

PUBLIC HEARING AND WORK SESSION: HJR 64; HB 3127, HB 3619 A-ENG.

WORK SESSION: SB 397, SB 519 A-ENG., SB 520 A-ENG., SB 521 A-ENG.

TAPES 189 — 190 A/B

HOUSE SCHOOL FUNDING AND TAX FAIRNESS/REVENUE COMMITTEE

MAY 21, 2001 — 1:00 P.M. - HEARING ROOM A - STATE CAPITOL BUILDING

Members Present: Representative Lane Shetterly, Chair

Representative Janet Carlson, Vice Chair

Representative Deborah Kafoury, Vice Chair (1:24 arrived)

Representative Alan Bates (1:17 arrived)

Representative Chris Beck

Representative Alan Brown

Representative Mark Hass

Representative Max Williams (1:19 arrived)

Representative Bill Witt

Visiting Members: Rep. Elaine Hopson

Staff: Paul Warner, Legislative Revenue Officer

Lizbeth Martin-Mahar, Economist, Legislative Revenue Office

Steve Meyer, Economist, Legislative Revenue Office

Ed Waters, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

Joan Green, Committee Assistant

Witnesses: Tim Nesbitt, Oregon AFL-CIO

Betsy Earls, Associated Oregon Industries

Rep. Dan Gardner, Legislative House District 13

Jim Green, Oregon School Boards Association

John Pendergrass, Department of Education

Barbara Ross, Citizen

Claudia Howells, Oregon Department of
Transportation

Brian Reeder, Department of Education

Greg Chaimov, Legislative Counsel

Ann Hanus, Division of State Lands

J. Kevin Shuba, Department of Justice

Lorna Walker, Citizen

Jean Thorne, Governor's Office

TAPE 189, SIDE A

007 Chair Shetterly Meeting called to order at 1:17 p.m.

OPENED WORK SESSION ON SB 521 A-ENG.

027 Ed Waters Reviewed purpose of the measure and discussion at prior hearing held on March 27; reviewed the anticipated Revenue impact for 2001-03, which is not anticipated in the Governor's or Co-chairs of Ways and Means current budget deliberations, (Reference 03/27/2001, Exhibit 6).

033 Chair Shetterly Noted that based on his meetings with the Co-chairs of Ways and Means they are prepared to accommodate SB 521 and are expecting it, if it comes out of this Committee.

038 Rep. Beck **MOTION: MOVED SB 521 A-ENG. TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION.**

046 **ROLL CALL VOTE: MOTION PASSED 8-0-1* (Tape 190, Side B, 256 Kafoury votes aye. VOTE 9-0-1)**

REPRESENTATIVES VOTING AYE: Bates, Beck, Brown, Hass, Williams, Witt, Carlson, Chair Shetterly

REPRESENTATIVES EXCUSED: Kafoury

Rep. Beck will carry the bill.

OPENED WORK SESSION ON SB 520 A-Eng.

050 Chair Shetterly Noted that both SB 520 and SB 521 were two bills that were being held pending the May forecast. Reiterated that the Co-chairs of Ways and Means are anticipating that they will be able to accommodate this in the budget and I believe the Governor is expecting the same.

053 Ed Waters Reviewed purpose of the measure and discussion at prior hearing held on March 27; reviewed the anticipated Revenue impact for 2001-03, and approximately \$1.8 million of the Revenue impact is anticipated in the Governor's budget, (Reference 03/27/2001, Exhibit 5).

063 Rep. Witt **MOTION: MOVED SB 520 A-ENG. TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION.**

073 **ROLL CALL VOTE: MOTION PASSED 8-0-1* (Tape 190, Side B, 264 Kafoury votes aye. VOTE 9-0-1)**

REPRESENTATIVES VOTING AYE: Bates, Beck, Brown, Hass, Williams, Witt, Carlson, Chair Shetterly

REPRESENTATIVES EXCUSED: Kafoury

Rep. Witt will carry the bill.

