

HOUSE COMMITTEE ON NATURAL RESOURCES ENVIRONMENT AND ENERGY SUBCOMMITTEE

June 2, 1993           Hearing Room D 1:00 p.m.   Tapes 127 - 130

MEMBERS PRESENT:   Rep. Bob Repine, Chair Rep. Marilyn Dell, Vice-Chair  
Rep. Sam Dominy Rep. Bill Fisher Rep. Carl Hosticka Rep. Dennis Luke  
Rep. Bill Markham Rep. Nancy Peterson Rep. Ray Baum

VISITING MEMBER:   Rep. Tim Josi

STAFF PRESENT:           Kathryn Van Natta, Committee Administrator Karen  
McCormac, Committee Clerk

MEASURES CONSIDERED:           Public Hearing and Possible Work Session -  
HB 3667 - HB 3177 - HB 3101 - HB 2128

Work Session - HB 2847 - HB 2962

WITNESSES:                   MIKE PROPST, Polk County Commissioner TED  
MOLINARI, Citizen JIM MAY, Polk County Resident W. DANIEL EDGE,  
Extension Wildlife Specialist, Oregon State University MIKE COMBS,  
Intern, Rep. Peterson's Office DON ARKELL, Director, Lane Regional  
Air Pollution

Authority MIKE GRAINEY, Legislative Director, Department of

Energy HEIDE ANDERSON, Oregon Remodeler's Association HERB KROEGER,  
President, Architectural Specialties,

Inc.

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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. [--- Unable To Translate  
Graphic ---]

GARY CURTIS, Department of Energy SUSAN BROWNING, Acting Director,  
Office of the State Fire Marshal DAVID YANDELL, Oregon Emergency  
Management BILL HENLE, Hazardous Materials Coordinator, Portland

Fire Bureau; Regional Hazmat Team Advisory Group SANDY GIFFEN, Oregon  
Health Sciences University (OHSU)

Poison Control Center MARY WAHL, Acting Administrator, Environmental  
Cleanup

Division, Department of Environmental Quality FRED HANSEN, Director,  
Department of Environmental

Quality JEFFREY D. JOHNSON, Assistant Fire Chief, Tualatin Valley Fire  
and Rescue BILL BELDING, Assistant Fire Chief; Region One Hazmat

TAPE 127, SIDE A

005 CHAIR REPINE: Calls meeting to order at 1:10 p.m.

OPENS PUBLIC HEARING ON HB 3101

013 KATHRYN VAN NATTA, Committee Administrator: Introduces meeting materials, including a staff measure summary and a notice of possible

revenue impact (EXHIBIT A). We have not yet received a fiscal impact statement, but our records show that HB 3101 has a fiscal impact.

House Bill 3101 establishes a new pilot program for the conservation and enhancement of wildlife habitat and is limited to Marion, Polk and Yamhill counties. It allows dwellings on "property used for wildlife habitat conservation and management" in an exclusive farm use (EFU) zone in specific counties on lands covered under land-use planning goals or rules which are meant to protect farm or forest lands, and allows only one dwelling on each qualifying lot or parcel if there is not already an existing dwelling. It defines terms, mandates that special property tax assessment will continue if the lands are primarily used for agriculture or forestry, and sunsets on December 31, 1997.

032 MIKE PROPST, Polk County Commissioner: Presents written testimony (EXHIBIT B) in support of HB 3101.

119 REP. PETERSON: Normally an individual could not build on this property since it is farmland.

121 PROPST: They must first meet the criteria to build. Instead of the farm management plan, it's a wildlife management plan, so it doesn't

increase the possibility of any more houses than exist today. We've worked on some amendments with the Department of Land Conservation and Development (DLCD) which should be available today which clarify this.

The DLCD wanted the amendments to only include Marion and Polk counties, due to DLCD's location. When trying to determine the revenue impact, DLCD concluded that with the amendments, there would be no revenue impact. If Yamhill county had been included, there would have been a revenue impact due to staff time.

140 REP. JOSI: You said that if a person does not maintain a wildlife plan, they must pay the back taxes.

142 PROPST: Yes.

144 REP. JOSI: What if there's a farm which is used as a farm and also has a wildlife plan in place. What happens if the farm is maintained but

the wildlife plan is not?

