

## SENATE COMMITTEE ON TRANSPORTATION

March 17, 1999 Hearing Room C

3:05 p.m. Tapes 42 - 43

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

Sen. Mae Yih, Vice-Chair

Sen. Susan Castillo

Sen. Gary George

Sen. Lenn Hannon

**MEMBERS EXCUSED:** Sen. Joan Dukes

Sen. Ted Ferrioli

**STAFF PRESENT:** Don Scott, Administrator

Valerie Luhr, Administrative Support

**MEASURE/ISSUES HEARD:** SB 574 Public Hearing

SB 614 Work Session

SB 909 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
<b>TAPE 42, A</b>		
004	Chair Shannon	Calls the meeting to order at 3:12 p.m. Opens public hearing on SB 574.
<b><u>SB 574 PUBLIC HEARING</u></b>		
007	Don Scott	Committee Administrator. Reviews provisions of SB 574. Introduces and reviews provisions of the SB 574-1 amendments <b>[EXHIBIT A]</b> .

021	Sen. George	Clarifies Scott is referring to a bumper height of 29 inches from the ground.
022	Scott	States it is the bumper standard. States the State Police are concerned about a vehicle being raised and the bumper then lowered and not securely fastened to the vehicle.
027	Sen. Hannon	Asks if someone will be available to respond to questions. Believes there will be off-road vehicle groups who would find objection to the proposal. States he understands the bumper requirements, but is also concerned about individual rights.
037	Chair Shannon	States someone is available to answer questions. Requests Scott review the provisions of SB 574 and the amendments again.
040	Scott	Reviews the provisions of the bill and previous testimony from March 1.
057	Chair Shannon	Closes the public hearing on SB 574. Opens work session on SB 614.
<b><u>Sb 614 work session</u></b>		
062	Chair Shannon	Explains Rep. Tom Butler helped draft SB 614. States she requested Rep. Butler to comment on the SB 614-6 amendments <b>[EXHIBIT B]</b> .
070	Rep. Tom Butler	House District 60. Expresses his thanks for the opportunity to work on SB 614. Reviews provisions of SB 614-16 amendments.
102	Chair Shannon	References provisions in Section 3, page 2, of the amendments. States the quarterly report requirement was added to allow for updates until the accounting system is fully implemented.
106	Rep. Butler	States he believed it was important to have the quarterly reports before the Emergency Board so they would know progress was being made.
124	Sen. Hannon	States the legislature has a total inability to delve into line item budgeting. Expresses concerns about the language in Section 3 of the SB 614-16 amendments. States ODOT will spend too much time giving reports to the Emergency Board, instead of implementing the accounting system.
144	Rep. Butler	States this not a new accounting system that has never been implemented in any transportation department. States it should not take longer than a full year to develop and implement the system, and ODOT can return as frequently as necessary to provide updated reports to the Emergency Board and the legislature.
176	Sen. Hannon	References provisions in Section 2 of the amendments. States it appears the language is not delineating between "new construction projects" and "improvements and maintenance." Comments on his experience as an employee for the city of Ashland. Asks Rep. Butler if he is trying to find a person's actual time how much a person is at work and what the person is doing.
194	Rep. Butler	States he does not envision the cost accounting system would develop that kind of micro-management. Explains he envisions the cost accounting system would tell the cost per linear foot for a project.
227	Sen. Hannon	States he believes the analogy Rep. Butler used is bean counting. States that in

