

**PUBLIC HEARING: SB 486, HB 3433-A**

**WORK SESSION: SB 935, HB 2033-A, HB 2161-A, HB 2778**

**TAPES 143-144, A/B**

## **SENATE REVENUE COMMITTEE**

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**May 17, 2001 — 8:10 A.M. - HEARING ROOM A - STATE CAPITOL BUILDING**

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Members Present: Senator Ted Ferrioli, Chair

Senator Lee Beyer, Vice Chair

Senator Susan Castillo

Senator Tony Corcoran

Senator John Minnis

Senator Charles Starr

Members Excused: Senator Gary George

Staff: Paul Warner, Legislative Revenue Officer

Lizabeth Martin-Mahar, Economist, Legislative Revenue Office

Steve Meyer, Economist, Legislative Revenue Office

Richard Yates, Economist, Legislative Revenue Office

Carol Phillips, Committee Assistant

Witnesses: John Herold, liquor agent in Lincoln City

Jon Stubenvoll, Communications Director, Oregon Liquor Control Commission

Wallace Rutledge, Director of Forestry Assistance, Dept. of Forestry

John Phillips, Department of Revenue

Eric Smith, Department of Revenue

Charles Kurtz, AARP Oregon

John Alpert, Oregon Health Leadership Against Tobacco

Ed Patterson, Oregon Association of Hospitals & Health Systems

Dave Fiskum, Providence Health system

Scott Gallant, Oregon Medical Association

Representative Bill Witt, House District 7

**TAPE 143, SIDE A**

005 Chair Ferrioli Meeting called to order at 8:37 a.m.

OPENED PUBLIC HEARING ON SB 486

010 Sen. Corcoran Said that SB 486 was originally intended to get additional federal dollars to rural communities, but that has proved impossible. Amendments are being drafted but are not ready for discussion yet. Would like to bring the bill back later in today's meeting if the amendments are ready, or schedule for next week if not.

026 Chair Ferrioli Stated that in deference to Sen. Corcoran's request, SB 486 will be moved to the end of today's discussion list. If necessary, the bill will be held over until next week.

CLOSED PUBLIC HEARING ON SB 486

OPENED WORK SESSION ON SB 935

054 Richard Yates Explained that SB 935 deals with the Oregon Liquor Control Commission (OLCC) and its relationship with its liquor sales agents. Discussed the (-5) amendments in detail and how they relate to the original bill.

Discussion, and questions and answers

interspersed.

130 Chair Ferrioli Added that the issue of the apparent conflict between OLCC's promotion of temperance and the retail sale of alcohol was thoroughly discussed at a previous hearing. The sticking point is that the state constitution requires the OLCC to promote temperance, and that is not an assignable responsibility. However, it is a contractable responsibility, so OLCC could contract with any state agency or any private entity for the promotion of temperance. The Health & Human Services Division may be the best place for temperance to be promoted, rather than the agency charged with the sale of alcohol.

143 Yates Continued discussion of the (-5) amendments.  
  
Questions and answers interspersed.

224 Chair Ferrioli Added that he had met with representatives of the Governor's office to discuss suggestions made by the Governor's staff relative to the issue. Has heard no negative feedback from the Governor's office regarding feedback or other changes.

#### INVITED TESTIMONY ON SB 935

243 John Herold Regarding the (-5) amendments, stated if raising the base compensation from 8.54% to 8.8% would cause a problem in moving this bill, the agents would gladly give that up at this time.

257 Chair Ferrioli Agreed that may be a wise thing to do at this point. Balancing the budget is critical, so this may be a way to move the bill forward.

264 Jon Stubenvoll Commented on the (-5) amendments.  
Discussion regarding agent compensation.

Questions and answers interspersed.