OPENED WORK SESSION ON SB 397

091 Tim Nesbitt Spoke to testimony in opposition presented at the May 7 hearing and based on several occurrences since May 7 and an agreement with Associated Oregon Industries for support of "our bill" to extend benefits to dislocated workers we will support SB 397. Would request that SB 397 have a referral to Ways and Means Committee to receive a hearing with "our bill".

104 Betsy Earls Concurred with Nesbitt's comments and spoke

in support of SB 397 and AFL-CIO's dislocated worker bill.

112 Chair Shetterly Questioned if Nesbitt and Earls are requesting that this measure have be referred to Ways and Means Committee so that this measure and the "dislocated workers bill" can move together.

114 Earls We would like for them to go to the Governor together.

116 Chair Shetterly Paul Warner informed me that in sessions past this has been a regulatory bill that has gone through the Ways and Means process.

129 Chair Shetterly **MOTION: MOVED SB 397 TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION AND THE BILL BE REFERRED TO THE JOINT COMMITTEE ON WAYS AND MEANS.**

135 **ROLL CALL VOTE: MOTION PASSED 9-0-0**

REPRESENTATIVES VOTING AYE: Bates, Beck, Brown, Hass, Williams, Witt, Carlson, Kafoury, Chair Shetterly

OPENED PUBLIC HEARING ON HB 3127

151 Lizbeth Martin- Mahar Reviewed the original measure as discussed at the April 16 meeting and described the (-5) amendment, (Reference 05/16/2001, Exhibit 12 and 14).

196 Barbara Ross Spoke in support of the (-5) amendment, (Reference 05/16/2001, Exhibit 16).

LRO Staff Distributed informational material:

1. Fiscal Impact statement, submitted by LRO Staff. (Exhibit 1)
2. Submitted testimony, Rep. Kelley Wirth. (Exhibit 2)
3. Submitted testimony, Oregon Short Line Railroad Association, Walter Brickwedel. (Exhibit 3)

205 Rep. Witt Questions and discussion regarding what improvements would occur as a result of legislation.

226 Claudia Howells Spoke to the measure; no position taken.
(Exhibit 4)

OPENED WORK SESSION ON HB 3127

306 Vice Chair **MOTION: MOVED LC (-5)**
Kafoury **AMENDMENTS DATED 05/07/2001 TO HB**
3127 BE ADOPTED. HEARING NO
OBJECTION, THE CHAIR SO ORDERED.

310 Vice Chair **MOTION: MOVED HB 3127 TO THE**
Kafoury **HOUSE FLOOR WITH A DO PASS AS**
AMENDED RECOMMENDATION.

320 **ROLL CALL VOTE: MOTION PASSED 9-**
0-0

REPRESENTATIVES VOTING AYE: Bates,
Beck, Brown, Hass, Williams, Witt, Carlson,
Kafoury, Chair Shetterly

Rep. Wirth will carry the bill.

OPENED PUBLIC HEARING ON HJR 64

339 Paul Warner Reviewed the what HJR 64 would allow and
described two issues raised at the April 18
public hearing:

1. What is the State's responsibility as
manager of a Trust?
2. The legal issues surrounding the
availability of revenue from lands granted
under the Admissions Act that became the
basis of the Common School Fund.

Referenced amendment, (Reference 05/16/2001,
Exhibits 12-13).

Distributed a Fiscal Impact statement. (Exhibit
5)

362 Rep. Witt Spoke to conversations with Legislative Counsel
following the April 18 public hearing. Noted
Greg Chaimov, Legislative Counsel, has given a
strong legal opinion that the policy in HJR 64
can be accomplished without running afoul of
federal law or Constitutional requirements
relative to trusts reflected in the (-2)
amendments, (Reference 05/16/2001, Exhibit
12).

The (-3) amendments would require that the Legislature to pay any principle back in a period of the succeeding three biennia after the economic downturn ceases to exist, (Reference 05/16/2001, Exhibit 13).

