

## SENATE COMMITTEE ON TRANSPORTATION

April 5, 1999 Hearing Room C

3:05 p.m. Tapes 51 - 52

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

Sen. Mae Yih, Vice-Chair

Sen. Susan Castillo

Sen. Joan Dukes

Sen. Ted Ferrioli

Sen. Gary George

Sen. Lenn Hannon

**STAFF PRESENT:** Jim Stembridge, Administrator

Valerie Luhr, Administrative Support

**MEASURE/ISSUES HEARD:** SB 764 Public Hearing

SB 658 Public Hearing and Work Session

SB 773 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 51, A</b>		
003	Chair Shannon	Calls the meeting to order at 3:13 p.m. Opens a public hearing on SB 764.
<b><u>SB 764 PUBLIC HEARING</u></b>		
005	Chair Shannon	States there will be a meeting the next day to discuss amendments to SB 764, so the committee is not ready to hold a hearing on the bill. Closes the public hearing on SB 764. Asks committee staff if the committee is ready to move SB 773.

018	Jim Stembridge	Committee Administrator. States the committee has received the hand-engrossed versions of the SB 773-6 <b>[EXHIBIT A]</b> and SB 773-7 amendments <b>[EXHIBIT B]</b> , and does not know what other amendments the members are interested in. States the bill could be ready to move.
022	Chair Shannon	Opens a public hearing on SB 658.
<b><u>Sb 658 public hearing</u></b>		
027	Stembridge	Reviews provisions of SB 658.
029	Bob Russell	Director of Government Affairs, Oregon Trucking Associations (OTA). States the OTA and other trucking associations requested SB 658 during the interim, and they support SB 658. States Oregon began using transponders to allow trucks to bypass weigh stations in the early 1980s. It was a demonstration project called the "Crescent Project" in which Oregon, Washington, California, Arizona, and New Mexico participated. It later became known as the "Help Demonstration Project." States demonstration projects were federally funded and discusses benefits of the projects. States former Sen. Mark Hatfield helped Oregon obtain federal funding for its transponder project, which became known as the Green Light Project. Discusses what will happen when phase three of the Green Light Project is completed.
077	Russell	States the trucking industry has generally supported weigh station bypass programs. Comments on Grace Crunican's 1997 directive to ODOT to look at the feasibility of making transponders mandatory for the trucking industry. Indicates transponder programs throughout the country are voluntary, and no state has considered making transponders mandatory. Reads the April 1998 memorandum from Crunican stating the department is not considering a mandatory transponder program. Comments on OTA's concern about the meaning of the language in the memo. Discusses transponder costs. Urges the committee's support of SB 658 to ensure the Green Light Project will remain voluntary and be consistent with programs throughout the country.
121	Sen. Hannon	Asks how many of the 48 contiguous states currently have a voluntary program.
124	Russell	States there are quite a few states that are participating to one degree or another and every single state is voluntary.
130	Sen. Hannon	Asks if any of the states have gone to a mandatory system.
131	Russell	States none of the states have gone to a mandatory system or considered going to a mandatory system.
134	Sen. Hannon	Explains why he is a co-sponsor of the bill. States an audit was performed on the logbook of one of his constituents. Indicates the auditors were trying to issue a speeding ticket based on how many miles and hours there are from Los Angeles to Phoenix, Arizona, and it had nothing to do with Oregon. Asks if transponders act in the same capacity.
142	Russell	States the information in Oregon would be available to auditors. States he does not know ODOT's current policy on trying to cite someone for speeding. States information collected is maintained by ODOT. Explains information collected in other states is proprietary information.

