eight percent.
112	Pitts	Believes different pieces of the analysis are being discussed.
117	Vice Chair Yih	States she is talking about ODOT's \$4.6 million spending forecast for preliminary engineering, which is 22 percent over budget. Marsh states it is not 22 percent.
121	Marsh	States the change in the audit moved it to six to eight percent.
124	Vice Chair Yih	Asks which is the reliable report.
126	Marsh	States the auditors were relying on the Secretary of State's audit numbers and there is an errata sheet.
130	Pitts	States Marsh is correct. The correct figure is 6.2 percent.
130	Vice Chair Yih	Requests the errata sheet.
138	Marsh	States he will provide a copy of the errata sheet to the committee. Responds to question 6. States ODOT deals with over seven thousand miles of roadway, and they need to be flexible when working with the characteristics of the department's five regions. States ODOT is working to ensure consistency as recommended in the Dye Management report. ODOT believes it is beneficial to recognize that contracting processes and needs may vary around the state. States ODOT is not disagreeing with the study's recommendation, but believe there is a need for flexibility. States ODOT is working to ensure the process is consistent.
171	Scott	States he understood the Dye management report concluded that ODOT's standards were different between regions and that ODOT should set some standards for the different regions in terms of contract performance. Ask Marsh if he disagrees.
181	Marsh	Explains there are standard differences, but there are no differences in terms of project outcomes and safety issues.
193	Vice Chair Yih	Asks what ODOT is doing to coordinate standards for management and monitoring.
197	Marsh	Explains ODOT is doing several things, including a project leader academy and establishing a tight policy process.
208	Vice Chair Yih	Expresses concern about ODOT employees' time spent in management meetings. Asks if ODOT will produce a manual on its contracting procedures.
215	Marsh	States project training is not an ongoing piece. Responds to question 7. States the statutes require ODOT have a public awareness and public review process. States the Dye Management report recommended finding statistically valid ways of getting feedback, such as focus groups.



252	Vice Chair Yih	Asks how much ODOT has budgeted for advertising.
256	Marsh	States he will provide the information.
257	Vice Chair Yih	Comments on a report from the Progress Board to the Transportation and Economic Development Subcommittee earlier in the day. The report indicated a decline in public opinion of ODOT's handling of road maintenance and construction. Comments on ODOT's spending \$600,000 to hire lobbyists to promote bad road conditions and to increase the gas tax. Asks if the \$600,000 is part of ODOT's news media budget.
276	Marsh	States ODOT is not spending \$600,000 on the subject Vice Chair Yih mentioned. Comments on \$23,000 spent in 1997 on a public awareness effort. States he will report to the committee about the \$600,000.
288	Vice Chair Yih	States it will be helpful to know ODOT's news media and public relations costs.
295	Marsh	States ODOT had contracts that dealt with getting public feedback.
300	Vice Chair Yih	Wants the information for ODOT's 1997-99 and 1999-01 budgets.
304	Marsh	States he will provide the information. Responds to question 8. States he does not have the increase in lane miles from 1993-95 to 1995-97. Explains construction projects do not necessarily increase miles of roads.
330	Vice Chair Yih	Asks how much construction money goes to private contractors and how much was done by ODOT.
334	Marsh	States in the construction area 100 percent goes to contractors. States ODOT has its own maintenance crews and does some contracting.
339	Vice Chair Yih	Asks if ODOT will be able to account for how much of the \$46.92 million went to lane mile construction and to hazardous areas when they have their new cost accounting system.
347	Marsh	States he can provide that information now for the 1995-97 construction budget. Responds to question 9. States ODOT emphasizes holding its project managers and contractors accountable. Restates ODOT assesses penalties to contractors. ODOT is striving to keep project times down.
385	Vice Chair Yih	States 43 percent is too long and too much.
388	Marsh	States the 43 percent is decreasing but refers only to major construction projects, not maintenance or preservation projects.
402	Vice Chair Yih	Asks about ODOT's incentives.
404	Marsh	States ODOT is mainly using monetary incentives and disincentives.
411	Vice Chair Yih	Asks what the monetary penalty is.
412	Marsh	States it depends on the contract. States he will provide information.

425	Vice Chair Yih	Requests the information.
<b>TAPE 24, B</b>		
008	Marsh	Responds to question 10. States there is disagreement about how often ODOT's design values over exceed the Green Book. ODOT believes their standards are very sound in comparison to other states. States the Dye Management review did not indicate ODOT was significantly off. Restates ODOT's effort to put more people and power in the preliminary processes. Responds to question 11. States the percentage of projects on schedule depends on the standard used. Seventy-five percent of ODOT's projects are on time if on time is within three weeks. States ODOT has developed performance measures to hold project managers and the process accountable.
052	Vice Chair Yih	States if a project is three weeks late it is not on time. Restates her comments about adversely affecting people's businesses.
059	Marsh	States ODOT's goal is to be on time. Comments on factors that can cause a project to go over schedule. States ODOT is working with contractors to ensure timelines are met.
077	Sen. Ferrioli	Requests a description of the process to bring the Interstate Bridge restoration in on time and under budget, which resulted in a bonus for the contractor.
082	Vice Chair Yih	States incentives work better than penalties. States ODOT should not give contractors excuses to be late.
094	Marsh	States ODOT agrees. States in reality sometimes it is impossible to be on time and then the penalty phase comes in. Comments on flexibility in completing projects.
099	Vice Chair Yih	States Oregon's bad weather should be considered when bidding for a job.
103	Marsh	Responds to question 12. States ODOT is working to learn from other states. States he does not recall any evaluation where Oregon was not better than the middle or towards the top in comparison to other states. Explains issues that come into play when looking at costs per lane mile.
		Chair Shannon arrives at 4:52 p.m.
125	Vice Chair Yih	Asks how ODOT learns from other states.
128	Marsh	States one way is like the Dye Management review that did comparisons. Another way is to have a member of the American Society of State Highway Engineers put out information about what other states are doing. Restates ODOT is working with a national association about prequalification issues.
141	Vice Chair Yih	Requests a written statement of Marsh's responses. The committee administrator will provide copies to the members. Updates Chair Shannon on the meeting.
158	Chair Shannon	Announces the committee schedule for February 12 and 17, and March 5.
175	Vice Chair Yih	Declares the meeting adjourned at 4:55 p.m.

Submitted By, Reviewed By,

Valerie Luhr, Don Scott,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ ODOT audit results, written information, Mike Marsh 2 pp.**

**B ñ ODOT audit results, written information, Mike Marsh 2 pp.**

**C ñ ODOT audit results, written information, Mike Marsh 2 pp.**