- 375 L. Beyer Asked witness for clarification regarding temperance contracting costs.
- 381 Stubenvoll Replied he was unsure of the cost. Said OLCC conducts a number of temperance efforts that range from distributing pamphlets to teaching bar tenders how to identify people who have had too much to drink and to stop serving them. Stated these measures could be broadly defined as temperance.
- 418 Vice Chair L. Beyer Pointed out those measures would be more of a regulatory nature and not temperance activities.
- 426 Chair Ferrioli Stated there is a temperance requirement, assumed to be aimed at the general public. There are also a number of health issues completely unrelated to the topic of alcohol consumption that seem to be within the purview of the Health & Human Services Division. There are several agencies promoting a healthy lifestyle, but on the other hand the state depends on them for revenue (OLCC, Lottery Commission, etc.) For example, the Governor's initiative on possibly expanding the Lottery to permit line games will have a lot to do with funding counseling against addictive behavior.
- 469 Vice Chair L. Beyer Suggested making two suggestions regarding wording of the (-5) amendments to be redrafted conceptually. Change page 1 line 1 "8.8%" to "8.54%". Change page 1 line 3 word "three" to "two".
- 023 Chair Ferrioli Agreed those changes should be made to the (-5) amendments.

**TAPE 144, SIDE A**

- 028 L. Beyer MOTION:
- MOVES PAGE 1 LINE 1 OF (-5)  
AMENDMENTS CHANGE PERCENTAGE  
FROM "8.8" TO "8.54" TO BE CONSISTENT  
WITH BUDGET ALREADY APPROVED BY  
WAYS & MEANS AND PAGE 1 LINE 3  
CHANGE "THREE" TO "TWO".
- 044 Chair Ferrioli ORDER:
- HEARING NO OBJECTION, THE CHAIR SO  
ORDERED.
- 045 Vice Chair L.  
Beyer MOTION:
- MOVES (-5) AMENDMENTS AS AMENDED  
TO SB 935 BE ADOPTED.
- 048 Chair Ferrioli ORDER:
- HEARING NO OBJECTION, THE CHAIR SO  
ORDERED.
- 051 Sen. Castillo Agrees there is a need to address the agent  
compensation issue and agrees the overall  
function and role of temperance as it relates to  
OLCC's mission, feels the task force issue  
should be addressed first to let it study the  
issues. Will note no on this bill.
- 061 Chair Ferrioli Said he understands Sen. Castillo's objection,  
but said that agents have been meeting among  
themselves for ten years to try to get these  
issues heard, and have met resistance from  
OLCC for any changes. Stated the only issue  
needing immediate attention is the promotion of  
temperance to be looked at through the  
Department of Health & Human Services. All  
the other issues would be addressed through the  
task force at a later time.
- 083 Vice Chair L.  
Beyer MOTION:

MOVES SB 935 AS AMENDED TO WAYS & MEANS.

085 Chair Ferrioli ORDER:

ROLL CALL VOTE: MOTION PASSES: 5 —  
1 — 1

SENATORS VOTING AYE: CORCORAN,  
GEORGE, MINNIS, STARR, L. BEYER,  
FERRIOLI

SENATOR VOTING NO: CASTILLO

CLOSED WORK SESSION ON SB 935

OPENED WORK SESSION ON HB 2033-A

103 Lizbeth Martin-  
Mahar Advised the committee this bill establishes an income tax credit or a corporate tax credit, if the taxpayer is a corporation, for the machinery and equipment or personal property used for on-farm agricultural processing. Certain conditions must be met for the farmer to qualify for the tax credit. A tax credit is not allowed if the processing property is fully depreciated for tax purposes. Explained the (-A6) amendments, which cap the credit amount per farmer at \$5,000 and establish a sunset of January 1, 2008.

146 Sen Minnis MOTION:

MOVES (-A6) AMENDMENTS TO HB 2033-A BE ADOPTED.

149 Vice Chair L.  
Beyer ORDER:

HEARING NO OBJECTION, THE VICE  
CHAIR SO ORDERED.

149 Sen. Minnis MOTION:

MOVES HB 2033-A AS AMENDED TO THE  
SENATE FLOOR WITH A DO PASS

RECOMMENDATION.

152 Vice Chair L. ORDER:  
Beyer  
HEARING NO OBJECTION, THE MOTION  
PASSES: 4 — 0 — 3  
SENATORS EXCUSED: CASTILLO,  
GEORGE, FERRIOLI  
Sen. Ferrioli will carry the bill on the Senate  
Floor.

CLOSED WORK SESSION ON HB 2033-A

159 Vice Chair L. Advised committee that SB 935 was  
Beyer inadvertently referred to a closed committee.  
The motion must be rescinded.