150	Sen. George	Asks how many are cooperating as voluntary participants.
152	Russell	States the number is fluctuating. States he was informed last week that there were less than 3,000 trucks equipped with transponders.
156	Sen. George	Clarifies 3,000 is out 267,000 trucks.
158	Sen. Dukes	Asks if the OTA opposes SB 658.
159	Russell	States the OTA supports the bill.
162	Sen. Dukes	Asks if the trucking industry feels threatened by a mandatory system.
163	Russell	States the industry feels threatened.
165	Sen. Dukes	States she thinks the use of transponders is the answer to a weight-mile tax, and the use of transponders would allow tracking of hazardous materials. States she believes use of transponders has a future, and expresses concerns the trucking industry has taken a different direction. Does not believe the legislature would allow a mandatory system without the cooperation of the trucking industry.
182	Russell	States the trucking industry wants voluntary use, including hazardous materials. Comments on technology used to track hazardous materials. The cost would be greater than the trucking industry's entire highway use tax bill in the state of Oregon if a satellite system was mandatory.
207	Sen. Dukes	States the bill was not written just for today, but it is a mandate for the future.
210	Russell	States he also expects changes and expects the programs will remain voluntary.
220	Sen. Dukes	States something needs to be done to get a handle on the 30 percent evasion if Oregon cannot switch to a diesel tax.
224	Russell	States the transponder system does little to help the evasion situation.
227	Sen. Dukes	States Russell is talking about today, but she is looking to the future.
229	Russell	States currently tax reporting services are used to pay taxes. States the trucking industry envisions using satellites to pay taxes in the future. Comments on a 1998 symposium on intelligent transportation systems. States technology must make economic sense.
258	Sen. Dukes	States she thinks that in the future, with better technology and decreased costs, those who are not evading will be happy to get on board. States perhaps cars should be included, because transponders are used when tolling.
264	Russell	States the transponder is voluntary on most tolling systems.
270	Chair Shannon	States it is important to have a port of entry near the border.
273	Sen. Dukes	States a port of entry is not needed with satellite transponders.

295	Gregg Dal Ponte	Deputy Director, Motor Carrier Transportation Division, ODOT. Submits and presents testimony on SB 658 [EXHIBIT A]. Clarifies the bill is not just about transponders; but as written, it is about any and all electronic surveillance devices. The bill is broader than perhaps its intended target by virtue of the testimony received today. Explains how a transponder works and shows a device to the committee.
345	Dal Ponte	States Oregonis program is similar to two other pre-clearance programs, Help, Inc. Systems and Advantage CVO (commercial vehicle operation) (ACVO). Indicates all three programs operate on a voluntary participation basis. States nationwide, about 65,000 transponders are distributed for Help, Inc., about 5,000 for ACVO, and Oregon has approximately 3,500. Comments on the benefits of the Green Light Project Russell mentioned in his testimony: savings for the motor carrier industry and cost avoidance for the state. States the third benefit is that the Green Light Project ties the motor carrier safety fitness rating to its ability to garner a bypass. Comments on Crunicanis request for the feasibility study and report whether a mandatory utilization of transponders might favorably impact (decrease) weight-mile tax evasion. States Crunican issued a letter to the Oregon Trucking Associations in which she advised them ODOTis program was voluntary and would remain voluntary and asked for a vigorous participation by the industry.
405	Dal Ponte	Discusses market penetration. States 3,500 transponders do not satisfy ODOT and there are 265,000 registered trucks. Indicates the Woodburn port of entry design specifies a daily volume of about 2,300 trucks, and today the facility has over 5,000 trucks per day.
<b>TAPE 52, A</b>		
005	Dal Ponte	States the issue that precludes ODOT from more rapidly deploying transponders does not have much to do with mandatory versus voluntary. States the private sector will discuss marketing obstacles. States ODOT understands and appreciates it is an individual business decision that a motor carrier must make whether to participate. States ODOT is committed to a voluntary program. Reiterates Russellis comments about a solution looking for a problem. States he does not believe the legislation is not necessary.
027	Chair Shannon	Asks if ODOT could mandate transponders by administrative rule if the bill is not passed.
030	Dal Ponte	States the statutes do not preclude ODOT from opting to make them mandatory. States ODOT would not undertake to do so without a dialogue with the legislature.
034	Chair Shannon	States ODOT is the government and private industry does not feel as protected. Comments on rapidly evolving technology and that no legislature will be assembled to protect the public.
045	Dal Ponte	Assures Chair Shannon that she can rely on this testimony and his commitment that ODOTis program is voluntary and will remain voluntary.
048	Chair Shannon	Asks Dal Ponte if he is the one that makes the decision.
049	Dal Ponte	States that on this issue he is speaking for the ODOT director.
050	Chair Shannon	Asks if the director can fire Dal Ponte.