		reality the engineering of a bike path might be more expensive in some areas. States "services" are also employee costs.
244	Chair Shannon	States the language is her idea and she went to Rep. Butler for a resource. States legislature has been asking ODOT to go to a cost accounting system for over 15 years. Last summer (1998), ODOT said they could get there by February (1999); and in February, ODOT said by July (1999). States she wanted the statutes to provide for ODOT's conversion to a standard, acceptable cost accounting system.
257	Sen. Hannon	States he apologizes if he offended Chair Shannon. Expresses his difficulty in understanding what Chair Shannon wants in a cost accounting system.
264	Chair Shannon	States John Lattimer testified the Audits Division supports the cost accounting system. Discusses how long it takes to get an answer from ODOT because of the Transportation Environment Accounting and Management System (TEAMS) or from contractors who use a cost accounting system.
282	Rep. Butler	States the bottom line is to ensure projects in the Statewide Transportation Improvement Program (STIP) are prioritized and the resources are available.
297	Sen. Hannon	Comments on a truck safety ramp project in his district. States ODOT recognized the project could not be done. States he believes ODOT gets tagged for things that happen when the design force in the ODOT building is the real culprit.
319	Rep. Butler	States his agreement with Sen. Hannon. Comments on an area along the Snake River called "The Slides" and putting the project on the STIP.
344	Sen. George	States it is a problem to determine the definition of a project when reviewing the STIP and the budget. Believes HB 2478 and SB 614 should contain definitions. Hidden within the budgets are a lot of items that should have been put into specific categories that referred back to projects. Suggests deciding right now if these two bills will contain uniform definitions.
362	Sen. George	Expresses his concern about the lack of project definitions in the STIP. Suggests ensuring that HB 2478 and SB 614 contain definitions that are consistent within the STIP and the reporting methods. Expresses concern that there are items in ODOT's budget that should have been put into indirect support service categories. Expresses concern about the inability to determine specific project costs.
<b>TAPE 43, A</b>		
002	Chair Shannon	Requests Sen. George provide an example of "new highway construction." Asks if adding a lane that is not there is new highway construction.
003	Sen. George	States that adding a lane could be resurfacing.
006	Chair Shannon	States "resurfacing" is resurfacing an existing lane. Requests Mike Marsh to come to the witness table.
009	Sen. George	States Marsh had to wade through indirect support services that were in the construction budget.
011	Chair Shannon	Invites Tom Lulay to come to the witness table.

013	Mike Marsh	Clarifies there are definitions of modernization, preservation, etc. within ODOT's budget, which could be put in the bill. States the definitions in the amendment clarify what ODOT is trying to get at when the legislature asks about new highway construction or resurfacing. States ODOT could put their interpretation of the words in the amendment on legislative record. States ODOT's interpretation of resurfacing when it is a new lane or a current lane.
030	Chair Shannon	Asks if there is a time when ODOT would call resurfacing a road without adding anything to it "new construction." States \$54 million goes to new construction.
033	Tom Lulay	ODOT. States new construction is termed "modernization" when adding capacity. States "preservation" is applying a new asphalt surface, not adding another lane. States ODOT has endeavored to get the program budget definitions consistent with those in the current draft STIP. States he would be glad to meet with Sen. George to discuss definitions.
043	Sen. George	States progress is being made. Clarifies a bicycle path could be in modernization or maintenance.
051	Chair Shannon	States a bicycle path must be in the bicycle path category if it is maintained or built.
053	Sen. George	States the amendments are good. Expresses further concern about definitions. Suggests each project should have details or allocations specific to each item in the project.
070	Chair Shannon	Asks where the \$759,000 from construction that was spent on the west-side light rail project would be listed in the accounting system.
073	Marsh	Explains the west-side light rail expenditures were part of a project that contained highway and transit impacts. States, within ODOT's program budget and the bill, the elements of the project would be shown in communication, signage, and various other pieces of the project. States a bikeway would be accounted for within the total cost of the project. Explains bikeways are not usually built separately, but are shoulders turned into bikeways.
089	Sen. George	Asks how the Beaverton-Hillsdale Highway (ORE 217) project near Burger King and Fred Meyer was described.
090	Marsh	States he is not sure.
091	Sen. George	Describes various elements of the project, and states the project also affected businesses in the area. States Lulay took him to see the project. Asks, again, how the project was defined.
105	Lulay	States he does not know if it was an ODOT or city project. States he recalls a mixture of local and ODOT projects. Discusses a modernization project on I-5 that includes bridges and adding pavement.
120	Chair Shannon	Asks if the work on I-5 is federal dollars. Asks if the amount counts against the \$54 million for modernization.
124	Lulay	States it is federal dollars and does not count against the modernization dollars.

