

HOUSE SPECIAL SESSION COMMITTEE ON BUDGET RECONCILIATION

3rd Special Session

June 12, 2002 Hearing Room F
1:30 p.m. Tapes 1 - 4

MEMBERS PRESENT: Rep. Ben Westlund, Chair
Rep. Lane Shetterly, Acting Chair
Rep. Tom Butler
Rep. Gary Hansen
Rep. Betsy Johnson
Rep. Kurt Schrader

MEMBERS EXCUSED: Rep. Susan Morgan

STAFF PRESENT: Dick Yates, Legislative Revenue Office
Paul Warner, Legislative Revenue Officer
Annetta Mullins, Committee Assistant
Marjorie Taylor, Committee Assistant

MEASURE/ISSUES HEARD: Adoption of Committee Rules
Introduction of Committee Measures
LC 22 – relating to taxation (federal tax disconnect)
LC 23 – relating to taxation (cigarette tax)
LC 24 – proposes Constitutional amendment to change Education Endowment Fund to Education Stability Fund and specifies conditions under which moneys may be appropriated from principal of fund. Refers measure to voters on September 17, 2002
LC 26 – Sine die resolution
LC 27 – changes Education Endowment Fund to Education Stability Fund

Public Hearing
HB 4051
HB 4052
HJR 80

Introduction of Committee Measures
LC 7 – delays sunset on laws creating Hearing Officer Panel until January 2, 2006
LC 9090 – appropriations bill
LC 9091 – appropriations bill
LC 9092 – appropriations bill
LC 9093 – appropriations bill

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
TAPE 1, A		
004	Chair Westlund	Calls meeting to order at 1:35 p.m. and opens work session for purposes of adopting committee rules and introduction of committee measures.

ADOPTION OF COMMITTEE RULES

- 006 Rep. Butler **MOTION: Moves to ADOPT the proposed Committee Rules (EXHIBIT A).**
- 007 **VOTE: 5-0-2**
Chair Westlund **EXCUSED: 2 - Reps. Hansen, Morgan**
Hearing no objection, declares the motion CARRIED.

INTRODUCTION OF COMMITTEE MEASURES

- 013 Chair Westlund **MOTION: Moves LC's: 22, 23, 24, 26, and 27 BE INTRODUCED as committee measures.**
- 015 **VOTE: 5-0-2**
Chair Westlund **EXCUSED: 2 - Reps. Hansen, Morgan**
Hearing no objection, declares the motion CARRIED.
- NOTE: LC 22 introduced as HB 4050; LC 23 introduced as HB 4051; LC 24 introduced as HJR 80; LC 26 introduced as HCR 20; and LC 27 introduced as HB 4052.**
- 016 Chair Westlund Recesses meeting at 1:36 p.m.
- 017 Acting Chair Shetterly Reconvenes the meeting at 3:10 p.m. for the purpose of public hearings and work sessions on HB 4051, 4052 and HJR 80...
- 018 Chair Shetterly Opens public hearing on HB 4051.

HB 4051 – PUBLIC HEARING

- 040 Dick Yates Legislative Revenue Office. Explains HB 4051 (**EXHIBIT B**). Submits and explains HB 4051-1 amendments (**EXHIBIT C**). The amendments make it clear that those moneys are the moneys coming from the existing 20-some cents that is dedicated to the Health Plan as a permanent tax rate, plus the ten cent temporary tax and do not apply to the 75 cent increase in this bill.
- 088 Rep. Schrader Asks which portion of the amendments deal with the exemption.
Yates Explains that in line 17, the reference to ORS 323.030 is the existing fifty-eight cent permanent tax and in line 15, the reference in Section 3(3) to chapter 385, Oregon Laws 1995 is the temporary ten cent tax going to the Health Plan.
- 097 Rep. Schrader Asks which section of the bill applies to the 9-1-1 money.
Yates Responds Section 10 relates to 9-1-1.
- 100 Rep. Schrader Questions whether it is appropriate that the section on 9-1-1 be included in HB 4051.
- 097 Chair Shetterly Replies that the question he has is whether it was intended that the 9-1-1 tax be referred as well as the cigarette tax.
- 105 Rep. Schrader Asks if the \$3 million for tobacco cessation is on-going or a one-time transfer. Adds that it looks like money is taken out of the cessation program in the spending reductions.
- 111 Yates Responds it is a one-time transfer.
- 124 Rep. Hansen Questions why the bill contains the retroactivity—why start a tax in July that is proposed to be voted on September 17.

