

SENATE REVENUE COMMITTEE
JUNE 1, 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: Tim Martinez, Oregon Bankers Assn.
Debra Buchanan, Dept. of Revenue
Senator Avel Gordly, District 23
Sean Cruz, Gordly legislative aide
Jim Craven, American Electronics Assn.

Staff Present: Paul Warner, Legislative Revenue Officer
Lizbeth Martin-Mahar, Economist
Barbara Guardino, Committee Assistant

TAPE 129, SIDE A

005 Chair C. Starr Calls meeting to order at 9:05 a.m. Opens work session on SB 171-B.

WORK SESSION, SB 171-B

012 Paul Warner SB 171-B is based on recommendations from the Public Utility Commission. The main element is the requirement that public utilities not file consolidated tax returns. There are some significant changes planned for this bill. Sen. Metsger is working on amendments.

020 Sen. Metsger Revenue Committee will return to the original bill which modifies the definition of cogeneration plants. Will add the net benefit standard for acquisition of public utilities.

029 Warner The bill has been posted for Friday.

040 Sen. Metsger Introduces a guest.

WORK SESSION, HB 2452-A

055 Lizbeth Martin-Mahar This is a Dept. of Revenue bill. It provides guidelines to allow pass-through entities to file a composite personal income or corporate excise tax return on behalf of nonresident owners who choose to be part of this composite return. Reads from Staff Measure Summary distributed May 5 (exhibit 11).

084 Martin-Mahar There is an amendment to this bill but LRO has not received it yet. Discusses revenue impact statement distributed May 5 (exhibit 12). The amendment will carve out provisions that certain trusts do not need to have taxes withheld.

106	Tim Martinez	Oregon Bankers Association raised the issue of trusts. DOR worked with OBA on this issue. Will track down amendment from Chair Deckert's office. It says that trusts are not included under this bill unless DOR believes it is set up to avoid taxes.
125	Chair. C. Starr	Summarizes, all trusts will be removed except when a trust is established to avoid taxes.
128	Debra Buchanan	Amendment refers to ORS 128.005 trusts as defined there. It is limited in the category of trusts that are carved out. The original bill came from a multi-state tax commission. DOR is concerned about the potential for revenue loss.

WORK SESSION, SB 315

160	Warner	SB 315 relates to streamlined sales tax agreement developed by states. Comments on section 5 of the bill. Adopting this legislation would not invalidate or amend any provision of the state. Adoption of the agreement does not modify any law of the state. This is the first step in a process set up by the state. Directs members' attention to Streamlined Sales & Use Tax handout (EXHIBIT 1) which details the states and their progress in enacting the compliance legislation.
186	Warner	Two issues have come up since the last public hearing: fiscal implications and guidelines for local sales taxes.
195	Sen. Avel Gordly	Testifies in support of SB 315. Thanks committee for considering this bill. Explains, this is an opportunity for Oregon to participate in this agreement.
222	Sean Cruz	Begins review of Internet document concerning streamlined sales and use tax agreement (EXHIBIT 2). Page 1 lists 16 motions to amend various parts of the agreement. States that rely on sales tax are moving forward to get in line with this agreement, which changes taxation to one tax rate per state and one collection authority. There are a number of Oregon companies collecting sales taxes in other states. The streamlining agreement will eliminate a lot of the complexity.
266	Cruz	Remaining pages contain a status report of action on legislation for every state, including Oregon. Without these guidelines, Oregon is being cut off (balkanized) from the rest of the country.
281	Sen. George	Asks, who would need amnesty and why?
285	Warner	Explains, if sellers have violated laws in the past, they will have amnesty if they volunteer to come into compliance. Interstate sellers are participating on a voluntary basis.
300	Sen. George	Would this eliminate any incentive for a person to locate an Internet business in Oregon because it doesn't have a sales tax?
309	Warner	Responds, if it is fully implemented, it could over time eliminate the advantage of operating in Oregon due to its absence of sales tax. The idea is to bring uniformity among the states.
323	Cruz	Reads from a document from the National Conference of State

Legislatures site.