126	Chair Shannon	Asks Marsh if ODOT can implement the cost accounting system earlier than 2001.
129	Marsh	Explains the implementation plan, which was discussed during the interim. States the system could be implemented prior to 2001. States a quicker implementation would cost more. The department would go with a quicker implementation if directed so by the legislature. Summarizes impacts of SB 614 on ODOT.
158	Chair Shannon	Requests Marsh think about the timeline.
159	Sen. George	References ODOT's support services costs. States the amounts appear in every account. Asks if those amounts ever appear as total indirect services.
169	Marsh	Explains the amount appears in the 1999-2001 program budget, but not in the older budgets.
178	Sen. George	References \$207 million for light rail in the STIP and \$26 million for light rail in the budget. Requests clarification of the difference.
181	Marsh	Requests Sen. George repeat the amounts.
182	Sen. George	States \$26 million is under transit in the budget and \$207 million in the STIP for the biennium.
188	Marsh	States the budget for the biennium has \$26 million and the STIP is a four-year plan.
191	Sen. George	States the STIP for four years is \$414 million.
192	Marsh	States the ODOT budget is not paying for those transit costs.
195	Sen. George	States there are many transit-related projects in the STIP.
197	Marsh	States ODOT, alone, does not pay for those projects. A special district, a city, or others may pay for the project.
200	Sen. George	States all the federal dollars are in the budget.
204	Chair Shannon	Suggests reviewing this matter at another time. States the committee needs to work the bill.
207	Sen. George	Expresses concern about uniform definitions.
214	Marsh	States the definitions in HB 2478 are the same as the definitions in ODOT's program budget. States SB 617 will provide another level of detail.
225	Sen. George	Asks if Mel Zucker can come to the witness table.
228	Lulay	Explains the STIP contains dollars for the Tri-Met area from FTA for transit projects.
236	Sen. George	Requests a definition of the ORE 217 project.

236	Chair Shannon	References the last page of SB 614. Asks Rep. Butler for his thoughts on the timeline.
239	Rep. Butler	Provides his views of the 18-month implementation timeline. States his approval of the timeline.
260	Chair Shannon	Clarifies Rep. Butler approves.
261	Rep. Butler	Restates his approval. States SB 614 in conjunction with HB 2478 will provide the framework for developing the cost accounting system.
276	Chair Shannon	Clarifies the legislature will want brief updates, not detailed reports.
280	Rep. Butler	States his agreement.
287	Vice Chair Yih	States she is glad Sen. George asked for definitions. States she wants the definitions to include "administrative costs," and ODOT and the Secretary of State should agree upon the definition.
309	Sen. George	States administrative costs need to be defined. Indicates Oregon is the second highest in the nation for administrative costs.
317	Vice Chair Yih	Asks if Rep. Butler believes administrative costs can be defined and agreed upon.
322	Rep. Butler	States he thinks the Department of Administrative Services (DAS) would be able to assist with the definition of administrative costs.
356	Chair Shannon	Clarifies Vice Chair Yih wants administrative costs defined.
357	Vice Chair Yih	States she wants the definition.
359	Marsh	Explains ODOT is working with the Secretary of State Audits Division on the definition of administration. States an agreement will be ready within a couple of weeks.
363	Chair Shannon	Asks if the report will be ready for ODOT's budget report to the Ways and Means Committee.
366	Marsh	States the definitions and application of the definitions within the program budget will be ready.
369	Sen. George	States the need to clearly define "project development" and "consulting."
384	Chair Shannon	States ODOT is not using team development consultants any more.
387	Mel Zucker	Comments on his testimony during the 1997 Session about STIP projects that were labeled "preservation." States his agreement with Sen. Hannon's comments about allocating costs. States he likes the accounts in SB 614. Discusses how the definitions in SB 614 are different than the definitions in the STIP.
429	Chair Shannon	States the STIP cannot be rewritten.