052	Dal Ponte	Indicates he is an executive service employee.
055	Sen. Hannon	References the last paragraph of Dal Ponte's testimony. Asks what the difficulty is in the prohibition, at this point, if ODOT has no intention of requiring transponder use. Comments on effects of term limits. States there is nothing to preclude ODOT from repealing a ban on new technology in the future.
070	Dal Ponte	States ODOT is not opposed to passage of SB 658. States he is conveying the threat does not exist for the stated purpose of protecting the industry from the threat of a mandatory imposition of transponders.
076	Sen. Hannon	Asks what would preclude ODOT from mandating transponders four years from now if it there was a new director.
08	Dal Ponte	States he cannot quarrel with Sen. Hannon's remarks.
086	Sen. Hannon	States the trucking industry wants an assurance the hammer will not be dropped on them until the matter has been thoroughly discussed. It is a guaranty neither the legislature nor ODOT can currently give.
089	Dal Ponte	States the industry could obtain that guaranty in a more directed manner so as not to preclude other legitimate uses.
096	Sen. Hannon	Comments on circumstances when he testified on behalf of his constituent whose logbook was being audited. States he is not ready for the type of government the transponders would bring.
109	Sen. Castillo	States she finds it interesting the transponder program is being described as scary and ominous. Comments on her attendance at regional transportation conferences in Seattle. Indicates transportation leaders are looking to Oregon as a leader in technology. States she understands there might be fears about big-brother-ism with use of transponders. Believes more and more truckers will begin using transponders to keep up with competition. States she does not see transponder use as a negative use of technology.
133	Chair Shannon	Asks Sen. Castillo if she believes the program is not ready to be mandated.
134	Sen. Castillo	Expresses concern that if the program cannot be mandated and the competition causes more and more truckers to use the system, then ODOT would need to shuffle between programs and would not be able to mandate.
141	Chair Shannon	States the bill would allow for ODOT to come back to the legislature to present their case for a mandatory program.
144	Sen. Castillo	States many current legislators will not be here whether or not the program is mandated.
149	Chair Shannon	States ODOT would still need to report to the legislature. The bill provides for a protection of a discussion before mandating.
156	Sen. Castillo	Expresses concern that by passing a mandate the legislature is sending a message that they do not support ODOT's exploring the system. States she would like to see the program happen on a voluntary basis, and if there are problems ODOT can meet with the legislature. Does not want the legislature to micromanage ODOT.

168	Sen. George	Asks about the cost per year to maintain the 24 electronic stations.
173	Dal Ponte	States ODOT has not yet spent \$25 million. States the stations are under warranty for their first four years, and ODOT is negotiating for an extended warranty. The cost is \$20,000 per site, per year. States 10 sites are operational and there will be 20 sites upon completion.
182	Sen. George	Asks if ODOT intends to complete the sites with only 3,000 participants.
184	Dal Ponte	States an additional 15 sites are under contract for completion in 1999 and early 2000. States the remaining sites are included in a package for competitive bidding. Comments on ODOT's costs and system usership and interest. Comments on Motor Carrier's partnership with industry and collaboration with the Motor Carrier Advisory Committee.
219	Chair Shannon	Questions the costs involved.
221	Dal Ponte	Explains the \$20,000 is the cost of annual maintenance, and it will cost between \$400,000 and \$500,000 annually to maintain all sites.
228	Sen. George	States the system will record a tremendous amount of data about truck operation. Asks if ODOT keeps track of the check-through time at a station.
235	Dal Ponte	States a weight station weighing time varies in proportion to freeway traffic at any given time.
241	Sen. George	States there is nothing in the bill that would prohibit ODOT from doing incentive programs.
244	Dal Ponte	States Sen. George is correct.
249	Chair Shannon	Asks Paul Henry if he is for or against the bill.
250	Paul Henry	States he does not think the bill is required (from the audience).
253	Royce Young	Total Transfer and Storage Company, Woodburn, Oregon. States his company is one of the first companies in Oregon to use transponders and they are happy with the results. States he is in favor of transponders but opposes mandatory transponders.
280	Sen. Dukes	Asks Young if he foresees the use of transponders for specific things such as transportation of hazardous materials or to enforce weight limits.
289	Young	States the current technology for transponders is limited as to where it is located and how it is used, and there is other technology that is more effective for tracking hazardous materials.
307	Sen. Dukes	States the other devices are also referred to as transponders. Expresses fear that thought processes are being limited to what exists today. Every truck would not need a device or be in a system if ODOT was to mandate in the future.
324	Young	Believes Sen. Dukes has made a good point. States he would not have a problem with trying to track hazardous materials.

