HOUSE COMMITTEE ON
GENERAL GOVERNMENT AND REGULATORY REFORM

March 10, 1995 Hearing Room 357
1:00 PM Tapes 67 - 70

MEMBERS PRESENT:
Rep. Bob Tiernan, Chair
Rep. Mike Lehman, Vice Chair
Rep. Jerry Grisham
Rep. Cedric Hayden (Arrives at 2:30 pm)
Rep. Bryan Johnston
Rep. Bill Markham (Arrives at 1:35 pm)
Re. Lonnie Roberts
Rep. Barbara Ross (Arrives at 1:25 pm)
Rep. Charles Starr
Rep. Ken Strobeck
Rep. Sharon Wylie

MEMBER EXCUSED: Rep. Bev Clarno

STAFF PRESENT:
Greg Moore, Committee Counsel
Kay C. Shaw, Committee Assistant

MEASURES HEARD:
HB 2118 WORK SESSION
HB 2752 PUBLIC HEARING & WORK SESSION

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 67, A

003 CHAIR TIERNAN: Calls the meeting to order at 1:28 PM. REPS. CLARNO & HAYDEN ARE EXCUSED. REPS. MARKHAM & ROSS ARE ABSENT. Introductory comments and announcements.

021 CHAIR TIERNAN: Opens the work session on HB 2118.

HB 2118 -WORK SESSION

020 GREG MOORE, Committee Counsel: Reviews the Preliminary Staff Measure Summary. The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT A).

031 COUNSEL MOORE: Continues to review the Preliminary Staff Measure Summary. Submits HB 2118-7 amendments (EXHIBIT B). Reviews the amendments on Page 1, Lines 13 and 17, and Section 4 on Page 2.

057 REP STROBECK: Comments that all the amendments include all discussions

from several meetings and input from people inside/outside the building.

MOTION: REP. STROBECK moves that HB 2118-7 amendments be ADOPTED.

063 REP. LEHMAN: Expresses the difference with the HB 2118-7 amendments and those submitted earlier that removed the Department of Education, because the Department of Education has a myriad of rules/regulations regarding special education and there is no information of any problems.

069 MOTION: REP. LEHMAN moves to amend HB 2118 and delete the "Department of Education."

CHAIR TIERNAN: If the Department of Education is deleted, there is need for another fiscal.

COUNSEL MOORE: Confirms that another fiscal would be required.

CHAIR TIERNAN: Do you feel that is an issue that could be brought up with the Senate side? Explains the process when there are new amendments.

091 REP. LEHMAN: Feels fairly strongly about it. Expresses surprise the Department of Education is still listed.

CHAIR TIERNAN: If of substance, suggests making an argument.

REP. ROSS: Arrives at 1:25 pm

REP. MARKHAM: Arrives at 1:35 pm.

103 REP. STARR: Desires that the Department of Education remain listed, because along with the increased funding of education from the State level,

one of the biggest impacts on education in the State is state mandates to educate young people. Adds that in the area of special education "we need not be more stringent unless there is a compelling reason . . . this is an area that really needs to be looked at."

VOTE: In a roll call vote, REPS. GRISHAM, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, ROSS, STROBECK, TIERNAN vote AYE.
REP. STARR AND WYLIE vote NAY. REPS. CLARNO AND HAYDEN ARE EXCUSED. REP. STARR changes vote to AYE (see tape at 158)

REP. ROBERTS: FOR THE RECORD: Offers to join Rep. Lehman if a change is desired on the Senate side.

133 CHAIR TIERNAN: Declares motion PASSED -- the HB 2118-7 amendments are ADOPTED.

MOTION: REP. STROBECK moves that HB 2118-7 amendments be sent to the Floor

with a DO PASS recommendation.

137 REP. ROBERTS: Repeats FOR THE RECORD: Will join Rep. Lehman in taking the concern before the Senate if there is concern; however, will agree to help vote this out of Committee with the understanding that the Senate is asked to make a change.

REP. STROBECK: Reemphasizes that the bill originally was intended to apply

to DEQ and the various environmental regulations. Says it took DEQ one to two weeks to work up their list of every regulation and where it differed from federal regulation.

150 MOTION: REP. JOHNSTON moves to suspend the rules to allow REP. STARR to change vote regarding the matter under consideration.

REP. STROBECK: Withdraws motion.

CHAIR TIERNAN: No objections. Calls for REP. STARR's vote.

158 REP. STARR changes vote to AYE.

MOTION: REP. STROBECK moves that HB 2118-7 amendments be sent to the Floor

with a DO PASS recommendation.

