

HOUSE COMMITTEE ON
COMMERCE

Hearing Room
Tapes - 29

MEMBERS PRESENT:

Rep. Eldon Johnson, Chair
Rep. Cynthia Wooten, Vice-Chair
Rep. Chuck Carpenter
Rep. Michael Fahey
Rep. Tony Federici
Rep. Lynn Lundquist
Rep. Gail Shibley
Rep. Lynn Snodgrass
Rep. Larry Wells

MEMBER EXCUSED:

STAFF PRESENT:

Daniel Jarman, Committee Administrator
Jodie Hall, Committee Assistant

MEASURES HEARD:

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE , A

022 OPENS WORK SESSION ON HB 2035.

025 REP. WELLS: Summarizes HB 2035 and the -1 amendments adopted by the Business Subcommittee.

067 REP. SHIBLEY: Testifies in SUPPORT of HB 2035.

077 REP. WELLS: Emphasizes that we are looking at the -1 amendments.

079 REP. SHIBLEY: Continues testimony in SUPPORT of HB 2035.

084 MOTION: REP. WELLS: Moves to send HB 2035, AS AMENDED, to the Floor with a DO PASS recommendation.

093 REP. SNODGRASS: Comments on her no vote in committee today. Expresses that she may change her vote on the floor.

099 VOTE: In a roll call vote, REP. CARPENTER, FAHEY, FEDERICI, SHIBLEY,

WELLS, WOOTEN, JOHNSON vote AYE. REP. LUNDQUIST, SNODGRASS vote NAY.

104 CHAIR JOHNSON: The MOTION CARRIES.

105 REP. SHIBLEY will lead Floor discussion.

107 OPENS WORK SESSION ON HB 3209.

WITNESS: FRANK RICHIE, Employment Department

109 REP. WOOTEN: Summarizes HB 3209 and the -4 amendments adopted by the Trade and Economic Development Subcommittee.

178 REP. WOOTEN: Responds to inquiries of Rep. Wells.

191 FRANK RICHIE, Employment Department: Explains for Rep. Wells where interest would accrue.

204 -Responds further to Rep. Wells: Explains future tax schedules.

214 REP. WOOTEN: Requests Mr. Schwartz or Mr. Richie to explain how the interest grows.

221 RICHIE: Explains how interest would accrue. The fund itself would start accruing until approximately 1997 or so.

242 REP. WOOTEN: Would like to offer a technical amendment. (Exhibit A.) Explains the amendment.

259 CHAIR JOHNSON: Recommends making the amendment on the Senate side.

265 MOTION: REP. WOOTEN: Moves to send HB 3209, AS AMENDED, to the Floor with a DO PASS recommendation.

270 REP. WOOTEN: Requests that the subsequent referral to Ways and Means be rescinded.

280 VOTE: In a roll call vote, REP. FAHEY, FEDERICI, SHIBLEY, WOOTEN vote AYE. REP. LUNDQUIST, SNODGRASS, WELLS, JOHNSON vote NAY. REP. CARPENTER EXCUSED.

283 CHAIR JOHNSON: The MOTION FAILS.

284 CLOSES WORK SESSION ON HB 3209.

285 OPENS WORK SESSION ON HB 2855.

287 CHAIR JOHNSON: Explains why he would like a motion to adopt the -4 amendments to HB 2855 before opening a public hearing. (Exhibit B.)

296 MOTION: REP. LUNDQUIST: Move the -4 amendments submitted by Rep. Johnson be ADOPTED.

298 VOTE: In a roll call vote, REP. FAHEY, FEDERICI, LUNDQUIST, SHIBLEY, WELLS, WOOTEN, JOHNSON vote AYE. REP. CARPENTER, SNODGRASS EXCUSED.

