

HOUSE REVENUE COMMITTEE
AUGUST 23, 2003 9:00 AM STATE CAPITOL BUILDING

Members Present: Representative Lane Shetterly, Chair
Representative Wayne Scott, Vice Chair
Representative Joanne Verger, Vice Chair
Representative Phil Barnhart
Representative Vicki Berger
Representative Pat Farr
Representative Mark Hass
Representative Elaine Hopson
Representative Max Williams

Witnesses Present: Debra Buchanan, Department of Revenue, (DOR)
Representative Tom Butler, House District 60
Mike Grainey, Department of Energy
Marge Kafoury, City of Portland
Dave Fiskum, Providence Health System; Pace Program
Brett Salmon, Oregon Healthcare Association (OHA)
Mike Dewey, Fully Capitated Health Insurance Plans (FCHIPS)
Representative Jeff Merkley, District 47
Laurie Wimmer Whelan, Oregon Education Association
Tim Nesbitt, Oregon AFL-CIO

Staff Present: Paul Warner, Legislative Revenue Officer
Mazen Malik, Legislative Revenue Office
Lizbeth Martin-Mahar, Legislative Revenue Office
Kathy Tooley, Committee Assistant

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004 Chair Shetterly Calls meeting to order at 9:00 a.m.

OPENED PUBLIC HEARING ON SB 231-A

010 Mazen Malik Provided overview of SB 231, (Exhibit 1). Provided "Revenue Impact SB 231-A9, A16", (Exhibit 2).

024 Debra Buchanan Spoke in support of SB 231. The bill allows DOR to waive interest and penalties on a finding of good and sufficient cause. DOR is in the process of adopting an administrative rule to provide for a waiver of first time offense for a taxpayer. Attorneys have advised that DOR may not be able to allow a waiver as there is no good and sufficient cause for missing a deadline. DOR is asking for authority to adopt such rules.

034 Chair Shetterly The intent of this meeting is to begin hearing proposed amendments to SB 231. SB 231 will be the vehicle for items needed to complete the session.

054 Rep. Tom Butler Spoke in support of -A12 amendment (Exhibit 3), as it allows inclusion of existing hydroelectric generating facilities larger than 1 megawatt of installed capacity to be eligible for the renewable resource (tax credit).

068 Mike Grainey This amends the business energy tax credit program and removes the limit of

1 megawatt on hydroelectric facilities where there is an existing impoundment or dam. This restriction is not included in other incentive programs such as the low interest loan program. The importance of the business energy tax credit is that there are private developers interested in adding generation or replacing and upgrading their facilities and makes sense from an energy point of view. Facilities are required to meet DEQ (Department of Environmental Quality) and Fish and Wildlife requirements. It does not change the amount of the business tax credit, this amendment just changes eligibility requirements for the program.

- 089 Chair Shetterly It doesn't change the amount of the credit, but in terms of changing eligibility, is there a revenue impact.
- 090 Malik Had not seen the amendment.
- 092 Graineley Believes it would have a small impact as typically only see 1 or 2 facilities every couple of years. The facility would be in the range of \$5 million, the tax credit over 5 years would be 5 to 10 percent annually.
- 098 Rep. Verger This includes wind power?
- 100 Graineley That's in existing statute. This program covers all renewable resources as well as energy conservation for businesses. The only size restriction is on hydro.
- 110 Marge Kafoury Spoke in support of the -9 amendments (Exhibit 4), formerly heard and passed by the Committee as HB 2379. Provided history of the bill's progression through the House and Senate this session. Now before the committee as the -9 amendment in its original form.
- 124 Dave Fiskum Spoke in support of the -13 amendments, (Exhibit 5), as it solves an inadvertent problem in HB 2152 affecting a new tax on managed health care entities. It taxes the Pace program without benefit; which was dealt with on its own in HB 2182. The -13 amendment corrects the language in HB 2152.
- 149 Brett Salmon It was the intent of OHA that Pace remain its own program as it is funded differently than other fully capitated health plan. The -13 amendments solve that problem.
- 154 Chair Shetterly That was the intention.
- 155 Mike Dewey FCHIPS agreed to tax themselves to leverage federal dollars. With bill moving quickly through the Senate and House, did not have an opportunity to review the amendments. The -13 amendments would provide for a date change from 30 days to 75 days which helps administratively to queue payment FCHIPS makes and its reimbursement; eliminates floating additional revenue to the department, evens out the payment. The Department is agreeable.
- 170 Rep. Barnhart Has this been vetted with the people working on federal issues?
- 172 Fiskum Believes the answer is affirmative; these issues as well as others may be in another consensus vehicle. Presently both sides of the aisle and administration are on board.
- 179 Rep. Barnhart Just want to make sure Oregon does not get afoul of federal regulators and lose the program as a result. You have said that is not a problem?
- 180 Fiskum Believe the answer is affirmative. This has been vetted with the federal

attorneys from the Department of Justice as well as Legislative Counsel. This piece does not run afoul of federal rule or law.