REP. WYLIE: Not comfortable with bill and may change vote before it gets to the Floor, because of "measuring our State's actions against what the Federal Government does -- seems backwards . . . prefers that we not do this . . . it's hard to argue specifically against it, because it has been amended so much to accommodate everybody . . . there is a principle I am not comfortable going along with . . . may get more comfortable by the time

it comes to the Floor, but right now I can't vote for it."

175 REP. ROSS: Intends to vote "No."

VOTE: In a roll call vote, REPS. GRISHAM, JOHNSTON, LEHMAN, MARKHAM, ROBERTS, STARR, STROBECK, TIERNAN vote AYE.
REP. ROSS AND WYLIE vote NAY. REPS. CLARNO AND HAYDEN ARE EXCUSED.

CHAIR TIERNAN: Declares the Motion PASSED. REP. STROBECK to carry the bill.

REP. ROSS: Notifies that she and REP. WYLIE will file a Minority Report.

CHAIR TIERNAN: Announces REP. ROSS' notice to file a Minority Report.

REP. STROBECK: Points out the bill was amended seven times as a completely

bipartisan effort that included Rep. Lehman's involvement.

202 CHAIR TIERNAN: Opens the public hearing on HB 2752

HB 2752 - PUBLIC HEARING

Witnesses: Rep. Liz VanLeeuwen
Bill Sizemore, Oregon Taxpayers United
Rollie WiSB rock, Oregon State Treasury
Chuck Smith, Oregon State Treasury
Greg Jeffrey, Department of Administrative Services
Rep. John Schoon
Howard Rankin, Lawyer (Portland)
Dave Boyer, Multnomah County
Craig Prosser, Portland Metro

The Preliminary Staff Measure Summary is hereby made a part of these Minutes (EXHIBIT C).

226 REP. LIZ VANLEEUWEN (R - District 37): Testifies from prepared testimony in support of HB 2752. Submits (EXHIBIT D).

272 REP. VANLEEUWEN: Continues testifying in support of HB 2752. Provides history about capital improvements before 1987.

311 REP. VANLEEUWEN: Continues testifying in support of HB 2752. Says they

are a "'smoke and mirrors' financing scheme that needs better oversight." Refers to documents from Greg Jeffrey of the Department of Administrative Services and Larry Groth of Debt Management Division.

380 REP. VANLEEUWEN: Continues testifying in support of HB 2752. Refers to

page 7 (Summary of Local Government Long-term Financial Obligations Outstanding).

399 REP. VANLEEUWEN: Continues testifying in support of HB 2752. Refers to

page 8 (Summary of Local Government Long-term Financial Obligation Outstanding -- by county).

TAPE 68, A

005 REP. VANLEEUWEN: Continues testifying in support of HB 2752. Talks about problems/complaints with district schools and local governments issuing Certificates of Participation (COP).

028 REP. MARKHAM: Were you able to find out on an average the additional cost of borrowing of money, COPs over GOLs? Did any banker tell you what would be the difference?

REP. VANLEEUWEN: No.

040 CHAIR TIERNAN: Is this one of the issues surrounding Measure 5 that all

tax measures/revenue increases must be voted upon?

REP. VANLEEUWEN: Assumes that the recent popularity of turning to the Certificates of Participation is probably a direct relationship to Ballot Measure 5 of 1991; however, the dates weren't checked.

CHAIR TIERNAN: Would Ballot Measure 5 of 1994 have covered all COPs (i.e.,

required that all fees must be voted on).

REP. VANLEEUWEN: Doesn't know.

CHAIR TIERNAN: What happens when there are defaults on a COP?

054 REP. VANLEEUWEN: If revenue cannot be raised or there isn't a "revenue stream" to pay for the COP, speculates it comes from the property taxpayer.

REP. MARKHAM: Illustrates the Archives Building. If the state refuses or doesn't come up with the money, the person or company who put up the money owns the building.

061 BILL SIZEMORE, Oregon Taxpayers United: Testifies in support of HB 2752. Talks about the property tax limitations as a result of Ballot Measure 5, passed in 1990, and the exceptions allowed outside the caps of Ballot Measure 5 for local governments and school districts for bonded indebtedness.

097 MR. SIZEMORE: Continues testifying in support of HB 2752. Says the voters of the state want a balanced budget, not deficit spending. COPs are

a mechaniSMfor having deficit spending in the state. Suggests it is time to curtail the practice and place future COPs under the requirement that the voters of the State have the opportunity for approval before action is taken.