148 TED MOLINARI, Citizen: One of the strengths of this bill is that an individual must choose one or the other at the outset. The theory

behind it is there may be people who wish to make a commitment to insure future habitat. It must be one or the other.

166 PROPST: They can stay on farm deferral if their plan includes farming, and they meet the EFU requirements. If they choose an open space plan,

do intensive wildlife management, and then pull out, they would be penalized and have to pay back taxes. If they chose a combination of farming and wildlife, they could remain in the farm deferral.

If someone wanted to develop a wetland, the land would be out of production forever. Once a wetland is established, it cannot be undone.

We also tried to find a way to address problems that occur when one party develops a wildlife plan, but doesn't want their neighbors to continue farm or forest practices. In HB 3661, Sections 14 through 25 cover the right-to-farm issue, and we thought that if we could attach that language to this bill, it would resolve this issue.

208 CHAIR REPINE: We could develop amendments which would fold into your bill.

213 MOLINARI: This bill would provide habitat for the future, and gives people the option to do this because they want to be involved and

believe in it.

229 PROPST: We had a meeting with the assistant secretary of the U.S. Department of Agriculture under the Bush Administration, and his comment was that this was one of the most interesting plans that he'd seen to

get private property owners interested in wildlife management. There are eleven other states which are doing comparable things.

244 REP. DELL: I understand the need to add the right-to-farm concept into the bill. We've heard a lot of testimony in this committee wherein the

difficulty was reversed. What kinds of solutions do you see for

agriculture because of this bill?

250 MOLINARI: I have a farm here in the valley, as well as property on the east side of the mountains. The wildlife seem to go where they get the

best food. I've got nine acres in oats, and have counted 22 head of blacktail eating it. The idea behind trying to integrate agriculture with this plan will stop that from happening. That's why we wanted until December of 1997 to determine whether it would help to resolve this problem.

288 JIM MAY, Polk County Resident: Testifies in support of HB 3101. This bill has the potential of restoring much-needed wildlife habitat which

has been taken away. As a small property owner in Polk County who has not been able to utilize my marginal farmland, this bill provides an opportunity to do so.

W. DANIEL EDGE, Extension Wildlife Specialist, Oregon State University: Presents written testimony (EXHIBIT C) in support of HB 3101.

430 REP. LUKE: Refers to section of highway on which maintenance was delayed about nine months due to a pair of nesting eagles. Are you

saying that if one of these endangered species were found on a farm, those farming practices would have to stop?

446 EDGE: I don't see any language in this bill which would cause that. But any place that you have an endangered species on private land

requires an incidental take permit if an operation might jeopardize an endangered species.

TAPE 128, SIDE A

023 REP. LUKE: If a farmer went out of his way to develop this wildlife habitat, and an endangered species made its home upon that property, the farmer would be restricted in his farming practices because of that

habitat.

026 EDGE: I cannot foresee any species currently on the list which would cause such a problem. The idea of this bill is to maintain the current

levels of biological diversity, so that more species will not be added

to the endangered species list.

034 REP. HOSTICKA: What kind of wildlife are you referring to if we're discussing small non-contiguous pockets of habitat?

037 EDGE: Small animals, reptiles and amphibians.

067 REP. LUKE: Have we discussed how much the tax credit would be?

070 VAN NATTA: We have received a notice of possible revenue impact, but it is not specific. Substantial amendments proposed today will alter the

bill's structure. We do not yet have the fiscal impact statement.

080 MOLINARI: The -1 amendments were drafted on April 16. I presume the revenue office has had a chance to review it. We have done everything

we could to make this bill fiscal and revenue-neutral.

092 REP. HOSTICKA: Is the special assessment basically an EFU assessment?

093 MOLINARI: Yes.

094 REP. LUKE: Could someone keep their EFU assessment, but then convert it into a habitat program?

095 MOLINARI: That is correct. 097 REP. HOSTICKA: Do the -1 amendments on Page 2, Lines 7 through 9, allow a person to get a farmhouse?

097 MOLINARI: No. The intent of the bill is to not permit a home to be built anywhere where it could not currently be built.

109 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 3101

Informs committee that bill will be back after review by fiscal and revenue regarding the right-to-farm provisions.