- 370 Buchanan Discusses executive summary handout which describes the Streamlined Sales Tax Project (**EXHIBIT 3**). Speaks to information on page 3 in regard to how this would work in Oregon without a sales tax. First, states would adopt enabling legislation (SB 315). Second, states would amend or modify sales and use tax laws.
- 404 Sen. George Expresses concern for loss of tax competition among states. Would Oregon's advantage be gone? Follow-up questions and comments.
- 414 Buchanan Responds, if companies in a state can be compelled to collect on remote sales, then if there is an advantage to not having that provision, the advantage would go away. There is a threshold below which smaller retailers would not be required to collect on remote sales. Also, there are third-party vendors that can collect. They would not be required to invest in substantial amounts of software.

TAPE 130, SIDE A

- 027 Chair C. Starr Asks if DOR would be involved in out-of-state tax collection.
- 030 Buchanan Responds, because there is no statewide sales tax, DOR is not involved. If a company is required to collect a sales or "use" tax on a sale to an out-of-state resident, the business collects the tax from that out-of-state resident and remits it to the state where the person resides.
- 039 Chair C. Starr Verifies this does not change Oregon's taxation laws.
- 043 Buchanan That is correct.
- 050 Cruz The streamlining agreement does not require a state to enact a sales tax. Most of the provisions are voluntary. It won't create a nationwide sales tax system. Much of the agreement is on definitions. Gives example of a Twix candy bar, whether it is regarded as a food or candy because it contains flour. Much of the agreement is to come to a common understanding of what the definitions are. The U.S. Supreme Court bars collection of sales taxes if there is no physical presence in the state where the sale occurs. That will probably change once the streamlining agreement is fully enacted. Forty-two states are working to enact this in order to remove that bar. Lastly, this is a process that's going forward, and Oregon needs a seat at the table to understand what's going on in the rest of the country.
- 086 Sen. Gordly Thanks Mr. Cruz for his hard work on this measure.
093 Chair C. Starr Will hold this bill until Chair Deckert is present.
- 102 Jim Craven American Electronics Association has been tracking this issue on the federal level for several years. There is nothing negative in this bill for Oregon. The key issue in the multi-state agreement was to put enough pressure on Congress to change the U.S. Supreme Court decision. That decision says one state cannot compel a seller from another state to collect its sales tax unless it has substantial business activity in the destination state. Oregon's participation will be minimal,

to prepare for the day when it enacts a sales tax.

- 159 Sen. George Comments, the National Taxpayers Union is antagonistic to this plan. They believe this will mean additional taxes.
- 181 Vice Chair C. Starr Will oppose SB 315.
- 184 Chair Deckert Committee will return to this bill. Closes work session. Reopens work session for HB 2452-A.

WORK SESSION, HB 2452-A

- 207 Martin-Mahar Explains HB 2452-A3 amendment (EXHIBIT 4) which is a compromise between Dept. of Revenue and Oregon Bankers Association. It allows pass-through entities for certain trusts, not all trusts.
- 225 Vice Chair C. Starr **MOTION: MOVES ADOPTION OF HB 2452-A3 AMENDMENTS.**
- 229 Sen. George Asks if this amendment will have a negative impact.
- 231 Martin-Mahar Responds, it will be like current law.
- 245 Chair Deckert **ORDER: THERE BEING NO OBJECTION THE CHAIR SO ORDERS. VOTE: 5-0-0. VOTING AYE: GEORGE, METSGER, PROZANSKI, C. STARR, DECKERT**
- 250 Vice Chair C. Starr **MOTION: MOVES HB 2452-A AS AMENDED TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.**
- 258 Chair Deckert **ORDER: THERE BEING NO OBJECTION THE CHAIR SO ORDERS. VOTE: 5-0-0. VOTING AYE: GEORGE, METSGER, PROZANSKI, C. STARR, DECKERT**
- 263 Chair Deckert Closes work session. Adjourns meeting at 9:55 a.m.

Tape Log Submitted by,

Barbara Guardino, Committee Assistant

Exhibit Summary:

1. SB 315, Streamlined Sales & Use Tax Agreement, 2003-2004, Warner, 1 pp.
2. SB 315, Proposed Amendments to the Streamlined Sales and Use Tax Agreement, Gordly, 5/31/05, 22 pp.
3. SB 315, Streamlined Sales Tax Project, Executive Summary, April 2004, Buchanan, 4 pp.
4. HB 2452-A, Amendment HB 2452-A3, Legislative Counsel, 5/31/05, 1 pp.