MEASURE NUMBER:SB 126STATUS: A EngrossedSUBJECT:Testing of commercial drivers for controlled substances and employment driving record.GOVERNMENT UNIT AFFECTED:Department of Transportation, Employment Department,Department of EducationPREPARED BY:PREVIEWED BY:Susie Jordan/Michelle Deister/Monica BrownDATE:April 27, 2009

EXPENDITURES:	4	<u>2009-2011</u>	<u>2011-2013</u>
ODOT – Personal Services – (Other Funds)	\$	22,500	\$ 0
ODOT – Services and Supplies – (Other Funds)	\$	61,710	\$ 56,682
	\$	84,210	\$ 56,682

EFFECTIVE DATE: January 1, 2010

LOCAL GOVERNMENT MANDATE: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

ANALYSIS: The measure allows a motor carrier to report employees that tested positive for drugs to the Department of Transportation (ODOT) when notified of the positive test by a medical review officer. The measure requires motor carriers to notify the Department in writing within 10 business days of the date an employee refuses to take a drug test. This notification does not apply to refusal to take a pre-employment drug test. Persons that test positive or refused to take a test have the right to a hearing before an administrative law judge. The hearing will verify the identity of the person who refused to test, determine if the refusal to test was valid, that correct protocols were taken, and that the person who refused is subject to federal requirements to test. The measure stipulates that refusals to submit to tests will be included on the employment driving record in the same manner as positive tests. The measure removes language releasing the Department from civil liability as a result of placing information concerning a drug test on the employment driving record. ODOT notes that this may increase the number of tort claims to the Department.

ODOT states that the measure requires a new driving record segment to be created in order to post the information to the driver's record. ODOT estimates \$42,000 in one-time costs related to start up, implementation, rule making, and computer programming. ODOT anticipates 47 additional administrative hearing requests, based on current data estimates, at a cost of \$42,210 for the 2009-2011 biennium. Total costs to ODOT are \$84,210 for the 2009-2011 biennium. The Department notes that the provisions of this measure are not a constitutional use of State Highway Funds (1999 HB 3292).

There is a minimal fiscal impact to the Department of Education for revisions to current administrative rules related to drug testing or refusal to test, and the school bus drivers that hold commercial drivers licenses.

Employment Department states the measure has no fiscal impact and will not result in increased administrative hearings.