

HOUSE COMMITTEE ON NATURAL RESOURCES

June 30, 1993 Hearing Room D 1:30 p.m. Tapes 80 - 85

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 Pat Zwick, Committee
Coordinator Karen McCormac, Committee Clerk

MEASURES CONSIDERED: SB 675 - Work Session SB 87 - Pub. Hearing
& Work Session SB 946 - Pub. Hearing & Work Session SB 1008 - Pub.
Hearing & Work Session SB 1014 - Pub. Hearing HB 3177 - Work Session

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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
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TAPE 80, SIDE A

005 CHAIR BAUM: Calls meeting to order at 1:58 p.m. and
announces the agenda for the day.

Opens work session on SB 675.

WORK SESSION ON SB 675

023 KATHRYN VAN NATTA, COMMITTEE ADMINISTRATOR: Reviews provisions
of SB 675 which deals with quotas, stands, and the sale of incidental
items in farm zones.

Submits staff measure summary, Senate vote sheet, and fiscal and revenue
no-impact statements (EXHIBIT A).

Reviews previous hearings.

040 MOTION: REP. MARKHAM MOVES SB 675 TO THE FLOOR WITH A DO
PASS RECOMMENDATION.

045 VOTE: ON A ROLL CALL VOTE THE MOTION CARRIES WITH
REPRESENTATIVES DELL, DOMINY, HOSTICKA, JOSI, MARKHAM, NORRIS,
VanLEEUEWEN AND BAUM

VOTING AYE. REPRESENTATIVES FISHER, LUKE, PETERSON, AND REPINE ARE

EXCUSED. (REPRESENTATIVES FISHER AND REPINE VOTE AYE LATER IN THE MEETING)

050 CHAIR BAUM: Rep. Hosticka will carry the bill.

This bill is not in any way intended to affect existing uses of farm markets as they currently exist.

Closes work session on SB 675.

Opens public hearing on SB 87.

PUBLIC HEARING ON SB 87

Witnesses: Fred Hansen, Department of Environmental Quality Rich Reiter, UST Manager, Department of Environmental Quality Larry Hill

057 VAN NATTA: Reviews provisions and history of SB 87-B which increases the annual compliance fee for underground storage tanks.

09 CHAIR BAUM: Does the House DEQ budget have this money in it?

090 FRED HANSEN, DEPARTMENT OF ENVIRONMENTAL QUALITY: No, as the House Appropriation Committee dealt with all areas of the budget with

legislation pending, they did not include it within the budget itself, but expected it would be associated with the legislation as it moved through the legislative process.

097 REP. HOSTICKA: Section 4 appears to set up an expenditure limit, is there any need for them to do anything additional to this.

110 HANSEN: No. Legislative Fiscal office says language in Section 4 is the expenditure limit.

Presents and summarizes written testimony concerning need for SB 87 (EXHIBIT B).

165 RICH REITER, UST MANAGER, DEPARTMENT OF ENVIRONMENTAL QUALITY: Describes SB 87 in more detail.

177 REP. VanLEEUEWEN: How do you get to the \$158,000 figure and what are you doing with all of the extra money over that amount?

183 REITER: The department's base budget already includes an expenditure limitation for underground storage tanks based on the current \$25 per

tank per year authorization. SB 87 shows the increase which would be realized when going from \$25 to \$35.

191 CHAIR BAUM: The House authorized the \$25 but Senate went for the \$35. We need to send this down to Appropriations to consider this.

196 HANSEN: This would be a separate bill and not part of the budget.

Explains why number of tanks is decreasing.

251 REP. DELL: Did the loss of federal funds cause the need for the increase?

254 HANSEN: Money from federal government is not keeping up with inflation.

299 CHAIR BAUM: Requests explanation of budget figures.

304 HANSEN: The major portion of federal grant reflected in DEQ's over all budget that is increasing is the grant for the state Revolving Loan Fund to assist local governments with publicly owned sewage treatment works.

Offers to meet with Rep. VanLeeuwen to further explain budget.

339 REP. NORRIS: Are the funds used for technical assistance to tank owners?

344 HANSEN: Some of the funds are for technical assistance, some of which is ensuring the requirements are being met in terms of compliance. The

\$10 increase we are discussing is the difference between being able to do only the minimum compliance program and being able to provide that higher level of technical assistance to small businesses. 100% of the \$10 increase, if authorized, would be for that technical assistance.

355 REP. NORRIS: Are the compliance people and technical assistance people one and the same?

360 HANSEN: We do expect our compliance people to be of technical assistance, however there are some issues that are related to specific

financial questions that are handled just by technical expert within that field.

433 CHAIR BAUM: Closes public hearing on SB 87.

Opens work session on SB 87.

WORK SESSION ON SB 87-B

435 LARRY HILL, REPRESENTING GASOLINE DEALERS: Testifies in support of SB 87 as amended. The gasoline dealers have no objection to the fee

increase. TAPE 81, SIDE A

MOTION: REP. DOMINY MOVES SB 87 B-ENGROSSED TO APPROPRIATIONS WITH

A DO PASS RECOMMENDATION.

010 HANSEN: This bill does not need to go to Appropriations. Legislative Fiscal office says the bill is complete as is.

017 CHAIR BAUM: We have a subsequent referral from the Speaker's office.

Asks staff to talk to the Speaker's office and if the Speaker agrees, and after verifying Mr. Hansen's statement, we can pull the referral to Appropriations.