- 189 Malik The -14 amendments, (Exhibit 6), requested as a technical fix for HB 2152 by the Department of Human Services (DHS), allows for the audit of records for a period of 5 years.
- 196 Chair Shetterly This relates to what part of HB 2152? Is this the provider tax?
- 197 Malik Answered affirmatively.
- 199 Malik Discussed the -15 amendments (Exhibit 7), requested as a technical fix by DOR adds ORS references into HB 2152 and specifies the date for S corporations to file as the same as a federal return.
- 212 Malik The -16 amendments, (Exhibit 8) deals with an issue resulting from the activation of the National Guard and Reserves for mobilization to the war. Explained federal and state laws regarding taxation on earnings when deployed by the federal government when outside the state. However, the 1249th Engineering Battalion is deployed in state in the Umatilla rather than to the Middle East, therefore the batallion gains federal income in Oregon and is subject to Oregon tax. The -16 amendments would exempt that income for a period of two years.
- 247 Chair Shetterly Requested a sunset of two years be placed on this as affects a specific group of National Guard Reserves.
- 266 Chair Shetterly Closed the public hearing SB 231 and recessed the meeting.
- 267 Rep. Verger Would like to know the fiscal impact on any other amendments.
- 269 Chair Shetterly So far we don't have a revenue impact?
- 270 Chair Shetterly The energy amendment potentially.
- 271 Malik The -16 amendments are \$60,000 for three years.
- 272 Rep. Verger What is the \$5 million?
- 273 Chair Shetterly That's the local option property tax impact, that's not a state general fund.
- 277 Malik It's the City of Portland.
- 279 Chair Shetterly Recessed meeting at 9:20

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- 001 Chair Shetterly Reconvened meeting at 2:35 p.m.

OPENED WORK SESSION ON SB 231-A

- 004 Chair Shetterly The –A9 amendment restores language from HB 2379.
- 005 Chair Shetterly **MOTION: MOVED ADOPTION OF THE –A9 AMENDMENTS INTO SB 231-A.**

ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. BARNHART AND VERGER,

EXCUSED).

- 034 Chair Shetterly There is no revenue impact to the Providence and Pace technical fix -13 amendments.
- 035 Chair Shetterly **MOTION: MOVED ADOPTION OF THE –13 AMENDMENTS INTO SB 231-A.**
ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. BARNHART AND REPS. VERGER, EXCUSED).
- 040 Chair Shetterly There is no revenue impact to the -14 amendments; it provides technical amendments to the medical provider tax.
- 041 Chair Shetterly **MOTION: MOVED ADOPTION OF THE –14 AMENDMENTS INTO SB 231-A.**
ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. BARNHART AND VERGER, EXCUSED).
- 045 Chair Shetterly There is no revenue impact to the -15 amendments; it provides a technical fix to HB 2152 relating to filing date for S Corporation returns.
- 049 Chair Shetterly **MOTION: MOVED ADOPTION OF THE –X15 AMENDMENTS INTO SB 231-A.**
ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. BARNHART AND VERGER, EXCUSED).
- 051 Malik The –A16 amendments were included with the –A9 amendments heard in an earlier meeting.
- 052 Chair Shetterly The \$60,000?
- 055 Malik Answered affirmatively.
- 056 Rep. Scott Asked if –A9 amendments had a revenue impact?
- 057 Chair Shetterly The –A9 amendments do not have a general fund revenue impact, it is a local property tax option.
- 058 Rep. Scott This revenue impact study doesn't really refer to –A9 amendments?
- 061 Malik The \$4.5 million in the revenue impact statement is the local City of Portland, Multnomah County impact.
- 064 Malik The –A16 is the smaller figure at the bottom, it shows a general fund loss of \$60,000 for the 2003-05 biennium.
- 065 Rep. Scott So it does have an impact of \$60,000?
- 073 Chair Shetterly The –A16 amendments have a \$60,000 revenue impact.
- 077 Rep. Hass Who is seeking this amendment?
- 080 Rep. Williams Col. Caldwell from the National Guard. There is a group currently on active

duty that was going to be deployed to Fort Lewis or overseas. Instead it was assigned to Umatilla. They are not with their families and not in a position to perform regular activities because they are on active duty. They are deployed in Oregon and don't receive benefit of the tax break other people in the unit receive. The intent was to lessen the burden for this group in active service.

