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Work Session: HB 2500  
Tapes 131 A

HOUSE COMMITTEE ON  
HOUSE REVENUE AND SCHOOL FINANCE  
PROPERTY TAX SUBCOMMITTEE

JULY 8, 1993 9:00 AM HEARING ROOM A STATE CAPITOL BUILDING

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Members Present: Representative Tom Brian, Chair Representative Mike Burton  
Representative Margaret Carter Representative Fred Girod Representative  
Delna Jones Representative Jim Whitty

Staff: James Scherzinger, Legislative Revenue Officer  
Steve Bender, Legislative Revenue Office  
Paula McBride, Committee Assistant

TAPE 131 SIDE A

006 CHAIR BRIAN called the meeting to order at 10:46.

013 STEVE BENDER discussed handouts in the members' books. The first listed  
the revenue impacts for various exemptions approved by the Subcommittee. He  
had estimates for all but five of the exemptions. Exhibit 1

Questions and discussion

041 STEVE BENDER explained the categories "A" and "AAA" on the second  
handout of material on the revenue impact of amendments adopted by  
(exemptions granted by) the Subcommittee. Exhibit 2

Questions and discussion

066 CHAIR BRIAN conducted administrative business.

071 STEVE BENDER referenced material presented by the Oregon Restaurant  
Association (ORA, not in LC form) related to language they would like to  
see incorporated into HB 2500. Exhibit 3

075 ? CHAIR BRIAN and STEVE BENDER discussed whether or not there were other  
amendments to examine.

These minutes psrsphrase sndVor summarize statements made during this  
meeting. Text enclosed in quotation marks reports the speaker's exact  
~ords. For complete context of proceedings, please refer to the tape  
recording.

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Revenue and School Finance Property Tax Subcommittee July 8, 1993 Page 2

Discussion

111 CHAIR BRIAN opened the Work Session on HB 2500.

112 STEVE BENDER related that the language related to "food and food  
ingredients" submitted by ORA was put together by the Multistate Tax  
Commission, which prepares various "model" laws. This handout contained the

definition of "food" that the members might incorporate into HB 2500.  
Exhibit 3

120 Discussion of the language related to "food" in the Exhibit 3.

177 STEVE BENDER related that the language was designed to establish categories related to food for the members to consider and decide whether or not they want to tax each category. He reviewed some of the categories, and he compared original language of HB 2500 with that of the handout.

228 STEVE BENDER thought the main concern of the ORA was what would be considered food for home consumption, and thus exempt from the sales tax. The ORA preferred the language in the handout over that currently in HB 2500 on food. He read the language in Section (F) (page 4) of the handout related to this issue, and he reminded members this was a policy decision they must make. Exhibit 3

Questions and discussion

297 STEVE BENDER thought the language in the handout on "food" was quite similar to the language in HB 2500. He pointed out that the items surrounded by brackets in the handout emphasize items about which there has been some controversy under the sales tax in other states. He gave examples of both similarities and of differences in categories between the two documents. Exhibit 3

Questions and discussion

363 CHAIR BRIAN recessed the meeting at 11:10.

PLEASE NOTE: THE MEETING WILL RECONVENE AT 1:30 THIS AFTERNOON, BUT THAT PART OF THE HEARING WILL BE RECORDED IN A DIFFERENT SET OF MINUTES AND WITH DIFFERENT TAPES.

These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speaker's exact words. For complete context of proceedings, please refer to the tape recording.

House Committee on  
Revenue and School Finance  
Property Tax Subcommittee  
July 8, 1993 Page 3  
Paula K. McBride, Committee Assistant

Kimberly Taylor James, Office Manager

#### EXHIBIT SUMMARY

1. Revenue Impact of Property Tax Subcommittee Recommendations, Steve Bender, Legislative Revenue Office.
2. HB 2500 -- Revenue Impact (1995-97 Biennium), Steve Bender, Legislative Revenue Office.
3. Model Sales and Use Tax Exemption -- Food and Food Ingredients, from Oregon Restaurant Association, presented by Steve Bender, Legislative Revenue Office.

