

PUBLIC HEARING

HB 2964, 3146, 2399, 3445

TAPES 111-112 A-B, 113-114 A

HOUSE REVENUE COMMITTEE

APRIL 13, 2005 1:00 PM STATE CAPITOL BUILDING

Members Present:

- Tom Butler, Chair
- Rep. Vicki Berger, Vice-Chair
- Rep. Mark Hass, Vice-Chair
- Rep. Brian Boquist
- Rep. Sal Esquivel
- Rep. Larry Galizio
- Rep. Betty Komp
- Rep. Andy Olson
- Rep. Chuck Riley

Witnesses Present:

- Rep. Chuck Burley, District 54
- Rep. Gene Whisnant, District 53
- Rep. Jerry Krummel, District 26
- Rep. John Lim, District 50
- Laurie Wimmer Whelan, Oregon Education Assn. (OEA)

Kent Hunsaker, Confederation of Oregon School Administrators

Jon Chandler, Oregon Home Builders Assn.

Scott Barrie, Oregon Home Builders Assn.

Brian Reeder, Dept. of Education

Rep. Robert Ackerman, District 14

Rep. Betty Komp, District 22

Chuck Bennett, Confederation of Oregon School Administrators

Susie Dewberry, People Against a Casino Town Pact

Michael Mason, Attorney, Confederated Tribes of Warm Springs

Staff Present:

Paul Warner, Legislative Revenue Officer

Steve Meyer, Economist

Mazen Malik, Economist

Lizbeth Martin-Mahar, Economist

Kristi Bowman, Committee Assistant

TAPE 111, SIDE A

002 Chair Butler Calls meeting to order at 1:03 p.m.

OPENS PUBLIC HEARING FOR HOUSE BILL 2964

010 Rep. Chuck Burley Testifies in support of HB 2964 because the bill does not require any new fees, charges, or taxes. The bill dedicates school operating taxes

on new construction and other exception value to school capital projects for two years. It diverts the “exception value” from development revenues into a local school district capital fund for two years, which then reverts back to the local revenue fund as it would ordinarily. Discusses bill specifics and amendments proposed. Discusses table (p. 1) and worksheet (p. 2) in handout (Exhibit 1).

- 155 Rep. Gene Whisnant Testifies in support of HB 2964. Reads verbatim from written testimony (Exhibit 2). Comments that this bill is different from a bill [not specified] submitted during regular session 2003 because it reduces the term for diverting funds from 5 years to 2 years, includes commercial as well as residential properties, and adds capital improvements.
- 181 Rep. Jerry Krummel Testifies in support of HB 2964 because the bill does not raise taxes but provides a significant amount of money for construction on a statewide basis.
- 211 Rep. Berger Asks for an explanation of the funding mechanism and asks: 1) would an individual district elect this option or would it be automatic for all districts; 2) would this money be in addition to a bond.
- 222 Rep. Burley Responds that an account would be established for each school district, and the bill does not preclude a school district from seeking a construction bond. The funds in the new capital fund could be used to pay off debt service of previous bonds.
- 233 Rep. Komp Clarifies that the funding source for this bill would come from property tax. Comments about moving funds from one revenue source to another.

251	Rep. Burley	Explains the school funding process. Adds that the diverted funds stay in one funding source.
270	Rep. Esquivel	Asks: during the interim time that funds are diverted, who will make up the funds that are being put into the intermittent account.
275	Rep. Whisnant	Responds that the funds in question haven't gone into the school funding revenue stream but are diverted into the new capital fund.
284	Chair Butler	Asks about high-growth schools and "phantom" students.
289	Rep. Whisnant	Responds that phantom students or declining enrollment does not affect the proposed capital fund. Adds that money is not being taken away from schools because the capital fund is dedicated to school needs. This bill helps fast growing districts as well as those districts facing declining enrollments.
330	Chair Butler	Questions and answers exchanged with Rep. Krummel about the figures used in the handout (Exhibit 1).
375	Rep. Berger	Comments that the fund doesn't add up to much in comparison to capital costs of a new school. Would voters reject a bond issue because they perceive that the funds being diverted should cover the construction costs?

