

Senate Committee on Agriculture and Natural Resources June 3, 1991 -
Page

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.

SENATE COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES

June 3, 1991Hearing Room C 8:15 a.m. Tape 227 - 230

MEMBERS PRESENT:Sen. Dick Springer, Chair Sen. Joyce Cohen,
Vice-Chair Sen. John Brenneman Sen. Shirley Gold Sen. Bob Kintigh
Sen. Tricia Smith Sen. Eugene Timms

VISITING MEMBERS: Rep. Lisa Naito

STAFF PRESENT: Peter Green, Committee Administrator Chris Beck,
Research Associate Jill Rader, Committee Clerk

MEASURES CONSIDERED: HB 2086-A (WRK) HB 2175-A (PPW) HB
3361-A (PUB) HB 2745 (PUB)

These minutes contain materials which paraphrase and/or summarize
statements made during this session. Only text enclosed in quotation
marks report a speaker's exact words. For complete contents of the
proceedings, please refer to the tapes.

TAPE 227 SIDE A

003 CHAIR SPRINGER CALLS THE MEETING TO ORDER AT 8:15 AM

WORK SESSION HB 2086-A

006 PETER GREEN, Committee Administrator, Summarizes bill. There aren't
any amendments.

MOTION:Sen. Brenneman moves HB 2086-A to the floor, do pass.

VOTE:In a roll call vote the motion passes with 6 ayes. Sen Gold is
excused.

PUBLIC HEARING ON HB 2745

WITNESSES:Mike Dewey, Oregon Cable TV Assoc. Dan Dority, Citizen

061 MIKE DEWEY, Oregon Cable TV Assoc., Gives overview in favor of HB
2745 and submits testimony including EXHIBIT A, written testimony from
Bill Kloos, EXHIBIT B, a court of appeals opinion and EXHIBIT C,
suggested amendments to HB 2745. -Gives background -The court, in the

case documented in EXHIBIT B, took a narrow view of the word necessary. -Reads from page of EXHIBIT A, the letter from Bill Kloos. -For the record, "based on this legislation, Although it's going to be a problem in the future, Country Cablevision, was able to, after going through the hoops numerous times, was able to finally get the permits to operate a cable television system, ie. to get it in permits to put it in an EFU zone." -Cable television technology has changed. Costs are down and rural service is easier. -Won't disrupt agricultural activity. -If the Counties rely on the McCaw decision EXHIBIT B a cable company would have to go through numerous unnecessary permit requirements. -Explains the proposed amendments EXHIBIT C.

174 SEN. SMITH: Why is the amendment necessary? Are you not considered a utility facility?

178 DEWEY: We are a public service utility facility according to LCDC. Some organizations and individuals have expressed concern. One individual's concern is that a municipality may site a public drinking water well in an EFU zone. If the well was contaminated then whoever contaminates the well could be responsible. By taking out the word necessary one might argue that you want the county to go through numerous hoops before they can locate a water well in an EFU zone.

204 SEN. SMITH: The amendment wouldn't restore the word `necessary'.

206 DEWEY: It would. The amendment EXHIBIT C puts the word `necessary' back in.

208 SEN. SMITH: Under this amendment, EXHIBIT C, the cable tv facility wouldn't have to meet the necessary test, only everything else.

211 DEWEY: Under this amendment EXHIBIT C you could locate a cable tv facility without the word `necessary'. If you put in the word `necessary' you're back in the same situation. -The committee has two options; speak to cable television specifically and deal with the word `necessary' or have specific language dealing with municipal drinking facilities in EFU zones.

PUBLIC HEARING ON HB 3361-A

WITNESSES:Rep. Lisa Naito, District 15 Brian Doherty, IBM Jim Craven, American Electronics Assoc. Brian Boe, National Electrical Manufacturers Assoc., Dry Cell Battery Division and Battery Products Alliance Quincy Sugarman, OSPIRG Bob Danko, Department of Environmental Quality (DEQ)

240 REP. LISA NAITO, District 15, Submits written testimony supporting HB 336 1 EXHIBIT D and gives brief overview.

RETURN TO PUBLIC HEARING ON HB 2745

278 DAN DORITY, Citizen, Submits and gives overview of written testimony EXHIBIT E -Addresses the liability issue. It isn't always clear who caused contamination to water. -The city of Sherwood has sunk a municipal well of 1,000 gallons per minute causing people with individual wells to have to dig deeper.