Work Session:  
HB 2500  
Sales Tax  
Elements of Tax Package  
Tapes 132-135 yB

HOUSE COMMITTEE ON  
REVENUE AND SCHOOL  
FINANCE  
PROPERTY TAX  
SUBCOMMITTEE

JULY 8, 1993 1:30 PM HEARING ROOM A STATE CAPITOL BUILDING

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Members Present: Representative Tom Brian, Chair  
Representative Mike Burton Representative Margaret Carter  
Representative Fred Girod  
Representative Jim Whitty  
Witnesses Present: Gary Carlson, Associated Oregon Industries (AOI)  
Linc Cannon, Forest Industries Council Charles Taylor, Legislative Council  
Jerry Fisher, Hewlett-Packard  
Don Schellenberg, Oregon Farm Bureau Don Miner, Oregon Manufactured Homes  
Mike McCallum, Oregon Restaurant Assoc. John Powell, Wine Assoc.  
Bruce Anderson, Oregon Builders Assoc.  
Staff: James Scherzinger, Legislative Revenue Officer  
Steve Bender, Legislative Revenue Office  
Mary Gottlieb, Committee Assistant

(Continued from morning meeting, Tape 131)

TAPE 132 SIDE A

004 CHAIR BRIAN reconvened the meeting at 1:54.  
010 CHAIR BRIAN reopened the work session on HB 2500.  
011 STEVE BENDER reported to the members the outcome of the Income  
Subcommittee meetings. The Income Tax Subcommittee decided to increase the  
corporate tax by one percent, an income tax reduction of .5 percent, and  
increase the standard deduction. The net amount remaining in the package at  
this point is \$1.980 million.  
Discussion and comments.

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084 STEVE BENDER started with the HB 2500-1, production exemptions, Exhibit  
1. HB 2500-1 addressed the taxability of certain business purchases used in  
the production process. HB 2500 does not allow an exemption for production  
machinery, but anything that becomes a part of the final product.  
Consumable items that do not become part of the product are taxed in  
general. The consumable exemptions can be found in Sections 211 and 212;  
such as, chemicals, carbon paste, furnace electrodes, etc. HB 2500-1 would  
expand production items to be exempt, and many states already have similar  
exemptions. When a company produces something, the product is taxed at the  
time of sell.  
300 GARY CARLSON (with LINC CANNON and CHARLES TAYLOR) discussed three

amendments: HB 2500-18, Exhibit 2, which deals with metal casting materials, HB 2500-14 (Exhibit 4, July 6, 1993) which deals with research and development, and HB 2500-1 dealing with the overall manufacturing machinery and equipment. States that have a sales tax do not tax production machinery and equipment. He argued that a 5 percent tax would devastate the manufacturing industry. He introduced Exhibit 3, a section from Nation's Business magazine.

TAPE 133 SIDE

A

009 CHARLES TAYLOR provided an overview of the production exemption. He stated that in the other tax states that grant an exemption for production machinery, there is a requirement that the machinery act directly on the product. This means direct physical action of the machinery on the product as it goes through the production process. In order to design this exemption, several problems were obvious. First, equipment is not working in isolation but tends to work in a production atmosphere. He took a different approach and included everything involved in performing a manufacturing activity. Once the manufacturing starts, anything that occurs relating to production, necessary to production, and exclusively used, not solely used, would be considered a manufacturing activity. In addition, there would be other exemptions for packaging, safety equipment, collection of waste, and preservation of a product that has rapid deterioration.

Discussion and questions.

163 CHARLES TAYLOR responded to a question by REP. CARTER by stating that there are two types of direct-test use depending on the state: the physical transformation test, which means that the

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manufacturing process begins when physical transformation begins to occur (raw materials would not be exempt), and the integrated plant concept, which means the moment the materials arrive at the plant.

206 LINC CANNON stated that he was present only to answer questions about the exemptions.

Discussion and questions concerning production machinery.

