WORK SESSION: SB 171
PUBLIC HEARING: SB 2542
TAPES 106, 107 A-B

SENATE REVENUE COMMITTEE
APRIL 28, 2005 9:00 AM STATE CAPITOL BUILDING

Members Present:	Senator Ryan Deckert, Chair Senator Gary George Senator Rick Metsger Senator Floyd Prozanski Senator Charles Starr, Vice Chair
Witnesses Present:	Rick Willis, PUC Lincoln Cannon, Oregon Forest Industries Council
Staff Present:	Paul Warner, Legislative Revenue Officer Lizbeth Martin-Mahar Barbara Guardino, Committee Assistant

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005	Chair Deckert	Calls meeting to order at 9:04 a.m.

WORK SESSION, SB 171

016	Paul Warner	Gives overview of SB 171-A, which came from the Business and Economic Development Committee with 3 recommendations from the Public Utility Commission. Those recommendations appear in Section 3 of the bill: Recommendation 1 – regarding consolidation of federal returns Recommendation 3 – five-year time period for the commission to order a new filing for general rate revision Recommendation 2 – additional information the PUC would receive and incorporate into its decisions. This is in section 8 of the bill.
030	Warner	Explains SB 171-A7 amendment (**EXHIBIT 1**), which cleans up the language in Section 3 and excludes consideration of water districts.
042	Warner	Explains SB 171-A8, deletes pages 3-5 of the bill (**EXHIBIT 2**). Explains SB 171-A9, (**EXHIBIT 3**) which replaces A8 and adds a section. It also deletes recommendations 2 and 3.
061	Sen. Prozanski	Discovers SB 171-A9 is missing page 3.
077	Sen. Metsger	Explains key elements of SB 171-A9, of which he is a sponsor. Eliminates recommendations 2 and 3 for the PUC. Included now is the requirement that when PUC sets the rates for utilities, it looks at them as stand-alone corporations with no unregulated business interests. The bill will allow them to collect taxes based only on their regulated activities in Oregon. Currently, when they file their returns they are allowed to consolidate with other unregulated business interests. They use Oregon tax dollars to offset those, so Oregon State Treasury never gets paid.

113	Sen. Metsger	Explains why he put the net benefits standard in this bill.
117	Rick Willis	Testifies in support of SB 171-A on behalf of PUC. Commission supports: 1) requiring utilities to file stand-alone returns 2) codifying in state statute the net benefit standard, and 3) exempting small cogeneration facilities.
144	Sen. George	Asks if anyone supports the bill besides the PUC.
147	Sen. Metsger	Responds, everyone involved supports the cogeneration piece; net benefit standard had no opposition; deconsolidated tax return was opposed by Northwest Natural and PacifiCorp. PGE never officially went on the record for deconsolidation but is neutral.
159	Sen. Prozanski	Asks for more information about the parameters of the cogeneration section of the bill.
162	Willis	Responds, this provides an incentive for small power facilities under 50 megawatts to generate power and not have them under the full authority of the PUC.
182	Sen. Metsger	**MOTION: MOVES ADOPTION OF SB 171-A9 AMENDMENTS.**
185	Sen. Prozanski	Asks follow-up questions on regulation of the smaller cogeneration plants.
189	Willis	Responds, they would not come under full regulation of the PUC, but the PUC would still exercise some safety regulations. Any citing of a new facility would go through a public process through the Dept. of Energy.
219	Warner	Comments in regard to the revenue impact of SB 171-A9. Will release a statement that it is indeterminate. There will be years when revenue is positive and when it is negative.
232	Chair Deckert	**ROLL CALL VOTE: 3-2-0** **MEMBERS VOTING AYE: METSGER, PROZANSKI, DECKERT** **MEMBERS VOTING NO: GEORGE, C. STARR**
236	Sen. Metsger	**MOTION: MOVES SB 171-A AS AMENDED TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.**
239	Sen. Prozanski	Will support this motion but will check on the cogeneration issue pertaining to smaller facilities.
244	Sen. George	Does not see any advantage for ratepayers and is concerned this would have a chilling effect on investments. Will vote no.
250	Chair Deckert	**ROLL CALL VOTE: 3-2-0** **MEMBERS VOTING AYE: METSGER, PROZANSKI, DECKERT** **MEMBERS VOTING NO: GEORGE, C. STARR**

