

HOUSE COMMITTEE ON NATURAL RESOURCES

June 28, 1993 Hearing Room D 1:30 p.m. Tapes 67 - 73

MEMBERS PRESENT: Rep. Ray Baum, Chair Rep. Carl Hosticka, Vice-Chair
Rep. Marilyn Dell Rep. Sam Dominy Rep. Bill Fisher Rep. Tim Josi Rep.
Dennis Luke Rep. Bill Markham Rep. Chuck Norris Rep. Bob Repine Rep. Liz
VanLeeuwen

MEMBER EXCUSED: Rep. Nancy Peterson

STAFF PRESENT: Kathryn Van Natta, Committee Administrator
Catherine Fitch, Committee Administrator Karen McCormac, Committee Clerk
Kristina McNitt, Committee Clerk

MEASURES CONSIDERED: Public Hearing and Work Session - SJR40
A-Engrossed - SJM21 A-Engrossed - SB 1112 B-Engrossed - SB 938
A-Engrossed - SJM5 A-Engrossed - SJM19

Public Hearing - SB 90 A-Engrossed

Work Session - HB 2214 - HB 3177 - HB 3679 - HB 2970 - HB 3456

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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 ---]

WITNESSES: SEN. JOAN DUKES JAN BOETTCHER, Oregon Water
Resources Congress MARTHA PAGEL, Director, Department of Water Resources
SEN. BILL BRADBURY LARRY HILL, Oregon Guides and Packers

STEVE BEYERLIN, Curry Guides Association; Oregon Guides

and Packers DENNY HUGHSON, Oregon Guides and Packers ANNE SQUIER,
Natural Resources Advisor for Governor Roberts GINNY VAN LOO,
Legislative Assistant to Rep. Larry Sowa BECKY KREAG,
Administrator, Resources Management Division, Water Resources
Department PAUL HANNEMAN, Oregon Trawl Commission;
Fisherman's Marketing Association; Oregon Salmon Commission JOE EASLEY,
Administrator, Oregon Trawl Commission KAY BROWN, Oregon Department of
Fish and Wildlife FRED HANSEN, Director, Department of
Environmental Quality RON HOUSEHOLDER, Department of Environmental
Quality SEN. RON CEASE, District 10 SEAN BRENNAN, Coastal Caucus WALLACE
RUTLEDGE, Department of Forestry JOHN BURNS, Western States Petroleum
SUSAN BROWNING, Acting State Fire Marshal BRIAN BOE, Oregon Petroleum
Marketers Association BILL HENLE, Hazardous Materials Response Team's
Advisory Group ROGER GARBER, City of Eugene, Public Safety LARRY VON
MOOS, City of Eugene DAVID NELSON, Tualatin Fire and Rescue EVERETT
CUTTER, Oregon Railroad Association MARVIN FJORDBECK, Attorney,
Southern Pacific

Transportation Co. RICK SLOAN, Hazardous Materials Response Program,

Southern Pacific Transportation Co.

TAPE 67, SIDE A

005 CHAIR BAUM: Calls meeting to order at 1:38 p.m.

020 OPENS PUBLIC HEARING ON SJR40 A-ENGROSSED

022 CATHERINE FITCH: Senate Joint Resolution 40 would put out a May 1994 vote on a constitutional amendment to allow districts which prefer to

remain drainage and diking districts to have their assessments exempt from Measure 5. This measure has a subsequent referral to the Revenue and School Finance Committees.

040 SEN. JOAN DUKES: Testifies in support of SJR40. After Measure 5 was implemented, some of the districts were told they were under Measure 5

and some were not. The Department of Revenue basically left this decision up to the county assessors. The Department of Revenue has since made it clear that these districts are subject to Measure 5 limitations on assessment increases.

087 REP. LUKE: Requests clarification of Page 3, Lines 2 through 6 of SJR 40.

090 SEN. DUKES: That language means that all of the landowners who would have to pay this money would be eligible to vote.

098 REP. FISHER: How do we get around something that's in the constitution?

103 SEN. DUKES: We place it on the ballot.

106 REP. FISHER: But this is not a statewide problem.

111 SEN. JOAN DUKES: There are dikes in Multnomah County, and all along the coast and the Columbia River.

116 REP. NORRIS: How does this tie in with the house bill we passed earlier which dealt with diking districts?

118 SEN. DUKES: They're part of the same package. Rep. Josi and I introduced two similar bills in each chamber, hoping to get two possible solutions to this problem.

146 JAN BOETTCHER, Oregon Water Resources Congress: Testifies in support of SJR40.

149 CHAIR BAUM: CLOSES PUBLIC HEARING ON SJR40 A-ENGROSSED

OPENS WORK SESSION ON SJR40 A-ENGROSSED

154 MOTION: REP. JOSI: Moves SJR 40 A-ENGROSSED to the floor with a DO PASS RECOMMENDATION, with a SUBSEQUENT REFERRAL to the REVENUE COMMITTEE.

160 CHAIR BAUM: Restates motion and calls for discussion.

161 VOTE: REPS. DELL, DOMINY, FISHER, HOSTICKA, JOSI, LUKE, MARKHAM, NORRIS, PETERSON, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE.

167 CHAIR BAUM: The motion CARRIES.

Additions to the record: SJR40 A-Engrossed Staff Measure Summary, Senate Vote Sheet, Revenue Analysis, and Fiscal Analysis (EXHIBIT A)

CLOSES WORK SESSION ON SJR40 A-ENGROSSED

180 OPENS PUBLIC HEARING ON SB 90 A-ENGROSSED

188 FITCH: Senate Bill 90 is related to HB 2995, which began as a measure which asked for water rights for drip irrigation systems. House Bill

2995 wound up adjusting the volume of groundwater use which would be exempt from Water Resources permitting and licensing requirements.

Senate Bill 90 would be a companion to HB 2995.

Senate Bill 90 would allow the Water Resources Commission to exempt any use not exceeding 5,000 gallons of groundwater per day. It would also

allow the Department of Water Resources to reduce the daily limit of water used by any of the exempted groundwater uses in a specific region. This measure directs the department to work with city and county

representatives and the Department of Land Conservation and Development to assure that sustainable water supplies are available for land uses.

The department is also required to submit a follow-up report to the next legislature.

A hand-engrossed copy of the proposed -4 amendments are included in today's meeting materials. 209 MARTHA PAGEL, Director, Department of Water Resources: Presents written testimony (EXHIBIT B) in support of SB 90 A-Engrossed.

333 REP. LUKE: Will you be regulating everyone who wants to drill a well for personal use?

336 PAGEL: We're hoping to target areas where there are real problems with ground water decline. 360 REP. LUKE: Would someone who wants to dig a personal well need to come to you first?

361 PAGEL: No. However, they could be subject to limitations or curtailment requirements.

374 REP. DELL: I'm concerned that water limitations may affect things like farm loans.

378 PAGEL: We would first have to go through a rule-making process, which would give people an opportunity to come forward with their concerns.

The original version of this bill would have simply required permits whenever shortages occur. That approach was not favored by the Senate.

429 REP. DELL: How would I know I was within a restricted area?

432 PAGEL: Landowners would not know this was coming. Currently, these uses are outright exempt. Before we go through rule-making, we would

give notice and hold hearings.

TAPE 68, SIDE A

[Note: Tape 68, Side A was inadvertently erased during this meeting. The following minutes were compiled from notes taken during the 30-minute period.]

025 REP. NORRIS: What occurs under current law regarding a declining water supply?

033 PAGEL: If it's an extreme case, the Commission can declare an area as a critical groundwater area. We're talking about all uses in a critical

ground water area. The difference is that it's an outright withdrawal.

New wells drilled for domestic purposes would be limited to 1,000

gallons per day. This would only limit new wells which are drilled. 063

REP. DOMINY: Will there be anything that can stop you from only giving 100 gallons?