VOTE: ON A ROLL CALL VOTE, THE MOTION CARRIES. REPS. LUKE, PETERSON AND REPINE ARE EXCUSED.

020 CHAIR BAUM: Rep. Dominy will carry SB 87 on the floor if the bill does not go to Appropriations.

Closes Work Session on SB 87.

Opens Public Hearing on SB 946.

PUBLIC HEARING ON SB 946 Witnesses: Cindy Ziel, BP Oil Ken Simila, Measurement Standards Division, Department of Agriculture Paul Cosgrove, NW Ethanol Fuel Association

VAN NATTA: Reviews provisions of SB 946-A which requires that dealers dispensing oxygenated fuel post a label notifying consumers that the fuel contains oxygenates.

080 CINDY ZIEL, BP OIL: Submits and reads written testimony in support of SB 946 (EXHIBIT C).

123 REP. HOSTICKA: If someone ships a truckload of oxygenated gas to a business outside a non-attainment area, does the person then have to

label the pump?

139 ZIEL: Yes. Oregon label would have to be used wherever and whenever oxygenated fuels are dispensed.

145 REP. MARKHAM: Requests clarification of what the proposed amendments are.

ZIEL: Would like to see the insertion of the word "only" into page 2, line 2, after the word "post". Would also like deletion of subsection 4 because we believe it extends requirements beyond federal law.

190 KEN SIMILA, MEASUREMENT STANDARDS DIVISION, DEPARTMENT OF AGRICULTURE: Submits and paraphrases written testimony recommending changes to SB 967 (EXHIBIT D).

293 REP. MARKHAM: Which automobile manufacturers void their warranties if you go to the wrong pump?

299 SIMILA: They are listed on page 28 through 30, appendix A (EXHIBIT D).

313 REP. MARKHAM: Have you had complaints from the Oregon Association of Automobile Dealers?

329 SIMILA: Have had contact from manufacturers but have had no contact with the dealer organization.

Motorists contact us regarding fuel problems relating to use of alcohol, water, etc.

351 CHAIR BAUM: How do other states handle this?

352 SIMILA: Refers to Alaska and Arizona information in (EXHIBIT D). SB 946-A, with proposed department amendments, is identical.

379 REP. NORRIS: Refers to methanol information in the owner's manual for a 1987 Ford Taurus.

394 REP. FISHER: Suggests needed addition to Simila's testimony concerning ultra-lites.

396 SIMILA: Was unaware of the extent of all of the types of automotive fueling that go into those craft.

004 CHAIR BAUM: Did you try to make those amendments in the Senate?

006 SIMILA: Those issues did not come up at that time. We were opposed to SB 946 because it required only the federal labeling, but no statement

of type or percentage. We had no opportunity to comment on SB 946-A.

We can support the amended version but only with the changes I've proposed.

012 REP. HOSTICKA: How does this actually operate in the field? Is the fuel delivered always exactly the same?

TAPE 80, SIDE B

017 ZIEL: The fuel is delivered at 10% blend. Fuel delivered to a customer's tank is usually no less than 9% content. Field studies have

not shown differentiation even though there is gasoline residual when seasonal change occurs.

033 REP. HOSTICKA: We've heard anecdotal testimony that when a wholesaler has some of this oxygenated fuel, they might send the delivery to

someplace outside the non-attainment area. Does that actually occur?

041 ZIEL: Ethanol fuel is more expensive, so I doubt that gas stations would pay for the higher priced fuel. It is more likely that people

will fuel their vehicles outside of non-attainment areas. We understand and support the department's position on labeling fuels, but feel that additional information on labels will force people to go outside non-attainment areas for fuel.

065 REP. NORRIS: Do you want the state label to continue to be posted?

068 SIMILA: Yes.

077 PAUL COSGROVE, NW ETHANOL FUEL ASSOCIATION: Testifies in support of SB 946-B, with the amendments proposed by the Department of Agriculture.

079 CHAIR BAUM: Closes public hearing on SB 946.

Opens work session on SB 946.

WORK SESSION ON SB 946

080 VAN NATTA: Reads conceptual amendment: on page 2 of line 2, after the word "post", insert "only".

090 VOTE: HEARING NO OBJECTION, CHAIR BAUM DECLARES THE CONCEPTUAL AMENDMENT ADOPTED.

092 MOTION: REP. NORRIS MOVES THE AMENDMENTS PRESENTED BY THE OREGON DEPARTMENT OF AGRICULTURE BE ADOPTED.

095 VAN NATTA: Reads portions of SB 946-A as it would appear with proposed department amendments; page 1, beginning on line 6 would read "blended

with ethanol, methanol, co-solvent alcohol or other oxygenates in quantities greater than one percent by volume, must disclose:".

Page 1, line 8 "(a) That the gasoline contains ethanol, methanol, co-solvent, alcohol or other oxygenates, and"

Page 1, line 11 "(b) The maximum percentage of alcohol or any other oxygenate contained in the gasoline"

Page 1, line 13 "of each pump that dispenses gasoline blended with ethanol, methanol, or co-solvent, alcohol or other oxygenate."

126 REP. HOSTICKA: If we put the word "only" in subsection 3 we have said that in a non-attainment area during the non-attainment period they only have to put the federal label on. But in section 1 we say that if they

sell anything they have to put some other label on.