PUBLIC HEARING, HB 2542

285	Linc Cannon	Testifies in support of HB 2542-A on behalf of OFIC (**EXHIBIT 4**). His accountants repeatedly express concerns that not reconnecting would be costly and cumbersome because they would have to keep two sets

		of books. His written testimony contains an example of this. Also, regarding the American Jobs Creation Act of 2004, qualified production activities income and extraterritorial income should be considered separately. The2004 AJCA consists of nine titles. The first title deals with this exclusively, so it is clear Congress intended a tradeoff. Under this, OFIC members are both winners and losers.
355	Cannon	A total reconnect is a wash between positive and negative revenue impact. Believes this bill is good tax policy. Urges the committee to pass it.
358	Chair Deckert	Asks Cannon to respond to the health savings account issue.
360	Cannon	Cannot respond to this.
366	Sen. George	Asks if OFIC has seen the minority report filed in the House Revenue Committee.
370	Cannon	Responds, OFIC opposes the minority report.
380	Sen. Prozanski	Asks Cannon to elaborate on his testimony concerning seeing this reconnect package as an overall plus. (inaudible)
387	Cannon	Responds, adding up the pluses and minuses could result in a varied revenue impact. It’s bad tax policy. It makes sense to reconnect to the entire federal tax code. There are other ways to raise revenue, and cherry picking doesn’t work very well.
410	Sen. Prozanski	Asks if Cannon believes this body should look at alternative tax expenditures (inaudible) raising revenues through review of those that are on the books now.
415	Cannon	Responds, a lot of those are on the books for good reasons. In 1999 the House Revenue Committee went through an exhaustive review of tax expenditures and got rid of one. A review is always a good idea, but most of these reconnects are there because previous legislatures thought they were a good idea.
442	Chair Deckert	Does not buy the notion that just because Congress enacts something that Oregon automatically must be connected to it. These are policy decisions.
453	Cannon	Congress carefully thinks out and balances these policy decisions. OFIC believes it is good policy to stay fully connected to the federal tax code.

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027	Chair Deckert	If Congress increased taxes on forest owners, would OFIC support that reconnect?
039	Willis	Responds, Congress did increase forest owners’ taxes by eliminating the extraterritorial income exclusion and passing the production activities tax. As an industry we may or may not be gainers and losers, but as individual companies there are gainers and losers.

047	Lizbeth Martin-Mahar	Refers committee to exhibit 6 distributed to the committee on April 26: HB 2542A – Reconnect Bill: Section by Section Description. A common component is that the current law is being changed. The connection date will be moved from December 31, 2002 to December 31, 2004 to connect to federal legislations in the CPA report. In addition, a rolling reconnect to federal law will be reestablished. Last session members temporarily delayed that reconnect on specific items.
083	Chair Deckert	Asks if there is any major tax legislation in play, and when is the end date for reconnection.
090	Martin-Mahar	Responds, under current law, if this legislation were passed without reestablishing a rolling reconnect, Oregon would be disconnected from federal changes throughout the rest of 2005. That was put into play so lawmakers would have this discussion this session. Also, there is some pending legislation concerning military death benefits.
105	Martin-Mahar	Returns to discussion on April 26 exhibit 6. Section 1: Changes Oregon's date reference for statute pertaining to the definitions of S-corporations. Section 2: Date references Sections 3-11, and sections 13 and 15, update dates from December 31, 2002 to December 31, 2004. Section 12: Connects to Oregon's definition for a qualifying child.
127	Chair Deckert	Asks, what is the Oregon fiscal impact on that component?
130	Martin-Mahar	Refers to April 26 exhibit 1, Revenue Estimates of the Major Components of Federal Legislation, Recommendation C, page 2, near the bottom, entitled Expansion of Definition of Qualifying Child.
142	Martin-Mahar	Section 14: Connects Oregon's definition for the disabled child to the federal definition. There is no federal age restriction, while in Oregon the age is 18. This is a policy change because it eliminates the age restriction.
157	Martin-Mahar	Sections 14(a) and 14(b): Requires personal income taxpayers to elect the same deduction on their Oregon tax returns as was claimed on their federal tax returns. This would be an additional revenue. Refers to April 26 exhibit 1 under American Jobs Creation Act, middle of page 2, Civil rights tax relief. Mostly low income people would benefit from this add back.
211	Martin-Mahar	Section 15(a) and (b): Requires corporate excise taxpayers to elect the same deduction. Page 2, section 16: Establishes an implementation date, lists legislation that Oregon will connect to.
245	Martin-Mahar	Dividend Received Deduction Section 17, 18 (a-c): Directs members' attention to diagram (**EXHIBIT 5**), Current Law Dividends Deduction Calculations. The Dept. of Revenue looked at dividends received, and in particular, Real Estate Investment Trusts (REITS). That led to consideration of all the