RE-OPENED WORK SESSION ON SB 935

162

164 Vice Chair L. ORDER:  
Beyer  
WITHOUT OBJECTION THE RULES HAVE BEEN  
SUSPENDED.

166 Vice Chair L. MOTION:  
Beyer  
MOVES THE SUBSEQUENT REFERRAL TO THE SENATE  
COMMITTEE ON BUSINESS BE RESCINDED AND THE  
BILL BE REFERRED TO THE COMMITTEE ON WAYS &  
MEANS.

168 Vice Chair L. ORDER:  
Beyer  
HEARING NO OBJECTION, THE VICE CHAIR SO  
ORDERED.

170 Chair Ferrioli RESTATED MOTION:  
MOVES TO RECONSIDER THE VOTE BY WHICH SB 935

WAS REFERRED TO WAYS & MEANS COMMITTEE.

172 Chair Ferrioli ORDER:  
HEARING NO OBJECTION, THE CHAIR SO ORDERED.

178 Chair Ferrioli MOTION:  
MOVES SB 935 AS AMENDED BE REFERRED TO THE  
WAYS & MEANS COMMITTEE.

212

181 Chair Ferrioli ORDER:  
ROLL CALL VOTE: MOTION PASSES: 5 — 1 — 1  
SENATORS VOTING AYE: CORCORAN, MINNIS, STARR,  
L. BEYER, FERRIOLI  
SENATOR VOTING NO: CASTILLO  
SENATOR EXCUSED: GEORGE

#### CLOSED WORK SESSION ON SB 935

212 Richard Yates Stated HB 2161 deals with reforestation tax credit, which exists in current law. The purpose of the credit is to help convert brush land into healthy productive stands. Currently the credit is offered in two parts: a preliminary credit when planting is completed and the final credit when the stand is free to grow. The credit is currently limited to 30% of the cost of creating the stand plus management costs to get it to the free-to-grow state. As of December 31, 2001 the credit is scheduled to sunset. HB 2161 extends the sunset out for ten years to December 31, 2011 and increases the credit from 30% to 50%.  
Discussion, and questions and answers interspersed.

#### INVITED TESTIMONY

329 Wallace Rutledge Testified in support of HB 2161-A. Stated anything that can be done to accelerate the conversion of brush lands into usable productive forests should be encouraged. Agrees that the credit should be increased to 50%. Advised there are currently 1.5 million acres that should be converted from brush lands to productive forest lands.

Questions and answers interspersed.

371 Sen. Corcoran Voiced reasons for objecting to this credit. There are other programs (schools, family services, etc.) that need more funding before this type of credit should be increased

#### OPENED WORK SESSION ON HB 2161-A

397 Vice Chair L. Beyer MOTION:  
MOVES HB 2161-A TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION..

407 Chair Ferrioli ORDER:  
ROLL CALL VOTE: MOTION PASSES: 4 — 0 — 3  
SENATORS VOTING AYE: CASTILLO, MINNIS, L. BEYER, FERRIOLI  
SENATORS EXCUSED: CORCORAN, GEORGE, STARR  
Sen. L. Beyer will carry the bill on the Senate Floor.

#### CLOSED WORK SESSION ON HB 2161-A

435 Lizbeth Martin-Mahar Gave overview of HB 2778-A. The bill exempts Federal Communications Commission (FCC) licenses from property taxation for wireless utilities and applies to tax years beginning on or after July 1, 2001.

INVITED TESTIMONY

463 John Phillips Was unable to answer all questions the last time this bill was heard, so he brought Eric Smith from the Department of Revenue to answers members' questions.

478 Eric Smith Stated that FCC licenses have been equalized so that licenses acquired by cellular companies in the lottery process or those purchased by PCS companies at auction are all now valued at their real market value.

**TAPE 143, SIDE B**

OPENED WORK SESSION ON HB 2778-A

049 Vice Chair L. MOTION:  
Beyer  
MOVES HB 2778-A TO THE SENATE FLOOR WITH A DO PASS RECOMMENDATION.

052 Sen. Castillo Stated she would note no on this bill out of concern to the loss of revenue to local governments, particularly in Lane County (her district).