TAPE 228 SIDE A

014 SEN. COHEN: Keep focused, this bill isn't about water rights.

020 DORITY: If you accept the amendment that leaves the word necessary in then there is no problem. If you take the word necessary out, too many problems are created.

026 CHAIR SPRINGER: We need to hear from Marion County.

RETURN TO PUBLIC HEARING ON HB 3361-A

047 BRIAN DOHERTY, IBM, Gives testimony supporting HB 3361-A and submits suggested amendments EXHIBIT F. Rep. Naito has no objection to this change.

076 SEN. SMITH: Establishes that the changes on include those on page 2 line 4 of the suggested amendments EXHIBIT F and that the second change on EXHIBIT F on page 2 line 25 of the bill is repealed.

081 JIM CRAVEN, American Electronics Assoc., Oregon Council, Further clarifies the amendments EXHIBIT F and their purpose. Gives definition of 'consumer products'.

102 CHAIR SPRINGER: Has this amendment been cleared with Rep. Naito?

104 DOHERTY: The sponsors have no objection.

109 BRIAN BOE, representing National Electrical Manufacturers Assoc, Dry Cell Battery Division and Battery Products Alliance, Gives testimony supporting HB 336 1-A. -Summarizes the bill by section. -The impact of this bill will be on some imported products. -Collection is the difficult issue.

177 QUINCY SUGARMAN, OSPIRG, Gives testimony supporting HB 3361-A and gives brief overview of written testimony EXHIBIT G.

197 SEN. TIMMS: Is this legislation the same as other states' legislation?

204 SUGARMAN: Minnesota and Connecticut and other states are looking at similar standards. Isn't aware of the specifics of Oregon's bordering states.

211 SEN. TIMMS: What problems does this create?

213 SUGARMAN: This doesn't cause any problems because the national manufacturers are already trying to meet the higher standards in Minnesota and Connecticut as well as in Europe.

216 BOB DANKO, DEQ, Supports HB 3361-A. Line 16 and 17 on page 3 of HB 336 1-A is a drafting error and should have been removed on the House side. That is being checked.

CHAIR SPRINGER: Make sure you let staff know how that is resolved.

PUBLIC HEARING AND WORK SESSION ON HB 2175-A

WITNESSES: Douglas Morrison, NW Pulp and Paper Assoc. Jim Whitty, Associated Oregon Industries Tim Nissen, Wood Energy Institute of Oregon Joe Weller, American Lung Assoc. Dell Isham, Oregon Automobile Association of America (AAA) Donald Arkell, Lane Regional Air Pollution Authority John Charles, Oregon Environmental Council Steve Greenwood, DEQ Wendy Simms, DEQ Dave Nelson, Oregon Seed Council

255 CHAIR SPRINGER: Brief synopsis of what has happened so far in previous testimony on HB 217 5-A.

270 DOUGLAS MORRISON, Northwest Pulp and Paper Assoc., Gives testimony supporting HB 217 5-A. -The authority given to DEQ in the bill is appropriate -Addresses the fees issue. Proper funding of this program is necessary. -Refers to his 5/31/91 testimony. -Ability to pay fees on actual or permitted emissions is essential. Gives example. -This bill should include criminal penalties. -Suggests using criminal penalty language from SB 115 of the 1987 session.

381 SEN. COHEN: Is your group supportive of including automobiles as part of this and if not why?

392 MORRISON: There is no question that something needs to be done with automobiles and woodstoves. Supports efforts controlling these sources.

411 SEN. COHEN: You would be supportive if this committee added automobiles and woodstoves back into this bill to make it more aggressive.

TAPE 227 SIDE B

003 MORRISON: Doesn't know what is being proposed. Would need to know how much money is involved and if the measures proposed would be effective at reducing emissions.

