

HOUSE COMMITTEE ON  
NATURAL RESOURCES  
SUBCOMMITTEE ON ENERGY & ENVIRONMENT

Hearing Room  
Tapes - 74

MEMBERS PRESENT:

Rep. Leslie Lewis, Chair  
Rep. Lisa Naito, Vice-Chair  
Rep. Bill Fisher  
Rep. Dennis Luke  
Rep. Chuck Norris  
Rep. Terry Thompson  
Rep. Judy Uherbelau

STAFF PRESENT:

Mark Bauer, Committee Administrator  
Sandy Ceballos, Committee Assistant

MEASURES HEARD:

HB 2500 Work Session  
HB 3124 Work Session  
HB 2963 Work Session  
HB 3144 Work Session  
HB 3352 Work Session  
HB 3216 Work Session  
HB 3406 Work Session  
HB 3407 Work Session  
HB 3239 Work Session  
HB 2697 Work Session  
HB 3348 Work Session  
HB 3055 Work Session  
HB 3353 Work Session  
HB 2015 Work Session  
HB 2016 Work Session

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , SIDE A

018 CHAIR LEWIS: Calls the meeting to order at 1:45 PM.

HB 2500 WORK SESSION

039 KELLY ROSS, OREGON ASSOCIATION OF REALTORS: Testifies in support of HB 2500. Reviews chart "Comparison of Urban & Rural Elements of HB 2500-2.

077 MOTION: REP. THOMPSON: Moves to adopt HB 2500-2 amendments.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: REP. THOMPSON: Moves to adopt HB 2500 -3 amendments.

VOTE: Hearing no objections, the motion CARRIES.

084 MOTION: REP. TARNO: Moves HB 2500 as amended to the full committee with

a DO PASS recommendation.

VOTE: All members are present and vote AYE.

CHAIR LEWIS: The motion CARRIES.

114 Closes the WORK SESSION ON HB 2500

HB 3124 WORK SESSION

127 BURTON WEAST: Introduces HB 3124-2 amendments.

148 BOB RINDY: Has seen HB 3124-2 amendments but has not had the time to review them.

162 MOTION: REP. NAITO: Moves to adopt HB 3124-2 amendments.

VOTE: Hearing no objection, the motion CARRIES.

173 MOTION: REP. NAITO: Moves HB 3124 as amended to the full committee with a DO PASS recommendation.

VOTE: All members are present and vote AYE.

CHAIR LEWIS: The motion CARRIES.

194 Closes the WORK SESSION on HB 3124.

HB 2697 WORK SESSION

211 Recesses HB 2697.

213 HB 2963 WORK SESSION

224 MARK BAUER, COMMITTEE ADMINISTRATOR: Summarizes HB 2963.

231 CHAIR LEWIS: No testimony in opposition to this bill.

249 REP. LUKE: Believes there was mention of revising Section 4.

258 MOTION: REP. NAITO: Moves to delete Section 4 of HB 2963.

264 REP. LUKE: Objects.

268 REP. NAITO: Withdraws her motion.

272 MOTION: REP. NAITO: Moves HB 2963 to the full committee with a DO PASS  
recommendation.

VOTE: All members are present and vote AYE.

CHAIR LEWIS: The motion CARRIES.

286 Closes the WORK SESSION on HB 2963.

HB 3144 WORK SESSION

310 BRIAN BOE: Comments on the bill and gives an explanation.

336 REP. LUKE: Asks where the batteries would be used.

341 BOE: They use to be used in hearing aids.

352 REP. NORRIS: Has bought six packs of those batteries, and was sure they  
were made off-shore. Last time he went to buy them there are no more  
mercury batteries available.

365 MOTION: REP. NAITO: Moves to adopt HB 3144-2 amendments.

371 REP. NAITO: Comments that the LC-2 amendments are housekeeping items for  
DEQ.

381 VOTE: Hearing no objections, the motion CARRIES.

384 MOTION: REP. NAITO: Moves HB 3144 as amended to the full committee  
with a DO PASS recommendation.

VOTE: In a roll call vote REP. Luke, Naito, Norris, Thompson, Uherbelau,  
Tarno and Lewis vote AYE. REP. Fisher is excused.