120 REP. HOSTICKA: Would it help facilitate things if we adopted the -1 amendments, so fiscal and revenue could be reviewing a bill for which

amendments had been adopted?

122 CHAIR REPINE: Yes.

OPENS WORK SESSION ON HB 3101

123 MOTION: REP. HOSTICKA: Moves to adopt the -1 AMENDMENTS TO HB 310 1 (LC 2830), dated 4-16-93.

125 CHAIR REPINE: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES.

125 REP. MARKHAM: If someone is already in an EFU zone, and they

decide not to go through with the habitat program, what happens?

135 PROPST: If someone chooses the open space deferral, they're not on EFU deferral. You can't be on both. If they're on the open space deferral,

and back out of the habitat program, you must pay back taxes on that property. There's no penalty if they're already EFU and decide not to do the wildlife plan.

Addition to the record: Proposed -1 Amendments to HB 3101 (LC 2830), 4-16-93 (EXHIBIT D)

CLOSES WORK SESSION ON HB 3101

OPENS WORK SESSION ON HB 2962

167 VAN NATTA: We had a public hearing on HB 2962 last week. At that time, you were given a staff measure summary, a revenue impact analysis

showing no revenue impact, and a fiscal analysis showing there is a minimal effect on expenditures and revenues (EXHIBIT E). This bill is not included in the Governor's mandated budget. The Department of Forestry estimates the measure would have a minimal impact on revenue due to compliance with the scenic requirements on a small number of potentially affected forest operations along Highway 66.

House Bill 2962 makes Highway 66 a scenic highway under the state Forest Practices Act. 189 REP. PETERSON: I set up meetings with representatives from Boise Cascade and Weyerhaeuser, and both said they had no problem with this

bill.

201 REP. FISHER: What area is incorporated in this bill?

203 MIKE COMBS, Intern, Rep. Peterson's Office: The entire length of the highway between Ashland to Klamath Falls is included.

208 REP. LUKE: That's quite a number of miles. Won't more parties be affected than Boise Cascade and Weyerhaeuser?

210 REP. PETERSON: Yes. Those two, however, are the major property owners. The private property owners in that area are very supportive. This has

been a scenic highway for many years, so this is not truly a change, but is adding back something which was left out last session.

218 MOTION: REP. PETERSON: Moves HB 2962 to the FULL COMMITTEE with a DO PASS RECOMMENDATION.

219 CHAIR REPINE: Restates motion and calls for discussion.

221 VOTE: REPS. BAUM, DELL, DOMINY, FISHER, HOSTICKA, LUKE, MARKHAM, PETERSON and CHAIR REPINE vote AYE.

225 CHAIR REPINE: The motion CARRIES. REP. PETERSON will lead discussion on the floor.

CLOSES WORK SESSION ON HB 2962

OPENS WORK SESSION ON HB 2847

238 VAN NATTA: The staff measure summary for HB 2847 (EXHIBIT F) summarizes the action and discussion from the public hearing which was held in the Full Committee on Natural Resources last Thursday. House Bill 2847

allows regional air pollution control authorities to adopt rules and standards, enter business premises for inspection, and impose civil penalties.

We received the fiscal impact statement within the last hour, and it indicates there is no fiscal impact on state or local government. There is also no revenue impact (EXHIBIT G).

269 REP. MARKHAM: How many regional air authorities are there in Oregon?

271 VAN NATTA: The Lane Regional Air Pollution Authority is the only regional air quality authority within the state, and it covers only Lane County.

278 REP. MARKHAM: Do they have the authority to go beyond what the state requires?

281 DON ARKELL, Director, Lane Regional Air Pollution Authority: The Lane Regional Air Pollution Authority (LRAPA) operates under the same

statutes as the Department of Environmental Quality and the Environmental Quality Commission. The only provision in the statutes which relates to the general powers of LRAPA is that we cannot adopt a rule which is less restrictive than the Department of Environmental Quality.

295 REP. MARKHAM: How many rules are more stringent than state or federal requirements?

297 ARKELL: Not that many. Most of our more restrictive rules are procedural in nature, and not substantive.

301 REP. MARKHAM: Could I have a copy of the rules which are more

stringent than state or federal requirements?