430	Zucker	States the legislature can define what should be in the STIP and how the projects are totaled.
<b>TAPE 42, B</b>		
018	Chair Shannon	Appoints a work group to work with Legislative Counsel to write the definitions. Appoints Rep. Butler, Sen. George, Marsh, and Zucker to the work group. States she wants to move the bill next week.
029	Vice Chair Yih	Asks if Rep. Butler thinks someone from DAS should participate in the work group.
030	Rep. Butler	States DAS provides information on overhead figures. States the audits provide good history information. States he thinks a representative of DAS would be good.
037	Chair Shannon	Clarifies Sen. George will serve on the work group. Closes the work session on SB 614. Reopens the public hearing on SB 574.
<b><u>SB 574 PUBLIC HEARING</u></b>		
050	Jeff Gent	Eugene, Oregon. Requests clarification of the 29 inches provision in the SB 574-1 amendments.
056	Scott	Reviews provisions of the SB 574-1 amendments.
060	Gent	States his opposition to SB 574. States those people who build and drive small cars need to take care of the other half of the equation. States he drives a small car and also a motorcycle. Does not believe he would receive any sympathy if he was involved in a motorcycle accident. Believes 29 inches is too low. Believes the problems is an engineering problem, not political. States rules and regulations impact every public road, not just the highway.
099	Chair Shannon	Expresses her enjoyment of the witness's testimony and attitude.
101	Vice Chair Yih	Asks how high the bumper is on Gent's vehicle.
102	Gent	States his vehicle is currently ripped down and not operational.
104	Chair Shannon	Asks Gent how high he intends to put the bumper.
105	Gent	States he is researching the matter. States he is not a fan of the monster truck scene. Explains his vehicle is older and where the bumper was placed.
116	Vice Chair Yih	Asks how high he plans to have the bumper.
118	Gent	Restates he has not decided.
119	Vice Chair Yih	Asks if the bumper will be higher than 29 inches.
120	Gent	States he does not know.
128	Mark Parent	Founding member of the Cascade Off Roaders, Lebanon, Oregon, and Region 6

		Director, Pacific Northwest Four Wheel Drive Association. Expresses his associations' opposition to SB 574. States the bill puts bumper heights solely in the hands of manufacturers. Believes the bill will be costly for those people who have modified vehicles.
144	Vice Chair Yih	Asks Parent how he resolves the safety concern of a small vehicle upon collision with vehicle that has a high bumper.
147	Parent	States it is a free nation and people can choose to drive whatever vehicle they want.
155	Harold Kalleck	Region 3 Director, Pacific Northwest Four Wheel Drive Association, Aloha, Oregon. States he spoke with Sen. John Lim on his original bill and was led to believe Sen. Lim was going along with HB 2360, which provides for a 29-inch bumper. Explains ground clearance is a problem when four-wheeling. Comments on bumper heights and tire size of new Ford vehicles. Believes the 29-inch bumper height will be difficult to enforce. States his agreement with Parent's testimony. Suggests a work group be put together to look at bumper height issues and that he would be willing to participate.
201	Vice Chair Yih	Asks Parent how high the bumper is on his vehicle.
202	Parent	States his 1979 Chevy Blazer has a four-inch lift kit, 36-inch tall tires, and the bumper is approximately 33 inches off the ground.
28	Vice Chair Yih	Asks Parent how much it would cost him to bring the bumper down to 29 inches if the law passed.
212	Parent	States it would cost him the fun and enjoyment of his sport and about \$1000 to change the vehicle. States his tires cost about \$1200 and would need to be replaced.
226	Sen. George	States there are problems with the bill. States there are bumpers as low as 16 inches and as high as 28 inches in the legislators' parking lot. States that over 5000 people died on highways because their cars were small. States there should be a law prohibiting small cars. Comments on larger vehicles being manufactured.
258	Chair Shannon	Comments on Iowa's law prohibiting vehicles being altered more than five inches that was repealed. States she does not have enough votes to pass the bill out of committee. Asks if there is anyone else who wants to testify.
271	Eric Neilsen	Lebanon, Oregon. Questions the fatalities of people driving small cars.
280	Sen. George	Clarifies the fatalities were not because the small vehicle ran under high bumpers.
286	Neilsen	States he believes the tailgating law needs to be enforced.
295	Vice Chair Yih	Asks how the tailgating law relates to bumper height.
297	Neilson	States the law relates to a safe braking distance.
305	Vice Chair Yih	Clarifies Neilsen is saying he does not want someone to rear-end his vehicle.