010 SEN. COHEN: So your judgement would be to what is effective and not leave that up to the counties.

014 MORRISON: Doesn't feel he is qualified to answer.

019 SEN. TIMMS: Have there been emissions fees previously in the State of Oregon?

024 MORRISON: There are permit fees and annual compliance fees. This has been going on for 20 years. They need to be modified.

032 SEN. TIMMS: Were you previously paying fees based on actual emissions.

034 MORRISON: You just needed a permit.

035 SEN. TIMMS: So you would like an actual fee to make industry more responsive.

039 MORRISON: Indeed. Payment on actuals is a market based incentive. It has been removed from the bill and should be back in.

057 JIM WHITTY, Associated Oregon Industries (AOI), AOI supports HB 2175-A. Rep. Cease indicated there was a split in our membership on this issue. It wasn't a 50/50 split. The bulk of our members favor the house-passed version. It's more of a difference in approach. Every member wants a bill. Every member wants adequate but not excessive resources for the Department. The division occurs as to what is adequate.

078 CHAIR SPRINGER: Should we build leeway into the bill so the Agency can go before the Emergency Board if something arises unpredicted?

084 WHITTY: Would like to explore that. Primarily, this should go to Ways and Means. We would be supportive of more aggressive efforts on woodstoves and automobiles.

101 SEN. TIMMS: By when do we need to comply with the Federal Clean Air act.

103 MORRISON: By November of 1993 we need to submit our program to the EPA.

106 SEN. TIMMS: There is a logistics problem.

112 WHITTY: It's more a matter of comfort level. We need a sufficient amount of time to pass a bill and then set up a program.

117 SEN. TIMMS: The point is we have a program. A lot of states don't even have that. What are other states doing?

126 WHITTY: Most other states have an annual legislative session.

128 MORRISON: DEQ and Environmental Quality Commission are going to have to go through rule making to develop this program by November, 1993. Practically they need more time. It comes down to why we are asking for a bill this session.

144 TIM NISSEN, Wood Energy Institute of Oregon, Gives detailed overview of written testimony EXHIBIT H. Suggests amendments to HB 2175. These are contained in the written testimony.

311 CHAIR SPRINGER: We will need specific amendments to get your suggestions into this bill.

321 NISSEN: The language does exist from the hearings on the House side.

331 SEN. TIMMS: What percentage of people are buying pellet stoves?

NISSEN: Overall probably 25% of the market.

338 SEN. TIMMS: How long have they been around?

340 NISSEN: Pellet stoves have been around 6 or 7 years. They are cleaner but they are expensive and they don't work when the power is off.

353 SEN. TIMMS: How will you collect \$3.00 per cord?

359 NISSEN: DEQ assures him it is doable.

385 JOE WELLER, American Lung Assoc., Gives testimony opposing HB 2175-A, Submits testimony EXHIBIT I. HB 2175-A doesn't do enough to reduce our air pollution problems. Advocates original principals addressed by the interim committee. -Urges adoption of Oregon Environmental Council Amendments HB 2175-A21.

TAPE 228 SIDE B

027 DELL ISHAM, Oregon AAA, Submits written testimony EXHIBIT J and gives overview.

058 CHAIR SPRINGER: What does AAA support this session to reduce automobile emissions?

065 ISHAM: Isn't willing to increase fees on automobiles until he knows what programs these fees will support. Supports getting vehicles off the roads. The motor vehicle emission fee program should be a statewide program with regional components.

081 CHAIR SPRINGER: Does your organization support higher CAFE standards now being discussed as part of the National Energy Plan.

084 ISHAM: Understands that the national AAA supports increasing fuel mileage as long as vehicle safety doesn't suffer.

088 CHAIR SPRINGER: How do they feel about strategies reducing vehicle miles traveled.

090 ISHAM: Doesn't think there is an objection. It would decrease congestion and benefit motorists who need to travel. It also may slow down the increase in highway taxes.

104 SEN. COHEN: The Task Force would cost money. The Automobile part of this should somehow pay for the Task Force.

120 ISHAM: The Task Force is important.

123 SEN. COHEN: But it still needs money to do what it needs to do adequately. There isn't funding in this bill for a task force.

126 ISHAM: Agrees that there does need to be some funding.

130 DONALD ARKELL, Director, Lane Regional Air Pollution Authority, Submits written testimony EXHIBIT K and gives overview. -Urge passage of HB 2175-A with the HB 2175-A22 amendments. -A bill is needed this session.

