

SENATE REVENUE COMMITTEE
August 18, 2003 11:15 AM STATE CAPITOL BUILDING

Members Present: Senator Ryan Deckert, Chair
Senator Ted Ferrioli, Vice Chair
Senator Tony Corcoran
Senator Rick Metsger
Senator David Nelson
Senator Charlie Ringo
Senator Bruce Starr

Members Excused: Senator Lenn Hannon

Witnesses Present: Dexter Johnson, Legislative Counsel

Staff Present: Paul Warner, Legislative Revenue Office
Dick Yates, Legislative Revenue Office
Tara Lantz, Committee Assistant

TAPE 169, SIDE A

003 Chair Deckert Calls meeting to order at 11:30 am.
005 Sen. Deckert States that they will come back to a public hearing and work session at 2:00 pm, once the amendments are ready.

OPENS WORK SESSION ON HB 2152

013 Paul Warner Discusses the major changes made in the -19 amendments which creates a temporary personal income tax increase and increases the corporate income tax. Refer to Revenue Proposal (Exhibit 1). Briefly discusses all of the components.
086 Sen. Corcoran Asks if they will discuss all of the provisions once they have the bill and not just the ones that are in the -19 amendments.
090 Warner States that many of the other components will go through the Ways and Means Committee. Continues discussion of the average impacts from the temporary graduated income tax assessment and the estimate from the proposed increase in the corporate minimum tax.
164 Sen. Ferrioli Asks if the income tax surcharge proposal has been heard in the House.
170 Warner Responds that the House has heard HB 2152 which is relating to taxation and required 3/5 majority vote but that they have not heard the -19 amendments.
180 Sen. Ferrioli Asks how this follows with the Legislative rule that revenue raising measures must originate in the House.
189 Sen. Deckert Responds that the advice given from Counsel is that since HB 2152 passed through the House and has a relating to taxation clause, it is legal for them to add an amendment that is also relating to taxation.
195 Sen. Ferrioli Asks what a rebuttable conclusion is.

200	Sen. Ringo	Responds that a rebuttable presumption is a presumption that can be rebutted. Discussion follows.
210	Sen. Ferrioli	States that a \$21.2 billion revenue raising package is not an amendment that should be added to a House bill that originated as a cigarette tax extension.
219	Sen. Nelson	Asks about a provider tax for hospitals.
221	Warner	Responds that there has been amendments drafted but they are not in the - 19 amendments.
225	Sen. Ringo	States that it is his preference that they hear the substance of the bill rather than what may or may not be legal about it.
234	Sen. Ferrioli	States that it is not his intention to stop the proceedings today but that they are at least informed about the logic and legality of the bill.
249	Sen. Starr	Asks if the SUV depreciation portion adds back both the state and federal deduction.
255	Warner	Responds that only the state portion will be added back.
263	Dick Yates	Responds that this bill does not have a 3 times deduction.
282	Sen. Ferrioli	Asks about the mechanism for bringing the bill as an amendment to HB 2152.
297	Dexter Johnson	Responds that HB 2152 originated in the House and was a bill for raising revenue in the House. States that it satisfies the requirements under any other states interpretation.
328	Sen. Ferrioli	Asks if he is absolutely certain this will survive against a legal challenge.
335	Johnson	Responds that it would be a change of a 100 plus year precedent if it did not.
350	Sen. Ferrioli	Asks to what degree of certainty Johnson believes this will withstand a legal challenge.
368	Johnson	Responds that he is convinced that it would survive a legal challenge, and points out that the House chose to relate the bill to taxation and not the extension of a sunset date.
376	Sen. Ferrioli	States that he believes the courts will find that they cannot finesse the Constitution.
379	Sen. Ringo	Asks how long Johnson has been working in Counsel.
380	Johnson	Responds since 1994.
382	Sen. Ringo	Asks if amendments happen like this all the time.
385	Johnson	Responds affirmatively. Discussion follows.
399	Sen. Nelson	Asks if there is a difference between the terms surcharge and assessment.

404	Johnson	Responds that there is not a legal definition between the two and that there are other ways to describe it.
410	Warner	Responds that there is an economic definition of a surcharge that is a percentage of a fixed percentage of tax liability and that this is a variation.
425	Sen. Deckert	Adjourns meeting at 11:58 pm.

Tape Log Submitted by,

Tara Lantz, Committee Assistant

Exhibit Summary:

1. HB 2152, Paul Warner, Revenue Proposal, 3pp.

SENATE REVENUE COMMITTEE
August 18, 2003 2:00 PM STATE CAPITOL BUILDING

Members Present: Senator Ryan Deckert, Chair
Senator Ted Ferrioli, Vice Chair
Senator Peter Courtney
Senator Rick Metsger
Senator David Nelson
Senator Charlie Ringo
Senator Bruce Starr

Members Excused: Senator Tony Corcoran
Senator Lenn Hannon

Witnesses Present: Jim Carlson, Oregon Health Care Association
Lynn Read, Department of Human Services
Kelly Knivila, Department of Justice
Rudy Haughton, CareOregon
Mike Dewey, ODS Health Plans
Dave Fiskum, Providence Health System

Staff Present: Paul Warner, Legislative Revenue Office
Dick Yates, Legislative Revenue Office
Tara Lantz, Committee Assistant

TAPE 170, SIDE A

004 Chair Deckert Calls meeting to order at 4:21 pm.

OPENS PUBLIC HEARING ON HB 2152

006 Sen. Deckert States that there is a –A19 amendment (Exhibit 1) and a –A20 amendment (Exhibit 2).

012 Sen. Ferrioli Serves notice that he will be invoking SR 8.75 which speaks to the issue of germaneness.

057 Jim Carlson Discusses the –A20 amendments which deal with the nursing facility provider tax. Refer to Major Components of –A9 Amendments (Exhibit 5).