309	Sen. George	Comments on adapted agricultural vehicles, some of which are similar to the types of vehicles the witnesses drive. Believes the bill could have major implications for agricultural community.
313	Monte King	Executive Director, Oregon Independent Auto Dealers Association. Asks the committee to consider if the bill would create a liability for auto dealersówhat would happen if a dealer sells a vehicle with a 29 °-inch high bumper. Requests to be informed if the bill has another hearing.
349	Chair Shannon	Closes public hearing on SB 574. Opens a public hearing on SB 909
<b><u>SB 909 PUBLIC HEARING</u></b>		
362	Scott	Reviews provisions of SB 909, and the SB 909-1 amendments <b>[EXHIBIT C]</b> , which were requested by Sen. Dukes.
385	Chair Shannon	States it is her intent to put Sen. Dukesí amendments in the bill.
391	Tom Lulay	Executive Deputy Director/Chief Engineer, ODOT. Introduces Troy Costales. Submits and presents testimony on SB 909 <b>[EXHIBIT D]</b> .
411	Chair Shannon	Reviews provisions of the SB 909-1 amendments.
416	Lulay	States he would like to reserve comments on the amendments until he has had a chance to review them. Discusses the two programs targeted by the Governorís 1999-01 Recommended Budget for ODOT: the Highway Safety program and the Transportation Safety Division.
<b>TAPE 43, B</b>		
026	Chair Shannon	States enforcement money is received from the federal government, but she thought it was against the Constitution for ODOT to have the State Police to write tickets out of the road fund money.
030	Lulay	States he believes Chair Shannon is correct and will verify that with Costales.
031	Chair Shannon	Asks how enforcement is done if tickets cannot be written.
032	Troy Costales	Manager, Transportation Safety Division, ODOT. States the Transportation Safety Division has funds that come from a different administration of the United States Department of Transportation (DOT) National Highway Traffic Safety Administration (NHTSA). States the funds specifically address enforcement and education issues.
036	Chair Shannon	States the \$17 million is not from the road fund.
037	Lulay	States the \$17 million are highly federalized funds.
039	Costales	States the \$17 million is approximately just short of \$14 million federal funds and just over \$3 million in other funds.
042	Lulay	States the Safety Program is contained in ODOTís recommended budget as a program for modernization and preservation. States safety is woven into almost

		every project ODOT does. References the examples on the second page of his testimony
057	Chair Shannon	States she wants more money in modernization, and to call it safety, then in preservation. References the map of high crash sites. Wants to see the high crash sites systematically eliminated.
064	Lulay	Explains he brought the high crash site map and submits it for the record <b>[EXHIBIT E]</b> . Referring to the map, discusses the "pave mainly" program previously discussed by Director Crunican.
101	Chair Shannon	Comments on the crash sites in the area around Stayton. Asks if the project is on the STIP.
107	Lulay	States the project would be on a list that ODOT tries to prioritize. States construction is just one answer. States ODOT does a cost-benefit to determine the most benefit for investment dollars. States it is not easy to know the solution to a problem. Design teams are trying to determine the best use of safety dollars.
120	Costales	Discusses the use of the \$750,000 held out of the Transportation Safety Division budget to match with construction funds.
130	Chair Shannon	Asks Costales how he became a safety engineer.
134	Costales	States he would be happy to respond outside of the meeting.
136	Chair Shannon	Discusses action on SB 909 with committee members. Asks Lulay if ODOT objects to bill.
145	Lulay	States he has not had time to review the amendments.
146	Chair Shannon	Clarifies the amendment. States she believes the committee is ready to move the bill and does not believe the amendment is a problem
152	Lulay	Asks if ODOT will have another opportunity to comment on the bill.
153	Chair Shannon	States ODOT can testify on the House side.
156	Lulay	States it is difficult to say whether ODOT will have difficulty with the addition of the word "safety." States they can deal with the issue on the House side.
160	Chair Shannon	States both caucuses agree on the issues. Requests committee staff get Vice Chair Yih, who left for another committee, so she can vote.
166	Lulay	Asks the committee if they have questions.
168	Chair Shannon	Expresses her thanks to the department for their participation in writing the bill.
170	Lulay	Expresses concern that by creating the safety program people will believe that is the only place ODOT does safety work. Hopes the members understand that maintenance includes safety elements. States safety elements are in every project ODOT does.