Why are we amending section 1 if we have already amended section 3?

159 ZIEL: Inclusion of the word "only" and deletion of subsection 4 deal with whether or not non-attainment areas, during non-attainment periods, have to post both the federal and state label, or just the federal

label.

You can include the word "only", delete subsection 4 and adopt the

Department of Agriculture amendments and what you will have is; any time a station in Oregon uses any kind of blended fuel they will have to post that except in a non-attainment area during a non-attainment time, only the federal is required. But should that same station use a fuel in

April, they too will have to conform to the Oregon law.

160 REP. HOSTICKA: According to your testimony, nobody is going to sell this fuel unless they are in the non-attainment area during the

non-attainment time, so we are requiring people to label for something

they are not actually going to do.

162 ZIEL: We believe it will be very rare that a station would choose to use a fuel such as ethanol outside of a non-attainment area. We are

trying to avoid revisiting this issue next session.

168 COSGROVE: Our concerns would be addressed by adoption of the Department of Agriculture proposed amendments which resolves the inconsistency

between the two sets of labels.

169 MOTION: REP. NORRIS MOVES ADOPTION OF THE DEPARTMENT OF AGRICULTURE'S AMENDMENTS.

(Repeat of earlier motion.)

172 VOTE: WITHOUT OBJECTION, CHAIR BAUM DECLARES AMENDMENT ADOPTED.

173 MOTION: REP. NORRIS MOVES THE DELETION OF SUB PARAGRAPH 4 ON PAGE 2 LINE 5 THROUGH 8, SB 946-A.

VOTE: HEARING NO OBJECTION, CHAIR BAUM DECLARES AMENDMENT ADOPTED.

MOTION: REP. NORRIS MOVES SB 946-A, AS AMENDED, TO THE FLOOR WITH A DO PASS RECOMMENDATION.

VOTE: ON A ROLL CALL VOTE THE MOTION CARRIES WITH ALL MEMBERS PRESENT VOTING AYE. REPS. JOSI, MARKHAM, AND PETERSON ARE EXCUSED.

190 CHAIR BAUM: Rep. VanLeeuwen will carry the bill.

Closes work session on SB 946-A.

204 MOTION: REP. BELL MOVES SUSPENSION OF THE RULES TO ALLOW REP. FISHER AND REP. REPINE TO VOTE ON SB 675.

VOTE: WITHOUT OBJECTION, RULES ARE SUSPENDED.

REP. FISHER VOTES AYE AND REP. REPINE VOTES AYE ON SB 675.

210 CHAIR BAUM: Opens public hearing on SB 1008.

PUBLIC HEARING ON SB 1008-A Witnesses: Dave Nelson, Oregon Dairy Farmers Association

220 CATHERINE FITCH, COMMITTEE ADMINISTRATOR: Reviews provisions of SB 1008-A which addresses the confined animal feedlot program. Submits

staff measure summary, Senate vote sheet, fiscal impact statement, and revenue no-impact statement (EXHIBIT E).

There is a subsequent referral to Appropriations A Committee.

245 DAVE NELSON, OREGON DAIRY FARMERS ASSOCIATION: Testifies in support of SB 1008.

CHAIR BAUM: Closes public hearing on SB 1008-A.

Opens work session on SB 1008-A.

WORK SESSION ON SB 1008

270 MOTION: REP. JOSI MOVES SB 1008-A TO THE APPROPRIATIONS COMMITTEE WITH A DO PASS RECOMMENDATION.

VOTE: ON A ROLL CALL VOTE, ALL MEMBERS PRESENT VOTE AYE.

REPRESENTATIVES DELL, HOSTICKA, PETERSON, REPINE, AND VanLEEUEWEN ARE EXCUSED.

290 CHAIR BAUM: Closes work session on SB 1008-A.

Opens public hearing on SB 1114.

PUBLIC HEARING ON SB 1014-A Witnesses: JoAnn Herrigal, Association of Oregon Recyclers Dick Briggs, Dick Briggs Consulting Services Larry Hill, Oregon Gasoline Dealers Association

291 CHAIR BAUM: SB 87 does not need to go to Appropriations. Rep. Dominy will carry the bill on the House floor.

Following bills will not be heard today; SB 315, SB 908, SB 86, SB 48, SB 535, and SB 90. The bills will be scheduled for tomorrow. SB 753 is removed from the calendar and not rescheduled at this time.

291 FITCH: Reviews provisions of SB 1014-A which creates the Used Oil Recovery Committee. Submits staff measure summary, Senate vote sheet,

fiscal impact statement, and revenue no-impact statement (EXHIBIT F).
359 JOANN HERRIGAL, ASSOCIATION OF OREGON RECYCLERS: Submits and reads written testimony in support of SB 1014-A (EXHIBIT E) and urges passage of the bill.

430 REP. LUKE: Where do you get your estimates there are 600,000 gallons of oil from people who change their own oil?

With 450,000 cars in the Portland area, it would take a majority of those people changing their own oil to meet your figures. You said the Minute Lubes, Jiffy Lubes etc. are recycling their oils. How many people do you estimate are changing their own oil?

450 HERRIGAL: Do not have the actual population figure. I think there may be a misprint in some of the information. I believe that it is 2.4

million gallons of oil generated by this group of people that change their own oil in the state each year, and that a quarter of that is 600,000 gallons.