304 ARKELL: Agrees to provide information.

309 MOTION: REP. HOSTICKA: Moves HB 2847 to the FULL COMMITTEE WITH A DO PASS RECOMMENDATION.

311 CHAIR REPINE: Restates motion and calls for discussion.

328 VOTE: REP. BAUM, DELL, DOMINY, HOSTICKA, LUKE, PETERSON and CHAIR REPINE vote AYE. REPS. FISHER and MARKHAM vote NO.

334 CHAIR REPINE: The motion CARRIES. REP. HOSTICKA will lead discussion at the Full Committee. We will ask Rep. Wooten to lead the discussion

on the floor.

CLOSES WORK SESSION ON HB 2847

OPENS WORK SESSION ON HB 3667

350 VAN NATTA: This bill is sponsored by Rep. Repine. Both -1 amendments and -2 amendments are from the Department of Energy, and are referenced in the staff measure summary. There is a fiscal impact statement, which shows a minimal effect on revenue and expenditures, and the measure is

not anticipated in the Governor's budget. The Building Codes Agency anticipates the bill will have only a minimum fiscal impact. The revenue impact statement shows there is no revenue impact.

This bill establishes window standards for residential structures. The new standards are excluded from consideration by the Energy Conservation Board when giving recommendations to the Building Codes Agency for inclusion in the Oregon Building Code.

The -1 amendments reference ORS 455.020 and ORS 455.030. The -2 amendments allow window manufacturers who voluntarily choose to show their product has a higher thermal performance value to do so.

426 CHAIR REPINE: At the beginning of the session, people in the industry had concerns regarding the qualification of specialty windows. This

bill tries to allow those small industries to continue to produce their product without suffering the significant costs of testing standards.

TAPE 127, SIDE B

012 MIKE GRAINEY, Department of Energy: Testifies in support of HB 366 7. There has been a problem with some manufacturers regarding window energy testing requirements, and we have looked at various ways to help them,



including federal funds, changes in testing requirements, etc.

021 REP. PETERSON: What do these windows look like?

024 GRAINEY: They look pretty much the same as other windows. There has been a problem with solariums and skylights, as well as special-order

windows. The problem is primarily with the smaller manufacturers.

031 CHAIR REPINE: If you were to buy windows from Andersen Windows, the cost to test a specific type of window is spread over thousands of

windows. A specialty window maker for a retrofit could become subject to those same testing conditions, which could drive them out of the marketplace.

040 REP. FISHER: Questions limit of five windows.

050 CHAIR REPINE: This refers to five identical windows.

054 GRAINEY: The Building Codes Agency is considering a permanent default table which would allow for the manufacturer of a large number of

windows to comply with the code. That "large number" would be 500 or more. The best way to deal with that was through administrative rules, rather than locking it in by statute.

076 HEIDE ANDERSON, Oregon Remodeler's Association: Presents written testimony (EXHIBIT H) in support of HB 3667.

100 HERB KROEGER, President, Architectural Specialities, Inc: Presents written testimony (EXHIBIT I) in support of HB 3667.

144 REP. MARKHAM: What company with 35 personnel was chased out of Oregon due to energy codes?

145 KROEGER: Duralite Industries, located in Salem. Canadians and eastern Oregonians temporarily captured a large part of the market because of

the ways the products were allowed to be tested. If you were fortunate enough to test a product in 1988 or 1989, the required U-values differed from those tested in 1992 or 1993. Those earlier tests were then grandfathered in, which benefitted those manufacturers.

170 REP. MARKHAM: Under what department was this done?

171 KROEGER: The Department of Energy. 173 REP. DELL: What is the definition of a "sunroom"?

174 KROEGER: A sunroom normally has glass overhead, a glass face, and at least one glass end. A skywall, which is similar to a solarium or

sunroom, only has a glass overhead and a glass face. I've been doing this for about a dozen years, and I haven't yet seen two alike, because of the many variations.

184 REP. DELL: My understanding is that a sunroom will not have a heater.

186 KROEGER: If it's put built as an unheated space, there are no code requirements, except for the structural requirements. By doing it the

other way, it becomes too expensive.

192 REP. DELL: Do people set out to build a sunroom, or do they end up with a sunroom by default because they've put in too many windows?