072 PAGEL: This doesn't specify a bottom line. The intent is to still allow reasonable use to occur under those exemptions.

085 REP. VanLEEuwEN: I have not been able to tie Sections 4 and 5 to the rest of bill. What do these sections allow?

093 PAGEL: That's referring to Sections 4 and 5 of that particular statute, shown on Lines 5 through 14 of Page 2.

102 REP. DELL: Aren't lenders also subject to the problem of future water limitation?

113 PAGEL: There is nothing in the bill which would give a lender the assurance you're looking for.

122 REP. DELL: The current limitations apply only when we declare there is a critical groundwater situation.

Additions to the record: SB 90-A Engrossed Staff Measure Summary, Revenue Impact Analysis,

Fiscal Impact Assessment, Senate Vote Sheet, Senate Amendments to SB 90 (EXHIBIT C) Hand-Engrossed SB 90 A with SB 90 -4 Amendments (LC 953), dated

6-22-93 (EXHIBIT D) SB 90-A Testimony (EXHIBIT E)

134 CHAIR BAUM: CLOSING PUBLIC HEARING ON SB 90 A-ENGROSSED

OPENS PUBLIC HEARING ON SB 1112 B-ENGROSSED

Senate Bill 1112 directs the Water Resources Department to administer and coordinate a program for habitat and salmonid fish restoration and enhancement. It also requires the Water Resources Director to report to the next legislature regarding the operations, costs and results of this program.

200 SEN. BILL BRADBURY: Testifies in support of SB 1112 B-Engrossed. This clearly will lead to watershed restoration, and will tie in to the

investment the federal government plans on making.

277 REP. JOSI: We will have another meeting regarding SB 1112, because we heard from Bill Bache that the feds intend to list the coho salmon. If

it is listed, the impact to the timber industry could be astronomical.

This bill could possibly prevent that from occurring.

305 CHAIR BAUM: CLOSING PUBLIC HEARING ON SB 1112 B-ENGROSSED

310 OPENS PUBLIC HEARING ON SJM21 A-ENGROSSED

Senate Joint Memorial 21 A-Engrossed memorializes the President and Congress to demand that the Department of Commerce explain its decision to award the majority of the whiting catch to factory trawlers instead of to on-shore processors, and asks Congress to immediately conduct an inquiry into fisheries management decisions made by the Department of Congress.

This measure passed the Senate with a 30 - 0 vote.

330 SEN. BRADBURY: Testifies in support of SJM21, and presents letter to the committee from the Coastal Caucus regarding the importance of SJM 21 (EXHIBIT F). Explains need for the memorial.

378 SEN. JOAN DUKES: Testifies in support of SJM 21. The Department of Commerce had no legitimate reason for this action,

which undermines
their credibility.

400 FITCH: Explains differences between two senate joint memorials referred to in letter from Coastal Caucus. Senate Joint Memorial 21 would give

more credibility to the regional fisheries activities and recommendations.

Additions to the record: SJM21 A-Engrossed Staff Measure Summary, Revenue Impact Analysis,

Fiscal Impact Assessment, Senate Vote Sheet, and Senate Amendments to SJM21 (EXHIBIT G)

TAPE 67, SIDE B

003 REP JOSI: The Commerce Department's decision was a bad decision, which became apparent very quickly. The ratios did not work out the way they

thought they would between the offshore fleet and the people who process on-shore. The on-shore processors were not getting nearly the amount of fish that they needed.

020 CHAIR BAUM: CLOSSES PUBLIC HEARING ON SJM21 A-ENGROSSED

OPENS WORK SESSION ON SJM21 A-ENGROSSED

021 MOTION: REP. NORRIS: Moves SJM21 A-ENGROSSED to the floor with a DO PASS RECOMMENDATION.

023 CHAIR BAUM: Restates motion and calls for discussion.

025 REP. VanLEEUEWEN: If SJM21 and SJM5 are so closely related, why don't we send them in one memorial instead of two?

027 FITCH: In this instance, one is asking for an investigation of a particular decision. The other is hoping to re-establish the

decision-making process in the future to give the pacific fisheries recommendations more credibility.

034 REP. NORRIS: We might want to amend this to make sure a courtesy copy goes to Tyson Foods in Arkansas.

035 VOTE: REPS. DOMINY, FISHER, HOSTICKA, JOSI, LUKE, MARKHAM, NORRIS, PETERSON, REPINE, VanLEEUEWEN and CHAIR BAUM vote AYE.

044 CHAIR BAUM: The motion CARRIES. REP. JOSI will lead discussion on the floor.

CLOSSES WORK SESSION ON SJM21 A-ENGROSSED

OPENS PUBLIC HEARING ON SB 1112 B-ENGROSSED

051 VAN NATTA: Reads into the record a letter from the Coastal Caucus in support of SB 1112 (EXHIBIT H).

060 LARRY HILL, Oregon Guides and Packers: Testifies in favor of SB 111 2 B-Engrossed, and introduces an amendment entitled, "Oregon Guides and

Packers Amendment" (EXHIBIT I). If the coho salmon are placed on the Endangered Species List, or there is an injunction by the federal court pending investigation, it shuts down the guides' ability to work on the rivers.

079 STEVE BEYERLIN, Curry Guides Association; Oregon Guides and Packers: Testifies in favor of SB 1112. Introduces notebook containing materials (EXHIBIT J) which "represent the viewpoint of those who work on the

river." We're losing hundreds of thousands of winter steelhead in the irrigation canals on the Illinois Basin, which is the largest tributary of the Rogue River. According to the Oregon Department of Fish and Wildlife, 90% of the fish found in irrigation canals are wild fish.

Also submits testimony from Marsha Danielson of the Downtown Bear Creek Restoration Project, Jim Stoop of the Curry Anadromous Fishermen, and Willie Illingworth of the Rogue River Guides Association, Inc. in support of SB 1112, as well as a response from David A. Jones of the U.S. Department of the Interior (EXHIBIT K).

130 DENNY HUGHSON, Oregon Guides and Packers: Presents written testimony (EXHIBIT L) in support of SB 1112. Due to unscreened irrigation

ditches, millions of salmon and steelhead die.

160 HILL: Senate Bill 1112 would apply \$12 million towards the Grande Ronde and the South Coast rivers. We're concerned that a lot of that money

seems to be going towards administrative overhead.

168 ANNE SQUIER, Natural Resources Advisor for Governor Roberts: Presents written testimony (EXHIBIT M) in support of SB 1112.

253 REP. NORRIS: The benchmark program means about \$5,000,000 to the southern coast projects. Does this tie in closely with the amendments

proposed by the Oregon Guides and Packers?

261 SQUIER: Senate Bill 1112 is the substantive reflection of the budget items that constitute the Watershed Health Initiative that the Governor put forth in her budget.

270 REP. VanLEEUEWEN: What is the relationship between SB 1112 and the agriculture and timber industries?

281 SQUIER: Section 2 speaks to the viability of Oregon's watershed ecosystems and the viability of the salmonid species that depend on

that. If a listing of salmonid species occurs, there is certainly going to be a substantial impact on forest and farm activities.

290 REP. FISHER: We heard testimony a few weeks ago that nothing the state had ever done had warded off a listing under the Federal Endangered

Species Act. Do you have any information on that?

322 PAGEL: This approach has never been tried before. Once we begin addressing the root causes of potential listings, we may be able to turn that around.

359 REP. VanLEEUEWEN: What systems are causing the declines?

363 SQUIER: We have not taken a look at what has been causing a variety of species to be endangered. We have just begun to look at natural

systems, such as water temperature, stream structure, etc.