118 REP. LEHMAN: Would you restrict the ability of local governments or any governmental entity to go into any kind of indebtedness?

MR. SIZEMORE: Explains that Ballot Measure 5 exempted bonded indebtedness when borrowing, because there are things for which government should be able to borrow money to finance. However, it has not been approved for the State of Oregon to deficit spend without approval.

REP. LEHMAN: Illustrates contracting with GMC to buy a fire truck over five years (i.e., an indebtedness is incurred over the five-year period). Should we or should local entities or the State of Oregon be allowed to enter such agreements?

MR. SIZEMORE: Uncertain. Refers to illustration. Comments about someone making a decision without the necessary oversight.

148 REP. LEHMAN: What if someone agrees, that for the money paid out in rent, to build a building for ownership. Shall local entities in the State be allowed to enter into that type of indebtedness?

MR. SIZEMORE: There are mechanisms for that without entering into the indebtedness.

REP. LEHMAN: Refers to the specific situation. Should that be prevented or allowed?

MR. SIZEMORE: Is it presently allowed under State law?

REP. LEHMAN: Doesn't know about State law, but local entities are allowed to do that.

MR. SIZEMORE: Points to a technicality under which COPs are done. Explains situations that arose when bonded indebtedness for capital construction was allowed under Ballot Measure 5.

169 REP. LEHMAN: Illustrates about a school district buying a relocatable building. What is the distinction between an indebtedness over a 20-year period to buy a building or a Certificate of Participation to buy the building and pay back at possibly a lower rate of interest?

MR. SIZEMORE: Why not use the bonded indebtedness, because there is voter approval of the bonded indebtedness?

200 CHAIR TIERNAN: Would the 1994 Ballot Measure 5 have covered COPs if it had passed?

MR. SIZEMORE: No. Refers to Attorney General's Opinion.

CHAIR TIERNAN: Has there been the increase of COPs since passage of the original Ballot Measure 5?

MR. SIZEMORE: No.

CHAIR TIERNAN: Requests an impartial background on COPs (i.e., what/when/why/how) in the past five years.

236 ROLLIE WISB ROCK, Chief of Staff, Oregon State Treasury: Introduces Chuck Smith.

250 CHUCK SMITH, Director, Debt Management Division, Oregon State Treasury:

Testifies in opposition to HB 2752. Submits (EXHIBIT E). Refers to Exhibit E and explains differences and features of the State General Obligation Revenue Bonds and Certificates of Participation. Describes the official booklet that is prepared and distributed every time the State sells a bond.

310 REP. MARKHAM: Does the Oregon State Treasury or the bond house prepare the booklet?

MR. SMITH: The booklet is the document of the issuer (i.e., State of Oregon). Oregon State Treasury receives assistance in the preparation (e.g., counsel, Attorney General's Office, State Auditors, etc.).

REP. MARKHAM: Is that what the bond buyer uses to make up the booklet to sell the bonds?

MR. SMITH: No. The booklet contains the only information that is given to individual investors by law to be used to sell bonds.

312 REP. MARKHAM: Illustrates if U. S. Bank bought $50 Million off of the described document and U. S. Bank wants to sell retail. Does U. S. Bank create their own document?

MR. SMITH: Individuals would have to be provided with a copy of the described document if in the original selling group the State retained to sell the bonds.

334 MR. SMITH: Continues testifying. The State has about $4.4 Billion in General Obligation Bonds outstanding which is the bulk of the State's debt. The $4.4 Billion represents a decline of $2 Billion since about nine years ago.

REP. MARKHAM: Of the $4.4 Billion, how much is veterans' bonds?

MR. SMITH: About $3.3 or $3.4 Billion.

350 MR. SMITH: Continues testifying by explaining Revenue Bonds. Revenue bonds are payable from an identified source of revenues; don't permit bond holders to compel the state to raise taxes, appropriate funds or do anything not originally pledged to the bond holder; a statewide vote is not needed; are authorized by the State legislature; and the State legislature each biennium authorizes the maximum amount of revenue bonds to be sold during the coming biennium by program. Describes some of the programs used for Revenue Bonds.

384 REP. MARKHAM: Is it correct that the people have authorized more than the number cited; however, the legislature has not sought authority from the State to issue them?

MR. SMITH: It is true with respect to General Obligation Bonds.

REP. MARKHAM: Is that true in Revenue Bonds?

MR. SMITH: Revenue Bonds are limited by the legislature not through the Constitution.