300 CHAIR JOHNSON: The MOTION CARRIES.

303 CLOSES WORK SESSION ON HB 2855.

305 OPENS PUBLIC HEARING ON HB 2855.

WITNESSES: BARBARA SEYMOUR, Legislative Counsel

JOE DECOLA, Department of Revenue
KERRY BARNETT, Director, Department of Consumer and Business Services
MARILYN HARBUR, Assistant Attorney General
CHARLES NICOLOFF, Chief Examiner, Insurance Division, DCBS
JOHN MANGAN, Standard Insurance
DEBRA STOKES, Vice-President, Regional Controller, Kaiser Permanente
JOHN POWELL, Blue Cross, Blue Shield of Oregon
BURT DARAVOLIAT, Farmers Insurance of Company of Oregon
MIKE KEYS, Oregon Mutual Insurance Company, Vice President and Treasurer
ROBERT BALDWIN, Metropolitan Life
TED DICKENS, Pacific Health and Life
JOHN GALBRAITH, Chief Financial Officer of Liberty Northwest

333 BARBARA SEYMOUR, Legislative Counsel: Summarizes the -5 technical amendments to the -4 amendments adopted by the committee. (Exhibit C.) Offers section by section summary for the Committee.

(NEW TAPE)

PLEASE NOTE: Due to tape malfunctions, this portion of the minutes was not audio recorded.
Refer to the minutes below for records of this portion of the meeting.
Thank you.

036 SEYMOUR: Continues with summary of -5 amendments.

044 -In response to Rep. Federici: Explains domestic insurer, foreign insurer, and alien insurer.

061 CHAIR JOHNSON: Explains for Rep. Federici the reasons for phase in and phase out of the bill. Phase in allows insurance companies to accommodate in a timely fashion to the new legislation.

072 JOE DECOLA, Department of Revenue: Here to offer information on foreign insurers.

-No additional cost to administer the bill as amended.

083 REP. SHIBLEY: Asks a question of Mr. Decola.

089 DECOLA: In response to Rep. Shibley: Explains that he would expect a need of at least two more public employees in the 1997 biennium.

112 SEYMOUR: Responds further to Rep. Shibley.

129 KERRY BARNETT, Director, Department of Consumer and Business Services: Explains the position of the Department on the premium tax. Explains the importance of the premium tax for the General Budget.

-Refers the Committee to Exhibit D.

163 MARILYN HARBUR, Assistant Attorney General: Testifies further on the premium tax, referring to Exhibit E.

-Explains pending litigation concerning premium taxes.

244 -In response to Rep. Shibley: Explains third case in Exhibit E. (State of Oregon v. Stewart Title Guaranty Company).

269 BARNETT: Refers the Committee to the first page of Exhibit D. Foreign insurers pay premium tax. Explains what is at stake: 1. how much insurance company must pay in taxes and 2. competitive advantage.

-Explains retaliatory tax for the committee: in effect taxing companies from other states the rate Oregon companies are taxed in their state. Tax

at higher of Oregon tax or the retaliatory tax.

320 -In response to Rep. Wooten: Explains that the amendment was not drafted by DCBS.

337 CHAIR JOHNSON: Explains that the -4 amendments were drafted in discussions with domestic insurers.

345 BARNETT: Explains the average premium tax rate is around 2% under the retaliatory tax. This proposal would place foreign insurers under excise tax. Would be phased in around 1997.

-Refers the committee to Exhibit D, page 2. If the proposal does not address current litigation, not sure what will happen.

394 HARBUR: In response to Rep. Wooten: Clarifies further pending legislation within the state.

428 -Responds further to Rep. Wooten.

TAPE 27, SIDE B

019 HARBUR: Continues response to Rep. Wooten.

022 BARNETT: Explains further for Rep. Wooten, must determine whether the tax proposal addresses several areas: 1. Is current litigation addressed?

2. Does the tax proposal address insurance companies equitably? 3. What happens with the retaliatory tax? and 4. What is the revenue impact on the General Fund?

040 -In response to Rep. Wooten: Under HB 2855-4, yes there is approximately a \$33 million tax loss in revenues.

057 CHAIR JOHNSON: Responds to Rep. Wooten's questions.

060 HARBUR: Corrects figures Chair Johnson referred to.

064 CHARLES NICOLOFF, Chief Examiner, Insurance Division, DCBS: Explains further the revenue loss of -4 amendments.

073 BARNETT: The department has serious concerns with the proposal before the committee and would OPPOSE the -4 amendments. List several reasons why.