182	Chair Shannon	States her understanding. Asks if the \$91 million increased ODOT's funds request.
194	Lulay	States the \$91 million is the Governor's recommended budget. Clarifies nothing has been changed.
189	Chair Shannon	Expresses how her constituents view safety.
195	Sen. Hannon	References an I-5 project near Myrtle Creek and asks if the project is maintenance or new construction.
199	Lulay	States he will get the answer.
200	Sen. Hannon	Wants to know if the project is preventive or for safety.
202	Lulay	States rock fall work comes out of the department's hazard elimination program. States he cannot find out if maintenance crews are doing the work or if it is a STIP project.
206	Sen. Hannon	States the bridge abutments are also being changed. States the project might fit into three categories: safety, maintenance, and new construction.
213	Lulay	Believes the new budget categories will lead to interesting discussions. States the green and red map concept allowed by the federal government is not applicable to interstate projects. Comments on federal requirements for interstate projects. States the project by Myrtle Creek is an interstate preservation project.
226	Sen. Hannon	Asks if the project comes out of Intermodal Surface Transportation Efficiency Act (ISTEA) funds.
227	Lulay	States the funds used on the interstate are TEA 21 (Transportation Equity Act for the 21 <sup>st</sup> Century) funds.
230	Sen. Hannon	Asks if TEA 21 funds are a one-time occurrence.
231	Lulay	States a certain amount of money is spent on the interstate every year.
237	Sen. Hannon	States the map indicates red from Oakland to Canyonville. Asks why Myrtle Creek is orange.
243	Lulay	States the redder color is a higher accident area.
247	Chair Shannon	Closes public hearing on SB 909. Opens work session on SB 909.
<b><u>SB 909 WORK SESSION</u></b>		
252	Chair Shannon	<b>MOTION: Moves to ADOPT SB 909-1 amendments dated 3/17/99.</b>
		<b>VOTE: 4-0</b>
		<b>EXCUSED: 3 - Dukes, Ferrioli, George</b>

	<b>Chair Shannon</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
254	Chair Shannon	Suggests a motion to move SB 909 to the floor with a do pass as amended recommendation
257	Vice Chair Yih	Clarifies the bill has a \$74 million impact and asks if it goes to Ways and Means.
261	Chair Shannon	Suggests a motion to move SB 909 to the floor with a do pass as amended recommendation and referral to Ways and Means.
262	Vice Chair Yih	Asks if disclosure of gas taxes has been removed from the bill.
267	Chair Shannon	Clarifies that SB 909 is the safety bill.
273	Sen. Castillo	Asks the administrator to walk through amendments to enable ODOT a chance to comment.
278	Lulay	States ODOT will have opportunity to comment since the bill is going to Ways and Means.
282	Chair Shannon	Explains to Sen. Castillo that she worked closely with ODOT when rewriting the bill.
285	Scott	States the SB 909-1 amendments were the result of the bill previously introduced by Sen. Dukes as an LC draft. States he worked with Sen. Dukes to revise the amendment because the original draft was not what she intended. Further reviews provisions of the amendments. Reviews Sen. Dukes' previous comments about ODOT's policy statement.
317	Vice Chair Yih	Asks to what section "safety" is added. Chair Shannon clarifies the section with Vice Chair Yih.
327	Lulay	States the record will show ODOT will be able to comment if they need to at further hearing of the bill before another committee.
330	Chair Shannon	States that is correct.
333	<b>Vice Chair Yih</b>	<b>MOTION: Moves SB 909 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the committee on Ways and Means.</b>
		<b>VOTE: 4-0</b>  <b>AYE: In a roll call vote, all members present vote Aye.</b>  <b>EXCUSED: 3 - Dukes, Ferrioli, George</b>
340	<b>Chair Shannon</b>	<b>The motion CARRIES.</b>
342	Chair Shannon	Declares the meeting adjourned at 4:56 p.m.

Submitted By, Reviewed By,

Valerie Luhr, Don Scott,

Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 471-1 amendments, staff, 1 p.**

**B ñ SB 614-6 amendments, staff, 2 pp.**

**C ñ SB 909-1 amendments, staff, 3 pp.**

**D ñ SB 909, written testimony, Tom Lulay, 3 pp.**

**E ñ SB 909, written information, Tom Lulay, 1 p.**