410 MR. SMITH: Continues testifying. Certificates of Participation are not

a full faith and credit pledge of the State; they are payable from available funds; and, under no circumstances, shall the State be obligated to pay COPs from any other source, including property taxes, except those specified as "available funds" (e.g., appropriations and unexpended bond proceeds from recently sold COPs, reserves and other moneys deposited in trust to pay COPs). Introduces and announces that Greg Jeffrey, Administrative Services, will testify about budgeting and the control/management process.

TAPE 67, B

005 MR. SMITH: Continues testifying in opposition to HB 2752. Explains that COPs are paid through appropriation by the State legislature each biennium. The State legislature must appropriate sufficient moneys to pay debt service on COPs for the coming biennium. The legislature controls the maximum amount of General Obligation Bonds, Revenue Bonds and Certificates of Participation and approves the projects. Provides examples of, markets for and characteristics of COPs. Remarks that it is important, and reduces cost to the State when the State undertakes financing, to have a variety of financing methods.

029 REP. MARKHAM: What is the origin of COPs?

MR. SMITH: COP legislation was passed in 1989 as a method to control/manage the use of Lease Purchase Agreements and Certificates of Participation.

REP. MARKHAM: What is the average spread between a COP and a GO?

MR. SMITH: About 25 or 30 basis points. In other words, about a quarter of a percent. Describes the advantage of the State taking advantage of the Federal exemption by selling it at a much lower cost.

048 CHAIR TIERNAN: Why wasn't the existing system working? Why not just use the regular bond system and allow for the vote?

MR. SMITH: Illustrates the example of constructing a prison. Currently the State would have no capability to sell General Obligations to build a prison (i.e., no constitutional authority).

CHAIR TIERNAN: Why not go to public with a bond measure?

MR. SMITH: Could go to the public, ask for a constitutional approval and ask for a General Obligation Bond.

CHAIR TIERNAN: The legislature could also allocate the money out of the budget?

MR. SMITH: Explains these are all financing tools. If the State wishes to finance, the State should do it at the lowest cost and in a systematic-control process.

069 CHAIR TIERNAN: Do Washington, California and Idaho have the same COPs?

MR. SMITH: All state localities use Certificates of Participation, Financing Agreements, or Appropriation Credits.

REP STROBECK: Refers to background measure summary from staff. Is it correct that prior to 1989 this tool was not available to State agencies in

general?

MR. SMITH: That's correct.

REP STROBECK: Was there a dollar limit or category of purchase, prior to 1989, regarding COPs?

MR. SMITH: No consistent piece of legislation prior to 1989. Uncertain about origin for legislative authority at that time. Refers to SB 59 as the process to ensure these type of financing activities were done under a controlled and managed mechanism.

REP STROBECK: Who approves the COPs -- The Oregon State Treasury?

MR. SMITH: Oregon State Treasury must approve all COPs, but the legislature authorizes the issuance of all COPs each biennium.

REP. HAYDEN arrives at 2:30 pm.

REP. STROBECK: What is the current maximum dollar amount used in COPs?

MR. SMITH: Requests that Greg Jeffrey, Department of Administrative Services, respond.

GREG JEFFREY, Department of Administrative Services: The last legislative session (1993-1995) authorized over $128 Million. The amount of COPs issued during this biennium amounts to over $64 Million.

108 REP. LEHMAN: Are there COPs issued by local governments?

MR. SMITH: Yes.

REP. LEHMAN: How would you compare the three methods of bonding in terms of financing cost and cost to obtain the bond?

120 MR. SMITH: The three would have very similar basic costs. The lowest cost to funds for any governmental entity is General Obligation Bonds, although the others are "fractionally close."

CHAIR TIERNAN: Is there a lid on the local jurisdiction's ability for COPs?

MR. SMITH: Doesn't know.

REP. JOHNSTON: Is it correct that if COPs are not in the fundraising portfolio that one of the other two mechanisms would be used?

MR. SMITH: No. For example, GO Bonds could not be used for prisons and there is no Revenue Bonds for prisons (i.e., there would be no current financing mechaniSMavailable). The option for constitutional authority has to go to the people for a vote.

161 REP. JOHNSTON: Refers to testimony "an inevitable increase in the cost

of financing via one vehicle" Is it correct that as we increased the bonded indebtedness, the ability to sell General Obligation Bonds would become more expensive?

MR. SMITH: As the bonded indebtedness of the State is increased, eventually a point is reached where the credit quality of the State is decreased. As the credit quality of the State is decreased, the cost of financing is increased.