CHAIR LEWIS: The motion CARRIES.

Closes the WORK SESSION on HB 3144.

HB 3352 WORK SESSION

410 JIM WHITTY: Goes over some of the issues and how they were resolved.

TAPE 71, SIDE A

079 REP. LUKE: Do these need to be DEQ employees.

081 MARY WAHL: We could look at contract services.

087 REP. LUKE: Policy issues are decided by the legislature not the state  
agency.

095 REP. UHERBELAU: Are there some areas you're continuing to discuss.

100 WHITTY: No.

102 REP. TARNO: Are all agreements between agencies included in the LC-2  
amendments?

103 WHITTY: Yes.

112 WAHL: Puts into law, practices that DEQ is doing right now.

119 MOTION: REP. NAITO: Moves the HB 3352-2 amendments.

CHAIR LEWIS: Hearing no objections, the motion CARRIES.

130 CHAIR LEWIS: Moves HB 3352 as amended to the full committee with a DO  
PASS recommendation with a subsequent referral to the Committee on WAYS &  
MEANS.

VOTE: In a roll call vote REP. Luke, Naito, Norris, Thompson, Uherbelau, Lewis, Tarno vote AYE. REP. Fisher is excused.

CHAIR LEWIS: The motion CARRIES.

150 Closes the WORK SESSION on HB 3352.

HB 3216 WORK SESSION

159 ROGER MARTIN, REPRESENTING THE DRY CLEANING ASSOCIATION OF OREGON:  
Discusses possible amendment to HB 3216.

184 REP. NAITO: Are the proposed amendments agreeable to all parties involved.

206 WAHL: Too early in the process to say we're there. The process is going very well.

216 CHAIR LEWIS: This bill would have to be in pretty good shape by Wednesday the 26th to be heard by the full committee.

224 REP. UHERBELAU: Comments on the dry cleaners in the southern part of the state and taxation issues.

234 REP. NAITO: Thinks the bill has merit but we are under a time crunch. Would like to move the bill to the full committee without recommendation.

REP. NAITO: Moves HB 3216 to the full committee with NO

RECOMMENDATION.

240 REP. TARNO: Supports the motion, has a concern with Section 6 and delegating responsibility to the State Fire Marshal's office.

VOTE: In a roll call vote REP. Luke, Naito, Norris, Thompson, Uherbelau, Lewis, Tarno vote AYE. REP. Fisher is excused.

CHAIR: The motion CARRIES.

HB 3352 RECONSIDERATION

275 REP. LUKE: Requests that they reconsider HB 3352.

292 -Insurance industry expressed concerns about Section 6 of HB 3352-1 amendments. Asked that they be removed.

308 JACK MONROE, AMERICAN INSURANCE ASSOCIATION: Requests that Section 6 of the LC-1 amendments be removed.

343 JIM WHITTY: States some of their clients have had complaints with the insurance aspects of the bill.

357 REP. TARNO: Moves Section 6 of the LC-1 amendments of HB 3352 be deleted.

363 CHAIR LEWIS: We will stand at ease for a few minutes.

364 CHAIR LEWIS: Committee is called back into session.

370 CHAIR LEWIS: Could not reopen this issue without the 24 hour notice  
Closes RECONSIDERATION OF HB 3352.

HB 3348 WORK SESSION

394 Recesses HB 3348.

HB 3406 WORK SESSION

417 CHAIR LEWIS: States they are working off the HB 3406-2 amendments.

426 LINCOLN CANNON, OREGON FOREST INDUSTRIES COUNCIL: Discusses conceptual amendments to HB 3406

TAPE 70, SIDE B

039 CHAIR LEWIS: Explains her understanding of the issue.

044 RICHARD BENNER, OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT:  
The proposed amendments answer their concerns in the bill.