		dividends and the connection between federal and Oregon law deduction liability. Explains Box H on page 1, Dividends not receiving a federal deduction.
284	Chair Deckert	Asks for clarification concerning a REIT or corporation receiving dividends.
293	Martin-Mahar	Responds, it would be like a C-corporation receiving dividends from a REIT. The Oregon dividends received deductions do not always parallel the federal deduction. Box H clearly has a big disconnect. On the federal level there is no dividend deduction, but Oregon allows a 70-80% dividend deduction.
338	Martin-Mahar	Continues explanation of Box H with reference to page 2. On the federal level, that deduction is 85%. With the 2004 AJCA, Oregon has to decide whether it is going to reconnect. Oregon under current law is already giving a 70-80% dividend deduction for foreign earnings that are repatriated back to their parent corporations.
386	Chair Deckert	Asks Martin-Mahar to review items 1-9 (box H page 2). Follow-up questions on Box H.
396	Martin-Mahar	1) Dividends received from a REIT 2) Income from controlled foreign corporations
422	Martin-Mahar	DOR does not know what type of dividend they have received when they look at their data. They rely somewhat on federal data. They believe REITs are the majority of that dividend deduction. The others are not significant.
481	Chair Deckert	Summarizes, items 3-9 don't create a great deal of activity.

TAPE 106, SIDE B

033	Martin-Mahar	Refers to the pink box items at the bottom of Box H. No. 8, Foreign dividend gross-up for taxes paid; and No. 9, Certain taxable distributions from DISC. They do not receive a dividend deduction under current law.
048	Chair Deckert	Asks for an example of a DISC.
052	Martin-Mahar	Sales corporations are created to deal with just the sales overseas. It is a way to have sales categorized. Oregon has never recognized this for an exclusion or a dividends deduction. DOR has been examining this disconnect.
073	Martin-Mahar	Refers to April 26 exhibit 1, page 2: Recommendation C, Tax reform and Simplification for Business. This additional revenue is brought in because the federal government gives a huge incentive for corporations to bring earnings back to the U.S. It has to be above a base level that firms have already repatriated back to their parent corporations. Federal revenue impact indicates a loss of revenue in the outer years.
092	Sen. George	The Legislative Revenue Office report on the revenue impact didn't even attempt to forecast what that increased investment in manufacturing would do for the overall ability to raise money from the