REP. JOHNSTON: Summarizes the argument that it is cheaper to use COPs, as one piece of the funding package, because in the long run it is better to have that alternative available rather than not.

MR. SMITH: That's correct.

179 CHAIR TIERNAN: Is it correct that nothing precludes going to the people with a General Obligation Bond for prisons?

MR. SMITH: Yes.

CHAIR TIERNAN: Has that been done before?

REP. LEHMAN: Believes that about 10-12 years ago there was a statewide bond issue for funding prisons.

CHAIR TIERNAN: The issue of this bill is not how to finance, or different ways to finance, but rather that financing is around the "people."

MR. WISEBROCK: Adds that every time a General Obligation Bond is offered there is a "full faith and credit" commitment, including the ability of the State to initiate a property tax should it be deemed appropriate to meet that demand. There is greater risk. The 25 basis points difference between a GO Bond and a COP and Revenue Bonds is there is not the risk that, should there be a default, "you go down the 'feeding chain'." In the COPs and Revenue Bonds there is a more superficial level of risk to the State.

208 CHAIR TIERNAN: If the State for some reason defaults on a COP, can city center parking own the State's parking structure, and somebody else own the Archives Building?

211 GREG JEFFREY, Finance Manager, Department of Administrative Services: When SB 59 was passed, it was immediately questioned and put before the Oregon Supreme Court as to whether or not it was proper authority under the Oregon Constitution. The Supreme Court's decision was that "it was proper authority for the State to be using, but it did put some qualifications" (i.e., the security that the State could offer when using COPs to finance property). Illustrates an example involving equipment.

244 CHAIR TIERNAN: Summarizes that if the State defaults on a payment for the parking facility, the State wouldn't park in the facility, it would stay empty and after 20 years the lessor would have ownership?

MR. JEFFREY: No. If the State decided not to appropriate, then the trustee would force the State not to use that property any longer and it would be at their disposal to find people to use it and charge a rent for the remaining term of the financing. At the end of that remaining term the trustee's right to use the property would be terminated and it would return the State.

258 REP. LEHMAN: Illustrates a City Council wanting to build a new City

Hall and issue a General Obligation Bond. Is it correct that it would be necessary to get a property tax authority to pay that bond?

MR. SMITH: It would go to the vote of the people.

REP. LEHMAN: What is the difference in building a prison for the State of Oregon? Does a different vote go before the people of the State of Oregon?

MR. WISEBROCK: Prisons are not included in the provisions of the Constitution and, therefore, are not allowed to issue GO debt. In order to

issue GO debt it is necessary to have authority through the Constitution.

266 REP. LEHMAN: Summarizes that a constitutional amendment is needed to allow for the use of General Obligation Bonds to finance prisons.

MR. WISEBROCK: Yes.

REP. LEHMAN: Would another vote be needed for issuance of the bonds?

279 MR. SMITH: Once the Constitution is authorized, it is the legislature's

responsibility to, on a biennial basis, to authorize the sale of bonds as appropriate.

REP. LEHMAN: Then, that General Obligation Bond is paid back from the revenue of the State as a COP?

MR. SMITH: Yes. The issue discussed is not whether COPs are a valuable financial instrument, but whether there should be a vote of the people. COPs are, in fact, an excellent financing tool for the State and local governments. Discusses the issue of fairness.

363 CHAIR TIERNAN: The legislature doesn't approve the local.

MR. SMITH: Not speaking to local issues. Illustrates a State agency putting a building in the Portland area or in Klamath Falls.

CHAIR TIERNAN: The legislature has control over what it does, but once the

legislature gives the authority to the local governments, the legislature no longer has control.

MR. SMITH: One of provisions in HB 2752 is oversight of local issues by the Treasury and DAS. The Treasury prefers to stay out of local government. If the Treasury is required to provide oversight, there is no mechaniSMto do that now -- inadequate staffing and the need to address the fiscal impact.

396 REP STROBECK: Could local governments issue COPs before the 1989 legislation?

MR. SMITH: Yes.

REP. STROBECK: The legislation didn't change anything insofar as local governments were concerned (i.e., cities and counties)?

MR. SMITH: It would have affected the State.

CHAIR TIERNAN: Were local jurisdictions issuing COPs before 1989?

MR. SMITH: Doing lease purchases and COPs.

412 GREG JEFFREY, Finance Manager, Department of Administrative Services: Testifies from prepared statement in opposition to HB 2118. Submits (EXHIBIT F). Explains Step One of the Legislative Review Process (see page three).