413 REP. FISHER: There seems to be a vast loss of fish occurring between the ocean and a very short distance upstream.

TAPE 68, SIDE B

035 CHAIR BAUM: CLOSING PUBLIC HEARING ON SB 1112 B-ENGROSSED

OPENS WORK SESSION ON SB 1112 B-ENGROSSED

048 GINNY VAN LOO, Legislative Assistant to Rep. Sowa: Introduces "hand engrossed" amendments from Rep. Sowa dated 6-28-93 (EXHIBIT N).

095 REP. DOMINY: Requests clarification of changes in Section 5.

098 VAN LOO: It moves the dollars in the overhead and puts it more into "on the ground" work.

111 CHAIR BAUM: With a 60% - 25% split, what happens to the extra 15%?

112 LARRY HILL, Oregon Guides and Packers: It's my understanding that it will go to research. Rep. Sowa's amendments require that 60% of the

money will go to "on the ground" projects such as fish screens and habitat restoration, with 25% for administrative overhead.

I just noticed an inadvertent error; Lines 38 and 41 on Page 2 of the hand-engrossed bill should have similar changes in those percentages,

since they're referenced twice in the bill.

128 PAGEL: We have just seen these amendments, and would have concern at reducing the staff to 18 months, since it assumes we would not get

started for 6 months. Our intention is to get started as quickly as possible. Perhaps there is room for discussion.

The original wording of the bill was directed at funneling the funding through entities such as the local watershed councils envisioned under

HB 2215. 159 CHAIR BAUM: What is your opinion of Page 1, Section 3?

161 PAGEL: It would shift the focus from moving funding through entities like a local watershed council to other types of individuals. I would

have some concern that it shifts the focus. We are proposing our amendments (EXHIBIT O) in response to questions which arose when the bill was on the Senate side.

182 REP. NORRIS: This amendment connects well with HB 2215. I strongly favor the addition of this kind of language.

184 PAGEL: These amendments were intended to clarify that link and convey a greater sense of understanding that the entire program is intended to

focus on partnerships, accountability and a way to use the program to leverage other funds and participation.

195 CHAIR BAUM: We've had questions as to whether this is just another million-dollar shot at timber and agriculture.

206 HILL: We know there are environmental groups preparing petitions on the coho, steelhead and chinook. Experience with the spotted owl showed

that the court issued an injunction that the owl may be "listable" If the court finds that the fish are declining and we're not doing anything to stop this, agriculture and forestry will be affected to some extent. We're trying to invest money up front and say to the court that we're doing something to increase the stock. By working with local watershed councils, people can try to solve this problem. Early response will pre-empt the coho petition, which is the first one being filed.

250 REP. VanLEEUEWEN: What good does it do to save the smolts without doing anything about the damage which occurs later?

277 REP. JOSI: This is a win-win situation. Without programs like

this, our agricultural, fishery and timber industries are going to disappear. We're working with the federal government regarding the marine mammal

act.

293 REP. DOMINY: I would like to move all three amendments.

295 REP. HOSTICKA: If we move amendments from the Guides and Packers and from the Water Resources Department, we've covered almost everything

requested by Rep. Sowa. If he wants to change the numbers in Appropriations, he could probably do that. The Section 3s are not consistent between the sets of amendments.

305 CHAIR BAUM: We want to adopt the Water Resources Amendments, which are different from the Section 3 provided by Rep. Sowa.

308 MOTION: REPS. NORRIS and DOMINY: Move the AMENDMENTS PROPOSED BY THE WATER RESOURCES DEPARTMENT and the AMENDMENTS PROPOSED BY REP.

SOWA to SB 1112 B-ENGROSSED.

313 CHAIR BAUM: Restates motion and calls for discussion. Hearing no objection, the motion CARRIES. 317 MOTION: REP. HOSTICKA: Moves the AMENDMENTS PROPOSED BY THE OREGON GUIDES AND PACKERS to SB 1112 B-ENGROSSED.

324 CHAIR BAUM: Restates motion and calls for discussion.

325 REP. NORRIS: I think we should legislatively tie it to the benchmark program, so it doesn't look like we're asking for an additional

\$250,000.

328 CHAIR BAUM: This entire bill rises and falls on lottery allocation.

337 REP. HOSTICKA: I think the purpose of the motion is to establish a policy that we want money to go for this purpose. The exact numbers

should be filled in by the Appropriations Committee.

352 CHAIR BAUM: Do you want to leave the money figure blank?

353 REP. HOSTICKA: I don't know.

354 CHAIR BAUM: Let's go ahead and adopt the amendment as is.

361 REP. JOSI: I'm not prepared to vote for it at this time.

365 CHAIR BAUM: We're going to get these amendments drafted and will probably bring them back tomorrow, so we're not actually moving the

bill until we get the reworked draft back in front of us.

368 Hearing no objection to the adoption of the amendments from the Guides and Packers, the motion CARRIES.

388 REP. MARKHAM: What does the term "properly" mean in "properly abandoning old logging roads" in the amendments proposed by the Water

Resources Department?

390 PAGEL: It insures that when roads are no longer needed for logging, there may be steps that can be taken to abandon or remove them to

restore the previous ecosystem.

408 REP. MARKHAM: Through the Forest Practices Act?

410 PAGEL: I don't know whether I can answer that.

418 REP. HOSTICKA: The section you're referring to is a list of possible projects which would receive funding. I don't think this means they'll

be new regulations regarding the abandonment of logging roads.

429 PAGEL: We'd be happy to change the language to clarify that.

440 REP. DOMINY: It's my understanding that this doesn't mean a mandate, but more of a partnership.

448 PAGEL: That's what these projects are intended to do.

459 REP. DOMINY: Requests that Chair add the word "voluntary" to the amendments to clarify that no mandate is required.

472 VAN LOO: Requests clarification of what has transpired regarding the three sets of amendments.

475 CHAIR BAUM: We have left the decisions on the monetary percentages to the Appropriations Committee. We decided to use the amendments from the Water Resources Department for Section 3.

TAPE 69, SIDE A

029 REP. DELL: I think we've addressed Rep. Sowa's concerns with the amendments from the Water Resources Department, but there are some

differences he may wish to examine.

034 REP. REPINE: We need to establish percentages based on policy decisions. It shouldn't be up to the Appropriations Committee.

051 MOTION: REP. REPINE: Moves to AMEND the AMENDMENTS proposed by REP. SOWA, dated 6-28-93 by changing 40 percent to 60 percent on PAGE 2,

LINES 21 and 38; and by changing 35 percent to 25 percent on LINES 23 and 41.

058 CHAIR BAUM: Restates motion and calls for discussion.

060 REP. DELL: Expresses confusion over effects of percentage changes.

063 BECKY KREAG, Administrator, Resource Management Division, Water Resources Department: The original SB 1112 left a gap of 25%. This

proposal leaves a gap of 15%. This originally referred to the monitoring of projects to achieve the restoration. The amount of money in between would help accomplish some of the other items.

087 CHAIR BAUM: Hearing no objection to the motion, the motion CARRIES.

Additions to the record: SB 1112 B-Engrossed Staff Measure Summary, Senate Vote Sheet, Fiscal Analysis and Revenue Impact Analysis (EXHIBIT P)

089 CLOSES WORK SESSION ON SB 1112 B-ENGROSSED

OPENS PUBLIC HEARING ON SB 938 A-ENGROSSED

Senate Bill 938 A-Engrossed directs a study of restricted participation and commercial fishing permit systems by an advisory committee appointed by the State Fish and Wildlife Commission.

094 PAUL HANNEMAN, Oregon Trawl Commission; Fisherman's Marketing Association; Oregon Salmon Commission: Testifies in support of SB 938.

This bill is intended to coordinate the permit system to the commercial salmon fisheries during the interim period.

100 JOE EASLEY, Administrator, Oregon Trawl Commission: We introduced this bill at the request of a variety of fishermen on the Oregon coast. This bill does not change any laws, but appoints an advisory committee to

look at the fishing industry, which would report their findings to the next legislature.