- 093 Rep. Williams **MOTION: MOVED ADOPTION OF THE -16 AMENDMENT INTO SB 231-A.**
- ORDER: HEARING NO OBJECTION, THE CHAIR SO ORDERS. (ALL MEMBERS PRESENT EXCEPT REPS. BARNHART AND VERGER, EXCUSED).**
- 097 Malik Provided revenue impact on -A12 amendments (Exhibit 9), with a net negative impact of \$3.3 million.
- 121 Chair Shetterly \$3.3-\$3.5 million is a little steep at the end (of session) without some accommodation in other budget or revenue.
- 130 Chair Shetterly The -9, -13, -14, -15, and -16 amendments are already in the bill?
- 131 Malik Answered affirmatively.
- 136 Chair Shetterly **MOTION: MOVED SB 231-A, AS AMENDED, TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION**
- ROLL CALL: MOTION PASSED 6-1-2**
REPRESENTATIVES VOTING AYE: Barnhart, Berger, Farr, Hass, Hopson, Verger, Williams, Chair Shetterly. VOTING NO: Scott. EXCUSED: Barnhart and Verger.
- 144 Chair Shetterly Recessed at 2:50 p.m.
- 001 Chair Shetterly Reconvened the meeting at 4:05.

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OPENED WORK SESSION ON SB 362

- 007 Lizbeth Martin-Mahar Described SB 362 as the venture capitalist exemption bill. The -A5 amendment, (Exhibit 10) deals with the estate tax; it clarifies past and future dates on which Oregon state taxes are connected to the Internal Revenue Code for decedents. The -5 amendments would put into law the current tax table for decedents after January 1, 2010. Discussed "Estate Taxes" and "Oregon Estate Taxes", (Exhibit 11). Discussed Revenue Impact. "362-5", (Exhibit 12).
- 095 Martin-Mahar Discussed multiplier effect in tax table through 2010. Beginning in 2010 the estate tax in Oregon is not imposed.
- 105 Chair Shetterly The conundrum is to do this on a revenue neutral basis for the 2003-05 biennium. Discussed application of multiplier on larger estates and exempting the estates previously believed to be exempt.
- 120 Rep. Jeff Merkley Spoke in support of HB 2704 -10 amendments, (Exhibit 13). Described the estate tax issue as an issue of gravity as baby boomers begin to die and will continue to escalate. Important to understand in the context of long-term tax policy perspective.