TAPE 68, B

008 MR. JEFFREY: Continues testifying in opposition to HB 2118. Explains Step Two.

022 MR. JEFFREY: Continues testifying in opposition to HB 2118. Explains Step Three.

CHAIR TIERNAN: Is the $.2 Billion, the total COPs out and owed?

MR. JEFFREY: That is the current amount of principal that is outstanding.

CHAIR TIERNAN: How much is up this biennium?

MR. JEFFREY: The request that is part of the Governor's budget is $178 Million.

CHAIR TIERNAN: Is the proposal for the four regional, juvenile detention facilities a part of a COP?

MR. JEFFREY: That is what is being recommended to go forward and be financed with COPS over a 15-year repayment period.

035 CHAIR TIERNAN: If the four facilities were 90- or 100-bed facilities at four areas throughout the State, is that $50 Million?

MR. JEFFREY: The total cost is estimated at $42 Million.

070 REP. JOHN SCHOON (R - District 34): Provides introductory comments. Testifies about the state bond rating. COPs are not any different than a credit card. When there is a rescission, revenue falls and the debt still must be paid. Illustrates a problem that occurred in Marion County. Urges caution in using COPs and that consideration be given to what is told to the people of the State of Oregon who expect to be able to vote on debt.

114 REP. VANLEEUWEN: Adds to earlier testimony. Provides the Sweet Home fire hall as an example of people voting to build the fire hall and that nothing was hidden in the process.

REP. LEHMAN: Would you restrict/prevent local governments from issuing COPs?

REP. SCHOON: Refers to earlier discussion with Treasury witnesses. Agrees with Treasury witnesses of not monitoring everything done by local governments; however, it is up to the State Legislature and State Government, as a whole, to ensure the public is protected. Suggests a review of the laws regarding the issuance of COPs at a local level and to take necessary action to protect the public.

136 REP. LEHMAN: Would you then restrict State Government or local entities from entering into any type of indebtedness?

REP. SCHOON: No. It is appropriate in some cases as long as the public agrees to it. Points out the danger when mistakes are made.

145 REP. LEHMAN: Illustrates about purchasing a relocatable building to accommodate a massive influx of school children without a vote of the people. Should local entities be directed that they cannot do that and, if the legislature doesn't provide that direction, what is the distinction between that and a COP?

REP. SCHOON: Explains the difference between a COP and a short-term lease.

REP. VANLEEUWEN: Expresses concern about COPs for major items by local governments or entities.

CHAIR TIERNAN: Announces that HJR 43 will be rescheduled.

189 HOWARD RANKIN, Lawyer (Portland): Explains background of practice. Testifies in opposition to HB 2752. Intends to dissuade about some of the comments that were misconceptions. Explains that a Certificate of Participation is secured by a "dedicated stream of funds without a vote of the people. For every Certificate of Participation is secured by a pledge of the General Fund of the issuer." Talks about the obligation to appropriate from the General Fund and the consequences for failure to do so.

230 CHAIR TIERNAN: Refers to a four-years old Supreme Court Order about PERS stating "You must reimburse these people and we haven't done anything about that."

MR. RANKIN: Explains about the difference of the separation of powers and that school districts are subject to Circuit Court Mandamus. Responds to some comments about "overdrawing the account."

CHAIR TIERNAN: Refers to Rep. Schoon's testimony. Comments that something has to lose in the formula to allocate the dollars, but it is not going to be the COP.

270 MR. RANKIN: That's right. Focuses on the question about deficit spending and the risks if there is a default. Says that the origin of COPs (Lease Purchase Agreements) was by fire districts in earlier 1950.

310 MR. RANKIN: Continues testifying. Talks about school district term limitations on how long equipment and portable classrooms can be lease purchased. Local Government has been given the authority to do this, there has never been a default in the State of Oregon, and the investors are very comfortable with the form of the investment/pledge of the General Fund.

CHAIR TIERNAN: What is the difference between a lease for the fire engine and a COP?

326 MR. RANKIN: The lease is an instrument with a particular investor. Certificates of Participation are a number of leases put together into a marketing document, called a Certificate of Participation, and a proportionate interest is bought in the Certificates of Participation which is an interest in the "stream of funds flowing from the issuer to a trustee for the purposes of paying the certificates." In other words, the lease purchase agreements are "lumped" and then an interest in that aggregate lease purchase group is sold through "Certificates of Participation" in the

lease purchase payments.

CHAIR TIERNAN: Illustrates about a lease of a copier. Summarizes about COPs.