399 Rep. Krummel Responds that the bill allows school district to go to their constituents with “money in the bank” when asking for school bonds. The key of the bill is that it will be helpful statewide. Discusses the impact of deferred maintenance that has taken place over the years.

TAPE 112, SIDE A

020 Chair Butler Asks Rep. Krummel for estimates of potential revenue for the Sherwood and Wilsonville school districts, similar to the figures used for the Bend/La Pine District in Exhibit 1.

026 Rep. Burley Comments that if the capital fund is established and maintains approximately \$2 M per year, the district could borrow the money on the debt market.

044 Rep. Riley Expresses concern that funds are being diverted from classrooms to capital construction.

053 Rep. Whisnant Responds that money is staying in the local area for school needs. It is local tax money.

065 Rep. Krummel Comments that there is an 18-24 month construction time for new schools. Although funds are being delayed they will be available for operational needs when the building is actually ready.

081 Rep. Hass Comments on high-growth districts like Beaverton and Hillsboro.

096 Rep. Komp Gives anecdotal information about the need of maintenance in one of the local schools in her district.

CLOSES PUBLIC HEARING FOR HOUSE BILL 2964

OPENS PUBLIC HEARING FOR HOUSE BILL 3146

120 Rep. Robert Ackerman Testifies in support of HB 3146 which limits administrative salaries to 7% of actual revenues received by a school district. Discusses his experiences on local school boards and budget reviews. Comments that as long as the state is making such a substantial investment in local schools, the state should have legislative oversight authority over district operations. Believes that salaries and benefits of administrators are “too exorbitant” and take away from needed school construction and operational funds.

174 Rep. Betty Komp Reads verbatim from written testimony (Exhibit 3) in support of HB 3146.

193 Chair Butler Discussion with Rep. Komp about school district accounting practices, such as the use of revenue and administrative budget codes.

216 Rep. Boquist

Asks why 7% is chosen as the cap—is this a representative percentage of most states. Also, asks where the state is now [in relation to the 7%].

222 Rep. Komp Responds that the percentage is based on national and worldwide research. The 7% is part of the general fund percentage. Research data says that if more than 11% of the total budget is spent on custodians, administration, or non-operational items, then the district “has stepped out of the norm of what’s best for education.” In response to the current status question, comments that the range is between 5% and 12% on a statewide basis.

244 Rep. Galizio Expresses concerns about the state micromanaging salaries. Would this bill establish a precedent on setting a cap on higher education teachers/professors’ salaries

255 Rep. Ackerman Responds that teachers’ salaries are negotiated by the collective bargaining process and that he prefers to leave that segment alone. Adds that the bill is for accountability to monitor administrators’ salaries and benefits that exceed the 7% cap.

264 Rep. Hass Asks for information on figures for administrators in Educational Service Districts (ESDs).

272 Rep. Ackerman Responds that the focus of the bill is for K-12 administrators.

274 Rep. Komp

Adds that K-12 and ESD administrative salaries should remain separate because “the issues surrounding the two entities are very different.”

276 Rep. Riley Asks why the bill only addresses administrative services, one piece of the school budget.

288 Rep. Ackerman Responds that because instructor salaries are negotiated in collective bargaining, there is a checks and balance system in place. There are no checks and balances on administrative salaries.

301 Rep. Komp Responds that a school administrator is accountable for her job at all times, but there is no safety net such as a union to protect her job.

320 Rep. Riley Discussion exchanged with Rep. Komp on administrative salaries and the concept of a salary cap.

352 Rep. Komp Adds that while the salary cap may dissuade some administrators from coming to Oregon, the cap provides equity among all districts statewide.

336 Rep. Berger Asks Meyer if he can measure what is being spent on administration on a district level.

353 Steve Meyer

Responds that data is available at the district level, but unsure if that detailed data is the same data reported to the Dept. of Education.

381 Rep. Boquist Comments that it is very difficult to determine what support services cost because of the complexities of the district budget model. Discusses his experience as a school board member.