		jobs created by that reinvestment.
097	Martin-Mahar	That is correct. There has been no analysis for this provision. Continues with overview: This bill also deals with income tax benefits from tsunami relief contributions. Allows Oregon taxpayers to claim their contributions up through January 2005. This is a wash; there is no revenue impact. Concludes, this bill takes effect 90 days after the end of session.
117	Martin-Mahar	Returns to Components, April 26 exhibit 1, page 1. Begins overview with Corporate Tax Revenue: Changes with Automatic Connection to Oregon Law – American Jobs Creation Act of 2004: Business Tax Incentives (Depreciation Changes) Depreciation changes initially cause a net loss, but then in the outer years it becomes positive.
142	Chair Deckert	Asks, since the federal bonus depreciation was a three-year temporary component, what would Oregon be connecting to? Isn't it phased out?
142	Martin-Mahar	That is correct. It would be very difficult to change it.
146	Chair Deckert	Why is there a positive fiscal impact to this? Does not see how it would factor into the committee's discussion because it's gone from the federal books.
149	Martin-Mahar	The important thing to think about with depreciation is that it is when the cost of the property is going to be taken as a depreciation expense. This just changes the timing.
160	Martin-Mahar	This just changes the timing. Positives will never be bigger than the negatives. Look at the overall impact.
178	Chair Deckert	Persists in wondering why this would be a positive fiscal for Oregon.
193	Warner	Explains, these numbers are not part of a revenue impact from the bill. This is the result of federal legislation. Page 1 of April 26 exhibit 1 is background information; page 2 is the bill. Some of these provisions have been automatically connected, and the committee has to decide whether to continue them.
213	Martin-Mahar	Continues, the sales tax deduction wasn't part of HB 2542 at first, so she originally put it on the front of the sheet. Once an add back was added in, it was placed on side 2. Highlights items on side 1, the corporate side, first section: Corporate Tax Revenue.
233	Martin-Mahar	Discusses Medicare Pres. Drug, Improvement and Modernization Act of 2003. Indirect tax effect from reductions in employer costs. This component will be incorporated into the May forecast.
260	Martin-Mahar	PERSONAL INCOME TAX REVENUE: Changes with Automatic Connection to Oregon Law. Deals with small companies. Medicare Pres. Drug, Improvement and Modernization Act of 2003. The major component is establishing health savings accounts. This appeared in the March revenue forecast as a reduction.

286	Martin-Mahar	Working Family Tax Relief Act of 2004 OFFERS extended child care tax credit and marriage penalty relief. This is incorporated into the March forecast.
307	Martin-Mahar	Page 2, Recommendations C & HB 2542A: CORPORATE TAX REVENUE: Changes Which Need Legislation. The 2004 AJCA repeals the ETI exclusion. This exclusion is phased in through 2007. This is the big tradeoff in Congress as far as needing an ETI exclusion repeal. Congress then allowed an additional deduction. This is the major component in the House Revenue Committee minority report. Full implementation occurs in the 2009-11 biennium.
362	Martin-Mahar	Business Tax Incentives: S-corporation law changes. The impact is less than $1 million. Tax Reform and Simplification for Business: Incentives to reinvest foreign earnings in U.S. Misc. tax reform provisions Discusses positive revenue provisions, to total $10.7 million in 2005-07 biennium.
399	Martin-Mahar	Medicare Pres. Drug, Improvement and Modernization Act of 2003. A major component that is part of the minority report is excluding federal subsidies for certain drug plans from income from employers. Allows employers to receive subsidies for keeping their prescription drug plans for retirees. They no longer have to report these subsidies on their corporate taxable income.

<u>TAPE 107, SIDE B</u>

025	Martin-Mahar	PERSONAL INCOME TAX REVENUE: Changes Which Need Legislation. Civil rights tax relief has very little revenue impact. Attorney fees for civil rights cases are a deduction. Military Family Tax Relief Act of 2003: Connects with additional death benefits death benefits. Expansion of Definition of Qualifying Child. This allows grandparents and step-parents to claim the working family tax credit.
043	Chair Deckert	Committee will lay this bill aside for about a month. Closes public hearing on HB 2542-A. Adjourns meeting at 10:30 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

<u>Exhibit Summary:</u>

1. SB 171-A, Amendment SB 171-A7, 4/18/05, Legislative Counsel, 1 pp.
2. SB 171-A, Amendment SB 171-A8, 4/25/05, Legislative Counsel, 1 pp.
3. SB 171-A, Amendment SB 171-A9, 4/27/05, Legislative Counsel, 1 pp.
4. SB 171-A, testimony of Lincoln Cannon, Oregon Forest Industries Council, 4/28/05, 2 pp.
5. HB 2542, Current Law Dividends Deduction Calculations, 4/26/05, Martin-Mahar, 2 pp.