200 KROEGER: People generally want a sunroom not for a living space, but as a place to grow plants or a place which lets in a lot of light. When we design a sunroom, we design it with the idea of heat gain, for which we get no credit. We used to get energy credits for passive solar heat

collectors. If someone wants to put in clear glass, I have to talk them out of that. If it's 100 degrees outside, it will be 135 degrees inside. We also don't get any credits for light transmission.

235 REP. MARKHAM: What "credit" are you referring to?

236 CHAIR REPINE: At one time, there were energy credit gains to offset costs.

238 KROEGER: There were federal and state energy tax credits. Currently, on a national level, they are evaluating fenestration products strictly for heat loss. You get no credit for skylights and sunrooms for heat

gain or light transmissions. Most people will put a skylight in just for light.

241 REP. MARKHAM: But you can get a tax credit for heating your swimming pool with solar power?

242 KROEGER: Correct.

243 REP. FISHER: This bill pertains to a window which is manufactured less than five times. I can see where it would be easy to remodel an old

building which would require more than five windows of the same type.

249 KROEGER: That's right. When this bill was in its infancy, the idea was bay window structures. What you are referring to is valid, and will

have to be addressed.

270 REP. FISHER: Most windows are made in standard increments. Can you recommend language which would improve this bill so that a one-time

remodeling project would not be restricted by the 5-window limit?

281 KROEGER: Perhaps five projects could be done.

291 CHAIR REPINE: On Line 22, it refers to the U-value of .55 BTU per square foot.

292 KROEGER: That would have to be changed. Right now, most of the contractors in Oregon look at a .40 U-value, which is the easy way out. Currently, all fenestration products are .40. We're putting our .38s in ceilings, which is the best, and we hope there are consumers who are

able to pay for the best.

310 CHAIR REPINE: CLOSSES PUBLIC HEARING ON HB 3667

OPENS WORK SESSION ON HB 3667

315 Why did we specify the number of windows?

319 GRAINEY: To insure that we wouldn't be dealing with large production runs.

One option might be to give the Building Code Agency some flexibility to find additional exemptions by rule.

342 GARY CURTIS, Department of Energy: It was intended to deal with truly specialty products, such as a piece of stained glass, or oblong windows, etc. We are currently working with window manufacturers to develop a

set of default values, which would allow several hundred products to receive a U-value without going through the expense of testing, which would be an appropriate way of handling the larger production volumes.

355 CHAIR REPINE: Would we improve the bill language by specifying "not more than five times by the same manufacturer per job"?

What happens if we delete Subsection C?

366 CURTIS: That would be my suggestion. We could address that in the administrative rule process.

370 REP. FISHER: If it is addressed in the administrative rule process, what assurance do we have that it will be reasonable?

372 CURTIS: Manufacturers such as Herb Kroeger will be quick to tell us if we're not properly addressing their concerns.

383 REP. FISHER: We've already lost window manufacturers in Oregon

due to stringent codes. Mr. Kroeger may not be around to complain if he also

goes out of business.

384 GRAINEY: I strongly take exception to the idea that the Department of Energy and the energy codes forced the Duralite Company out of business. There were a lot of problems encountered by that company, such as profit margins when the company was bought by that owner. We met with them

numerous times and offered to help to them comply with the code to qualify their products, but they never took us up on those offers. We looked for state funding to help them, but they never took us up on that, either.

400 CHAIR REPINE: Questions the use of the "U-value of .55" on Line 22.

405 GRAINEY: Choosing .55 was to relieve the need for testing for manufacturers whose products do not meet that value. Some products are

.40 and .45.

416 CHAIR REPINE: By moving that down, do we put some manufacturers at risk?

418 GRAINEY: Or those who have made a more efficient product are put at a competitive disadvantage.

423 REP. DOMINY: What does "U-value" mean?

424 CURTIS: That is the measure of the rate of heat flow through a product. The lower the number, the more efficient the product is.