393 Greg Chaimov Described the (-2) amendments, (Reference 05/16/2001, Exhibit 12):

1. The amendments remove the proceeds from the Admissions Act Lands from the stabilization fund.
2. The amendments also carve out the quests that the State would have received up until the time of the adoption of the amendment that the measure proposes. The reason for that is those would have been monies that the State would have received with an implicit understanding that they would be maintained purely for school fund purposes.

417 Chair Shetterly Can those funds described be identified, (Reference 05/16/2001, Page 1, Lines 4-5, Exhibit 12)?

418 Chaimov That would be a question for the Division of State Lands or Treasury.

TAPE 190, SIDE A

005 Brian Reeder Presented testimony in support of measure, (Exhibit 6), and the (-2) amendments, (Reference 05/16/2001, Exhibit 12):

023 Ann Hanus Spoke to the measure; no position taken. (Exhibits 7)

102 Hanus Spoke to concerns with the (-2) and the (-3) amendments, (Reference 05/16/2001, Exhibits 12-13).

123 Chair Shetterly Requested discussion of policy only issues prior to discussion of legal issues.

124 Vice Chair Carlson What portion of the land grants is removed with the (-2) amendments, how much is left, (Reference 05/16/2001, Exhibit 12)?

- 129 Hanus "Is not sure what is statutory and what is revenue; there are good records for the last 20 years of the 104 years the fund has been in existence. Provided a "ballpark" figure of 5-10% of statutory revenues.
- 130 Vice Carlson Chair "Ninety to ninety-five percent would be omitted from the (-2) amendments, (Reference 05/16/2001, Exhibit 12).
- 132 Hanus It could be; spoke to questions regarding the investment income, which is the overwhelming amount of income.
- 140 Vice Carlson Chair Questioned if the (-3) amendments would not address the issue of use of the monies during the 1980's that Hanus testified to, (Reference 05/16/2001, Exhibit 13).
- 143 Hanus Concurred, but spoke to loss of interest during those periods and stock market earnings.
- 147 Vice Carlson Chair Questions and discussion regarding what sort of earnings the Fund would make in an economic downturn.
- 175 Chair Shetterly Questions and discussion regarding:
1. If loss of earnings is not part of the tradeoff and if it is not a reasonable tradeoff; used an analogy of a family using "savings" during a crisis for food rather than a college fund.
 2. Referenced the policy issue in Hanus's testimony and noted the argument of why future kids should be benefited over current children could work both ways, (Page 1, Paragraph 3, Exhibit 7).
- Left at 1:59 p.m., passed gavel to Vice Chair Kafoury.
- 204 Rep. Witt Questions and discussion regarding:
1. If these aren't policy issues for the legislature?

2. The Legislature's responsibility, under the Constitution, to adequately fund Oregon schools.
3. If the bulk of the money in the Common School fund is not from earnings, and haven't the earnings been reinvested in the fund.
4. Constitutionally the Legislature has the authority, without violation of federal law, to use the earnings from that land for K-12 education.
5. The conclusion could be drawn that 1990's children were "cheated" because the Legislature or Land Board did not give the full benefit of the earnings to K-12 education.
6. How would HJR 64 violate trust law if the Legislature were to make a decision relative to the dispersion of the funds in times of economic downturn to benefit current students?

253 Kevin Shuba Courts have not made a distinction between the Admissions Act lands and the other sources of income inside the fund and spoke to the potential, without that distinction, that it is an irreducible fund.

345 Rep. Witt Questions and discussion regarding where should the funding for a Stabilization Fund come from, if not the Common School Fund.

407 Rep. Hass Spoke to his concerns with HJR 64, even with the (-2) and (-3) amendments, (Reference 05/16/2001, Exhibits 12-13). This measure provides a vehicle for the Legislature to avoid the hard political question of how to fund a Stabilization Fund and preserve the integrity of the Common School Fund.