TAPE 111, SIDE B

CLOSES PUBLIC HEARING FOR HOUSE BILL 3146

OPENS PUBLIC HEARING FOR HOUSE BILL 2399

020 Rep. John Lim Testifies in support of HB 2399. Expresses concern that Oregon is becoming a gambling “mecca” and is concerned about the significant monetary support given to schools from gambling. The bill requires the Governor to obtain the approval of the legislature prior to approving siting of an Indian tribal gaming establishment on lands acquired by an Indian tribe after October 17, 1988. Comments on the constitutionality of establishing Indian casinos on state lands.

086 Chair Butler Discussion with Rep. Lim regarding tribal agreements signed by state governors.

112 Rep. Lim Adds that he believes the Governor exceeded his authority in signing with the Warm Springs Tribe because the Cascade Locks location for

the casino is on state land. Expresses concerns about other tribes wanting to build casinos off tribal lands nearer the Portland area.

- 147 Rep. Olson Comments about the state constitutional reference regarding the Governor's recent agreement with the Warm Springs Tribe. Adds that it appears that the Governor is in violation of the state constitution.
- 160 Rep. Boquist Asks for clarification from Rep. Lim that under federal code the Governor has the authority but must have legislative approval.
- 170 Rep. Lim Responds that the Governor must have approval according to the state constitution, not according to federal code.
- 172 Chair Butler Comments about the pending lawsuit pertaining to the constitutionality of the Governor's agreement with the Warm Springs Tribe.
- 181 Rep. Lim Responds that this is a state constitutional issue, and the sovereignty of Indian nations needs to be observed. Adds that the Columbia Gorge Scenic Area does not match well with the addition of a casino.
- 192 Rep. Boquist Requests information from staff regarding the citation in federal code pertaining to agreements with tribes.

CLOSES PUBLIC HEARING FOR HOUSE BILL 2399

OPENS PUBLIC HEARING FOR HOUSE BILL 3445

- 210 Rep. Lim Testifies in support of HB 3445 and is the sponsor of bill. “The purpose of the bill is to prevent Oregon from subsidizing terrorist activities.” Comments that other states like New York are taking similar action. The U.S. Treasury has identified three charities having links to terrorist networks.
- 246 Chair Butler Comments about general perceptions of terrorists
- 251 Rep. Lim Responds that it is unwise to single out a specific nationality as terrorists.
- 264 Lizbeth Martin-Mahar Comments that many of the provisions in the Federal Tax Relief Act have been connected to Oregon tax laws pertaining to tax-exempt organizations or donors to tax-exempt organizations. With the provisions in the Military Relief Act, those organizations on the terrorist “hit list” are removed from any tax-exempt status for federal or state tax deductions. HB 3445 disallows a state tax-exempt status for organizations that knowingly contribute funds to terrorist organizations. There is a negligible revenue impact nationwide. (Exhibit 4).
- 311 Rep. Boquist Requests information from staff on U.S. Code chapters 8, 15, and 22 pertaining to provisions in HB 3445.
- 361 Rep. Lim

Adds that this is a reaffirmation that “this is not the place for terrorists.”

CLOSES PUBLIC HEARING FOR HOUSE BILL 3445

OPENS PUBLIC HEARING FOR HOUSE BILL 2964

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| 400 | Meyer | Gives overview of HB 2964 (Exhibit 5). The bill dedicates school operating taxes on new construction and other exception value to school capital projects for two years, subject to voter approval. |
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| 441 | Rep. Galizio | Clarifies that Rep. Burley proposes to delete the bill language pertaining to voter referral. |
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| 443 | Acting Chair Berger | Responds that it is her understanding that Rep. Burley recommended deletion of Section 13 of the bill regarding voter approval. |
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| 460 | Laurie Wimmer
Whelan | Testifies against HB 2964. Submits written testimony (Exhibit 7). Comments that the bill is “mechanically inefficient” and unfair in how it moves money between disparate districts. |