460 REP. LUKE: In the background information it says it is estimated that 600,000 gallons of used oil are not recycled in the Portland area each year.

465 HERRIGAL: Right. I believe that is a misprint; it should be in the state of Oregon.

468 REP. LUKE: That would be better.

TAPE 81, SIDE B

035 REP. NORRIS: What is the basis for the two mile radius on Page 2, Line 18 of the bill?

040 HERRIGAL: I believe the figure was derived from basic information and surveys done in the past suggesting that people would prefer not to go outside a two mile radius to deliver their used oil to a collection depot. However, these are just recommendations for things to be discussed by the committee and I'm sure that issue will come up.

045 REP. NORRIS: It almost reads as a mandate and I am concerned with that small a mileage.

050 HERRIGAL: Believe it is a recommendation that the committee consider these things and if the committee reported that a two mile radius or the number of depots is not appropriate that would be accepted.

066 REP. FISHER: How much oil contamination do we have in the water today?

067 HERRIGAL: Unable to answer.

068 REP. FISHER: Automobiles previously required more oil changes and held more oil than they do now. Although there are more cars now, they may

utilize less oil. A lot of recycling is going on by peoples' natural inclination.

077 REP. JOSI: This bill is only an attempt to build a better mousetrap. It would be nice to have a safe way to dispose of the oil I change in my car.

087 HERRIGAL: There are many recycling centers and curbside programs which collect used oil. Only twenty percent is going to the collection

depots. We do not know where the remaining eighty percent used oil goes or whether it is handled appropriately.

123 DICK BRIGGS, DICK BRIGGS CONSULTING SERVICES: States his experience.

Submits and paraphrases written testimony in support of SB 1014 (EXHIBIT H) and recommends that a clear policy direction be added to section 2.

177 REP. LUKE: What type of consulting do you do?

182 BRIGGS: Consulting for government issues and for business network brokering.

186 LARRY HILL, OREGON GASOLINE DEALERS ASSOCIATION: The Oregon Gasoline Dealers Association supports oil recycling and appreciate the intent of the bill. Believe oil recycling is coming and is necessary to improve

recycling to protect water and other resources.

Suggests changes to make SB 1014 more effective: _Appointment of two additional committee members; 1. an independent

retail gasoline dealer and, 2. an auto repair shop representative
_Clarification that the two petroleum marketers listed represent

different sectors of the industry _"Appropriate" rather than "imposing" in civil penalty section _Add "and assignment of liabilities" after "sanctions" because it is

often difficult to ascertain who contaminated the oil _Present bill

overlooks the fact that it may be possible and desirable

to have a deposit for retail sales of oil, not just the container and should be looked at

250 REP. NORRIS: How would you recoup your deposit work on oil containers?

252 HILL: The dirty container will likely be brought back to service stations rather than where they may have been purchased. Dealers will

be seriously impacted by any deposit system. Will probably have to recapture deposits at time of purchase and place in a central pool, and the collector of the used oil or used container would take it to a central depository, where refund will be paid.

273 REP. LUKE: Refers to page 2, line 22 which requires owners of multi-family housing to use the used oil programs. Do you think that if we do move this bill out that someone from that group should be on the

committee?

286 HILL: I couldn't impose that suggestion, but it seems fair.

305 CHAIR BAUM: Closes public hearing on SB 1014-A.

Opens work session on HB 3177.

WORK SESSION ON HB 3177

315 VAN NATTA: Notes chart provided to members (EXHIBIT I). 330
CHAIR BAUM: Recesses for a short break.

Reconvenes meeting.

I met with a working group some time ago and they agreed to reduce their demands from \$4.8 million to about \$4.1 million and the users agreed to fund about \$3.9 million. The \$3.9 million originally agreed to was to consist of the load fee which generated \$1.4 million and 1/5 of a cent tax on off-road fuels which generated about \$2 million. The overcharges for indirect cost generated another \$500,000, bringing the total to \$3.9 million.

We need to decide how we are going to get to that; who is going to be in and who is going to be out and I sensed from the discussion both in the committee and off the record that there was some discomfort in the committee with the indirect charges.

Some of the fire fighting people testified that charging indirect costs would discourage some people from reporting because it looked like it would be at least an \$800 to \$1,000 fine for showing up at the business

or wherever it was. Suggests we eliminate that from the bill, and raise the .20 of a cent to .25 of a cent. If we can agree on that as a committee and keep load fee the way it was, it still lets the respective fire districts charge direct costs.

TAPE 82, SIDE A

010 REP. VanLEEuwEN: The City of Portland doesn't charge citizens because they pay taxes. We also pay taxes.

016 CHAIR BAUM: You pay for direct costs.

Do not think the City of Portland charges either direct or indirect costs because their property tax payers pay them to do that.

025 REP. VanLEEuwEN: Believes there is over-response when cost recovery is allowed.

050 CHAIR BAUM: Wants to discuss concepts at this point until the committee is comfortable. Bill can then be brought back for formal adoption.

057 VAN NATTA: Reviews funding matrix (EXHIBIT I).

106 REP. DOMINY: Who are the new amendments from?

109 VAN NATTA: The -11 amendments are from an agriculture consensus group. The -12 and -13 amendments are from the railroad people. The -12 and

-13 amendments have language that do different things based on the same concepts.