MR. RANKIN: Agrees with the summary. Illustrates a 1987 Supreme Court case ruling that indebtedness cannot be incurred by a form of unit of local government that has a debt limit. For example, counties cannot incur an indebtedness in an amount greater than $5,000.

385 MR. RANKIN: Continues testifying. Other units of local government (e.g., school districts) do not have a debt limit on the amount of lease purchases or the dollar value of lease purchases they may enter into.

411 REP. MARKHAM: Are COP's a double-tax free?

MR. RANKIN: Yes.

REP. MARKHAM: Was the debt limit of the State, before going to the people and before COPs, $50,000?

MR. RANKIN: Yes. The Constitutional Debt Limit is $50,000.

TAPE 69, B

003 CHAIR TIERNAN: Do you agree this is more a political question about whether voters should "pass upon" a debt measure v. avoiding the voters with a COP?

MR. RANKIN: Yes. If there is a perceived "lack of confidence and care on the part of the governing bodies of units of local government", then perhaps, politically there may need to be restrictions. However, if that is the opinion, then would disagree based on personal experience.

CHAIR TIERNAN: What about the state?

MR. RANKIN: Also includes the State. Has not seen in Oregon, based on years of experience, any sign of conduct that has occurred in Orange County

- Oregon does not have that type of fiscal management.

REP. MARKHAM: Historically, why is there not a $5,000 limit on other than county?

MR. RANKIN: The legislature in its wisdom.

REP. LEHMAN: Refers to earlier testimony about Orange County and Marion County. Is Marion County the same type of issue (i.e., the investment of funds).

034 MR. RANKIN: Over zealous financial advisers, brokers and security dealers convinced the County Treasurer there were certain investments that would be appropriate when ultimately they were very inappropriate.

REP. LEHMAN: Are you aware of any entities that have had any problems in repaying any of the bonded indebtedness through COPs?

MR. RANKIN: No.

051 REP. VANLEEUWEN: Did you know of any Certificates of Participation that

hadn't materialized? How long have COPs been used and at what different levels?

MR. RANKIN: Certificates of Participation have been used since about 1970 by units of local government, but not in the current size and frequency. The dollar value has escalated as the cost of equipment escalates.

REP. VANLEEUWEN: Refers to earlier testimony. Is there a difference in the cost of a Certificate of Participation and General Obligation or Revenue Bond?

MR. RANKIN: Yes. The interest on debt is based upon the security of the debt. The GO is the finest obligation to buy in the State of Oregon with the lowest interest rate. The COPs, because they are only secured by the General Fund of the local issuer, are not as secure and are more expensive;

however, COPs are far less expensive than dealing directly with the product

vendor.

REP. VANLEEUWEN: Is a Flex Fund a Certificate of Participation or some other arrangement?

090 MR. RANKIN: A form of Certificate of Participation.

REP. VANLEEUWEN: Are those arrangements available to build a building at those low rates?

MR. RANKIN: Doubts that the Flex Fund is available for real property and improvements thereon, but the general concept of Certificates of Participation is available. Illustrates Washington County ESD's issuance of certificates to build a new administrative building.

CHAIR TIERNAN: Cites Clackamas County's attempt to pass a bond measure to build a new Justice Center that failed. Is there anything to stop Clackamas County from issuing a COP?

MR. RANKIN: Only the economies of pledging the General Fund and giving a first lien on that General Fund (i.e., an economic decision about whether they can afford to build the complex out of the General Fund and what are the financial risks). Adds that it should be understood that the investor who buys the COPs is going to look very carefully at the available security.

130 REP STROBECK: Would it be your professional recommendation that COPs be limited as to usability?

MR. RANKIN: Difficult question. Opines that the market controls the capacity to issue additional debt. It is unnecessary for the legislature to impose limitations -- the market "polices itself."

156 DAVE BOYER, Finance Director, Multnomah County: Testifies about HB 2752

and how Multnomah County handles Certificate of Participation Account. The

county has used this method of financing since 1982 and issued approximately $75 Million in COPs.

195 MR. BOYER: Continues testifying. Explains that nothing is financed over the economic life of the asset or incurred as an annual lease payment in excess of 5% of the General Fund revenues.

REP. MARKHAM: Would Multnomah County be interested if the $5,000 limit were repealed?

MR. BOYER: Yes. The financing is used for purchase of various equipment.

228 CHAIR TIERNAN: Refers to the self-imposed limit of 5%. Would there be objection to modifying the bill and putting a "cap" for all local jurisdictions of 5% of the General Fund?