072 REP. NAITO: Feels it needs to be stated in the deed.

077 BENNER: Thinks there needs to be a provision in the bill for conveyance or deed restriction.

107 CHAIR LEWIS: Would like to move the amendments from Mr. Lincoln conceptually today.

118 REP. UHERBELAU: Makes recommendation to the language in line 10.

131 REP. LUKE: Hopes they have a better solution than a deed restriction.

142 REP. TARNO: Can you address Rep. Naito's concerns through the rules

process.

153 BENNER: It's a limitation.

175 CANNON: The intent is where the building exists, to parcel off five acres containing the house, and sell the rest.

207 REP. NORRIS: Thinks the issue of deed restriction is not good law; deed restrictions are the last way to create and enforce law.

217 REP. NAITO: If the county changes the law they can build.

224 REP. LUKE: Suggests the wording "There's the possibility you can not build a house on this piece of property."

228 REP. NORRIS: A deed is a means of conveyance.

252 MOTION: REP. NAITO: Moves to adopt HB 3406-2 amendments.

263 VOTE: Hearing no objections, the motion CARRIES.

275 MOTION: REP. NAITO: Moves the conceptual amendments by Lincoln Cannon.

Withdraws the motion

296 MOTION: REP. NAITO: Moves the OFIC proposed conceptual amendments to  
HB 3406.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: REP. NAITO: Moves HB 3406 as amended to the full committee with a DO PASS recommendation.

VOTE: In a roll call vote REP. Luke, Naito, Norris, Thompson, Uherbelau, Lewis, Tarno vote AYE. REP. Fisher is excused.

CHAIR LEWIS: The motion CARRIES.

330 Closes the WORK SESSION on 3406

HB 3407 WORK SESSION

335 RICHARD P. BENNER, DIRECTOR, OREGON DEPARTMENT LAND CONSERVATION AND DEVELOPMENT: Comments on the bill and pass legislation.

400 -Is aware of two situations in Deschutes County where houses could not be build after HB 3661 passed last session.

439 REP. LUKE: When did the LCDC last review.

440 -Asks Mr. Reed if he concurs with Mr. Benner's descriptions of the two situations.

472 REED: Comments there are no simple answers because of rule changes.

TAPE 71, SIDE B

043 REP. LUKE: Didn't they have to have a farm plan.

048 REED: It didn't affect anyone who had their permit in writing.

051 REP. LUKE: This bill changes the date, have you seen this bill.

054 REED: Saw it when it dealt solely with forest land. There are 15 to 20 parcels in Deschutes County where this bill would solve their problems.

071 BENNER: No doubt changes in law have changed peoples right to build.

077 REP. LEWIS: Also feels that people who have done exactly what they were told to do, we're unable to build on their land.

085 REP. LUKE: Comments that if a person who bought a piece of property, had a reasonable idea they could build on their land, and then because of changes in the law cannot, is not fair.

098 REP. UHERBELAU: Thinks that when you change the law there are people who are affected. Asks if the date is going to keep moving forward each session.

117 CHAIR LEWIS: Makes comment on the date referenced in the LC-2 amendments to HB 3407.

126 -By changing the date, this will help some people who are caught in a catch 22 situation.

190 REP. NORRIS: Goes on the record with his objections to deed restrictions.

200 MOTION: REP. LUKE: Moves to adopt HB 3407-2 amendments.

205 REP. LUKE: Asks question about the language having to do with the date referenced.

212 CHAIR LEWIS: Cannot have a lot of record on high value farm land.

228 VOTE: Hearing no objections the motion CARRIES.

234 MOTION: REP. LUKE: Moves HB 3407 as amended to the full committee with  
a DO PASS recommended.

VOTE: In a roll call vote REP. Luke, Norris, Lewis, Tarno vote AYE. REP.  
Naito, Thompson, Uherbelau vote NAY. REP. Fisher is excused.

CHAIR: The motion CARRIES.

258 Closes the WORK SESSION on HB 3407

HB 3239 WORK SESSION

279 REP. NAITO: Asks if there was any testimony in opposition.

282 MARK BAUER: For the record the Sierra Club did oppose the bill.

289 REP. LUKE: Asks if it only affects state lands.

300 REP. DENNY JONES: Explains the bill to committee.

306 REP. THOMPSON: What affect would this bill have on the common school  
fund.

308 REP. JONES: Explains the affects of HB 3239.

358 -Continues to explain the provisions of HB 3239.