TAPE 112, SIDE B

033	Wimmer Whelan	Expresses concern that it takes money out of operating funds and could negatively impact other programs in need of funding.
052	Kent Hunsaker	Testifies against HB 2964 because it moves money from general revenue to construction, and it is unclear how much money is involved; statewide it could approach \$100 M. Secondly, it creates winners and losers and comments that without a list of those winners and losers it would be difficult to make a decision.
075	Rep. Riley	Comments that winners and losers change every year.
084	Jon Chandler	Testifies in support of HB 2964 and submits written testimony (Exhibit 8).
94	Scott Barrie	Testifies in support of HB 2964. Expresses concern about how property taxes are allocated to schools and how they are distributed on the local level. The bill provides the ability for local districts to retain some of the school funding money for capital projects before returning it to the General School Fund.
115	Chandler	Comments on exception value amounts in Washington County that would be captured by HB 2964. Adds that school districts are treated differently than other special districts.
148	Barrie	Comments that the counties would capture the incremental revenue from property values and then disburse the funds to school districts.

160	Chair Butler	Discusses the Ontario school district which could have a declining school population but have an increase in commercial development. Asks if commercial construction is included in the funding.
175	Barrie	Responds that the bill captures commercial and residential property tax revenues.
211	Chandler	Adds that building maintenance would benefit from this saving account.
245	Chair Butler	General comments on HB 2964.
254	Brian Reeder	Testifies against HB 2964. Reads verbatim from written testimony (Exhibit 9). Comments that the key issue is adequate funding of the operations of Oregon schools when the state is unable to provide either stable or adequate funding. To convert operating funds into capital funds is “extremely poor policy.”
285	Rep. Hass	Disagrees with Reeder’s comments about “taking money that isn’t there now.”
295	Reeder	Responds that the bill will prevent money going into the school fund formula and will reduce the amount of money that every school receives through the formula.

314 Rep. Hass Asks about the Dept. of Education's solution for fast-growing districts.

316 Reeder Responds that the Dept. of Education does not have a solution, but it does recognize that fast-growing districts have greater capital needs than other districts. Comments on the reliance on local bonding to support building. The Dept. of Education does not support converting operational funds into capital funds.

CLOSES PUBLIC HEARING FOR HOUSE BILL 2964

OPENS PUBLIC HEARING FOR HOUSE BILL 3146

372 Meyer Gives background of HB 3146 (Exhibit 10). The bill would limit administrative costs to 7% of school revenue.

395 Chuck Bennett Testifies against HB 3146 and submits handout (Exhibit 11). Discusses the contents of the various sections of the handout.

TAPE 113, SIDE A

001 Bennett Continues discussion of the various sections of the handout.

054	Chair Butler	Asks for definitions of terms used on the first page and the School Expenditures page in the handout.
062	Hunsaker	Responds that different sources were used for the figures shown on the pages referred to by Chair Butler, so they may not match up by category.
080	Bennett	Agrees that the definitions are vague. Discusses the tables in the handout.
105	Chair Butler	Discussion with Bennett and Hunsaker regarding information in Bennett's handout. Asks for comparison to other states.
131	Hunsaker	Refers to the 2002-03 School Expenditures sheet (Exhibit 11, p. 16) and discusses direct services which do not include teachers. Adds that there are similar figures in other states.
140	Chair Butler	Discussion with Bennett about certain sections of the handout packet.
153	Hunsaker	Refers to the handout pages on support services and comments that "one size doesn't fit all." The 7% cap does not fit all districts. General comments about administrators and the leadership they provide.
223	Rep. Galizio	

Comments that there is a perception of a “failure of leadership” in the schools in his district. Discussion with Hunsaker about his comments on administrators.

- 241 Hunsaker Comments that there is data that demonstrates that many administrators are paid lower than teachers at the top of their pay scale. Discusses district reserve funds.
- 281 Rep. Boquist Asks for an explanation of the auditing process. Is it a financial audit?
- 288 Hunsaker Each district hires an auditor to do mandatory audits. They do a variety of checks of budget accounts and issue a report to the school district. The report is then sent to the state. It is a financial audit, not a performance audit.
- 314 Rep. Komp General comments about the number of students a teacher sees on a daily basis versus the number of employees an administrator supervises.