449 CHAIR REPINE: Recommends discussion by interested parties to improve bill.

Additions to the record: HB 3667 Staff Measure Summary, Fiscal Analysis and Revenue Impact

Analysis (EXHIBIT J) Proposed -1 and -2 Amendments to HB 3667 (LC 3959), 6-1-93 (EXHIBIT

K)

CLOSES WORK SESSION ON HB 3667

TAPE 128, SIDE B

OPENS PUBLIC HEARING ON HB 3177

027 VAN NATTA: The -2 amendments for House Bill 3177 will be proposed today by the Department of Environmental Quality and the Office of the State

Fire Marshal. The staff measure summary (EXHIBIT L) contains a brief description of the intent of their amendments. There was no revenue impact analysis on the original measure, but the -2 amendments have totally replaced the original bill.

052 SUSAN BROWNING, Acting Director, State Fire Marshal's Office: Presents written testimony (EXHIBIT M) in support of HB 3177.

099 REP. DOMINY: What is an orphan site?

101 BROWNING: It's a hazardous site which has been abandoned and which poses a danger to the community.

112 REP. HOSTICKA: The 1989 legislation provided a number of fallback positions. Have we fallen out of every one of those, or are there some

which are still available without this legislation doing something new?

116 BROWNING: We've got a catch-22 position. The Supreme Court never declared that the petroleum load fee was unconstitutional, but the

Attorney General's office has declared that its structure is unconstitutional. The three-part fallback alternative that was in the 1989 legislation will not automatically come into play unless the Supreme Court declares it unconstitutional.

122 REP. HOSTICKA: How can the Attorney General declare something unconstitutional? They can only advise you that they won't defend you

if a suit against you is filed.

124 BROWNING: The AG's office has advised that if it were to go to the Supreme Court, it would be declared unconstitutional.

126 REP. HOSTICKA: Then why not let it go, so we could start the fallback?

128 BROWNING: We discussed that with the AG's office, but there's an issue of timing. The programs which have no funding would basically have to

cease action until the Supreme Court did declare they were unconstitutional. House Bill 3177 basically proposes the fallback mechanism that is already in the 1989 legislation. The initial legislation had a rail fee, a gross operating tax and a motor carrier fee. The AG's office has also stated that the motor carrier fee is also unconstitutional, so we dropped that from our proposal and modified the

petroleum load fee to restrict it to highway use.

143 Concludes testimony.

186 REP. MARKHAM: Does your group train these ten hazardous material teams in their own backyards? I assume most of them are volunteer

firefighters.

191 BROWNING: The teams need very specialized training. The State Fire Marshal's Office coordinates that training. Out of 11,000 firefighters

in Oregon, 9,000 are volunteers. Gresham, Tualatin, and Portland are paid firefighters. Eastern Oregon is a challenge due to the geographic distances and the few people in the fire departments.

209 REP. MARKHAM: But do you go out to the areas to train them, or are they required to come to Salem?

210 BROWNING: The training is delivered primarily onsite. Tualatin Valley Fire and Rescue does have a training center that has the specialized

equipment and apparatus to conduct a lot of this training. As much as possible, we try to have that specialized equipment onsite.

217 REP. MARKHAM: I have heard from about 38 rural fire districts who say the State Fire Marshal's Office requires them to come to Salem for the

training.

220 BROWNING: We are aware of those problems. It is a joint state and local effort, with emphasis on local involvement.

227 DAVID YANDELL, Oregon Emergency Management: Testifies in support of HB 3177, and explains the Oregon Emergency Response System regarding

hazardous material spills.

251 BILL HENLE, Hazardous Materials Coordinator, Portland Fire Bureau; Regional Hazmat Team Advisory Group: Our advisory group has been

meeting for over three years trying to put the response system together. The advisory group is composed of members of all the hazmat teams. We have combined a group of people from all over the state to provide a system which will cover the entire state.

The need for this response system is predicated by the recent federal legislation regarding hazardous material response. Federal regulations

state that most fire departments can only take what is called a defensive position when they respond, which means they can only evacuate, but cannot stop the leak. If you elect to stop the leak, you can, but that puts you into a different training tier, which mandates hundreds of hours of specialized training. It also takes thousands of dollars of equipment. To become a hazardous material team, most fire departments do not have the money, personnel or resources. Most of the training is done at the Tualatin Valley Training Center, but now can be received at local jurisdictions. The process is being worked on.

386 REP. MARKHAM: The federal Department of Transportation publishes a yellow booklet regarding hazardous materials. Is that used?