384 REP. UHERBELAU: Refers to testimony given at the public hearing.

403 MOTION: REP. LUKE: Moves HB 3239 to the full committee with a DO PASS  
recommendation.

412 REP. NAITO: Gives reason why she will not be supporting the bill.

TAPE 72, SIDE A

005 REP. LUKE: Asks what the current lease is for the federal government.

008 REP. JONES: States they're not leases they're permits, and explains the  
conditions of the federal permits.

054 REP. JONES: Discusses conditions having to do with the grazing land.

066 REP. TARNO: What number of cows can you put per acre.

VOTE: In a roll call vote REP. Luke, Norris, Lewis, Tarno vote AYE. REP.  
Naito, Thompson, Uherbelau vote NAY. REP. Fisher is excused.

CHAIR LEWIS: The motion CARRIES.

084 REP. THOMPSON: States he knows very little about pasture land and  
grazing issues. Will attempt to educate himself and may change his vote in  
the full committee.

Closes the WORK SESSION on HB 3239

HB 2697 WORK SESSION

095 MARK BAUER, COMMITTEE ADMINISTRATOR: Explains the hand outs which have  
been given to the committee previously. Explains the difference between HB  
2697-3 and -4 amendments.

120 MOTION: REP. NAITO: Moves to adopt HB 2697 -3 amendments.

VOTE: Hearing no objections, the motion CARRIES.

134 WILLIAM H. HOLMES, ATTORNEY: Explains the purpose of Section 8.

165 GARY GUSTAFSON, DIRECTOR, DIVISION OF STATE LANDS: Testifies as to why  
he feels Section 8 should be removed from the bill.

187 REP. TARNO: Gives examples of other cases which have ended up in  
federal court.

194 GUSTAFSON: States the Division of State Lands brought the litigation on  
the Chetka case.

204 REP. TARNO: Asks Mr. Holmes if they have the ability to bring suit on  
their own.

205 HOLMES: States these types of cases are difficult to be brought by  
individual land owners.

218 REP. NAITO: States they will need to make sure they have the funds to  
pay the attorney's fees, and would want the bill submitted be referred to  
the Committee on Ways and Means.

234 REP. THOMPSON: States he'd rather get rid of this section.

238 REP. UHERBELAU: States that all the beds and banks of the navigable  
waters belong to the state.

256 CHAIR LEWIS: Asked question to clarify previous testimony that they would not be determining "navigable waters" very often.

266 GUSTAFSON: Correct, they do not intend to have to make very many rulings on that subject.

273 REP. NORRIS: Asks are we trying to establish a good policy for the future or are we trying to clean up a mess on the Sandy river.

279 HOLMES: Thinks it's both, but the situation has come up on more than just the Sandy river.

295 GUSTAFSON: States they have no intent to file a claim on the Sandy river. States his predecessor sent a letter to the county which started the whole problem and they have been trying to live it down every since.

310 REP. LUKE: How about the John Day.

311 GUSTAFSON: They are not interested in filing any claims on Service Creek.

320 REP. TARNO: Any idea of what the time frame is on not filing a claim on the Sandy. Would you be willing to give the property owners a prior notice.

339 -He would hope that they should be allowed to come back and look at future legislation.

351 MOTION: REP. NAITO: Moves HB 2697 as amended to the full committee with a DO PASS recommendation.

360 CHAIR LEWIS: Makes reference to Section 9, (2) of the original bill, prior to the LC-3 amendments. Wants to assure that Section 9 is gone.

396 -Makes clarification comment on the LC-3 amendments.

409 -States the LC-4 amendments would not be considered

VOTE: In a roll call vote all members present and vote AYE. REP. Fisher is excused.