112 REP. NORRIS: Is this similar to another bill we heard earlier this session regarding developmental fisheries?

113 EASLEY: Developmental fisheries are fisheries which do not exist at the present time. This bill deals with existing fisheries.

114 CHAIR BAUM: There is an \$18,000 fiscal impact for this bill.

115 FITCH: It would need a subsequent referral to Appropriations.

123 KAY BROWN, Oregon Department of Fish and Wildlife: Presents written testimony regarding SB 938 (EXHIBIT Q). The department neither supports nor opposes this bill.

134 CHAIR BAUM: CLOSES PUBLIC HEARING ON SB 938 A-ENGROSSED

OPENS WORK SESSION ON SB 938 A-ENGROSSED

135 REP. MARKHAM: Moves SB 938 A-ENGROSSED to the APPROPRIATIONS COMMITTEE with a DO PASS RECOMMENDATION.

136 CHAIR BAUM: Restates motion and calls for discussion.

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

VanLEEUEWEN are EXCUSED.

144 CHAIR BAUM: The motion CARRIES.

Additions to the record: SB 938 A-Engrossed Staff Measure Summary, Senate Vote Sheet, Fiscal

Analysis, and Revenue Impact Analysis (EXHIBIT R)

CLOSES WORK SESSION ON SB 938 A-ENGROSSED

OPENS WORK SESSION ON HB 2214

House Bill 2214 allows the Environmental Quality Commission to implement more rigorous motor vehicle testing procedure in Clackamas, Multnomah and Washington counties, requires the commission to determine the most cost-effective clean air program for each area of the state before establishing the fee for issuing a certificate of compliance, clarifies vehicle exemptions from pollution control equipment requirements, and expands the metropolitan vehicle emission testing area to include all of Clackamas, Multnomah and Washington counties.

149 MOTION: CHAIR BAUM: Moves to RECONSIDER the VOTE by which the committee FAILED TO PASS HB 2214.

153 CHAIR BAUM: Calls for discussion. Hearing no objection, the motion CARRIES.

157 REP. LUKE: Objects to time constraints imposed on the discussion of a complex bill.

164 VAN NATTA: Outlines changes in -5 amendments (EXHIBIT S) which affect HB 2214.

179 REP. HOSTICKA: The original version allowed the Department of Environmental Quality (DEQ) to limit areas within Multnomah, Clackamas

and Washington counties. Are they still authorized to do that under the -5 amendments, or will they have to include the entire tri-county area?

183 FRED HANSEN, Director, Department of Environmental Quality: It

will be a discretionary item for the commission to determine.

The Brian Task Force determined that an additional 85,000 vehicles would achieve maintenance of the plan. Those 85,000 vehicles could be obtained by drawing from the whole of the tri-county boundary or from nearby urban areas, such as those in southern Columbia County and northern Yamhill County. The Motor Vehicle Task Force recommended the whole tri-county area, whereas the Brian Task Force determined it was better to extend this to the population that's really causing the problem. The -5 amendments confine this to the tri-county area.

228 REP. HOSTICKA: Is the only difference between the -4 amendments and the -5 amendments the boundary issues?

229 VAN NATTA: It was requested that that be the only issue. Since we just received the -5 amendments this morning, we have not had an opportunity to do an in-depth analysis.

234 REP. REPINE: Who requested the -5 amendments?

235 CHAIR BAUM: I requested the boundary confinement.

246 HANSEN: We recommend the insertion of "and adjacent urbanized areas of Yamhill and Columbia counties" after the words "Washington County" on

Page 2, Line 12 of the -5 amendments.

267 REP. LUKE: Would this include McMinnville?

268 HANSEN: Without further study, we have not yet determined whether this would include McMinnville. We would probably stop at Newberg.

282 REP. LUKE: Would this include St. Helens?

283 HANSEN: Yes, because the prevailing winds are primarily from the northwest. We're including areas from the south (such as Newberg) due

to commuters travelling into Portland.

292 REP. HOSTICKA: There are other areas in the -5 amendments which will also need this language change.

298 HANSEN: That is correct.

317 REP. DOMINY: The other report stated that there are other causes of pollution, such as lawn equipment. How will those be addressed?

330 HANSEN: Page 1(a) Lines 26(d) through 26(f) allow us to adopt new garden equipment standards.

346 REP. DOMINY: Requests explanation of additional 46.6 FTE.

352 HANSEN: For fiscal impact statements, we are required to estimate 1995-97 biennial numbers. During the 1993-95 biennium, we would be

studying the problem, running a pilot program, and reporting those findings to the next legislature. Only if these findings are approved would those positions be authorized.

387 REP. DOMINY: Does that also apply to the six additional DEQ testing stations?

396 HANSEN: That would also have to be authorized by the legislature.

405 REP. NORRIS: On Page 1(a) beginning on Line 26(d), it refers to the establishment of equipment standards for new lawn and garden equipment. This is a dangerous inclusion which I would not approve.

TAPE 68, SIDE A

001 HANSEN: There are only two entities which may establish these type of standards; the United States government and the State of California.

The intent of the task force was to say "ditto" either to what the federal government did or to what California did.

015 REP. NORRIS: If that's what we mean, that's what we should say. It gives the impression that we will be establishing our own standards.

018 HANSEN: We could correct that language, but federal laws would not allow us to do that anyway.

025 REP. FISHER: This implies that areas like Lakeview will need to comply with emission standards.

031 HANSEN: This applies only to the Portland area.

037 REP. LUKE: Oxygenated gas was supposed to be only for the Portland area too, but it managed to come to Bend and Roseburg and other places, which created very interesting problems for vehicles. 039 HANSEN: The petroleum companies choose their distribution areas. However, cleaner-burning lawnmowers are generally more fuel-efficient.

044 REP. REPINE: Large retailers such as Fred Meyer would probably stock the same merchandise statewide, so they would tend to sell items which

would meet the Portland requirements.

053 HANSEN: That would be a market-driven decision.

064 CHAIR BAUM: Recesses meeting at 4:00 p.m., to reconvene at 6:00 p.m.

TAPE 70, SIDE A

001 CHAIR BAUM: Reconvenes meeting at 6:15 p.m. Informs committee of intention to finish afternoon agenda, hold over SB 1016 and move to this evening's agenda.

OPENS WORK SESSION ON HB 2214

049 REP. FISHER: Referring back to the car issue, what is the deal with 80,000 new cars?

055 FRED HANSEN, DIRECTOR, DEQ: In order to achieve compliance with the Federal Clean Air Act Standards for the Portland air shed it would be

appropriate to have additional vehicles to carry the burden of air pollution. This can be done by either going to the full tri-county boundary.

068 REP. FISHER: Was there any information that there were 85,000 more vehicles available?

070 HANSEN: Our records show that if one went from the current metro boundary, and went to the full tri-county area, that would pick up

approximately 85,000 additional vehicles. Rep. Waldens's recommendations would substitute a more efficient way to be able to achieve that same level of reduction without going into rural areas.

078 REP. FISHER: Why haven't you done that so that we know exactly where you're going?

082 HANSEN: The language in the -5 amendments went back to the tri-county area. What was being discussed was accepting an additional amendment

also aimed at urban areas like Yamhill and Columbia Counties.

085 REP. FISHER: I'm not objecting to you staying out of the rural areas, but I do want the boundaries narrowed down so we know who it will

affect.

094 HANSEN: This would provide policy allowing us to only move into adjacent, urbanized areas of those two counties. Our intent is to work

with DMV and an advisory committee to pick up the least amount of non polluting areas.

106 REP. FISHER: Say you go out according to zip codes, how do you limit picking up urbanized area?

118 CHAIR BAUM: The language "urbanized area" should protect the fringes of rural areas of Washington and Clackamas Counties from undue

interference.