TAPE 189, SIDE B

011 Rep. Bates Questions and discussion regarding:

1. Whether it is prudent policy to bank money during good times.

2. During the 1990's was it the thought that the use of the Common School Fund was to build the fund for future generations rather than saving money for a "rainy day"?
3. What role did Ballot Measure 5 play in this decision?
4. How were schools funded previously when there was a downturn in the economy?

034 Warner Spoke to funding of schools during economic downturn in the past.

048 Rep. Bates Noted that both parties have valid arguments and with Ballot Measure 5 financing of schools have drastically changed. Questioned if after the crisis was over, if it was required that the fund be made whole with both principal and interest, would Hanus still oppose HJR 64.

077 Hanus It would help, but questions remain that would need to be answered.

102 Vice Chair Questions and discussion regarding:
Carlson

1. How the school formula is calculated and what role do distributions from the Common School Fund play in that process.
2. Does the earnings and distributions of the Common School Fund have legislative oversight through the Ways and Means Committee or is it independent?

145 Lorna Walker Presented testimony in opposition to measure. (Exhibit 8)

Chair Shetterly Returned at 2:26 p.m.; resumed gavel.

252 Jean Thorne Responded to earlier discussion and made following comments:

1. The Governor, as a member of the Land Board, is willing to look at some portion of future earnings being dedicated to a Stabilization Fund.
2. Reviewed discussion of the Governor's

proposal for a Stabilization fund in HJR 5 and HB 2299 and other potential sources.

3. Recommended looking at various sources for funding of a Stabilization fund.

- 290 Rep. Witt Questioned if 15% of the Lottery revenues that are dedicated to education aren't being used each biennium as part of the formula distribution.
- 294 Thorne Only the earnings of that fund; approximately \$11 million for the next biennium will be used towards the debt service on lottery backed bonds.
- 311 Rep. Witt Questioned what the concerns were with use of the Education Endowment fund for a funding source.
- 317 Warner Primarily the size of the Education Endowment Fund.
- 320 Rep. Witt Questions and discussion regarding if there is any difference, Constitutionally, for the purpose of the two Funds?
- 333 Chaimov Set the legal parameters for the measure:
- Explained what the Common School Fund is and how it was created. Based on that creation the people of Oregon could legally change the nature of the Trust with the adoption of HJR 64 with two exceptions:
1. Oregon cannot dip into the principal of the Admissions Act lands.
 2. Bequests made by a person at a time when the understanding was that the funds in the bequest would be used for perpetuity for school purposes would also be exempt.
- 366 Warner The issue regarding the amount of the Fund available seems to revolve the proceeds, as described by Chaimov, how are proceeds defined?

- 376 Chaimov The Constitution uses different terminology for proceeds and revenue; in Legislative Counsel's view "proceeds means receipt of sale of land", it does not mean earnings or revenue.
- 388 Rep. Witt Based on Legislative Counsel's interpretation then the overwhelming bulk of the Fund would be available for the Legislature without running afoul of the Admissions Act.
- 400 Chair Shetterly There would be the issue of segregating out the accounts in the Treasurer's office, but that should be able to be done. Summarized the advantage of HJR 64 over other Stabilization Fund efforts.

TAPE 190, SIDE B

Questions and discussion regarding the appropriateness of HJR 64, with the amendments.

- 058 Rep. Beck Noted he probably will not support the measure despite the fact that he is a sponsor and spoke to his wariness of referrals especially when the people have not "clamored for it".
- 087 Chair Shetterly Addressed Rep. Beck's comments and spoke to his desire to send to HJR 64 to the Senate to be considered with HJR 33 and then send only one measure to the ballot, not both.