120	Rep. Butler	Asks for computation of the 75 cent tax and elasticity on sales, and what would be the reduction in sales at the extra 75 cents.
140	Yates	Explains that as of January 1, 2002 there was a significant increase in Washington tax from \$.825 to \$1.425 a pack. Some people were crossing the border to buy cigarettes to save 60 cents per pack. There was a jump in wholesale distribution in January. They saw a need to look at the border populations to react to differential rates in the states. Explains he changed the model on that basis and now we have no track record of sales. States that modeling is fairly sensitive to the tax rate differentials between the bordering states.
170	Yates	Explains modeling results. A ten percent increase in price will lead to a seven or eight percent decrease in the quantity of taxable distributions.
184	Rep. Butler	Comments that if we are talking about increasing the tax from sixty-eight cents to \$1.43 and we are going to lose 50 percent of the sales; it does not make a lot of sense. States he would like to get an idea of how much Oregon anticipates collecting.
201	Yates	Explains that the elasticity is based on the retail price of product and not on the tax.
218	Rep. Butler	Asks if the estimate is based on a 13 percent reduction in sales.
	Yates	Responds he would like to go back and look at the numbers in the model and report back to the Rep. Butler.
231	Rep. Butler	Asks which section of the measure applies to the increase in the distributor's discount for affixing the stamps.
234	Yates	Explains that Section 8 deals with discounts allowed distributors upon purchase of stamps. Reviews the existing law being deleted in Section 8.
266	Rep. Butler	States that he just wants to confirm that is an increase in the distributor discount for affixing the tax stamps. Asks if that bears some relationship to their additional risk and burden of collecting and distributing the tax.
272	Yates	States that the purpose is to compensate the distributors for the cost of affixing the stamps to each cigarette package.
292	Rep. Schrader	Asks Dexter Johnson, Legislative Counsel Office, if it is appropriate to connect the 9-1-1 portion of the bill with the rest of the bill.
290	Dexter Johnson	Legislative Counsel. Explains that the standards for statutes, and this is a statutory referral, are different than standards for proposed constitutional amendments. The majority of the bill has to do with the cigarette tax and Section 10 relates to an extension of the period in which the 9-1-1 tax is imposed. Those are both taxes and therefore within the "Relating to taxation" relating clause. States that the germaneness is a political question.
317	Rep. Hansen	Comments he does not understand why there is retroactivity on the cigarette tax or whether it is legal
319	Dexter Johnson	Responds that the Constitution prohibits changes in tax law from taking effect immediately, but there are a number of court

cases that permit changes in tax law to be made retroactive. In the cigarette tax program current law requires distributors to report enough information so that one can, after the fact, determine the amount of cigarettes distributed over a calendar quarter. Combining the two facts makes it legal to impose the tax. State that nothing will change July 1, 2002, but once the law goes into effect, this bill will require cigarette distributors to calculate the amount of cigarettes distributed from the July 1 to December 31 period and a one-time only tax on January 20.

342 Chair Shetterly Asks if there needs to be a suspense account to put the tax into in the event the referral fails.

346 Dexter Johnson Responds that nothing happens until after the bill takes effect.

349 Rep. Schrader Asks why Section 6 is in the bill.

356 Dexter Johnson Responds that he is not sure why.

346 Rep. Schrader Comments that the stamp rate is higher and is paid to distributors. Asks why this is a permanent change.

364 Yates States that the elasticity will affect the reduction in the revenues that normally go to tobacco use reduction because as the quantity consumed goes down, they get less revenue.