120 MOTION: CHAIR BAUM: Moves to reconsider the vote by which the -4 amendments were adopted.

122 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

123 MOTION: REP: HOSTICKA: Moves to adopt the -5 amendments to HB 221 4.

124 CHAIR BAUM: Restates motion.

125 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

129 MOTION: REP. HOSTICKA: Moves that the -5 amendments be amended on page 2, line 12 to add the words "the urbanized areas of Clackamas

County, Multnomah County, Washington County and adjacent urbanized areas in Yamhill County and Columbia County." Also adopt parallel language on page 3, lines 26, 31 and 34.

154 VAN NATTA: Suggests allowing Legislative Council to adopt conforming language as needed.

167 CHAIR BAUM: Restates motion.

173 REP. HOSTICKA: When we said "Clackamas, Multnomah and Washington County," we don't mean all of those counties. We just mean the

urbanized areas of those counties.

176 REP. LUKE: What if they have to take in all the urban areas of the tri-county area? Aren't there unincorporated areas of these three

counties that have a large population?

184 HANSEN: I understand that "urbanized area" refers to contiguous areas, not pockets.

194 REP. DOMINY: Is there a problem with putting the word "contiguous" ahead of "adjacent?"

199 HANSEN: I think that would be okay as long as it's prior to all five counties.

201 MOTION: REP. DOMINY: I would move that as an amendment to the amendment.

204 CHAIR BAUM: The language would then read on page 2, line 12,

before the word "Clackamas" add the words "the contiguous urbanized areas of

Clackamas County, Multnomah County, Washington County, Yamhill and Columbia Counties.

215 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

217 CHAIR BAUM: On page 1(A), line 26(e), after the word "shall" amend it to read, "act in conformance with standards adopted by neigHB oring

states in compliance with federal law."

226 HANSEN: Would that mean all neigHB oring states would have to adopt such a standard?

231 REP. NORRIS: Fred Hansen's wording might be more appropriate.

233 HANSEN: My wording would be, on line 26(d), start the sentence, "(a) California or Environmental Protection Agency emission standards for new lawn and garden equipment sold in the Portland area." Then delete the

rest of that paragraph.

256 REP. DELL: Is it your intent that the restriction is just on the selling of lawnmowers? There is no restriction with the use, just the

purchase?

265 HANSEN: Yes.

268 REP. LUKE: Regarding wood stoves, over the past few years the rules have changed dramatically. Is it your intent that a person could not

sell his lawn mower in a garage sale if it did not meet Portland's standards?

282 HANSEN: On line 26(d), even in the amendment that we have made, we put in the word "new" so only the new lawn equipment would be affected.

284 MOTION: REP. HOSTICKA: Moves that line 26(d) is amended to read "(a) California or Environmental Protection Agency emission standards for new lawn and garden equipment sold in the Portland area." And

the rest of the paragraph is deleted.

285 CHAIR BAUM: Restates motion.

286 REP. LUKE: Will this be a conceptual amendment?

287 CHAIR BAUM: Yes.

290 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

299 MOTION: REP. DOMINY: Move to make appropriate changes as necessary concerning the boundaries.

300 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

322 REP. REPINE: What happens if car emissions were subjected to more vigorous annual inspections? What could we expect?

340 HANSEN: I'll have Ron discuss that. One issue would be how to ensure a check; a new system, in addition to registration, would have to be put

into place.

354 RON HOUSEHOLDER, DEQ: Annual versus bi-annual inspections do not seem to provide much benefit for late model cars.

371 REP. REPINE: What is the turnover of vehicle inventory that we are talking about? I have a hard time understanding why we may need to

accept a new program.

397 HOUSEHOLDER: We've seen a huge switch from about 1986 where manufacturers went almost exclusively to electronic controls on

vehicles. Turnover has slowed from approximately 10 to 14 years. Newer vehicles are now about two-thirds of the car population. TAPE 71, SIDE A

019 HOUSEHOLDER: Cars are not even being built with carburetors. They have all gone to fuel injection.

029 REP. LUKE: There was a successful tax credit program where you exchange your old wood stove for a newer one that meets higher standards. Is the DEQ thinking about adopting something like this for lawn or garden

equipment?

037 HANSEN: That has been looked at and there was lots of interest. Economic outlook in this state, however, discouraged anything from being done at this time.

047 REP. FISHER: How do you know that the newer cars don't respond so well?

053 HOUSEHOLDER: The test results I'm referring to have been done by the EPA.

071 REP. FISHER: How many actual cars do you test?

074 HOUSEHOLDER: Exactly the number of cars registered in that area: 770,000 vehicles, tested every two years.

096 REP. FISHER: If I want to sell my vehicle and I get a test and then it changes registration, does it have to get tested again?

102 HANSEN: The certificates last 90 days. As long as the plates go with the car, that test will remain valid.

116 HOUSEHOLDER: I also made a mistake earlier. I should have said 670 ,000 vehicles.

124 REP. FISHER: What are the years of the cars that fail?

127 HOUSEHOLDER: Overall, 70 percent of vehicles pass. Approximately 30 percent come back at least one time. The standards are set for the

different age categories of the car.

146 REP. FISHER: We were told a new car doesn't need a test for two years. Some people drive 70,000 per year and some only 5,000. Is there no

consideration for the number of miles and not just a standard two year period?

161 HANSEN: Mere milage is not the only indicator of pollution. Also, the convenience and administrative tracking based on a two year renewal is a positive. Generally those cars which are regularly tuned and receive

good maintenance do well.

177 REP. LUKE: How old does a car have to be before it doesn't have to be tested?

181 HANSEN: Current law says older than 20 years. This bill says that beginning with 1974 vehicles, all will continue to be tested.

192 REP. LUKE: Are you talking about classic cars like '69 Chevys as a concern? 196 HANSEN: It is not valuable to go past twenty years and pull those cars back into the test. There was not much concern for classic or antique

cars as they are not driven many miles.

209 REP. LUKE: Is that done by statute or administrative rule?

211 HANSEN: Statute.

215 REP. REPINE: What about diesel trucks in the Portland metro area?

222 HOUSEHOLDER: Medium duty, diesel powered vehicles are tested through the program. The heavy duty ones are not tested. Those licensed under

reciprocity are statutorily exempt.

236 REP. REPINE: One would suspect they do cause a high degree of damage to the air shed. Is this something we should be looking at it

we're really getting serious about pollution?

248 HANSEN: Volatile organic compounds are what we target. These come from gas mostly, not diesel. For the heavy trucks, there are no federal

standards.

265 REP. LUKE: If you have a rail yard in the middle of Portland, what does this contribute to pollution in the air shed?

277 HANSEN: Nitrous oxides and volatile organic compounds are the two things we look for. It is impractical to limit use during hot summer

weather which is when ozone problems occur. Until National standards are adopted, we can not address that problem.

296 REP. LUKE: My question is what is the percentage of pollution caused by the rail yards?

300 HANSEN: It is considerable. It is comparable to the garden equipment.

331 REP. FISHER: There have been recommendations to get rid of waste petroleum products by developing furnaces to heat business buildings,

etc. Is this going by the wayside when people have taken \$15,000 - \$20,000 to convert their heating systems?

341 HANSEN: No, most conversions have been to natural gas.

368 CHAIR BAUM: CLOSES WORK SESSION ON HB 2214

OPENS WORK SESSION ON HB 3679

371 FITCH: HB 3679 corrected a portion of HB 2110 which is not contrary to court opinion. HB 2110 would have required federal agencies to pay a

registration fee and participate in the adjudication of federal claimed water rights. After the Governor signed the measure, the U.S. Supreme

Court handed down a decision in Idaho which said that a state could not charge for this activity. HB 3679 allows the Director of the Department of Water Resources to determine whether or not fees will be required to accompany federal registrations. The amendment (Exhibit T) makes HB

3679 consistent with HB 2110. Also submits Fiscal Impact Statement and Staff Measure Summary for the record (Exhibit T).