337	Sen. Dukes	Asks Young if it should be required in statute that ODOT cannot mandate transponders.
339	Young	States he feels that mandatory transponders are the direction the industry in Oregon would like to take.
343	Sen. Dukes	Asks Young if he feels a threat.
344	Young	States he is not sure.
345	Chair Shannon	States Young supports the bill. States her intent to work SB 658 and another bill by 4:30 p.m.
354	Sen. George	Comments on costs to install the system and the amount of return to the state. Asks Young if he thinks the expenditures are reasonable, especially with roads that need so much maintenance.
362	Young	States there will be more participation as the continuation of the stations increases. As the program is expanded, more and more people will benefit.
394	Paul Henry	Northwest Regional Intelligent Transportation Systems (ITS) Director, TransCore, Inc., Salem, Oregon. Submits and presents testimony on SB 658 <b>[EXHIBIT D]</b> . Comments on the previous witnesses' testimony.
<b>TAPE 51, B</b>		
001	Henry	Comments on available technology, such as "gate pass" and "toll tags." Discusses who his company is and what they do.
060	Henry	Discusses his company's partnership with ODOT.
078	Chair Shannon	Asks Henry to whom his company pays a commission.
078	Henry	States to the trucking industry. States TransCore is opposed to mandatory transponders. Comments on provisions in Section 2 of the bill. States his company does not think there is a need for the legislation. States ODOT has consistently indicated to TransCore that transponders are voluntary and will remain voluntary.
091	Chair Shannon	States exception of after last session, when ODOT did a study to see if they should mandate transponders.
093	Henry	States he is aware of ODOT's feasibility study, and ODOT remained consistent in their word while the study was going on. States TransCore's relationship with ODOT is predicated on a voluntary environment; and if that is taken away, TransCore loses money and loses its reputation. Referencing Russell's testimony, states "voluntary" is the watchword in the trucking community regarding the use of the black boxes. Comments on marketing obstacles.
117	Chair Shannon	Requests Henry to summarize his testimony.
118	Henry	States, in TransCore's judgment, the real issue and obstacle to enhance rapid deployment of the black boxes is "interoperability." States interoperability is why all the trucks operating in Oregon are not getting a "green light."

136	Chair Shannon	Asks an individual in the audience if he is for or against the bill, and the individual states he is for the bill but fairly neutral. Closes public hearing on SB 658. Opens work session on SB 658.
<b><u>SB 658 WORK SESSION</u></b>		
143	Sen. Hannon	<b>MOTION: Moves SB 658 to the floor with a DO PASS recommendation.</b>
145	Sen. Castillo	States she will vote no and does not support mandatory use of transponders.
		<b>VOTE: 4-1</b> <b>AYE: 4 - Ferrioli, George, Hannon, Shannon</b> <b>NAY: 1 - Castillo</b> <b>EXCUSED: 2 - Dukes, Yih</b>
155	Chair Shannon	<b>The motion CARRIES.</b> <b>SEN. HANNON will lead discussion on the floor.</b>
158	Chair Shannon	Closes work session on SB 658. Opens a work session on SB 773.
<b><u>SB 773 WORK SESSION</u></b>		
161	Chair Shannon	States Art Schlack, Association of Oregon Counties, and David Barenberg, League of Oregon Cities, support SB 773 with the amendments.
166	Sen. Hannon	States one word needs to be inserted in the SB 773-5 amendments <b>[EXHIBIT E]</b> .
174	Meg Reinholt	Policy Analyst, Senate Majority Office. States she will walk through the SB 773-5 and SB 773-6 amendments.
179	Sen. Hannon	States the amendment set up the appeal.
181	Reinholt	States "appeal" might not be the best word.
183	Sen. Hannon	States he wants to insert "adjoining" so it would apply only to the property accesses onto the road.
188	Reinholt	Clarifies line 7 of the SB 773-5 amendment would read, "in which the road is located and any person that owns <u>adjacent</u> property within one. . ."
191	Sen. Hannon	States he wants the change because ODOT used a half-mile radius and people in subdivisions would appeal on the most ludicrous issues.
198	Reinholt	States the SB 773-5 amendments do not relate to the SB 773-6 and SB 773-7 amendments. Reviews provisions of the SB 773-5 amendments. Reviews provisions of the SB 773-6 amendments <b>[EXHIBIT A]</b> , which were requested by the committee at a previous meeting.