150 SUSAN BROWNING, OFFICE OF THE STATE FIRE MARSHAL: Reviews "pink sheet" (part of (EXHIBIT J)) concerning the composition of the Hazardous

Materials Response System and explaining the petroleum load fee and alternative revenue sources.

We can only raise money from the Petroleum Load Fee for highway related uses. 210 FRED HANSEN, DEPARTMENT OF ENVIRONMENTAL QUALITY: Explains attorney general's office advice.

220 REP. HOSTICKA: The total amount of money needed for the regional response teams is \$2.4 million.

There is nothing that says you can't raise all of that from the load fee.

229 BROWNING: The money raised from the load fee can only be used for highway related activities. Sixty percent of the cost of the teams is

highway-related. The other forty percent is related to rail and fixed

sites.

243 REP. DOMINY: Are we prevented from increasing the \$10 load fee?

245 BROWNING: You could set the load fee at any level, but you could not use it for anything but highway related activities.

257 REP. NORRIS: What is a typical example of a highway related activity for which the regional response team could use this money?

259 BROWNING: A spill on the road, highway, adjacent right-of-way, rest stop, etc.

Because the attorney general has said that we can only use 60% of the entire \$10 load fee to fund the teams (because only 60% of the work is highway related) we are proposing modifying the load fee so it is designated in statute as only for highway related use, then the load fee would vary based on the legislatively approved uses of that load fee.

306 Committee members and Browning discuss various aspects of the fire marshal's figures in (EXHIBIT J).

TAPE 83, SIDE A

BROWNING: Explains fire marshal budgetary needs.

040 DAVID YANDELL, OREGON EMERGENCY MANAGEMENT: \$404,000 is what we feel we need for this program. We have attempted to diversify where funds will

be pulled from, proposing 15% from the 911 telephone tax funds and are attempting to raise the rest out of funding outside of this bill from user fees and federal resources.

We need, depending on which amendments the committee chooses to adopt, \$4,040 from rail line assessment or a total of \$258,560 from the non-exempt fuel tax proposal.

043 CHAIR BAUM: Summarizes Yandell's information.

Discussion of funding sources and amounts.

085 HANSEN: Explains operation of emergency management response system.

\$324,788 listed in chart (part of (EXHIBIT J)) is best estimate of DEQ's cost of response to calls.

We can pick up \$48,000 from the petroleum load fee, because that amount is highway related. The \$276,000 is the amount that is not highway related and therefore subject to the proposed distillate fee.

Re. the Orphan Site funding; the Governor's recommended budget had \$9.45 million for bonds to be sold in the 1993-95 biennium to fund orphan site activities. The question asked was can you fund those activities at a lesser level? DEQ's answer is, certainly. You are not going to do some important things, but you can. Instead of funding at \$9.45 million, we would sell \$5 million worth of bonds. Because of how the debt service is paid the bottom line on the chart would drop to \$1,050 million.

128 REP. VanLEEuwEN: Does the orphan site get into the drug lab cleanup?

133 HANSEN: Not in most cases, because most drug labs do not pose a hazard to the environment. 140 VanLEEuwEN: Do you have RICO funds to cover cleanup in roadside and forest areas?

146 HANSEN: RICO funds would be available at about one fifth of our cost estimates for cleaning up sites which do not pose an environmental

threat.

170 VAN NATTA: Reviews figures.

205 VanLEEuwEN: Why does OHSU need extra in addition to what phones currently pay him?

209 YANDELL: Amount we are proposing to use for the Oregon Emergency Response System (OERS) represents that part that we feel we can justify using telephone tax funds for to recognize the support role that the OER system provides to the 911 system statewide.

The amount we are proposing to use would be from the 4% administrative fee which the legislature set for OEM to administer 911 program.

215 REP. DOMINY: Under current budget, OERS receives money from FEMA, 911, and the load fee. How does the proposed budget compare with current

budget?

230 YANDELL: The \$404,000 we need for this biennium was to have been paid for out of the petroleum load fee. When we were notified that we were

not to spend any of the petroleum load fee dollars for the OER system,

we questioned the Justice Department about that part of the program that we felt was transportation related and received a letter that we could

not expend any of the petroleum load fee dollars for the OER system.

That forced us into looking for alternative funding sources to provide for the system.

240 REP. DOMINY: Are you currently receiving money from 911 and FEMA?

245 YANDELL: No.

260 REP. DOMINY: Do you have any assurance that you will?

264 YANDELL: We have consulted with FEMA and introduced the -6 and subsequent amendments to utilize the 15% telephone tax for that purpose. These are all new funding concepts.

270 REP. DOMINY: Is legislative approval needed to get this money from where it was thought it would be spent?

275 YANDELL: As it relates specifically to the telephone tax, the legislature has already set a cap of 4% or actual expense, whichever is less. The amount we are proposing are dollars that will be there to

fund for that purpose. It is simply a matter of getting the legislature to approve in concept the idea that we would expand 15% of the legislatively approved budget for the OER system out of the telephone tax.

280 REP. LUKE: Does DEQ handle radioactive spills?

285 HANSEN: Explains how hazardous materials teams respond, depending on spill. Would involve other agencies for radioactive spills.

300 CHAIR BAUM: Some committee members do not understand why 911 telephone tax does not provide adequate funds.

309 YANDELL: Our primary concern is that since the 911 legislation was first adopted there has been a hard line understanding that the

telephone tax funds had to be dedicated in total to 911 telephone service.