391 MOTION: REP. HOSTICKA: Moves the -1 amendments.

392 CHAIR BAUM: Restates motion.

393 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS

are ADOPTED.

396 MOTION: REP. NORRIS: Moves HB 3679, as amended, to the floor with a DO PASS recommendation.

400 CHAIR BAUM: Restates motion.

TAPE 70, SIDE B

005 VOTE: On a roll call vote, all members present vote AYE. REPS. JOSI, MARKHAM and PETERSON are excused.

012 CHAIR BAUM: The motion CARRIES.

013 REP. NORRIS will carry the bill.

015 CHAIR BAUM: CLOSES WORK SESSION ON HB 3679

OPENS WORK SESSION ON HB 3456

022 MOTION: REP. HOSTICKA: Moves to suspend the rules so that HB 3456 can be reconsidered.

023 VOTE: CHAIR BAUM: Hearing no objections, the MOTION carries.

025 MOTION: REP. HOSTICKA: Moves to reconsider the vote by which HB 3456 was passed to the floor.

027 VOTE: CHAIR BAUM: Hearing no objections, the MOTION carries.

027 FITCH: HB 3456 has sufficient revenue for the activity, however it was not included in Water Resources expenditure limitation.

030 MOTION: REP. HOSTICKA: Moves HB 3456 to be referred to the Committee on Appropriations with a DO PASS recommendation.

035 CHAIR BAUM: Restates motion.

036 VOTE: On a roll call vote, all members present vote AYE. REPS. JOSI, MARKHAM, and PETERSON are EXCUSED.

040 CHAIR BAUM: The motion CARRIES.

042 CLOSES WORK SESSION ON HB 3456 OPENS PUBLIC HEARING ON SJM5

045 FITCH: SJM5 memorializes Congress to enact amendments to the Magnuson Fisheries Conservation and Management Act. The memorial proposes

specific amendments to the Act that would limit the ability of the Secretary of Commerce to overturn the decisions of its subordinate agencies.

Submits for the record: Staff Measure Summary, Fiscal and Revenue Impact Statements, Senate Vote Sheet, and Senate Amendments (Exhibit U).

057 SEN. RON CEASE, District 10: Testifies in favor of bill and

gives historical reference.

078 REP. VanLEEUEWEN: Does this specifically refer to the whiting issue?

081 SEN. CEASE: No, what we're trying to say is that the Act needs to be reworked in a way that will provide for a greater role on the part of

the regional group regardless of what the fishery may need.

088 REP. VanLEEUEWEN: On page 2, line 4, when you say "to give effect" do you mean "to give attention to?"

092 SEN. CEASE: This is similar to other state's language.

098 SEAN BRENNAN, Coastal Caucus: The words "to give effect" was chosen because the proposed amendments to the Fishery Conservation and

Management Act actually would change the respective roles between the Commerce Department and the Pacific Fishery Management Council.

108 REP. HOSTICKA: Do you know if this is the identical language as other states have adopted?

113 BRENNAN: The language in the memorial is taken from two sources. The language on page 2, line 7 through page 3, line 6 is language that was

adopted by the eight regional fishery management councils at a meeting in San Francisco. The language on page 3, line 8 through line 19 was taken from a report by the National Oceanic and Atmospheric Administration back in 1986.

129 CHAIR BAUM: CLOSSES PUBLIC HEARING ON SJM5
OPENS WORK SESSION SJM5

132 MOTION: REP. NORRIS: Moves SJM 5 to the floor with a DO PASS recommendation.

133 CHAIR BAUM: Restates motion.

135 VOTE: On a roll call vote, all members present vote AYE. REPS. JOSI, MARKHAM, and PETERSON are EXCUSED.

141 CHAIR BAUM: The motion CARRIES. 145 REP. JOSI will carry the bill.

146 CHAIR BAUM: CLOSSES WORK SESSION ON SJM5

149 BRENNAN: Submits letter from the Coastal Caucus in support of SJM's 5 and 21 (EXHIBIT V).

OPENS WORK SESSION ON HB 2970

152 MOTION: REP. HOSTICKA: Moves to suspend the rules so that HB
297 0 can be reconsidered.

153 CHAIR BAUM: Restates motion.

153 VOTE: CHAIR BAUM: Hearing no objections, the MOTION is
ADOPTED.

162 MOTION: REP. HOSTICKA: Moves to reconsider the vote by
which HB 2970 was passed from the committee.

164 CHAIR BAUM: Restates motion.

165 VOTE: CHAIR BAUM: Hearing no objections, the MOTION is
ADOPTED.

166 MOTION: REP. HOSTICKA: Moves to add an emergency clause to
HB 297 0.

167 CHAIR BAUM: Restates motion.

167 VOTE: CHAIR BAUM: Hearing no objections, the MOTION is
ADOPTED.

173 FITCH: The bill needs to be referred to Appropriations because
there is sufficient revenue to pay for the activity. It was not an
activity that was anticipated in Water Resources Department's
budget so the

expenditure limitation is needed.

177 MOTION: REP. HOSTICKA: Moves that HB 2970 be referred to
the Appropriations Committee with a DO PASS recommendation.

180 CHAIR BAUM: Restates motion.

181 VOTE: On a roll call vote, all members present vote AYE.
REPS. JOSI, MARKHAM and PETERSON are EXCUSED.

186 CHAIR BAUM: The motion CARRIES.

189 CHAIR BAUM: CLOSES WORK SESSION ON HB 2970

OPENS PUBLIC HEARING ON SJM19

196 FITCH: SJM 19 urges the President and Congress to extend
for an additional 10 years the current Forestry Incentives Program
through the U.S. Department of Agriculture.

Submits Staff Measure Summary, Senate Vote Sheet, and Fiscal and Revenue
Impact Statements for the record (EXHIBIT W).

204 WALLACE RUTLEDGE, Department of Forestry: Testifies in favor of
bill and submits written testimony (EXHIBIT X).

219 REP. LUKE: How do you convert brush into trees?

222 RUTLEDGE: You get rid of brush and then plant trees.

223 REP. DOMINY: Is this within the farm bill?

225 RUTLEDGE: Yes, it is Title XII of the farm bill.

230 CHAIR BAUM: CLOSING PUBLIC HEARING ON SJM19

OPENS WORK SESSION ON SJM19

239 MOTION: REP. REPINE: Moves SJM 19 to the floor with a DO PASS recommendation.

240 CHAIR BAUM: Restates motion.

245 VOTE: On a roll call vote, all members present vote AYE. REPS. JOSI, MARKHAM and PETERSON are EXCUSED.

248 CHAIR BAUM: The motion CARRIES.

250 REP. DOMINY will carry the bill.

255 CHAIR BAUM: CLOSING WORK SESSION ON SJM19

OPENS WORK SESSION ON HB 3177

279 VAN NATTA: HB 3177 deals with the funding for the Hazardous Materials Response System and the Orphan Site Fund as a result of the petroleum

load fee having some constitutional problems. Submits for the record:

the -9 amendments (EXHIBIT Y), Article 8 and 9 of Oregon Constitution,

HB 3177 Support Document, Distillate Sales in 1989 and 1990, and Oregon Hazardous Materials Response and Orphan Site Programs Chart (EXHIBIT Z).

339 CHAIR BAUM: The -9 amendments came about after meeting with the folks that have been involved with the load fee. The consensus concerning

fees is as follows: The load fee will continue to be \$6 which will generate \$1.4 million. A tax on non-highway motor fuels was suggested of .2 of a cent. That would raise about \$2 million.

388 REP. DOMINY: Where does that other \$500,000 come from?

390 CHAIR BAUM: The State Fire Marshal's office is going to be more aggressive in billing indirect costs. They came up with that figure in

a memo (EXHIBIT AA). TAPE 71, SIDE B

011 CHAIR BAUM: There has been a question raised about the constitutionality of .2 of a cent tax on non-highway motor fuels by

virtue of the provisions of the Constitution, Article XIII, Section 2

(g).