395 HENLE: We call that one of the first steps a local firefighter uses when he comes across a hazardous material incident if the placard or

4-number identification number is visible. The book is not totally accurate, and is very general. For example, if you see a placard with the numbers "1993," the book lists about twelve different commodities with that number. Those commodities can be anything from a fuel oil to a pesticide to an explosive.

424 REP. FISHER: How many hazardous chemicals are petroleum-based?

426 HENLE: Probably about half.

440 REP. FISHER: What are toxic chemical producers doing to pay for this?

442 BROWNING: The initial funding for the teams was the petroleum load fee. We also have the Community Right to Know Program, which gathers

information on hazardous substances stored, manufactured and used by fixed site companies. They pay a fee for that, which is used to fund the Community Right to Know Program, which provides information to the hazardous material teams. If they are responding to a plant fire, the teams have an automated system which allows them to call up the plant and find out what types of chemicals are used, where they are stored, and in what quantities.

TAPE 129, SIDE A

020 REP. FISHER: Why should petroleum producers pay for hazmat teams going into drug houses?

030 BROWNING: We only looked at modifying current statutes.

042 REP. FISHER: Requests information regarding petroleum load fee.

048 BROWNING: The AG's finding was that the petroleum load fee was too closely related to the motor vehicles tax, which should only be used for highway purposes. At the same time, they said that if the petroleum

load fee was restricted to highway-related uses, it would be constitutional. About 60% of the cost of the teams is related to highway incidents. We looked at having 60% of the teams funded from the petroleum load fee. The petroleum load fee as modified would be less than the \$10 fee per load, because the amount of money is restricted to highway incidents.

The rail line assessment is based on miles of track. About 11% of the team's response cost is due to rail-related incidents. The gross operating revenue tax is on home heating oil products and diesel fuel used for fishing, agriculture, etc.

090 SANDY GIFFEN, Oregon Health Sciences University (OHSU) Poison Control Center: Presents written testimony (EXHIBIT N) in support of HB 3177.

132 REP. MARKHAM: How large is the staff at the Poison Control Center?

135 GIFFEN: We have approximately 16 registered nurses who have additional training in toxicology, 4 physicians and 2 fellows, who are physicians

training in the field of medical toxicology.

138 REP. MARKHAM: Are they all state employees?

139 GIFFEN: Yes.

141 REP. FISHER: Is the Poison Control Center paid for out of these fees?

143 GIFFEN: The operating expenses are paid for through the Department of Higher Education. It's part of University Hospital located at OHSU and

receives state funding. The petroleum load fee pays for 1.5 FTE and some operating supplies.

170 MARY WAHL, Acting Administrator, Environmental Cleanup



Division, Department of Environmental Quality: Presents written testimony

(EXHIBIT O) in support of HB 3177. Describes DEQ's Spill Response Program

199 FRED HANSEN, Director, Department of Environmental Quality: Presents testimony (EXHIBIT P) in support of HB 3177. The Federal Superfund

Program was created to address a series of contaminants. About 90% of hazardous chemical materials which are under regulation are petroleum-related. The others are acid bases for heavy metals.

The Federal Superfund Program provides that if there is an orphan site, the majority of that cleanup effort shall be borne by Superfund dollars, which covers 90%. The federal government has also set up a hazard ranking system, which includes 1,100 sites throughout the nation. In Oregon, 9 sites are listed as "national priority listed sites," i.e., the worst sites. If a site ranks below 28.5 on the hazard ranking system, cleanup is the sole responsibility of the state. The Orphan Site Account was created by the 1989 Oregon Legislature to provide funding for sites within Oregon which fall below that national high level of contamination. 273 REP. MARKHAM: How many hazardous sites are there in Oregon?

275 HANSEN: There are about 1,100 possible release sites. Of those, we have identified 6 orphan sites.

290 REP. HOSTICKA: Are the sites which rank below the 28.5 rating on the federal ranking system not dangerous? How was that cut-off established?

298 HANSEN: Sites which rank below 28.5 on the hazard ranking system pose very significant threats to the environment and to public health.