MR. BOYER: Not sure Multnomah County's self-imposed cap would be the same for other jurisdictions. Multnomah County has issued $12.5 Million in COPs for equipment and there is $450,000 outstanding. Describes other lease purchases.

279 MR. BOYER: Continues testifying. Describes sharing agreements with Clackamas County.

294 MR. BOYER: Continues testifying. Recently sold $2.5 Million in COPs.

CHAIR TIERNAN: Points out that the State is considering $45-$48 Million to build four regional facilities. The voters may say "No", because of dislike for the package presented.

345 MR. BOYER: Talks about property taxes sky rocketing. Explains about cuts within county government rather than a property tax increase to pay for COPs.

369 REP. MARKHAM: Is there the same type of detail in a COP opinion as an opinion on a bond?

MR. RANKIN: Absolutely. The exposure is the same.

MR. BOYER: Describes the advertising conducted for COPs on a national market and the cost savings.

CHAIR TIERNAN: Why not just write a check?

MR. BOYER: Explains the process of balancing the budget.

TAPE 70 A

009 REP. JOHNSTON: Summarizes the discussion as the "will of the people." What is the smallest COP that Multnomah County requesting?

MR. BOYER: $1 Million.

REP. JOHNSTON: What was the time limit for the repayment on the $1 Million?

MR. BOYER: Five years.

REP. JOHNSTON: Requests an explanation about what was requested and a campaign run to get that past the voters.

MR. BOYER: Responds that the $1 Million was for the internal telephone system. Acknowledges there are election costs -- approximately $50,000 to run a county-wide election.

026 REP. GRISHAM: What was the cost of the building the voters rejected?

MR. BOYER: $36 Million.

REP. GRISHAM: What was the cost of the building built with COPs?

MR. BOYER: The cost of the facility was $32 Million. Explains that the reserve is to be used for the last lease payment.

042 REP. GRISHAM: Specifies the questions are in an attempt to determine the length of time between the voters' rejection and the time Multnomah County Commissioners issued the COPs and the ultimate cost.

MR. BOYER: Two years. The cost rose from $23.8 Million up to $32 Million for the actual cost of construction.

056 CRAIG PROSSER, Financial Planning Manager, Portland Metro: Provides testimony about the use of lease purchase financing and that it is an important financial management tool. Allows matching the cost to the amortization of the equipment.

076 MR. PROSSER: Continues testifying. Provides testimony about interest rates from vendors and finance companies plus that the cost of an election would be prohibitive.

CHAIR TIERNAN: That depends on how many issues are on the ballot?

MR. PROSSER: Depends on the number of races on the ballot and the number of other jurisdictions that have races on the ballot (i.e., varies and hard to predict).

102 CHAIR TIERNAN: Why can't a lease be down to a rate closer to a COP?

MR. PROSSER: Says vendors want to make money. Explains that the individual financing for $250,000 was a small issue in the marketplace and, therefore, Portland Metro just couldn't attract the interest from companies to provide that money. Explains why a Certificate of Participation and the U. S. Bank were used.

CHAIR TIERNAN: Why not just write a check?

MR. PROSSER: Metro does not have a General Fund; has a $206 Million budget; and the General Fund is $6 Million. Most money is dedicated revenues on enterprises (i.e., solid waste system, zoo, and convention center) and those revenues must be used in those areas. If Metro had to "write a check for $250,000", it would have required a cutback in the planning program.

145 REP. GRISHAM: If Metro doesn't have a General Fund, how did Metro manage to finance the "glass cathedral," the office building? Was that COPs?

MR. PROSSER: A revenue bond for about $22 Million.

162 REP. JOHNSTON: Is there any preference to Oregonians in the purchase of COP bonds?

MR. RANKIN: Yes. Residents of the State of Oregon acquire the exemption from personal income tax. The only exemption for non-residents is from the Federal income tax.

176 CHAIR TIERNAN: Adjourns the meeting at 4:00 pm.

Submitted by, Reviewed by,

Kay C. Shaw Gregory G. Moore
Committee Assistant Committee Counsel

EXHIBIT SUMMARY:

A - Preliminary Staff Measure Summary on HB 2118 -- Staff -- 3 pages

B - Proposed Amendments to HB 2118 -- Staff -- 2 pages

C - Preliminary Staff Measure Summary on HB 2752 -- Staff -- 1 page

D - Prepared Testimony on HB 2752 -- Staff -- 10 pages

E - Matrix on State Financing Tools on HB 2752 -- Chuck Smith - 1 page

F - Prepared Testimony on HB 2752 -- Greg Jeffrey -- 3 pages