446 Closes the WORK SESSION on HB 2697.

TAPE 73, SIDE A

HB 3348 WORK SESSION

034 GARY CONKLING: Introduces consolidated and modified proposed amendments to HB 3348.

090 REP. LUKE: What have you done to address the concerns about water.

095 REP. LUKE: If you don't agree with the county, what happens then?

103 CONKLING: All they could do is challenge the Commission as to whether or not they're reasonable.

140 REP. UHERBELAU: Comments on high value crop area designations and the appeal process. Appeals denied by a County are not subject to review.

160 CONKLING: If your reference to reviews of designation resort sitings, it is correct that appeals denied by a County are not subject to our departments review process.

201 REP. LUKE: Have you seen the amendments?

220 REP. LUKE: Do you believe this gives the counties enough discretion to determine if this is good for them.

284 MOTION: REP. NORRIS: Moves the adoption of the conceptual amendments identified as LC-3121.

VOTE: Hearing no objections, the motion CARRIES.

300 MOTION: REP. TARNO: Moves HB 3348 as conceptually amended to the full committee with a DO PASS recommendation.

AYE. VOTE: In a roll call vote REP. Fisher, Luke, Norris, Lewis, Tarno vote REP. Naito, Thompson, Uherbelau vote NAY.

CHAIR LEWIS: The motion CARRIES.

Closes the WORK SESSION on HB 3348

HB 3055 WORK SESSION

341 PAUL COSGROVE: States the interested parties could not reach agreement, and explains the areas where the we're able to reach agreement.

366 -Requesting adoption LC-1 amendments. Current law allows recycles to buy recyclable materials for recycling.

396 -Growth is in commercial side of recycling for cardboard and paper.

412 MOTION: REP. TARNO: Moves to conceptually amend the HB 3055-1 amendments which now includes Sub (2) of Section 2, deleting Sub(1) of Section 2. Only subsection (2) of Section 2 will be left.

471 REP. LUKE: Is Section 1 of the printed bill going to stay.  
480 COSGROVE: Yes, the amendment deletes the whole bill, and the only thing  
left of the original  
bill is Section 2.

TAPE 72, SIDE B

024 MOTION REP. NAITO: Moves to delete lines 4 - 9 of HB 3055 -1 amendments.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: REP. NAITO: Moves HB 3055-1 amendments as amended.

VOTE: Hearing no objections, the motion CARRIES.

051 REP. NAITO: Moves HB 3055 as amended to the full committee with a DO  
PASS recommendation.

VOTE: In a roll call vote, all members are present and vote AYE.

065 Closes the WORK SESSION on HB 3055.

HB 3353 WORK SESSION

070 ART SCHLACK, ASSOCIATION OF OREGON COUNTIES: Reviews HB 3353-3 and -4  
amendments.

104 -Amendments would restore 1985 date for definition for lot of record.

129 -Mixed farm and forest zone would qualify for tax exemption status,  
which currently mixed zones  
do not.

155 -Clarifies several issues that have been identified by counties as  
problem areas.

210 REP. FISHER: Normally how long do they have on land use actions if it  
has not been utilized.

214 SCHLACK: Three year maximum.

254 REP. UHERBELAU: Asks if they are eliminating the ability of LCDC by  
administrative rule to  
set those limitations.

300 -HB 3407 modified the definition of lot of record date which is in  
conflict with this language.

325 REP. LUKE: Conflict amendments would be drafted.

345 SCHLACK: Explains how League of Oregon Counties decides on legislative  
issues.

389 BOB RINDY, OREGON DEPARTMENT OF CONSERVATION AND DEVELOPMENT:  
Comments on the bill and proposed amendments.

440 -Amendment recommends a hearings officer be appointed by the counties.

466 -Hearings officer would receive a report from the Department of  
Agriculture on high values land.

TAPE 73, SIDE B

035 MOTION: REP. LUKE: Moves to adopt HB 3353 -3 amendments.

VOTE: Hearing no objections, the motion CARRIES.

038 MOTION: REP. LUKE: Moves to adopt HB 3353-4 amendments.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: REP. LUKE: Moves HB 3353 as amended to the full committee with a  
DO PASS recommendation.

VOTE: In a roll call vote REP. Fisher, Luke, Norris, Lewis, Tarno vote  
AYE. REP. Naito, Thompson, Uherbelau vote NAY.