373 Rep. Schrader States that it is his understanding that .004 per stamp is a new higher rate that is paid to the distributors. Understands that it costs more to open the cartons, but assumes in the future it will go back to the old rate.

383 Dexter Johnson Responds this is a permanent change. It is a policy choice for the legislature.

388 Rep. Butler Reports that he has visited with the two largest wholesalers in the state and it is getting to the point where this is not a very feasible activity at .0024. Concern is that if the price goes from \$4.00 to \$4.75, it is incredible because with an additional 75 cent tax there will be another ten or fifteen cents just carry the covering charge of having to do this. The stampers are advancing on accounts receivable money that is going to the State of Oregon. They are extending a greater credit out to the State of Oregon. They have been losing money on it in the past and in order to get people to stamp the packs, they will have to pay the freight and the amount has not increased for many, many years.

423 Rep. Schrader Asks who the distributors are.

430 Rep. Butler States that at least one chain store in the state does its own stamping. There are also smaller wholesalers who do their own stamping. Believes there are fewer than 50 stampers in the state. They are a group of smaller companies that distribute these products by wholesale.

446 Rep. Johnson Asks Dexter Johnson why the 9-1-1 piece would be referred to the voters.

456 Dexter Johnson Responds that the 9-1-1 section was included in the drafting instructions to him.

460 Chair Shetterly Asked if the 75-cent cigarette tax and the 9-1-1 piece can be in one referral, or whether Section 12 should be amended.

468	Unknown Responder	Responds that he thinks the entire bill would need to be referred as it is written.
469	Chair Shetterly	Agrees.
TAPE 2, A		
020	Scott Gallant	Oregon Medical Association (OMA). Supports tobacco tax increases. <ul style="list-style-type: none"> • Has been working with coalition to increase tobacco tax, at least 50 cents, for the purpose of the OHP and tobacco use and reduction program based on BM 24 with 10 percent going to tobacco use and reduction and 90 percent going to the OHP. • Appreciates the effort that has been made to put into this legislation but some areas are troubling. It is not clear whether the distribution for use and reduction is a single \$3 million. • No reason to have other issues included in the bill. It muddles the issues. Agrees the bulk of the fund goes to the OHP. • Concerned that whatever is referred to the voters be a proposal that has a plain, good probability of passage.
052	Rep. Johnson Gallant	Asks if Gallant wants the 9-1-1 referral removed. Responds affirmatively.
058	Rep. Butler	States he thought the explanation relative to Section 6 was a one-time transfer from the Oregon Health Plan fund to the tobacco use reduction account of \$3 million. That will account just for the tobacco reduction as a result of this instant tax increase.
065	Yates	Explains that the \$3 million offsets any reduction that might occur.
070	Chair Shetterly and Yates	Agree the \$3 million is for one time.
80	Richard Kosesan	Oregon Neighborhood Store Association, Brown and Williamson Tobacco Corporation, and Lorrilord Tobacco Company. Testifies in opposition to HB 4051. <ul style="list-style-type: none"> • The 75 cent per pack increase is a 110 percent increase. • Tax is devastating in today's economy on neighborhood stores. • Would encourage the average consumer to look elsewhere. • Retailers would lose approximately \$68,000 in sales of tobacco products and associated sales, \$15,000 in gross profits per year. • Ballot Measure 44 in 1996 increased Oregon's tobacco tax 30 cents a pack; sales in Oregon decreased by about 20 percent. • Oregon will not realize the projected dollars.