CLOSES PUBLIC HEARING FOR HOUSE BILL 3146

OPENS PUBLIC HEARING FOR HOUSE BILL 2399

- 339 Malik

Gives overview of HB 2399 (Exhibit 12). The bill requires the Governor to obtain the approval of the legislature prior to approving siting of Indian tribal gaming establishments.

368 Susie Dewberry Testifies in support of HB 2399 because there should be involvement by the legislature on this issue. Submits handouts (Exhibit 13). The bill has implications for future locations of casinos and discusses the casino being built in Florence. Comments that there are six more tribes seeking recognition in Oregon and there is the potential for more casinos in Oregon.

TAPE 114, SIDE A

040 Rep. Riley Asks if the casino in Florence is located on tribal lands.

043 Dewberry Responds that the land was acquired by the tribe after 1998 and the community was told that the purpose of the land was for cultural and historical purposes. According to the Indian Gaming Regulatory Act the land was put into trust. The tribe requested “restored land status” which allowed them to put a casino on the land.

064 Michael Mason Testifies in opposition to HB 2399. Comments that federal law strictly limits the amount of land that can go into trust for gaming and gives the historical background. Discusses the Cascade Locks project. HB 2399 would conflict with the federal Indian Gaming Regulatory Act because that law says that the “governor” must concur, not the “state.” The Gaming Act is an agreement between the federal government, the tribe, and the executive branch of the state. Adds that the legislature does not operate on a compatible schedule for long negotiations between a tribe and the state government.

- 121 Chair Butler States for the record that he had invited tribal representatives to testify, and Mr. Mason agreed to represent their interests.
- 136 Rep. Boquist If HB 2399 were to pass and held to be constitutional, it would impact current or future agreements. Discussion with Mason regarding the Cascade Locks project and the status of the Indian trust lands in the Hood River area.
- 168 Rep. Berger Comments on the date of October 17, 1988 stated in HB 2399 and its impact on previous pacts.
- 182 Chair Butler Discusses the trust lands in the Hood River area that will be returned to the Warm Spring tribe.
- 201 Rep. Galizio Asks whether it would be wiser to have a larger group of people to weigh in on this issue because of the casino's greater impact on the state.
- 210 Mason Explains why the pacts need to be negotiated with a smaller team like the executive branch instead of a larger legislative body.
- 233 Chair Butler Expresses concern about HB 2399 and its possible retroactive applications.

CLOSES PUBLIC HEARING FOR HB 2399

254 Chair Butler

Adjourns meeting at 3:39 p.m.

Tape Log Submitted by:

Reviewed by:

Kristi Bowman, Committee Assistant

Kim Taylor James, Committee
Coordinator

Exhibit Summary:

1. 1. HB 2964, Testimony, Rep. Burley, 2 pp., 04/13/05
2. 2. HB 2964, Testimony, Rep. Whisnant, 1 pg., 04/13/05
3. 3. HB 3146, Testimony, Rep. Komp, 1 pg., 04/13/05
4. 4. HB 3445, Staff Measure Summary, Martin-Mahar, 1 pg., 04/13/05
5. 5. HB 2964, Staff Measure Summary, Meyer, 1 pg., 04/12/05
6. 6. HB 2964, Revenue Impact Statement, Meyer, 1 pg., 04/12/05
7. 7. HB 2964, Testimony, Wimmer Whelan, 2 pp., 04/13/05
8. 8. HB 2964, Testimony, Chandler, 1 pg., 04/13/05
9. 9. HB 2964, Testimony, Reeder, 1 pg., 04/13/05
10. 10. HB 3146, Staff Measure Summary, Meyer, 1 pg., 04/12/05
11. 11. HB 3146, Handout, Bennett, 49 pp., 04/13/05
12. 12. HB 2399, Staff Measure Summary, Malik, 1 pg., 04/13/05
13. 13. HB 2399, Handouts, Dewberry, 4 pp., 04/13/05
14. 14. HB 2399, Testimony, Mason, 2 pp., 04/13/05