062 Vice Chair L. MOTION:  
Beyer  
WITHDRAWS MOTION TO MOVE HB 2778-A TO THE SENATE FLOOR.

063 Chair Ferrioli ORDER:  
HEARING NO OBJECTION, THE MOTION IS WITHDRAWN.

CLOSED WORK SESSION ON HB 2778-A

OPENED PUBLIC HEARING ON HB 3433-A

078 Charles Kurtz Testified in support of HB 3433-A on behalf of

AARP and its 440,000 members in Oregon.  
Read Exhibit 9.

- 107 Josh Alpert           Testified in support of HB 3433-A. Exhibit 10.
- 130 Ed Patterson        Testified in support of HB 3433-A.
- 148 Dave Fiskum         Testified in support of HB 3433-A.
- 157 Scott Gallant        Testified in support of HB 3433-A.
- 184 Chair Ferrioli       Commented that the witness supports removal of the sunset and then referred to a permanent tax. This situation reminded the Chair of a temporary tax on telephones discussed in another meeting. That temporary tax was imposed in the late 1800s to help finance the Spanish-American War...and that tax is still in place! Further discussion, and questions and answers followed.
- 234 Chair Ferrioli       Pointed out that tax avoidance on a huge scale (estimated at \$50 occurs through mail order, 1-800 phone numbers, and Internet purchase of cigarettes and other tobacco products. Believes this tax should be revisited on a biennial basis. Because the revenue picture is so fluid, the next legislature should have the opportunity to reconsider this bill.
- 249 Gallant             Added for the record he would encourage on the House side that the bill go to a Conference Committee to determine if the sunset should be continued.
- Discussion, and questions and answers followed.
- 319 Chair Ferrioli       Reminded committee members that Oregon has one of the highest cigarette taxes in the country

at about 68 cents a pack. In comparison, Idaho's tax is around 28 cents a pack. The difference is enough to incent around \$50 million a year in tax avoidance by purchasing and transporting cigarettes illegally or via Internet. The \$50 million is not the value of the cigarettes...it is the lost revenue.

- 359 Patterson Said there are ways to recapture some of the revenue being lost because of black marketing cigarettes but did not give examples.
- 394 Rep. Bill Witt Discussed Exhibit 11, which shows the decline in cigarette tax revenues over a three biennia period. Since 1997 revenues have declined from \$371.5 to \$275.3. Some of the decrease is due to fewer people smoking, but it is estimated that most is due to noncompliance. Supports the (-A3), which includes the cigar language and (-A4) amendments, which extends the sunset. Discussed Oregon's 65% tax rate on cigars and how buyers are encouraged to make purchases from other states to avoid the tax. Many cigar stores have gone out of business because of the rate.
- 483 Chair Ferrioli Thanked Representative Witt for bringing Exhibit 11 illustrating the decline in revenue over the past three biennia.

CLOSED PUBLIC HEARING ON HB 3433-A

- 498 Chair Ferrioli Adjourned meeting at 10:02.

Submitted by, Reviewed by,

Carol Phillips Kim Taylor James

Committee Assistant Revenue Office Manager

Exhibit Summary:

1. SB 935, Sen. Ferrioli, (-5) Amendments (DH/ps) 5/16/01, 4 pp.
2. HB 2033-A, Sen. Minnis and Sen. L. Beyer, (-A6) Amendments (DJ/hm/ps) 5/10/01, 1 pp.
3. HB 2033-A, Martin-Mahar, Staff Measure Summary, 1 pp.
4. HB 2033-A, Martin-Mahar, Revenue Impact Statement, 1 pp.
5. HB 3433-A, Rep. Witt, (-A3) Amendments (DJ/ps) 5/7/01, 4 pp.
6. HB 3433-A, Yates, Staff Measure Summary, 1 pp.
7. HB 3433-A, Yates, Revenue Impact Statement, 1 pp.
8. HB 3433, Yates, Fiscal Impact Statement, 1 pp.
9. HB 3433, Kurtz, Written testimony dated May 17, 2001, 1 pp.
10. HB 3433, Alpert, Written testimony undated, 1 pp.
11. HB 3433, Rep. Witt, Written testimony dated April 30, 2001, 1 pp.
12. HB 3433-A, Rep. Witt, (-A4) Amendments (DJ/hm/ps) 5/16/01, 1 pp.