		<ul style="list-style-type: none"> • The burden that would be created for the independent business person is very significant. • Impact on the consumer is very significant.
120	Mark Nelson	<p>7-11 Stores and R.J. Reynolds Tobacco. Testifies in opposition to HB 4051.</p> <ul style="list-style-type: none"> • July 1 effective date is concern. Retailers will collect tax starting in July with no way to return it. • Department of Revenue will notify wholesalers they need to plan for a rate increase as of July 1. The vote won't be until September, but the wholesaler will be increasing his price to reflect the tax increase. The retailers will be increasing their prices to reflect the increase. • If the tax should fail in September, the wholesaler would have collected the tax without any way of returning it. It is a collection of the tax before the vote.
152		<ul style="list-style-type: none"> • The inclusion of the 9-1-1 tax makes this a two-subject issue and is nothing more than trying to add another issue to the tax. • Tax is popular because 80 percent of Oregonians don't pay it. • This is not an issue of how we are going to reduce the number of people consuming tobacco products; it is an issue of how we are going to get the money and what the easiest way is to get the money. • Oregonians pay this tax, not the tobacco companies. • Submits data on tobacco consumption produced by the Center for Disease Control (EXHIBIT D). Reviews data on chart. • Consumption has not been diminished by the 30 cent increase; consumption has stayed constant.
212	Rep. Butler	Asks if in February 2002, Oregonians began smoking 33 percent more tobacco.
	Nelson	Responds negatively. States that the data indicates Oregon is losing about \$100 million this biennium on the existing tax because of internet sales, cross border sales, grey marketing, black marketing, and Indian sales.
	Rep. Butler	Comments that the 60 cent per pack increase effective January 1, 2002 in Washington probably had more to do the 33 percent increase in sales in Oregon than more consumption by Oregonians. Asks if there are records on the amount of cigarettes being sold on the internet and how it will affect liquor stores.
233	Rep. Butler	Asks if we know how much tobacco is being sold on the internet and do we know the percentage that is being sold at liquor stores.
248	Kosesan	Responds that all internet sales are tax free. States he does not have numbers but will look for them. States that some of the

state-owned liquor stores have very large tobacco sales. If the tax were left alone, sales would be expected to increase in Oregon on average 15 percent. Can provide letter from the Department of Revenue (DOR) indicating the amount of tax revenue lost to the state of Oregon. If the state were to capture the lost revenue in terms of leakage now and couple that with the cross border sales, one-half of the 75 cent increase would be lost.

300 Rep. Johnson Asks if the drop of 20 percent in sales after the 30 cent increase has been regained.

Kosesan Responds that the revenue to Oregon was decreased. Consumption since the 1996 increase has been a flat line.

Nelson Comments he believes the 20 percent decrease has held.

321 Chair Shetterly Comments that Nelson questions the legality of collecting the tax now and not remitting until January of next year. Asks if the wholesalers and retailers are not only increasing their price in anticipation of an anticipated tax increase. Asks if it is a tax the day they raise their prices.

334 Nelson Responds that if that were true, he would assume a wholesale would not have to pay the tax. However, the DOR will demand payment on October 1. Adds that if the tax doesn't pass; it could not be returned to the consumer and he would assume the distributors would keep the money.

360 Hasina Squires AbcoNina National Emergency Member Association. Expresses concern about the 9-1-1 tax being included in the same measure as the tobacco tax. States support for the extension of the 9-1-1 tax until 2007. States that Oregon is a leader in the 9-1-1 community in the nation. The federal government has issued a mandate for phase II automatic locate technology. Oregon is the first state west of the Mississippi to have deployed that technology. It was deployed in Douglas and Josephine Counties two weeks ago and is the fifth deployment in the nation. An extension of the tax would allow the phase II wireless implementation to be completed by 2007.

420 Bob Cantine Association of Oregon Counties (AOC). Comments he has a concern that the counties are not mentioned in the bill. Submits AOC policy statement (**EXHIBIT E**). Asks that the legislature look at a technique for holding the counties harmless so they do not lose while the state is gaining.

466 Rep. Schrader Asks if there is a way to figure out what the package losses would be and try to figure out some compensation for the cities and counties.

475 Yates Says that he computed a sharing of the new money, which would hold everyone harmless where two percent of the new revenue would go to cities, two percent to counties, etc. and the state would end up with roughly 90 or 95 percent of the increase. Notes that now that the money is going into the OHP, he will have to redo the calculation.