-Does not address back damages.

-Does the proposal distribute the tax allocation equitably?

-Does the proposal address good tax policy? Has a large reliance on retaliatory taxes. Explains differences between current and -4 proposal taxes.

103 -In response to Rep. Lundquist: Historically, do not see much shifting within states lowering or raising their premium tax rates in other taxes.

Does not believe there would be a direct impact immediately.

114 -Continues with concerns. Refers the committee to page 3 of Exhibit D.

Explains that there would be an increase in 1997, thereafter there would be

losses. 17 million shortfall is relative to growth otherwise would have seen under the current policy. Explains why.

-Governor feels \$33 million would be too much of a shortfall.

165 -In response to Rep. Wooten: Explains that last sessions bill was revenue neutral.

185 -Responds again to Rep. Wooten.

203 CHAIR JOHNSON: Explains for Rep. Wooten, the -4 amendments are before us because the domestic insurers and the leadership have worked together in

drafting them.

213 -Explains for Rep. Wooten that the leadership did not expect this bill

to fall short of addressing all concerns of all parties involved. In addition, did not expect as great a shortfall in revenues.

243 BARNETT: In response to Rep. Lundquist: Agrees that indeed there are differences between domestic and foreign insurers in Oregon.

268 -In response to Rep. Wooten: Is not aware of market impacts.

278 JOHN MANGAN, Standard Insurance: Testifies in SUPPORT of HB 2885 -4 amendments.

320 -Explains those involved in the discussion/in support of the -4 amendments.

TAPE 28, SIDE A

035 MANGAN: Continues with presentation in SUPPORT of -4 amendments to the bill.

-Addresses comments of Mr. Barnett: Does not believe there is any state that has won in court with a tax system like Oregon.

069 DEBRA STOKES, Vice-President and Regional Controller, Kaiser Foundation Health Plan of the Northwest: Submits testimony in OPPOSITION to any legislation on the premium tax. Exhibit F.

155 -In response to Rep. Federici: Responds to Rep. Federici's inquiries concerning page 4 of Exhibit F concerning the state losing no money in the litigation.

184 -Responds further to Rep. Federici.

190 MANGAN: Responds further to Rep. Federici: If the state loses the litigation, there would be no premium tax in the books.

194 STOKES: Responds to inquiries of Rep. Wooten: Explains the tri-met tax and the amount lost if not used, \$1.2 million dollars.

213 -Responds further to Rep. Wooten: Would be glad to gather more information on premium tax rates in other states.

221 -In response to Rep. Shibley: Explains the revenue impacts of the closing of Bess Kaiser on the figures within the testimony.

245 JOHN POWELL, Blue Cross, Blue Shield of Oregon: Expresses his opinion that this is not "our" issue. Expresses that he believes the domestic insurers can win the litigation.

-Comments on SB 583. SB 583 would open up domestic insurance status to anyone who would want to apply. Has not moved in the Senate.

-Comments on -4 amendments before the committee. Believes the vast majority of insurers across the nation would support this measure.

-Comments on competitive advantage, most top insurance providers in Oregon are foreign insurers.

-Explains what he believes a "designed" tax structure would bring about.

TAPE 29, SIDE A

033 POWELL: Continues with testimony on the premium tax.

-In terms of health insurance, greatest competitors are not foreign insurers but self-insurers.

058 BURT DARAVOLIAT, Farmers Insurance of Company of Oregon: Summarizes the services Farmers Insurance offers.

-Explains conditional support for another proposal, -7 amendment. Exhibit G.

-Concurs with previous comments made.

116 -In response to Rep. Wooten: Farmer's Insurance operates in 29 states.

Explains policies offered. Explains that there are many variations within

many states Farmer's operates.

139 -In response to further inquiries of Rep. Wooten: Does not believe a comparison is possible to determine whether the -4 amendments would negatively impact Oregon.

146 -Responds further

155 MIKE KEYS, Oregon Mutual Insurance Company, Vice President and Treasurer. Comments on equitability of the tax proposals; excise tax, premium

tax, domestic and foreign insurers.