243	Chair Shannon	Asks Reinholt if ODOT worked with her on the amendments.
244	Reinholt	States ODOT did work with her. Review provisions of Subsection (b) of SB 773-6 amendments. States ODOT will address provisions in Subsection (b). States the inclusion of safety and highway functionality have been removed from Subsection (B) at the request of Sen. George. States ODOT will address the issue.
294	Reinholt	Reviews provisions of Subsection (4), formerly the SB 773-4 amendments, which allow ODOT and the local government to enter into an intergovernmental agreement. Comments on Sen. Dukesí concerns. States the SB 773-7 amendments delete the intergovernmental agreement.
325	Art Schlack	Association of Oregon Counties (AOC). States AOC supports the bill with the SB 773ñ6 amendments and the SB 773-5 amendments with the proposed change. Requests the committee send the bill with a do pass recommendation with these two amendments.
336	Sen. Castillo	Asks Schlack about the SB 773-7 amendments.
338	Schlack	States the SB 773-7 amendments remove the ability for a local government to enter into an intergovernmental agreement with ODOT.
348	Chair Shannon	Asks if the provision was agreed upon by ODOT.
350	Schlack	States he understands ODOT does not have objections.
358	Chair Shannon	Requests Tim Ramis address provisions of the SB 773-7 amendments.
361	Tim Ramis	Attorney, Ramis, Crew, Corrigan & Bachrach, LLP, Portland, Oregon, on behalf of his city clients and developer clients. States he favors including the option for local government and ODOT to enter into agreements; and if it works, the process will be streamlined.
373	Chair Shannon	Requests Schlack to respond to Ramisís comments.
374	Schlack	Restates his agreement to the intergovernmental agreements.
390	Craig Greenleaf	Deputy Director, Transportation Development Division, (ODOT). States ODOT is agreeable to opening the possibility to intergovernmental agreements. States ODOTís main concern pertains to the question about the standards used. States safety and highway functionality should be considered. States ODOTís second issue revolves around ODOTís investment in the transportation facilities.
<b>TAPE 52, B</b>		
007	Chair Shannon	Asks Reinholt if ODOTís concerns were taken into consideration when drafting the amendments.
009	Reinholt	Explains ODOTís concerns were taken out at the request of Sen. George.
018	Ramis	States the language on safety and highway functionality was offered at the committeeís last hearing in the SB 773-3 amendments. States he testified in opposition because if the language was adopted, the bill should not be passed.

		Explains the net effect would be to codify the problem that exists now. States the goal of the bill is to put safety and functionality consideration at the front end of the process. Comments on the current rulemaking process.
038	Chair Shannon	Asks Greenleaf if ODOT can use the terms "safety" and "functionality" before they ever begin to issue permits.
041	Greenleaf	States ODOT believes they have the latitude to do that. States ODOT wanted to make their intent clear to include consideration of safety and functionality in the permitting decision.
050	Chair Shannon	States she agrees the intent should be made clear up front in the process.
054	Sen. Hannon	<b>MOTION: Moves to ADOPT SB 773-5 amendments dated 4/2/99 and that the measure be FURTHER AMENDED on page 1, line 7, by inserting "adjacent" after "owns", and moves to ADOPT SB 773-6 amendments dated 4/5/99.</b>
		<b>VOTE: 5-0</b> <b>EXCUSED: 2 - Dukes, George</b>
	Chair Shannon	<b>Hearing no objection, declares the motion CARRIED.</b>
060	Sen. Hannon`	<b>MOTION: Moves SB 773 to the floor with a DO PASS AS AMENDED recommendation.</b>
061	Chair Shannon	Asks about the SB 773-7 amendments.
062	Sen. Hannon	Explains the SB 773-7 amendments are not being dealt with.
		<b>VOTE: 5-0</b> <b>AYE: In a roll call vote, all members present vote Aye.</b> <b>EXCUSED: 2 - Dukes, George</b>
070	Sen. Castillo	Requests clarification why the SB 773-3 amendments are not being moved.
072	Reinholt	Clarifies the SB 773-3 amendments were partially included in the SB 773-6 amendments.
075	Chair Shannon	<b>The motion CARRIES.</b> <b>SEN. SHANNON will lead discussion on the floor.</b>
076	Chair Shannon	Closes the work session on SB 773. Declares the meeting adjourned at 4:42 p.m.
		Staff submits for the record, on behalf of Gregg Dal Ponte, information about motor carrier enforcement officers <b>[EXHIBIT G]</b> .

Valerie Luhr, Megan Palau,  
Administrative Support Administrator

**EXHIBIT SUMMARY**

**A ñ SB 773-6 hand-engrossed amendments, staff, 4 pp.**

**B ñ SB 773-7 hand-engrossed amendments, staff, 3 pp.**

**C ñ SB 658, written testimony, Gregg Dal Ponte, 1 p.**

**D ñ SB 658, written testimony, Paul Henry, 2 pp.**

**E ñ SB 773-5 amendments, staff, 1 p.**

**F ñ SB 773, written information, Tim Ramis, 11 pp.**

**G ñ Motor carrier enforcement officers, miscellaneous information, staff 12 pp.**