TAPE 1, B

035 Rep. Hansen

		Asks what the amount would be if the desire was to keep the same percent of the cigarette tax going to the other entities.
048	Yates	Responds that the formula for distributing the money could remain the same and everyone would be held harmless.
062	Sen. Gary George	Senate District 12. Testifies in opposition to increasing cigarette taxes (HB 4051). <ul style="list-style-type: none"> • 75 percent of the cost of a pack of cigarettes is already direct and indirect taxes. • Question what the potential would be for profits by smugglers. A truck load of cigarettes purchased in Wyoming could produce \$936,000 profit. A vanload of cigarettes could generate \$75,000 to \$80,000. • Concerned about discriminatory taxes, taxes on a group that cannot defend themselves. • The enforcement agency, in response to questions, says that these levels of taxation invite organized crime.
110	Rep. Butler	Comments that under the Master Settlement Agreement the Non-Participating Manufacturers (NPM) are covered by bonds. The NPMs move away almost free. Explains that the cost of product from an NPM is 30-40 percent less because they do not pay under the agreement. The disparity of price becomes even greater and that lends itself to even more potential corruption.
141	Sen. George	Comments that he understands that it is a relationship between market share of those who have the agreement and those who don't.
136	Yates	Explains that a national calculation drives the agreement and Oregon is a small market in the total national picture. There is a volume adjustment and if the portion of the cigarettes sold by members of the agreement goes down, then the revenues under the agreement also go down.
158	Joe Gilliam	Oregon Grocery Industry Association. Explains that taxes are paid as retailers in two different ways. Option A: the retailer does not want a person cutting open a box and putting the stamp on, and therefore buys from a cigarette distributor. The stamps are already on the packs and are ready to sell. The distributor pays the tax. Option B: The retailer puts the stamps on him/herself. The retailer may buy directly from the manufacturer and put the stamp on the packs. The retailer then pays the tax to the state.
187	Gilliam	States that one concern is the state is suggesting the price of a product. That is not done for any other product. Comments on scenarios of purchasing cigarettes from wholesalers and distributors and when the taxes are paid to the state. States that this would be a bookkeeping nightmare and the state won't receive the money because companies will fold or be damaged. Adds that other stores, particularly the independents, will be damaged.
233	Michelle Deister	League of Oregon Cities (LOC). States that the same situation occurs in the cities as in the counties. Cities are also interested

		in revenue neutrality. States that the cities are also concerned about the 9-1-1 tax being in the bill.
283	Rep. Butler	Comments on Idaho making money at 28 cents. States he would like to hear from the Department of Justice, Oregon State Police, and Department of Revenue about their task force that is charged with pulling down some of the grey and black market.
310	Rep. Hansen	Comments he is interested in getting amendments to remove the retroactivity, to separate out the 9-1-1 tax, and to allow some local government equity.
317	Chair Shetterly	Asks Yates what the revenue impact would be if the retroactivity provision were deleted from the measure and assuming the election would be in September, when the tax would become effective.
321	Yates	Responds there would be significant revenue loss and he will recalculate the impact.
303	Chair Shetterly	Closes the public hearing on HB 4051 and opens a public hearing on HJR 80.

HJR 80 – PUBLIC HEARING

357	Paul Warner	Legislative Revenue Officer. Explains HJR 80 (EXHIBIT F). Submits HJR 80-1 amendments (EXHIBIT G).
-----	-------------	--

TAPE 2, B

042	Warner	Explains that the HJR 80-1 amendments define the “state’s General Fund” as the state’s General Fund of the prior biennium.
052	Warner	Explains that the operational date that was in Measure 13 is not in HJR 80. It would go into effect 30 days after approval by the voters.
056	Chair Shetterly	Comments there was a question about the self-repealing language in Measure 13. Asks if the transfer language would stay in the Constitution.
059	Cindy Hunt	Legislative Counsel’s Office. Explains that a version of Measure 13 was a constitutional revision with a lot of other provisions in it. HJR 80 is a constitutional amendment, which is more restrictive about what it has in it.
074	Kate Richardson	Oregon State Treasury. Comments that the State Treasurer continues to support a rainy day fund in his role as debt manager for the state (EXHIBIT G).
081	Rep. Butler	Comments that one option would be that the fund could be accessed by declaration of an emergency of the Governor and three-fifths majority of each chamber. Asks if none of the triggers are used, whether it would still require a three-fifth majority of each chamber to access the fund.
094	Yates	Explains that two things can trigger the legislature’s action.
103	Rep. Butler	Asks how much short a \$150 million transfer in this biennium will leave the original amount budgeted for K-12.
109	Yates	Responds they have calculated a gap of \$859 million. In that gap is a \$200 million disappropriation from the State School Fund. Measure 13 would have backfilled and added \$20