We feel this would be a departure from that policy in funding a state program outside of Oregon Emergency Management. We proposed language in the -6 amendment to specifically make clear our intent to utilize 15% of the legislatively approved budget for OERS.

320 VanLEEuwEN: Thought that the 911 system was set up to take care of all the emergency calling. Because you have another program that you feed

into you add that to your telephone response system. Do not understand why you need the extra money at all, even if you need approval to use the money in this system, yet that is all part of the 911 emergency calling system.

340 YANDELL: Language in -6 amendment does not request new money but approval to utilize the dollars available to us under our administrative fee - to apply those dollars to the OERS.

The allocation for the OER system consists of \$258,560 from the new non-exempt fuel tax, \$60,400 from the 911 telephone tax, and \$84,840 from other sources (user fees and FEMA dollars) for a total of \$404,000.

380 CHAIR BAUM: Any objection to keeping load fee and raising \$1.5 million?

420 MOTION: REP. HOSTICKA: MOVES THAT PETROLEUM LOAD FEE BE SET AT LEVEL NECESSARY TO RAISE \$1.5 MILLION.

428 BROWNING: Sections 4 and 5 of the -6 amendments give State Fire Marshal's office rule making authority to set the amount of the

petroleum load fee to fund the legislative approved budgets. If the budgets go down, the load fee will go down accordingly.

440 VOTE: WITHOUT OBJECTION, CHAIR BAUM DECLARES AMENDMENT ADOPTED.

TAPE 82, SIDE B

016 VAN NATTA: Dept. of Justice letter dated June 28, 1993 sent to committee members (EXHIBIT K) says that bulk fee can not be used for the OER system.

035 BRIAN BOE, REPRESENTING PETROLEUM MARKETERS ASSOCIATION: Understands Fire Marshal's concerns but this OERS funding has become a large amount of money. We did not sign up for this amount at the beginning at the

program in 1989.

We want legislation to be specific that in two years there is increased opportunity for cost recovery. Absent other outside revenue to make the program self-sufficient, we would like to review the program thoroughly in two years to see what the money is being spent for and have a sunset provision included in the legislation.

075 CHAIR BAUM: Would that be contingent on willingness to go along with a fraction of a cent tax?

080 BOE: Will discuss that with client.

080 REP. FISHER: Do you propose to sunset the whole bill?

085 BOE: Yes.

100 CHAIR BAUM: States his understanding of meetings of the work group.

118 ANDY ANDERSON, OREGON FARM BUREAU: Agricultural community is concerned with funding for OHSU toxicologist. Feel funding for that position

should be given top priority.

Would support Mr. Boe's sunset proposal.

Would like to see orphan site come in next in the proposal.

Fire Marshal should come in last.

What was proposed as a two year program in 1989 is continuing and amount of money wanted continues to grow.

175 ANDERSON: Do not want ORS 465.385, dealing with oversight and reporting responsibility, repealed. Legislature needs more oversight over

administrative agencies, not less.

188 VAN NATTA: Language to address Mr. Anderson's concern is encapsulated in sections 11 and 12 of the -13 amendment. The -9 amendment does not

have that language.

200 MOTION: REP. HOSTICKA: MOVES DELETION OF CONSIDERATION OF BILLING FOR INDIRECT COSTS.

VOTE: WITHOUT OBJECTION, CHAIR BAUM DECLARES AMENDMENT ADOPTED.

MOTION: REP. HOSTICKA: MOVES TO INSERT .25 (ONE-FOURTH) OF A CENT PER GALLON UNDER "NON-EXEMPT FUEL TAX".

235 BOE: Recommends not using term "non-exempt".

240 CHAIR BAUM: Legislative counsel will use correct language.

250 VAN NATTA: Amendments say different things and define petroleum distillate products in different ways. Motion should be clear.

260 BOE: Have not yet received a clear response from fuels tax branch. Have advised clients to respond to details. Some issues could be

resolved on Senate side.

280 ANDERSON: Would like \$2 million cap if go with one-fourth of a cent.

290 VAN NATTA: Agriculture consensus group brought forth -11 amendment (EXHIBIT L) which includes diesel fuel used for non-highway purposes,

residential fuel oil and kerosene products. They go on to specify limitations of where tax can be used and only \$1.6 million can be

raised. Reads portion of -11 amendment (EXHIBIT L).

315 MARVIN FJORDBECK, SOUTHERN PACIFIC TRANSPORTATION COMPANY AND OREGON RAILROAD ASSOCIATION: We have attempted to create a linkage between

spill response need for services and the services themselves. Because of the constitutional problems in this area we have been in process of moving further away from that linkage.

If adopt assessment, you will be further from the linkage between who is causing the spills and who pays for them.

First need to accept or reject based upon linkage assessment.

345 REP. HOSTICKA: We can not make that linkage legally. Virtually impossible to pinpoint who is the beneficiary of these services.

Feel we are reduced to political question of how many committee votes you can get for this tax.

400 CHAIR BAUM: Believe Rep. Hosticka is talking about adopting what is found in sections 1 and 2 of the -9 amendments (EXHIBIT M) but changing the amount of the tax from .2 of a cent to .25 of a cent.

TAPE 83, SIDE B

REP. LUKE: Railroad is beneficiary in event of a major spill because of need for equipment and trained personnel.