053 CHAIR LEWIS: The motion CARRIES.

Closes the WORK SESSION on HB 3353

HB 2015 WORK SESSION

067 CHAIR LEWIS: Explains the bill to the committee.

084 BOB RINDY, OREGON DEPARTMENT OF CONSERVATION AND DEVELOPMENT:  
The agency is opposed to HB 2015. Has not had the time to review the  
amendments.

119 REP. LUKE: Finds it interesting that the bill is brought forward by two  
farm bureau's.

130 CHAIR LEWIS: Different counties have been in opposition with the  
Department of  
Conservation and Development over this issue, the bill places the decision  
at the local county  
level.

140 MOTION: REP. TARNO: Moves to adopt HB 2015-3 amendments.

VOTE: Hearing no objections, the motion CARRIES.

152 MOTION: REP. TARNO: Moves HB 2015 as amended to the full committee with a DO PASS recommendation.

163 REP. UHEBERLAU: Objects to this bill and will vote no.

167 REP. LEWIS: Gives an example of one of her constituents who stands to lose his property because of the new minimum lot sizes.

185 REP. LUKE: We're going back to the way the original land laws were supposed to be. Feels HB 3661 was a mistake. States LCDC did not care what the counties did.

201 REP. NAITO: This just confirms that it was a bad bill (3661) but will oppose this bill because of the possible loss of farm land.

VOTE: In a roll call vote REP. Fisher, Luke, Norris, Lewis, Tarno vote AYE. REP. Naito, Thompson, Uherbelau vote NAY.

Closes the WORK SESSION on HB 2015

HB 2016 WORK SESSION

260 CHAIR LEWIS: Provisions of HB 2016-1 do not apply to Washington, Clackamas, and Multnomah County.

300 -States she surveyed the counties and asked how they would like to see this bill.

318 REP. THOMPSON: How many Counties.

322 CHAIR LEWIS: Results of 73.

327 REP. UHERBELAU: Would hate to make decisions on survey they don't know who was questioned and what the questions were. Asks if all the county commissioners were surveyed as to their desires.

343 ART SCHLACK, ASSOCIATION OF OREGON COUNTIES: In the discussion of the membership, three counties, Washington, Clackamas, and Multnomah counties were feeling the pressure of growth and would prefer to remain under the current rule. There was a majority of board commissioners who voted to approve support of this legislation.

377 REP. LUKE: Ask if the meetings of the AOC are open to the public.

381 SCHLACK: Those meetings are subject to the open public meeting law.

390 REP. UHERBELAU: Asks if their agenda is published and available to the public.

395 SCHLACK: States he is not aware the agenda's are published.

406 CHAIR LEWIS: Explains provisions of the farm plan in the bill.

431 REP. FISHER: Says he doesn't understand what is trying to be imparted in the graph.

442 CHAIR LEWIS: Explains the graph.

TAPE 74, SIDE A

030 REP. FISHER: States it is very difficult to make \$10,000 off of his land. The best he could make would be \$3,500.

043 CHAIR LEWIS: Would have liked to make the income requirement lower, but it was a compromise negotiated with the counties.

056 MOTION: REP. TARNO: Moves the conceptual amendments to HB 2016.

VOTE: Hearing no objections, the motion CARRIES.

MOTION: REP. TARNO: Moves HB 2016 as amended to the full committee with a DO PASS recommendation. a

067 REP. UHERBELAU: Points out that land use issues have been before the voter in many cases and they have approved them.

087 REP. THOMPSON: Opposes the bill because it changes the land use laws.

086 CHAIR LEWIS: Returns the income requirements to where they were. Feels that a dwelling is key to a successful farming operation.

VOTE: In a roll call vote REP. Fisher, Luke, Lewis, Tarno vote AYE. REP.



Naito, Thompson, Uherbelau vote NAY. REP. Norris is excused

119 CHAIR LEWIS: ADJOURNS the meeting at 6:03 PM.

Transcribed by,

Reviewed by,

Shelley Jones  
Committee Assistant

Mark Bauer  
Committee Administrator

EXHIBIT LOG:

none