- million to that. The other is a \$112 million disappropriation from the School Improvement Fund. That is included in the \$859 million gap. To restore that, revenue must be generated elsewhere, either through a transfer from the Endowment Fund or other revenue options.
- 168 Rep. Butler Asks if the amount that was inserted into HJR 80 was \$200 million as opposed to the \$150, whether that would leave us down \$112 million in this biennium.
- 173 Warner Explains that if the legislature uses the \$200 million or the \$150 million in HJR 80 toward the \$200 million, then Rep. Butler is correct. Adds that they would be looking for separate funding sources to cancel out the \$200 million disappropriation. That is the way Measure 13 was written. Reminds members that the gap is bigger now. If the \$200 million is taken off the table, there is still a \$659 million gap.
- 188 Rep. Butler Asks if it is anticipated that the Education Endowment Fund would have the capacity on July 30, 2003 to fund a \$200 million transfer.
- 190 Warner Responds that the projection is that the Endowment Fund under current law would have an ending balance of \$278 million.
- 182 Warner States that HB 4052 is the implementing legislation for this resolution
- 222 Rep. Schrader Asks what amount the 15 percent yields.
- 227 Warner Explains 15 percent and 18 percent yields and tradeoffs between commitments to the Stability Fund versus what the discretionary funds are being used for.
- 252 Rep. Schrader Asks if current obligations of the Endowment Fund will be impaired.
- 253 Warner Explains that under current projections the earnings of the Endowment Fund would go from about \$11 million, of which 75 percent is committed to retiring school lottery bonds, and 25 percent is committed to scholarships. They project the fund will grow to about \$26 million next biennium under current law, and a reduction of \$150 million would significantly reduce the fund. States he will provide the numbers to the members.

NOTE: TAPE 2, SIDE B, FROM 265 TO END IS BLANK DUE TO EQUIPMENT MALFUNCTION. THE FOLLOWING SUMMARY TO THE INDICATOR OF TAPE 3, A IS NOT RECORDED.

- Rep. Schrader Asks how the five percent of the General Fund is arrived at as the cap.
- Warner Responds other states have stability funds and the five- percent is the rule of thumb, and there is generally a cap.
- Rep. Schrader Asks if it would take four or five biennia for the fund to reach the maximum.
- Warner Responds that with 18 percent dedication, the new fund would receive \$118.2 million in the 2003-05 biennium.
- Richardson Comments that the bonding companies generally look at five percent, and that the five percent was suggested by the Treasurer.

Rep. Johnson Asks if there is an additional spending limitation for K-12 in the measure.
Warner Responds there is not and it would have to be dealt with in the omnibus budget bill.

TAPE 3, A

010 Rep. Johnson Ask if it would be possible to get a report on the liquidity in the Oregon Growth Account.
Richardson Responds that a good portion of the money in the account is committed; they will provide the information.

009 Rep. Johnson Asks that they include a summary of the administrative expenses for management of the ORTDF.

013 Rep. Hansen Comments on budget problems in Portland schools.

030 Rep. Butler Comments that the projected revenue is down 11 percent from the close of session and down four percent from the 1999-01 revenue.

0303 Warner Responds that General Fund resources budgeted were four percent less than the prior biennium, if the June forecast is realized.

036 Rep. Butler States that he wants to be sure that when we talk about resources for a biennium versus the revenue for the biennium that relative to the General Fund revenue forecast projects that revenue in the next biennium, there will be three percent less than the appropriations in that current biennium; appropriations include the ending balance as opposed to the revenues.