200 SEN. TIMMS: What about rural/urban equity for auto emission fees?

204 ARKELL: Conclusions haven't yet been reached about how that will be solved.

217 SEN. BRENNEMAN: Would you admit that in Lane County there is a difference in airshed between Eugene, Oakridge and Florence?

221 ARKELL: The biggest difference is probably between areas east and west of the coast range.

225 SEN. BRENNEMAN: Assumes that the pollution authority in Lane County treats these areas differently.

227 ARKELL: Those areas that violate Federal standards are identified and treated separately.

SEN. BRENNEMAN: What kind of restrictions on woodstoves have been put on Western Lane County.

237 ARKELL: None at this time.

240 SEN. BRENNEMAN: Why do you support the HB 2175-A22 amendments which treat western Lane County on woodstoves the same as the rest of Lane

County?

244 ARKELL: There is an equity issue that the need in Lane County is to support the changeover from older stoves to new less polluting heating stoves.

249 SEN. BRENNEMAN: Don't you have the authority to do that now? Why haven't you?

255 ARKELL: We don't have that authority to set fees for woodstoves in Lane County.

259 SEN. BRENNEMAN: You're a home rule County. You should have the right to assess woodstove fees.

263 ARKELL: We work under the same rules as DEQ in terms of air pollution rules.

270 SEN. BRENNEMAN: Stands corrected. But you do have the ability to deal more strictly with some of these particular areas. If HB 2175-A22 makes sense to treat everyone equally then why hasn't this been done.

285 ARKELL: We attempt to tailor the rules to areas where there are problems. We don't extend restrictions to areas where there are no problems.

296 SEN. BRENNEMAN: The majority of the problem is in the valley and it doesn't make sense to restrict areas that aren't having problems.

307 JOHN CHARLES, Oregon Environmental Council, Goes over written testimony, a summary of proposed amendments to HB 2175-A EXHIBIT L.

383 SEN. SMITH: How do you propose getting away from the requirement that fees based on the use of automobiles go straight to the highway fund. Aren't we defeating our purpose if we can't generate funding

390 CHARLES: Raising revenue is secondary. The primary purpose is to have people pay their share for air pollution. That in itself will effect vehicle miles traveled. This is a fee on the use of an airshed not of the vehicle so there is a chance these fees will be exempt from the constitutional restriction.

408 SEN. SMITH: Taxes and fees should be based on ability to pay. This would be contrary to that.

TAPE 229 SIDE A

005 CHARLES: This proposal is far less regressive than the status quo. A price needs to be established and people have to pay their share rather than nothing. Once revenues are raised then the social equity issues can be addressed.

021 SEN. SMITH: If it goes to the highway fund it could well be used to build more roads.

025 CHARLES: The money would be limited to improving air quality.

037 SEN. KINTIGH: What does the \$25 per ton fee cover?

039 CHARLES: All air contaminants.

053 SEN. KINTIGH: Any idea on what the conversion factor is for a ton of straw in field burning? How does this compare to the present fees based on acreage?

056 CHARLES: There is a system set up to plug in figures to find out how much pollution is produced. A ball park figure would be somewhere between \$8-14/acre. -continues summary of EXHIBIT L, a summary of proposed amendments to HB 217 5-A

096 CHAIR SPRINGER: Where is the public support on this issue?

102 CHARLES: In every public opinion poll people support environmental programs and are willing to pay for them.

111 SEN. BRENNEMAN: Last session when the news hit that there would be woodstove fees, there was tremendous opposition.

116 CHARLES: When fees attack a problem narrowly, people find it to be unfair. This Bill addresses all of the causes of air pollution. It doesn't pick on any one sector.

127 SEN. BRENNEMAN: Maybe the polls should reflect that they will be paying for these programs.

133 SEN. TIMMS: Seeks clarification that vehicles East of the Cascades are exempt from this proposal.

169 STEVE GREENWOOD, DEQ, Submits amendments, HB 2175-A23 EXHIBIT M. Uses the hand-engrossed version of HB 2175-A22, EXHIBIT N to illustrate the latest changes in the HB 217 5-A23 amendments. -States reasons for the revised amendments. -Goes through, in detail, the changes HB 2175-A23 EXHIBIT M makes to the hand engrossed HB 2175-A22 EXHIBIT N.