089 Sen. Ferrioli Points out that the -A20 amendments faces the same question of germaneness.

095 Paul Warner Points out that the PACE section is not in the –A20 amendment.

098 Carlson Responds that the Providence Elder Place section is not in the –A20 and that he was not informed of that until just now. Asks if it is because of a potential for a fully capitated healthcare amendment later.

105 Warner Replies that he was just told by Counsel to make sure they knew the section wasn't in the amendment because Carlson included them in the summary.

110 Sen. Deckert States that the amendments should have stayed constant throughout and that he assumes these are okay with everyone.

114	Carlson	Responds that he had intended that the amendments stay constant and that he assumes it is something that is caught up in the discussion of the F-chip.
120	Lynn Read	Testifies that the –A20 amendments would do an assessment on the Medicaid managed plans that would apply to premiums. States that it is approximated that the plan would generate \$34 million that can be matched with federal dollars and would be available for other program purposes.
145	Kelly Knivila	Testifies that the -20 amendments meet the federal requirement to obtain the federal matching funds.
160	Rudy Haughton	Testifies in support of the –A20 amendments because it is essential to keep providing a service that is needed for their clients.
176	Mike Dewey	Testifies in support of the –A20 amendments and suggests that there is something put in statute that directs the money to fund services for people that actually pay the tax.
220	Sen. Deckert	States that the PACE omission is being discussed and as soon as the complication is resolved they will be ready to go.
230	Sen. Deckert	RECESSES MEETING AT 4:39 PM.
231	Sen. Deckert	REOPENS MEETING AT 4:57 PM.
240	Carlson	Testifies that the decision has been made to go with the –A20 language, but expresses concern that there may need to be technical changes made later.
248	Dave Fiskum	Discusses the –A20 amendments and the problems that may arise and appreciates that the chair is willing to address those problems at a later time.
282	Sen. Ferrioli	Suggests that an easy way to fix this would be in a conference committee.

CLOSES PUBLIC HEARING ON HB 2152

OPENS WORK SESSION ON HB 2152

303	Sen. Metsger	Asks about the estimated revenues from the personal income tax assessment.
305	Warner	Responds that the surcharge is for a 3 year period and that \$545 would come in this biennium and then about \$152 in the '07 biennium.
329	Sen. Ferrioli	States that the –A19 and –A20 amendments are not germane to the subject of HB 2152 and would take an action that is not constitutional. Declares that he will invoke Senate Rule 8.75 and ask for a decision to be made on the germaneness of the amendment.
373	Sen. Ringo	MOTION: MOVES HB 2152-A19 AMENDMENTS DATED 8/18/03 BE ADOPTED.
378	Sen. Deckert	ORDER: ROLL CALL VOTE: MOTION PASSES: 5-2-2. SENATORS ANSWERING AYE: COURTNEY, METSGER, NELSON, RINGO, DECKERT. SENATORS ANSWERING NO: STARR, FERRIOLI. SENATORS EXCUSED: CORCORAN, HANNON.
385	Sen. Ringo	MOTION: MOVES HB 2152-A20 AMENDMENTS DATED 8/18/03 BE ADOPTED.

390	Sen. Deckert	ORDER: ROLL CALL VOTE: MOTION PASSES: 5-2-2. SENATORS ANSWERING AYE: COURTNEY, METSGER, NELSON, RINGO, DECKERT. SENATORS ANSWERING NO: STARR, FERRIOLI. SENATORS EXCUSED: CORCORAN, HANNON.
395	Sen. Ringo	MOTION: MOVES HB 2152 TO THE SENATE FLOOR WITH A DO PASS AS AMENDED RECOMMENDATION.
402	Sen. Metsger	Notes that this is a compilation of hard work from a lot of members and that without this bill they cannot fund schools and public services to the level that Oregonians want.
450	Sen. Deckert	ORDER: ROLL CALL VOTE: MOTION PASSES: 5-2-2. SENATORS ANSWERING AYE: COURTNEY, METSGER, NELSON, RINGO, DECKERT. SENATORS ANSWERING NO: STARR, FERRIOLI. SENATORS EXCUSED: CORCORAN, HANNON. Sen. Deckert will carry the bill on the Senate Floor.
464	Sen. Deckert	Adjourns meeting at 5:10 pm.

Tape Log Submitted by,

Tara Lantz, Committee Assistant

Exhibit Summary:

1. HB 2152, Sen. Deckert, Proposed HB 2152-A19 Amendments, 39pp.
2. HB 2152, Sen. Deckert, Proposed HB 2152-A20 Amendments, 5pp.
3. HB 2152, Paul Warner, Major Components of HB 2152 and –A19 Amendments, 3pp.
4. HB 2152, Paul Warner, Major Components of HB 2152 and –A20 Amendments, 2pp.
5. HB 2152, Jim Carlson, Major Components of the –A9 Amendments, 7pp.