010 FJORDBECK: Railroad is not arguing about whether or not they are beneficiaries of the program but about level of cost that should be

borne by railroads.

020 VOTE: ON A ROLL CALL VOTE, AMENDMENT TO -9 AMENDMENT (EXHIBIT M) IS ADOPTED. REPS. DELL, DOMINY, HOSTICKA, JOSI, LUKE, NORRIS, BAUM VOTE AYE. REP. LUKE NOTES NO. REPS. MARKHAM, PETERSON, REPINE,

VanLEEuwEN ARE EXCUSED.

055 CHAIR BAUM: How much would be raised if there is no cap?

060 BOE: Between \$2 and \$2.5 million.

065 FJORDBECK: Railroad has calculated tax using Mr. Boe's figures of distillate use in Oregon of 400,000 gallons. You are applying the tax

to 440 million gallons. That does not include some kerosene to which the tax would apply.

080 REP. DOMINY: Going to take more money than calculated for the orphan site clean up. If more dollars are collected than calculated in this

biennium, would rather see more money set aside for the orphan site clean up than put on a cap.

Has problem with refunding over-collections caused by cap.

090 ANDERSON: Want cap because fire department has not stayed with commitments made.

Group willing to accept tax for two year period. If funds not adequate, agency should curtail activities or seek money elsewhere.

105 REP. LUKE: What if we don't set a cap, set a certain amount for the fire marshal hazardous materials teams, and give excess to orphan site

fund?

110 ANDERSON: Can not answer for group. Suspect there would not be a lot or argument about that.

130 MOTION: REP. DOMINY MOVES STATE FIRE MARSHAL AMOUNT BE REDUCED TO \$2 MILLION AND ANY EXCESS MONEY DEDICATED TO THE ORPHAN SITE FUND.

150 HANSEN: Make sure that annual numbers match biennial numbers and that petroleum load fee is separate.

160 ANDERSON: Would like to see that amount of money for toxicologist be a priority issue and fully funded.

200 REP. HOSTICKA: Summarizes figures.

210 FJORDBECK: Has not been satisfied throughout process based on numbers discussed. Is not signing off on numbers.

235 ANDERSON: Our preference would be fire marshal be floater and you fund orphan sites.

Withdraws his statement.

330 CHAIR BAUM: Restates motion; adopt figures of \$2 million spending authority for state fire marshal, \$225,000 for OHSU, \$258,000 for

Emergency Management Response Team, \$325,000 for DEQ response, and an as yet undetermined amount for the Orphan Site Fund.

332 VOTE: WITHOUT OBJECTION, CHAIR BAUM DECLARES AMENDMENT ADOPTED.

335 CHAIR BAUM: Lacking a quorum, a subcommittee of the House Natural Resources Committee will take public testimony from railroad

representative.

Asks for differences between amendments and which one railroads prefer. Railroads prefer -13 amendments, would like to have 1989 back-up fee (railroad assessment fee) the way they pay their contribution, don't want to be part of the load fee or the distillate fee. Other option railroads had is -12 amendment which would have railroads opt out of distillate fee, but be in load fee.

345 FJORDBECK: The two amendments are alternatives proposed by the Oregon Railroad Association and are acceptable to the group as a whole.

-13 amendment which re-triggers rail assessment agreed to in 1989 is the preference of Union Pacific because of operational distinctions between the lines.

The dollar impact is likely to be very close.

415 CHAIR BAUM: We are now back in full committee status.

FJORDBECK: \$100,000 per biennium. If railroads are inside the distillate fee our contribution would be \$412,000 per biennium. In our view that is out of line and too large a contribution based on one industry. This happens because the tax you are imposing is on non-motor vehicle fuels and the largest user of non-motor fuels is railroads.

Railroads would fund 13% of the program.

TAPE 84, SIDE A

FJORDBECK: Our best estimate of cost under the load fee is \$180,000 per biennium at the \$10 rate.

Rail line assessment is the calculation for the amount that answers the questions of how much should the railroads contribute based upon historical spill response. Assessment is broken up among large railroads in state, based on track mileage.

060 REP. DOMINY: Will rail assessment need Supreme Court decision?

066 FJORDBECK: If distillate tax is imposed on railroads there are potential constitutional problems. With the load fee at levels being

sought, does not believe it is likely there is a successful constitutional challenge. Rail assessment is not a tax on fuels, but fee for operating within the state and recognizing some benefit to the railroads of the state programs. Unlikely to be challenge of rail fee

assessment.

085 CHAIR BAUM: If railroads were exempt from participation in distillate tax there would be a \$400,000 shift-out replaced with a \$100,000

shift-in on rail assessment resulting in a net loss of \$300,000 on distillate tax.

090 FJORDBECK: Correct.

Should have cause and effect linkage and the amendments reflect that.

Difficulty is railroads are trying to get back to linkage and away from incongruity of hitting largest single user disproportionately.

130 -12 and -13 amendments both exempt railroads from the distillate fuels tax and put load fee back into place. Difference between -12 and -13

amendments is the mechanism by which they restore fairness to the charges made on Oregon railroads for payment of this program.

-12 amendment retains the load fee on Oregon railroads, exempts them from the distillate fuel tax, and does not create this assessment we agreed to in 1989.

-13 amendments do the reverse; they end the load fee as it applies to Oregon railroads and place the assessment on Oregon railroads in the amount of \$100,000 per biennium.