020 JOHN BURNS, Western States Petroleum: Explains the -9 amendments which incorporate the -4 and -6 amendments with some additions.

032 REP. DOMINY: Are you considering the -2 amendments?

045 BURNS: I didn't include those. I'm just talking about the -4, -6 and -9 amendments.

051 The -9 amendments need Section 1 from the -4 amendments. That will raise the \$1.4 million.

056 CHAIR BAUM: Why is that constitutional?

058 BURNS: Because the Attorney General said, based on AAA versus Oregon, that a certain portion of the petroleum load fee could be used for

highway-related purposes.

072 REP. VanLEEUWEN: What are you talking about here, off-road and on-road?

076 BURNS: The load fee applies to both. Section 1 of -9 amendments impose a distillate tax imposed at the wholesale and terminal level on off-road diesel. It would absolutely impose a tax on any diesel products used

off road.

106 REP. REPINE: Does that also include stove oil?

108 BURNS: Yes, it would.

115 REP. HOSTICKA: What about aviation fuel?

116 BURNS: It is not included. It is defined on page 2, section 6.

128 CHAIR BAUM: I thought we were talking about Class 1 and 2 diesel fuels.

130 BURNS: I believe we are. Legislative Council can confirm this.

141 REP. FISHER: What about farm gasoline, grease and oil in buckets and drums used in logging and farming?

145 BURNS: I think that it would not include grease and farm gasoline because gasoline is not distillate but would include farm diesel. It

would include all distillate products that are exempt from federal tax.

156 CHAIR BAUM: What does the sentence beginning "monies collected under this Act..." mean on lines 5 through 8 of page 3?

166 BURNS: It means that monies collected under the Orphan Site Account here shouldn't be used for solid waste orphan sites. Is that correct,

Mr. Hansen?

168 FRED HANSEN, DEQ: Yes.

192 There is a hazardous materials possession fee, which essentially funds three programs.

211 CHAIR BAUM: This has been looked at by all these interest groups and nobody's come up with great objections yet.

237 VAN NATTA: Starting with Section 3, explains the bill with the amendments.

274 REP. HOSTICKA: Section 6 gives the Environmental Quality Commission the authority to increase fees by rule. If we want the Emergency Board to

review that, maybe we should act on that now.

285 BURNS: To do that you could delete Section 5 and reiterate ORS 465 .385 in Section 6, only bracketing out "and ORS 465.104".

305 HANSEN: The ability of EQC to raise the fees does not apply to Section 1.

320 MOTION: REP. HOSTICKA: Moves that we adopt the conceptual amendment as presented by Mr. Burns and bring it back to the committee for

review, which will repeal Section 5 and reinstate the existing language, deleting reference to ORS 465.104, changing the date from July 1, 1991 to July 1, 1993 and reinstating Section 2(b) dealing with prior approval by the Executive Department and a report to the Emergency Board prior to adopting fees.

325 CHAIR BAUM: Accepts motion.

350 REP. LUKE: I don't have a problem with Section 6 as long as we're not talking about them raising the tax for fuel. What fees are they talking about?

357 CHAIR BAUM: There's other fees that they've had the power all along to raise.

380 VAN NATTA: We can get Sections 5 and 6 redrafted according to the concerns of the committee.

384 Continues to explain the amendments.

TAPE 72, SIDE A

008 REP. VanLEEUEWEN: What liability are we talking about?

009 HANSEN: Liability for solid waste disposal.

020 VAN NATTA: Section 9 deals with state fire marshal's billing after hazardous material spills. The intent of this amendment is to

encourage the state marshal to do a more thorough job in recovering both obvious

and hidden costs. 033 The language "or regional" should be stricken on lines 7, 10, 14 and 21.

035 MOTION: REP. HOSTICKA: Moves to strike the words "or regional" from lines 7, 10, 14, and 21.

036 VOTE: CHAIR BAUM: Hearing no objections, the AMENDMENTS are ADOPTED.

037 SUSAN BROWNING, Acting State Fire Marshal: The intent of this section is that the locals would bill for local response and include the State's indirect costs in the billing. This section is not very clear to us.

042 REP. LUKE: Rep. Dell and I have a problem with the indirect costs referred to on line 12. What does that mean?

047 BROWNING: The local departments would bill for state and local response. As part of their local billing, they would include a portion

of the state's indirect costs. Right now the locals are not billed and

this is a controversial issue. Fixed costs are broken down and variable costs are estimated on the packet earlier handed out (EXHIBIT AA).

110 VAN NATTA: The packet from the State Fire Marshal (EXHIBIT AA) was to establish legislative intent on Section 9 of the -9 amendments to HB

3177.

118 CHAIR BAUM: Is there a flat fee charge for any person or organization that needs to call out clean-up help?

127 BROWNING: Yes, under this proposal there would be a fixed hourly rate of \$618.00.

152 VAN NATTA: Continues explaining the amendments starting with Section 10.

168 REP. FISHER: What happens if you have more incident? Will you continue to charge \$618 per hour or will your rates reflect the demand?

182 BROWNING: The numbers here assume a 30% increase in demand. We figure rates will have to be periodically reviewed to ensure true cost

recovery.

189 VAN NATTA: Continues explanation with Section 11. Section 12 is another conforming amendment.

199 HANSEN: From Section 11 and hereon out is the reflection of the sunset provision.

205 VAN NATTA: Continues explanation.

225 REP. HOSTICKA: Does the load fee need to be rewritten in Section 16? Weren't the -4 amendments considered part of this package? I thought

that it includes part of the load fee.

243 BURNS: ORS 467.127 should be deleted from Section 16.

252 VAN NATTA: Sections 13 and 14 are again conforming amendments. Section 15 is a repeal of a distillate tax in 1996. Section 16 repeals the

gross receipts tax and the petroleum load fee.

280 BURNS: I strongly suggest that this language be run by the motor fuels branch after it is conceptually adopted.

324 VAN NATTA: Continues explanation of amendments.

365 BRIAN BOE, Oregon Petroleum Marketers Association: Gives suggestion for improvement of Section 1, sub 3.

TAPE 73, SIDE A

015 REP. REPINE: Is this the same people we charged the 2% gross receipts tax on oil?

022 BOE: Yes.

030 BILL HENLE, Hazardous Materials Response Team's Advisory Group: We are concerned about reduction of program funding. We understand difficult

times but want to express certain needed level to maintain safety standards for employees.

066 HENLE: The issue we're most concerned about is the indirect costs that the local agencies would have to assess. A problem we see is that it

could increase the number of people not reporting incidents. What about the homeowner who spills a gallon of muriatic acid? It would easily end up at a \$1,000 cost.

084 HOSTICKA: Are they being billed now?

088 HENLE: In Portland, no. Different response zones are handled differently.

094 REP. HOSTICKA: Are such fees insurable by, say, a transporter? What about a homeowner?

100 HENLE: A hazardous materials transporter would be insured. A homeowner's insurance policy might cover it in some cases.

110 REP. LUKE: Does your figure of 930 cases include homeowners?

113 BROWNING: Yes, it includes all responses.

114 CHAIR BAUM: Have you ever estimated what the City of Portland could recover if they even charged some of their direct costs?

116 HENLE: We could charge approximately \$150,000 for indirect costs.

123 REP. FISHER: Who pays your wages?

124 HENLE: The City of Portland.

140 The people are already paying taxes for that basic type of service through the fire department. 151 The number of incidents would be 720 and with the 30% projected increase it would be 936 per biennium.