046 Warner Explains that the resources are the revenues plus the beginning balance.

052 Rep. Butler Asks if the kicker would go out as an appropriation, assuming there is a recovery.

055 Warner States the kicker is treated as a revenue item exclusively; it does not affect the current biennium. It is a revenue reduction in the succeeding biennium when it is treated as a refund to taxpayers or as a credit to corporations. It comes out of the revenue forecast for the following biennium.

066 Rep. Butler Asks if that would affect the five percent calculation.
Warner Responds it would affect the five percent calculation only in the sense that it would be a factor into how much was used from the General Fund because it is a current law.

071 Rep. Chris Beck House District 33. Suggest the committee use HJR 80 as an opportunity to create a referral to the voters that is broader than what is in the bill. Thinks that had the voters been offered something broader, more solutions Measure 13 would have passed. We have the opportunity to include minor or major changes to the property tax system or other changes to the Constitution which could affect the way schools are funded. States he is having amendments prepared.

099 Rep. Johnson Asks Rep. Beck to share his ideas.

100 Rep. Beck Responds he thinks the best thing would be to repeal the double majority requirement and add some local option capacity.

128	Chair Shetterly	Comments that giving local option authority above the Measure 5 limits actually splits school districts.
122	Rep. Beck	Responds that in a bill passed in the 2001 session there is an equalizing component for other districts that pass local options that the General Fund can match. Doesn't think anybody would be worse off.
152	Rep. Butler	Comments that the committee has before it the resolution that amends the School Endowment Fund. Asks if that is where Measure 5 should be tampered with and whether the double majority requirement could be included.
161	Chair Shetterly	Responds that it would take an 18 and 40 vote margin to put it out as a constitutional revision.
165	Rep. Schrader	Thanks Rep. Beck for the thoughtful solutions about the long term.
190	Chair Shetterly	Closes the public hearing on HJR 80 and opens work session for the purpose of introducing committee measures.

INTRODUCTION OF MEASURES – WORK SESSION

196	Chair Shetterly	Explains that: <ul style="list-style-type: none"> • LC 7 extends the sunset on the Hearing Officer Panel so that only one set of budgets need to be prepared for the next session. • LC 9090, LC 9091, LC 9092, and LC 9093 are blank appropriations bills.
217	Rep. Shetterly	MOTION: Moves LC's: 7, 9090, 9091, 9092, and 9093 BE INTRODUCED as committee bills. NOTE: LC 7 introduced as HB 4053; LC 9090 introduced as HB 5090; LC 9091 introduced as HB 5091; LC 9092 introduced as HB 5092; and LC 9093 introduced as HB 5093.
203	Rep. Schrader	Comments he has concern about LC 7 and needs more information about how big the burden is. States he objects to the introduction of LC 7.
212	Rep. Hansen	Comments he too may have reservations about LC 7 later but has no objection to introducing the measure.
230		VOTE: 4-1-2 AYE: 4 - Butler, Hansen, Johnson, Shetterly NAY: 1 - Schrader EXCUSED: 2 - Reps. Morgan and Westlund
230	Chair Shetterly	Hearing no objection, declares the motion CARRIED.
231	Chair Shetterly	Opens a public hearing on HB 4052.

HB 4052 – PUBLIC HEARING

232	Warner	Explains that HB 4052 is implementing language for HJR 80. States there are two key elements to the bill in Section 1, subsection (3)(a) and (b) relating to the liquidity of the Endowment Fund and converting it to a different purpose.
278	Rep. Johnson	