334 SEN. TIMMS: Establishes that there is nothing in the HB 2175-A23 amendments that requires fees of slash burning or field burning. Could you do that in administrative rules in this bill?

GREENWOOD: No.

346 CHAIR SPRINGER: How would we be dealing with actual versus permitted emissions and what would be the effect on your budget from these latest HB 2175-A23 amendments?

349 WENDY SIMMS, DEQ, The Department is proposing to use permitted emissions as the basis for the interim fee. The results of an advisory committee will help us propose assessment in the long run. We are proposing permitted because we aren't set up to assess an equitable fee based on actual emissions. This can be timely and expensive to set up.

392 CHAIR SPRINGER: Is the trash burner out at Brooks-Keizer covered under this act?

SIMMS: Yes.

CHAIR SPRINGER: Is part of the problem that not every industry is set up to monitor emissions and they would have to incur costs?

TAPE 230 SIDE A

005 SIMMS: The Brooks Burner is one of the most monitored sources in the state because they only have one emission point. Sources have an option under the industry's proposal. They would incur costs to pay on the basis of actual. At this point there is no criteria for what is acceptable.

020 CHAIR SPRINGER: How are industries going to make these choices economically as well as environmentally?

027 SIMMS: Before a source can make those decisions they need to understand the requirements. We need to put rules in place so they can determine how to base their emissions.

033 SEN. SMITH: Why does DEQ want to include the 4,000 ton per year cap on emissions?

036 GREENWOOD: That was put in as a compromise on the house side. It lessens the sting for the larger industries and it does dilute the original bill.

055 SEN. SMITH: Why does DEQ have it in their amendments to the bill?

057 GREENWOOD: It was part of the negotiations and discussions with industry.

062 CHAIR SPRINGER: Who might hit that 4,000 per ton cap besides pulp and paper?

063 SIMMS: The most significantly effected group is the utilities, specifically PGE.

066 SEN. TIMMS: The Boardman plant is never on line. Are they paying for their permitted cost when they never operate?

069 SIMMS: They are running now and plan on running 6 months out of the year.

078 SEN. TIMMS: They have to be up and operating before you can charge the fee.

080 SIMMS: Assuming the cap is kept in place, that wouldn't be significant since they wouldn't have to be operating very long before they hit the cap.

085 SEN. TIMMS: You say you don't have the expertise in regards to actual emissions, yet you've been in the process of regulating and monitoring these companies.

090 SIMMS: We have been running a permit program for about 20 years. About half of the states do.

094 SEN. TIMMS: It's a disincentive for the big companies to look at actual emissions. What do you do with the operator who can't hire the technology to take care of emissions. If you can't take care of big companies how will you regulate the medium ones?

106 CHAIR SPRINGER: What kinds of businesses and industries fall under that definition.

110 SIMMS: DEQ has the expertise but there are other needs for this

expertise. It takes time to establish criteria. The permanent program requirements in the Clean Air Act addresses numerous sources.

134 SEN. TIMMS: Does the small business technical and compliance assistance program as required in the Clean Air Act have to be paid for by the emissions fees?

146 SIMMS: The Act states that the program has to be paid for by the emission fees. Operationally we can look for the most efficient ways to run these technical assistance programs.

151 SEN. TIMMS: Requests from DEQ a copy of the Federal Law that says you have to us emission fees to pay for the program.

160 DAVE NELSON, Oregon Seed Council, We aren't effected by the HB 2175-A22 amendments but we have problems with HB 2175-A21, the OEC amendments. Comments on the HB 2175- A21 amendments. -Don't object to paying fees, but this bill would add to a field-burning fee that was just passed out of this committee.

206 SEN. KINTIGH: What would the \$25 per ton of the emission fee convert to per acre?

211 NELSON: It comes to about \$4.50 per acre on actual emissions.

216 GREENWOOD: Permitted fee levels versus actuals. -Actuals would be difficult and more expensive. There aren't monitors on stacks for most of the major sources. There isn't continuous emission monitoring. We take estimates. -Concerned that during the interim there could be inconsistent assumptions.