150 CHAIR BAUM: How much would you pay toward these programs under the new method?

153 FJORDBECK: \$108,000 for the biennium if the load fee is at \$5.80.

220 CHAIR BAUM: Suggests committee consideration of releasing railroads from bulk load fee and rail assessment and keeping their participation

in distillate tax.

240 FJORDBECK: That suggests that this program should be balanced on the back of a large fuel user. That is the railroad's objection and why the committee should not adopt the proposal.

It is unfair to balance program on a large fuel user. That unfairness leads to constitutional challenges.

290 Our proposal is: railroads would not pay distillate fee and would pay EITHER the rail fee OR....(tape inaudible)

Estimate railroads have paid \$90,000 per year paid since program began -

based on load fee.

315 CHAIR BAUM: Can bring in railroads for a rail line assessment and a bulk load fee and bring in about \$200,000. State fire marshal suggested the \$300,000 rail line fee. There are some options to be considered.

325 REP. DELL: What percentage of the program did the \$90,000 per year pay?

340 BROWNING: 1991-93 budget for the teams was \$3.4 million.

357 1989-91 estimated revenue from petroleum load fee was \$3.4 million, 1991-93 original spending limit was \$3.7 million, actually used \$3.4

million. Proposed for 1993-95, the emergency response system is \$3.4 million.

HANSEN: Need to use \$4.1 million figure because of fund transfers.

TAPE 85, SIDE A

CHAIR BAUM: Lists options for railroads; 1. do nothing and leave railroads in distillate fees, 2. do only rail line assessment, 3. do only bulk petroleum load fee, or 4. let railroads participate in both bulk and rail line assessment fees.

015 REP. DOMINY: Expresses concern about cuts.

035 REP. LUKE: If we are talking about leakage we have to look at the exposure of a full tank car running down the Columbia or Deschutes

Rivers and what happens if they spill. We are talking about chemicals and other hazardous materials that can spill. The exposure that the railroad has is a lot higher than it is for agriculture or service stations. If you are talking about linkage let's talk about exposure and the threat posed to the environment, and the amount of money it takes to clean it up.

Do not like being threatened by a witness.

040 KATHLEEN DOTT, REPRESENTING UNION PACIFIC RAILROAD: Suggests that a stable funding base is one additional advantage of going with rail

assessment fee because it is based on track miles as opposed to fuel consumption. Can also be proven that there is a statistical correlation

between miles of track and risk of incidents occurring.

Allocations based on fuel consumption puts disproportionate amount of cost on railroads having difficult terrain, unrelated to risk.

058 REP. DOMINY: If we cut funding to the orphan sites more than we have we have no orphan site program. We need solution to replace funds.

075 MOTION: REP. HOSTICKA MAKES CONCEPTUAL MOTION TO EXEMPT RAILROAD FUEL FROM THE ONE QUARTER OF A CENT DISTILLATE TAX AND SUBSTITUTE AN ASSESSMENT OF \$200,000 ON THE RAILROADS. VOTE: WITHOUT OBJECTION, CHAIR BAUM DECLARES CONCEPTUAL AMENDMENT

ADOPTED.

085 FRED HANSEN, DEQ: Have bonding problem. Proposes bonds sold would be authorized for 1993-95 biennium as if we could assume that whatever the revenue source is from the distillate fee and the railroad fee were to

be in existence at that same level for the life of the bonds.

Explains legal responsibilities and guarantees which will have to be met when selling bonds.

210 JEANNETTE HOLMAN, LEGISLATIVE COUNSEL: The locals could still bill for indirect costs. The section previously in HB 3177 allowed the state

fire marshal to bill for them for those costs.

250 CHAIR BAUM: Asks Fred Hansen to prepare chart with current figures for tomorrow's meeting.

Hosticka and Baum will check figures prior to meeting to determine if intent is reflected.

260 CHAIR BAUM: Adjourns meeting at 6:45 p.m.

June 30, 1993 letter and proposed amendments from Oregon Railroad Association (EXHIBIT N) and June 29, 1993 letter and proposed amendments from Thomas J. Carmichael of Carmichael Columbia Oil, Inc. (EXHIBIT O) are submitted for the record.

Transcribed by:

Pat Zwick, Coordinator

EXHIBIT LOG: A - SB 675A - SMS, vote sheet, impact statements - Staff - 3 pages B - SB 87 - Fred Hansen Testimony - 22 pages C - SB 946 - Cindy Ziel Testimony - 2 pages D - SB 946 - Ken Simila Testimony & proposed amendments - 14 pages E - SB 1008-A - SMS, vote sheet, impact statements - Staff - 5 pages F - SB 1014-A - SMS, vote sheet, impact statements - Staff - 4 pages G - SB 1014-A - Herrigel Testimony - 3 pages H - SB 1014-A - D. Briggs Testimony - 2 pages I - HB 3177 - Option Matrix -

Staff - 1 page J - HB 3177 - State Fire Marshal Testimony & proposed amendments - 3 pages K - HB 3177 - Dept. of Justice letter - 3 pages L - HB 3177 - HB 3177-11 amendment - Agriculture group - 21 pages M - HB 3177 - HB 3177-9 amendment - Staff - 20 pages N - HB 3177 - Oregon Railroad Assn. letter & proposed amendment - E. Cutter - 5 pages O - HB 3177 - Carmichael letter & proposed amendment - 2 pages