180 REP. HOSTICKA: Who said that you'd have to start billing for local responses? Who said it's mandatory?

186 BROWNING: The \$618 is to recover investment in equipment and training paid for by the state of Oregon.

209 REP. HOSTICKA: The city or region pays for service but the state pays for training and equipment?

222 BROWNING: Yes.

224 CHAIR BAUM: Are you saying that in local areas the state is picking up the direct costs for response?

232 BROWNING: No. The local taxpayers pay for the staff to respond to a local incident.

232 REP. LUKE: Who pays for the original training and set up?

232 HENLE: We all pay a part of the program.

253 CHAIR BAUM: It was the load fee that has been since declared unconstitutional.

260 REP. DELL: Does Portland represent how most communities base fees or is it variable?

262 HENLE: It does vary. To continue my testimony, we are concerned about unfiled reports and midnight dumpings.

278 ROGER GARBER, City of Eugene, Public Safety: Testifies in favor of the bill and explains that Eugene bills for direct costs in local response

areas, differently from Portland.

300 LARRY VON MOOS, City of Eugene: We have concerns about indirect costs becoming prohibitive for local districts to request assistance. The

direct cost billing method has been successful, however. Gives example.

337 CHAIR BAUM: When you charge that direct cost fee, where does the money go?

340 VON MOOS: It goes into our general fund. The state charges a percentage.

350 REP. NORRIS: Section 9 says "may bill the person." It seems that with this wording you've got some latitude and I don't read this as a

mandate.

363 VON MOOS: If that is correct we would be happy with the provisions. 387 REP. FISHER: It took you three hours to figure out a 50 gallon drum was full of diesel?

396 VON MOOS: We operate under new federal OSHA standards and can absolutely not stick our fingers in abandoned drums or sniff

unidentified remains.

TAPE 72, SIDE B

008 DAVID NELSON, Tualatin Fire and Rescue: Has some concerns with charging indirect costs. If all departments don't charge for indirect costs, it

will reduce the amount of dollars collected for the indirect costs. The average dollars per hour that would need to be collected would increase.

042 REP. REPINE: When we started this I vaguely remember some assurances about a one time money dump which would get the program off and running and we'd never really be hearing this stuff again. Where did we get

derailed?

052 NELSON: The more we learned about the program, the more we learned how costly it would be.

079 REP. LUKE: Aren't the potential costs going to drive responsible parties to simply flush chemicals down the drain or not report it?

080 NELSON: That was a concern expressed by Bill Henle.

086 CHAIR BAUM: Maybe some discretion needs to be put into it.

092 EVERETT CUTTER, Oregon Railroad Association: Our preferred approach is to continue paying the load fee. It would be acceptable to pay the

\$100,000 statutory back-up to that load fee. The \$300,000 in the -6 amendments are triple what we'd be comfortable with. We have some concerns with the -9 amendments.

135 MARVIN FJORBEC, Attorney, Southern Pacific Transportation Co.: Explains concerns with the -9 amendments and suggests alternatives.

237 RICK SLOAN, Hazardous Materials Response Program, Southern Pacific Transportation Co: Involved for the last 10 years helping prepare for

rail incidents. Historically, there is low incidence of rail spills.

273 REP. REPINE: What was the cost you paid to response teams prior to your arrival?

277 SLOAN: The total for the three incidents was \$30,995; \$2,700 for HarriSB urg in 1991, \$21,000 for Cow Creek last December and \$7,500 for

Yoncalla in January 1993.

293 REP. DELL: How did the State Fire Marshal's information construct rail incidents as 33 percent of the total?

309 SLOAN: Those are direct costs to the state. The 33 percent was based on the cost of responding to incidents. 319 FJORDBECK: The fallacy of the fire marshal's report is illustrated.

342 REP. DELL: The Cow Creek incident was the second highest cost on the list. Your accidents are more expensive than the average?

354 SLOAN: The Cow Creek incident involved a split response between Douglas and Coos Bay units which doubled the equipment costs.

377 REP. DELL: Are you insured for this?

381 SLOAN: We are self insured.

TAPE 73, SIDE B

011 REP. REPINE: My question is about your document. The way it was represented to me in the office was that the railroad represented more

than they paid for. Nobody stated that they pay their own way cent-by-cent. Am I reading this wrong or is there something clandestine about it?

049 BROWNING: The issue of paying their own way delves into the controversial issue of locals paying their own way. The information

presented represents the total cost to date.

080 REP. REPINE: I feel that the point being made to me in my office was that the railroad industry should not be squirming about increased fees. Perhaps I misunderstood but I believe I picked it up correctly.

094 REP. LUKE: Who paid for it before 1989?

098 BROWNING: Prior to 1989 there were fewer OSHA regulations about who can respond to a hazardous material emergency.

127 CHAIR BAUM: CLOSES WORK SESSION ON HB 3177

Adjourns meeting at 9:40.

Also submitted for the record: Memo from Richard Reiter, DEQ (Exhibit BB).

Submitted by: Also transcribed by: Reviewed by:

Karen McCormac
Assistant

Sue Nichol
Clerk

Kathryn Van Natta
Administrator

EXHIBIT LOG:

A - SJR 40 A-Engrossed Staff Measure Summary, Senate Vote Sheet, Revenue Analysis and Fiscal Analysis - Staff - 4 pages B - SB 90 A-Engrossed Testimony - Martha Pagel - 2 pages C - SB 90 A-Engrossed Staff Measure Summary, Revenue Impact Analysis, Fiscal Impact Assessment, Senate Vote Sheet, Senate Amendments to SB 90 D - SB 90 A-Engrossed Hand-Engrossed with SB 90 A-4 Amendments (LC 953), 6-22-93 - Staff - 4 pages E - SB 90 Testimony - Jerry Schmidt - 1 page F - SJM21 A-Engrossed Testimony - Sen. Bradbury - 2 pages G - SJM 21 A-Engrossed Staff Measure Summary, Revenue Impact Analysis, Fiscal Impact Assessment, Senate Vote Sheet, Senate Amendments to SJM 21 - Staff - 4 pages H - SB 1112 B-Engrossed Testimony - Coastal Caucus - 1 page I - SB 1112 B-Engrossed "Oregon Guides and Packers" Amendment - Larry Hill - 1 page J - SB 1112 B-Engrossed Testimony - Steve Beyerlin - 60 pages K - SB 1112 B-Engrossed Testimony - Steve Beyerlin - 5 pages L - SB 1112 B-Engrossed Testimony - Denny Hughson - 1 page M - SB 1112 B-Engrossed Testimony - Anne Squier - 15 pages N - SB 1112 B-Engrossed "Rep. L. Sowa" Amendment - Rep. Sowa - 3 pages O - SB 1112 B-Engrossed "Water Resources Department" Amendment - Martha Pagel - 1 page P - SB 1112 B-Engrossed Staff Measure Summary, Senate Vote Sheet, Fiscal Analysis and Revenue Impact Analysis - Staff - 4 pages Q - SB 938 Testimony - Kay Brown - 2 pages R - SB 938 Staff Measure Summary, Senate Vote Sheet, Fiscal Analysis, Revenue Impact Analysis - Staff - 4 pages S - HB 2214 Hand-Engrossed with HB 2214-5 Amendments (LC 850), 6-28-93 - Staff - 7 pages T - HB 3679 - HB 3679-1 Amendments, Staff Measure Summary and Fiscal Impact Statement - Staff - 4 pages total U - SJM 5 A-Engrossed - Staff Measure Summary, Fiscal and Revenue Impact Statements, Senate Vote Sheet, Senate Amendments - Staff - 6 pages total V - SJM5 - Testimony - Sean Brennan - 2 pages W - SJM19 - Staff Measure Summary, Fiscal and Revenue Impact Statements, Senate Vote Sheet - Staff - 3 pages total X - SJM19 - Testimony - Wallace Rutledge - 3 pages Y - HB 3177 - HB 3177-9 Amendments - Staff - 20 pages Z - HB 3177 - Information - Staff - 12 pages total AA - HB 3177 - Information - Susan Browning - 5 pages BB - HB 3177 - Information - Staff - 2 pages