Most states have created state superfund programs, but they do not have the same constitutional prohibition as Oregon. This is not a petroleum-only program. There is also a hazardous substance possession fee, which is used for one-third of the costs. For solid waste, there is a surcharge authorized from the 1989 statute which would be used for solid waste cleanups.

Describes heavily-contaminated orphan site on the banks of the Willamette River.

383 REP. FISHER: Isn't a diesel spill easier to clean up than an acid spill?

404 HANSEN: There are three legs of the stool which are funding orphan sites. One is hazardous substances. Ninety percent of hazardous

substances are petroleum-based or petroleum-related. Petroleum products are excluded from the hazardous substance possession fee. The second leg is the petroleum load fee. The third leg is funded by a fee on solid waste disposal. This was determined to be a fair split among those parties.

TAPE 130, SIDE A

038 REP. MARKHAM: If you have to clean up a site, do you take title to that land? What is the recovery for the state?

040 HANSEN: Yes. If we have to do cleanup, we will seek cost recovery against any responsible parties. We will often take the deed and sell

the property if it is marketable, or require reimbursement upon the sale of that property.

043 REP. MARKHAM: What are the feds doing in states which are not complying?

050 HANSEN: There is nothing the federal government requires a state to do to address sites which rank below 28.5 on the federal ranking system.

074 JEFFREY D. JOHNSON, Assistant Fire Chief, Tualatin Valley Fire & Rescue: Presents testimony (EXHIBIT Q) in support of HB 3177 as amended by the

-2 amendments.

080 BILL BELDING, Assistant Fire Chief, Region One HazMat: Presents written testimony (EXHIBIT R) in support of HB 3177, as amended by the -2

amendments.

138 REP. FISHER: Repeats question regarding petroleum industry's responsibility for majority of cleanup costs.

150 BELDING: Transporting a petroleum product is only one issue. A significant amount of that product is used in the manufacture of other

products. The second issue is that the most common product spilled is petroleum products. A third issue is that while the petroleum industry is paying more, they are also the recipient of the most service.

Preventing additional leakage from a leaking tank car carrying seven thousand gallons of fuel oil will save them tens of thousands of dollars in cleanup costs which a private contractor would charge.

Additions to the record: HB 3177 Revenue Impact Analysis (EXHIBIT S)  
Proposed -2 Amendments to HB 3177 (LC 2936), 6-2-93 (EXHIBIT T)

188 CHAIR REPINE: CLOSING PUBLIC HEARING ON HB 3177

Adjourns meeting at 3:40 p.m.

Submitted by:

Reviewed by:

Karen McCormac  
Administrator

Kathryn Van Natta Assistant

EXHIBIT LOG:

A - HB 3101 Staff Measure Summary and Notice of Possible Revenue Impact - Staff - 2 pages B - HB 3101 Testimony - Mike Propst - 21 pages C - HB 3101 Testimony - W. Daniel Edge - 1 page D - Proposed -1 Amendments to HB 3101 (LC 2830), 4-16-93 - Staff - 4 pages E - HB 2962 Staff Measure Summary, Revenue Impact Analysis and Fiscal Analysis - Staff - 3 pages F - HB 2847 Staff Measure Summary - Staff - 1 page G - HB 2847 Fiscal Impact Assessment and Revenue Impact Analysis - Staff - 2 pages H - HB 3667 Testimony - Heide Anderson - 1 page I - HB 3667 Testimony - Herb Kroeger - 3 pages J - HB 3667 Staff Measure Summary, Fiscal Analysis and Revenue Impact Analysis - Staff - 3 pages K - Proposed -1 and -2 Amendments to HB 3667 (LC 3959), 6-1-93 - Staff - 2 pages L - HB 3177 Staff Measure Summary - Staff - 1 page M - HB 3177 Testimony - Susan Browning - 11 pages N - HB 3177 Testimony - Sandy Giffen - 16 pages O - HB 3177 Testimony - Mary Wahl - 1 page P - HB 3177 Testimony - Fred Hansen - 2 pages Q - HB 3177 Testimony - Jeffrey Johnson - 2 pages R - HB 3177 Testimony - Bill Belding - 1 page S - HB 3177 Revenue Impact Analysis - Staff - 1 page T - Proposed -2 Amendments to HB 3177 (LC 2936), 6-2-93 - Staff - 9 pages