OPENED WORK SESSION ON HJR 64

- 094 Rep. Witt **MOTION: MOVED LC (-2) AMENDMENTS DATED 05/15/2001 TO HJR 64 BE ADOPTED. HEARING NO OBJECTION, THE CHAIR SO ORDERED.**
- 097 Rep. Witt **MOTION: MOVED LC (-3) AMENDMENTS DATED 05/16/2001 TO HJR 64 BE ADOPTED. HEARING NO OBJECTION, THE CHAIR SO ORDERED.**
- 103 Wi **MOTION: MOVED HJR 64 TO THE HOUSE FLOOR WITH A DO ADOPT AS AMENDED RECOMMENDATION.**
- 106 **ROLL CALL VOTE: MOTION PASSED 7-0-2**
- REPRESENTATIVES VOTING AYE: Bates, Brown, Williams, Witt, Carlson, Kafoury, Chair Shetterly**

**REPRESENTATIVES VOTING NAY: Beck,
Hass**

Rep. Witt will carry the bill.

OPENED PUBLIC HEARING ON HB 3619

- 127 Steve Meyer Reviewed measure and prior testimony at the April 30 public hearing.
- 146 Jim Green Spoke in support of the measure.
- 175 John Pendergrass Spoke in support of the measure.
- 185 Rep. Dan Gardner Spoke in support of the measure.
- 204 Vice Chair Carlson Noted the phrase "potential for additional federal funds" in the Committee on Student Achievement and School Accountability's Staff Measure Summary and questioned where that would come from, (Reference 04/30/2001, Exhibit 1)?
- 216 Pendergrass Based on a first year census it is the feeling that some Title I Neglected and Delinquent funds that are not currently going to the programs. The use of those dollars would hopefully be used to extend the school year.

OPENED WORK SESSION ON HB 3619

- 225 Vice Chair Kafoury **MOTION: MOVED HB 3619 TO THE HOUSE FLOOR WITH A DO PASS RECOMMENDATION.**
- 230 **ROLL CALL VOTE: MOTION PASSED 9-0-0**

**REPRESENTATIVES VOTING AYE: Bates,
Beck, Brown, Hass, Williams, Witt, Carlson,
Kafoury, Chair Shetterly**

Rep. Bates will carry the bill.

***REOPENED WORK SESSION ON SB 521 A-ENG.**

- 256 Chair Shetterly **THE CHAIR REQUESTED UNANIMOUS CONSENT TO SUSPEND THE RULES TO REOPEN THE WORK SESSION ON SB 521 A-ENG. FOR THE PURPOSE OF ALLOWING Vice Chair Kafoury TO VOTE. HEARING NO OBJECTION, THE CHAIR**

SO ORDERED.

Kafoury BEING EXCUSED WHEN THE ROLL WAS CALLED, WAS GRANTED UNANIMOUS CONSENT TO BE RECORDED AS VOTING AYE ON SB 521 A-ENG.

***REOPENED WORK SESSION ON SB 520 A-ENG.**

264 Chair Shetterly **THE CHAIR REQUESTED UNANIMOUS CONSENT TO SUSPEND THE RULES TO REOPEN THE WORK SESSION ON SB 521 A-ENG. FOR THE PURPOSE OF ALLOWING Vice Chair Kafoury TO VOTE. HEARING NO OBJECTION, THE CHAIR SO ORDERED.**

Kafoury BEING EXCUSED WHEN THE ROLL WAS CALLED, WAS GRANTED UNANIMOUS CONSENT TO BE RECORDED AS VOTING AYE ON SB 520 A-ENG.

247 Chair Shetterly Meeting adjourned at 2:55 p.m.

Submitted by, Reviewed by,

Joan Green Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. HB 3127, Fiscal Impact statement, LRO Staff, 1 page
2. HB 3127, Submitted testimony, Rep. Wirth, 2 pages
3. HB 3127, Submitted testimony, Brickwedel, 1 page
4. HB 3127, Testimony, Howells, 1 page
5. HJR 64, Fiscal Impact statement, LRO Staff, 1 page
6. HJR 64, Testimony, Reeder, 1 page
7. HJR 64, Testimony, Hanus, 2 pages
8. HJR 64, Testimony, Walker, 1 page