160	Rep. Merkley	Discussed historical context of estate tax as a substitute for capital gains.
178	Rep. Merkley	Warren Buffett said society benefits from infrastructure paid for by others, and it should not be possible for those that benefit the most to not participate when it comes time to pay capital gains. Asked the committee to consider the alternative of sunseting this legislation effective with the end of this biennium and the next legislature can discuss the appropriate path to go forward so as not to get caught in 3/5 majority rule.
202	Rep. Merkley	Another option is to use the HB 2704 –A10 amendments, written as a gut and stuff, which would replace estate tax components in SB 362. Allows raising the exemption limit to \$1 million from \$600,000. Two parent family exemption would be \$2 million. This clause mimics the federal clause.
233	Rep. Merkley	Discussed clause which allows a disconnection from federal legislation. On page 4 of HB 2704 -10 amendments, in case of decedents, discussed credit calculation mimicking federal clause. Discussed weights and multipliers included in the model.
283	Rep. Merkley	Asked what the weight was in the Chair's model.
281	Martin-Mahar	1.34 in 2003, 1.38 for 2004.
287	Rep. Merkley	Said either option was fine, but believed in the \$1 million dollar option, felt it would be appropriate to give back to a community that provided the infrastructure to prosper.
312	Chair Shetterly	Asked if it were possible to get a comparable schedule of impacts on Rep. Merkley's amendment
314	Martin-Mahar	In 2003-05 there is no revenue impact and the plan includes multipliers. It begins in 2005 because there is no multiplier. The impact is \$5 million going from \$600,000 to the \$1 million.
318	Rep. Hopson	Are you saying the sunset would go through if the -5 amendments were introduced rather than HB 2074 -10.
327	Rep. Merkley	Suggest a sunset in the context of the Chair's amendment to continue the conversation tied to Economic Growth and Tax Relief Act (EGTRA) and not be trapped into an ascending schedule. Also supported \$1 million under the HB 2074-10 amendment and inclusion of a sunset. Would support melding the two. Discussed advantages.
362	Rep. Hass	What are exemption levels in Washington and California?
365	Chair Shetterly	\$700,000 in Washington.
367	Martin-Mahar	Washington is connected to the 1997 law and will go to \$1 million. Uncertain regarding California's exemption level.
363	Laurie Wimmer Whelan	OEA is concerned about the impacts of the -5 amendments with respect to estate tax and venture capital changes being contemplated. It is the position of OEA that technical fixes are rational and necessary as well as the \$1 million threshold, but opposes \$3.5 million and connection to federal tax law; also opposes the venture capital piece.
384	Tim Nesbitt	In Oregon even an unemployed family pays some income tax. Support estate tax, estimates working families will pay \$700 million additional taxes in the next 3 years and will be done in a progressive way which AFLCIO

supports. All projections indicate that money will be required to fund services until a stable and fair tax reform is developed.

441	Wimmer Whelan	Problem with venture capital; is not a lack of venture capital, but a lack of projects. If that is the case, this is not the right solution for the problem.
456	Chair Shetterly	Discussed conundrum in maintaining revenue neutrality, in a shift from estate's under \$1 million to estates over \$1 million.
479	Chair Shetterly	Already have \$1 million problem because Oregon is not connected to the current tax law.

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030	Warner	Provided background and description of the -A6 amendments, formerly SB 313. The amendment establishes a credit program to fund the Oregon Production Investment Fund, where tax credits would be sold to corporations and defraying up to 10% of the costs of film production in Oregon. The -A6 amendments have two changes dealing with dates, the act would apply to tax years beginning 2005. Tax credits cannot be taken until after July 1 2005. The bill retains the \$1 million limit. Discussed revenue impact as \$0 for 2003-05, \$2 million in 2005-07. Film production would be eligible for expenses for production after January 1, 2005 for up to 10% of costs.
065	Rep. Verger	What is the motivation to buy tax credits? Is there some kind of plus to buying these tax credits?
072	Warner	The credit is similar a child care credit set up in 2001 and modified in 2003, key to it being attractive is the deductibility on the federal return, plus receiving a state credit.
083	Rep. Verger	Where is the fiscal impact statement on this?
084	Warner	An impact statement has not been prepared, but the fiscal impact of this piece of the bill would be \$0 for 2003-05, \$2 million for 2005-07 biennium.
092	Rep. Barnhart	Expressed concern regarding the need for discussion of the original bill.
093	Chair Shetterly	Answered affirmatively.
099	Chair Shetterly	Closed Work Session on SB 362. Meeting adjourned at 4:50 p.m.

Tape Log Submitted by,

Kathy Tooley, Committee Assistant

Exhibit Summary:

1. Malik, "Staff Measure Summary SB 321-A", 1 page
2. Malik, "Revenue Impact SB 231-A9, A16", 2 pages
3. Rep. Butler, "SB 231-A12 Amendments", 3 pages
4. Kafoury, "SB 231-A9 Amendments", 11 pages
5. Fiskum, "SB 231-A13 Amenments", 2 pages

6. Malik, "SB 231-A14 Amendments", 1 page
7. Malik, "SB 231-A15 Amendments", 5 pages
8. Malik, "SB 231-A16 Amendments", 1 page
9. Malik, "Revenue Impact SB231-A9, 16, 12", 1 page
10. Martin-Mahar, "SB 362-A5 Amendments", 8 pages
11. Martin-Mahar, "Estate Taxes", 2 pages
12. Martin-Mahar, "Revenue Impact SB 362-5", 2 pages
13. Rep. Merkley, "HB 2704-10 Amendments", 7 pages
14. Warner, "SB 362-A6 Amendments", 6 pages