209 -In response to Rep. Shibley: Explains how the excise tax would apply on self-insurers such as the City of Portland. Comments that he has no intention of affecting public self-insurers.

251 REP. WOOTEN: Comments that she regretfully has to leave. Is in OPPOSITION to the -7 amendments to the -4.

265 ROBERT BALDWIN, Metropolitan Life: Was one of the companies that went directly to the supreme court and won.

-Comments on tax policies before the court cases.

-Believes the way to solve the problem is through the legislative process.

-Current statutes greatly affect foreign companies.

-Existing state statutes are unconstitutional.

-Good tax policies are neutral.

-Believes retaliatory tax is the key to the problem, should not rely on this tax.

-Oregon is a high tax state.

TAPE 28, SIDE B

040 BALDWIN: Continues with testimony.

-SUPPORTS -4 Amendments. Treats all insurers the same.

054 -In response to Rep. Shibley: In OPPOSITION to SB 583. Is a band-aid approach.

075 -Responds further to Rep. Shibley.

097 -In response to Rep. Shibley: The majority currently tax at 2%. For some insurers, difficult to move out of state due to high retaliatory taxes

of other states.

115 -In response to Rep. Shibley: Makes no difference between 2.25% or 6% Corporate Income Tax.

122 TED DICKENS, Pacific Health and Life: Believes "this" provision is unconstitutional.

180 -In response to Rep. Shibley: Explains what would happen to the court case if this sort of legislation passes.

200 -In response to further inquiries of Rep. Shibley: Comments that he is not extremely confident that the case will be favorable to PH and L. Is not aware where the bottom line is to solve not only litigation but also any damages accrued.

233 -In response to Chair Lundquist: Clarifies that PH & L does not believe

the -4 has parity. Believes it would be fairest for all insurers to pay the same amount for taxes.

246 REP. LUNDQUIST: The -4 amendments consist of an excise tax and retaliatory tax.

250 CHAIR JOHNSON: Clarifies statements of Mr. Dickens for Rep. Lundquist.

256 ED HUGHES, PH & L: Comments further on SB 583.

278 JOHN GALBRAITH, Chief Financial Officer of Liberty Northwest: Submits testimony, Exhibit H.
353 -In response to Rep. Shibley: Liberty Northwest is incorporated in Oregon, is considered a foreign domestic.
367 -In response to further inquiries of Rep. Shibley: Under current law, subject to premium tax. Not subject to taxes other than the premium tax.
-Paid approximately \$6 million in taxes to Oregon last "year". Domestic insurers in aggregate paid only \$2 million.
429 -In response to Rep. Shibley: Comparing a 2.25% premium tax and a 6.6% Corporate tax, cost approximately \$2 million dollars less than with only a premium tax.

TAPE 29, SIDE B

035 GALBRAITH: Continues response to Rep. Shibley.
045 -In response to Rep. Lundquist:

055 CHAIR JOHNSON: Comments that Leadership originally wanted revenue neutral bill, yet does not adequately address litigation.
066 -Comments that there is meeting scheduled tomorrow.

Submitted by, Reviewed by,

Jodie Hall Daniel Jarman
Committee Assistant Committee Administrator

EXHIBIT SUMMARY:

A - Proposed Amendment to HB 3209 - Rep. Cynthia Wooten, District 41 - 1 page
B - HB 2855 -4 Amendments - Chair Johnson - 15 pages
C - HB 2855 -5 Amendments - Barbara Seymour, Legislative Counsel - 3 pages
D - State Taxes Currently Paid by Insurance Companies - Kerry Barnett, Director, Department of Consumer and Business Services - 3 pages
E - Testimony on the HB 2855 -4 amendments - Marilyn J. Harbur, Assistant Attorney General - 1 page
F - Testimony on the Premium Tax - Debra Stokes, Vice-President and Regional Controller, Kaiser Foundation Health Plan of the Northwest - 6 pages
G - HB 2855 -7 amendments - Burt Daravoliat, Farmers Insurance of Company of Oregon - 2 pages
H - Testimony on HB 2855 -4 amendment - John Galbraith, Chief Financial Officer of Liberty Northwest - 2 pages