250 SEN. COHEN: The industry submits an evaluation of the process and then you make an assumption on what comes out the top and then you make an inference of what their fee should be.

260 SIMMS: Yes, the fees are based on the type of industry, the workload, and emissions from testings on similar facilities.

273 SEN. TIMMS: Didn't the original bill have to do with actuals?

276 GREENWOOD: Yes. Originally we talked of actual emissions as well as giving ourselves a longer time frame.

285 SIMMS: The original proposal was based on permitted emissions. There would then be a rebate procedure where sources could demonstrate their actuals and be discounted based on that.

294 SEN. TIMMS: There must be technology to check what comes out of a stack.

304 CHAIR SPRINGER: Who's here from industry to tell us how much it would cost to monitor a stack?

313 DOUG MORRISON: Doesn't know specific dollar figures. DEQ has to know at some point what actual emissions are so they can tell if you're in compliance with your permit. It would be expensive to continuously monitor emissions.

335 SEN. COHEN: There are different kinds of operations and processes with different types of emissions that will determine how they are

monitored and calculated.

342 CHAIR SPRINGER: There are numerous stacks with different things coming out of each one in a paper mill.

348 MORRISON: There are many points of emissions. In working through the bill, by DEQ's estimate, it would take half of an FTE to develop the criteria for everybody.

375 GREENWOOD: It is correct, we have estimated it would take about one half FTE to develop the criteria. It would, however, cost more to implement it.

389 CHAIR SPRINGER: Every plant is different once the criteria are ready to be applied.

397 GREENWOOD: For some sources and some pollutants there are no smokestacks at all.

400 SEN. SMITH: Is the Boardman plant monitored?

SIMMS: Yes, it is monitored for Nitrogen Oxides, Sulfur Dioxide and Carbon Monoxide.

408 SEN. SMITH: You wouldn't have a problem knowing now the kinds of emissions coming from Boardman.

SIMMS: That is correct.

TAPE 229 SIDE B

004 CHAIR SPRINGER: How do you determine the appropriate emitting fee on these non-stack contributors and how would you go to an actual system?

008 GREENWOOD: Each of these sources have a plant site emission limit in their permit.

CHAIR SPRINGER: How do you derive that permitted level?

010 SIMMS: The permitted level is based on production.

018 SEN. COHEN: Its based on production levels and activity. It isn't an actual measurement.

028 MORRISON: The 4,000 ton cap, for the most part doesn't provide our sources with any amount of relief. It is mainly the big utility companies who get relief under this provision.

035 CHAIR SPRINGER: Why a 4,000 per ton cap, is that in the National Bill?

SIMMS: Yes.

041 SEN. TIMMS: How many dollars is 4,000 ton cap?

044 MORRISON: If you use the \$25 figure out of the clean air act, per pollutant it would be \$100,000 per year. Boardman could easily run into hundreds of thousands of dollars.

052 GREENWOOD: We will hand-engross the HB 2175-A23 amendments.

CHAIR SPRINGER ADJOURNS MEETING AT 10:20 AM

EXHIBIT LOG:

A - Testimony on HB 2745 - Dewey - 2 pages B - Testimony on HB
2745 - Dewey - 3 pages C - Amendments to HB 2745 - Dewey - 1 page D
- Testimony on HB 3361-A - Lisa Naito - 2 pages E - Testimony on
HB 2745 - Dority - 4 pages F - Amendments to HB 3361-A - Doherty - 2
pages G - Testimony on HB 3361-A - Sugarman - 2 pages H
- Testimony on HB 2175-A - Nissen - 6 pages I - Testimony on
HB 2175-A - Weller - 2 pages J -Testimony on HB 2175-A - Isham - 1
page K -Testimony on HB 2175-A - Arkell - 2 pages L - Testimony
on HB 2175-A - Charles - 1 page M - Amendments to HB 2175-A - DEQ -
15 pages N - Amendments to HB 2175-A - Staff - 24 pages

Submitted by: Reviewed by:

Jill Rader Peter Green Committee Clerk Administrator