		Comments she is unfamiliar with how the Oregon Growth Account works. States that it seems if we are expanding the discretion of the Treasurer to change triggers, having some kind of accountability to the legislature makes some sense.
264	Kate Richardson	Oregon State Treasury. States she believes the statute includes reporting requirements but would have to check.
309	Chair Shetterly	States that the reporting requirements are not changed by HB 4052.
322	Richardson	Comments that it is her understanding that when funds are transferred out of the Stability Fund to the State School Fund, this allows the Treasurer flexibility about where the funds come from. Adds that there are several different accounts in the Education Stability Fund. Currently, 10 percent of the incoming funds go to the Oregon Growth Account. This doesn't necessarily change that.
340	Warner	States he believes Section 1(b) deals with the amount of funds in the Growth Account. It would give the Treasurer discretion of taking some funds out, but he would not be required to take ten percent out of the fund.
351	Rep. Schrader	Comments it is his understanding that two funds have sub accounts, the Education Endowment Fund and the Education Stability Fund. In the Stability fund, we have the Oregon Growth Account, the Higher Education Technology Transfer Account and the ORTDA sub account, plus the option at the discretion of the Treasurer to give some of the money to the State School Fund. .
336	Warner	Explains that the Treasurer doesn't have the option of giving some to the State School Fund; he would be directed by the legislature to transfer that. Once the transfer is made, the Treasurer has the discretion to change the ten percent going into the accounts, or to liquidate some of that and use it as part of the transfer.
344	Rep. Schrader	Asks if there is another sub account in the Education Stability Fund that accumulates money--how do we build a rainy day fund.
348	Warner	States this is an account within the rainy day fund. These are all sub accounts of the rainy day fund just as they are sub accounts of the Education Endowment Fund today. States that the other 90 percent would be managed by the Treasurer to try to maximize a yield.
414	Rep. Johnson	States she is concerned about the sub accounts of the Endowment Fund; some are speculative in nature. ORTDA has not always had a profitable showing. Wonders about the appropriateness of having a venture capital fund tucked inside a stability fund with the desired outcome to be a predictable transfer to schools. Asks for more details for ORTDA, where the authority for the fund manager starts and stops, and where the discretion of the Treasurer begins.
445	Richardson	

Comments they don't see as much discretion as staff does. The ORTDA no longer exists. Explains the structure and purposes of accounts and sub accounts.

TAPE 4, A

011	Rep. Butler	Asks if HB 4052 leaves the Treasurer with sufficient latitude to be able to transfer the investments from one place to another as opposed to liquidating the investments and moving cash.
017	Warner	States the intent is to give the Treasurer the latitude to rebalance the account as part of the transfer mechanism to the State School Fund.
042	Cindy Hunt	Legislative Counsel's Office. Explains Section 1 of HB 4052.
066	Rep. Schrader	Asks which section in the bill says the powers revert back to the current powers once the \$150 million is transferred.
069	Hunt	Explains that it is on page 1, lines 13 and 14 that says "for purposes of...".
093	Rep. Butler	Comments he wants to make clear that those "funds", "moneys", "transfers", and "amount of funds" in Section 1 could be investments and not just moneys.
	Hunt	States they could liquidate investments.
108	Warner	Explains that the only other substantive part of the bill is at the end that says HB 4052 is dependent on passage of HJR 80.
115	Chair Shetterly	Asks if the committee should ask for an explanation of the change in Section 8, "net available" to "declared", and the change on page 7, "appropriated" to "transferred".
132	Hunt	States that the changes were to make the sections more consistent with other statutes dealing with the Education Endowment Fund and consistent with the Constitution in the case of the transfer language. The purpose of the amendment in Section 8 is that the 75 percent of the declared earnings do not include those declared earnings that go into the ORTDA and Higher Education Technology Transfer Fund.
151	Chair Shetterly	Closes the public hearing on HB 4052 and adjourns the meeting at 5:34 p.m.

Submitted By,

Reviewed By,

Annetta Mullins,
Administrative Support

Marjorie Taylor
Administrator

EXHIBIT SUMMARY

A – Committee Rules, staff, 1 p

B – HB 4051, explanation of HB 4052, Dick Yates, 1 p

C – HB 4051, HB 4051-1 amendments, Dick Yates, 1 p

D – HB 4051, Center for Disease Control statistics, Mark Nelson, 1 p

E – HB 4051, prepared statement, Association of Oregon Counties, Bob Cantine, 1 p
F – HJR 80, Staff Measure Summary, Paul Warner, 1 p
G – HJR 80, HJR 80-1 amendments, Paul Warner and Randall Edwards, 1 p