240 GARY CARLSON testified that personal property is a separate issue and that AOI is not willing to trade off other items in the proposal. In the draft, they attempted to tax all supplies, unless especially designed for use on a specific piece of manufacturing equipment.

Discussion and questions.

300 CHARLES TAYLOR responded to a question by CHAIR BRIAN by stating that there are some specific exemptions that could be considered individually within the main manufacturing process. The only way to restrict the exemptions would be to put in a price barrier or classification barrier. In HB 2500-1, machinery is required to be either depreciable or deductible for tax purposes.

Discussion continued with regard to production machinery.

TAPB 132 SIDE B

007 JERRY FISHER testified with regard to HB 2500-14, research and development equipment. The electronic companies are becoming more technology driven centers. In the research and development of products, the amount of money going into research is increasing. His company is putting 10 percent of their revenues back into research. Because companies require more and more sophisticated equipment, he urged the committee to consider the exemption for research and development.

Discussion concerning HB 250014.

065 STEVE BENDER offered fiscal information for HB 2500-1. Estimates of machinery and equipment are very difficult because there is not adequate data. Original language in the bill required that the items be depreciable, which also makes it harder to estimate. The requestors of the amendment have asked that the exemption be expanded to include pollution control equipment, waste disposal equipment, and certain types of packaging equipment.

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149 JERRY FISHER stated that the impact was extremely hard to estimate on HB 2500-18 because technology is moving so rapidly. In his company, machinery is expensed rather than depreciated.

Discussion and questions.

206 DON SCHELLENBERG testified in support of HB 2500-1; however, he requested that oil and grease used in maintenance also be exempt.

232 DON MINER pointed out on page 20, line 30, equipment used to manufacture homes is not exempt, and this would further disadvantage manufactured housing. He requested that this portion be deleted.

Discussion concerning construction equipment and materials.

341 DON MINER stated that the competition is significant with the site-built homes, and the manufactured housing industry is seeking equality. It is very difficult to compare the materials used in the two industries.

364 CHAIR BRIAN recessed the meeting at 3:13 and reconvened at 3:40.

383 MIKE MCCALLUM reviewed the exemption concerning food items. He introduced Exhibit 4, Model Sales and Use Tax Exemption--Food and Food Ingredients.

TAPE 133 SIDE B

001 MIKE MCCALLUM suggested that language on page 67 be changed to read "hot and cold prepared food products." On page 68 after the word "product," insert the words "for immediate consumption." Using the language in Exhibit 4, pages 4-6, in the amendment will make it clear which items are taxable (such as, items prepared on site in a grocery store that would be in competition with restaurants).

Discussion and questions.

060 STEVE BENDER stated that food items that would be taxed under HB 2500 but are purchased with food stamps, no tax can be charged because federal law requires the purchases to be exempt.

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080 CHAIR BRIAN moved the discussion to carbonated beverages. As the bill stands, these are taxable in all forms, except when purchased with food stamps.

Discussion concerning carbonated bottled and canned beverages.

186 CHAIR BRIAN pointed out that the reason that malt beverages, beer, and wine are exempt is because these items already have an excise tax.

200 JOHN POWELL asked the committee to recognize the fact that the beer and wine industry would rather have the sales tax than the excise tax. He would prefer to have the sales tax on all alcoholic beverages, because retailers would have a problem distinguishing which drinks are subject to the sales tax and which are not.

Discussion and questions.

324 STEVE BENDER directed the members' attention to the revenue impact of not taxing carbonated beverages.

Discussion concerning all types of beverages.

TAPE 134 SIDE A

001 Discussion continued with taxing of soft drinks.

016 MOTION REP. BURTON moved in Section

177 ,

Subsection C, line 38, strike

the

word "spirituous," strike the language after the word

"liquor,"

and strike line 39.

DISCUSSION

026 ORDER CHAIR BRIAN, hearing no objections,

so ordered.

049 The committee stood at ease.

136 CHAIR BRIAN reconvened at 3:24.

140 STEVE BENDER introduced Exhibit 5, HB 2500-38, and showed the changes associated with food exemptions.

Discussion concerning HB 250038.

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189 MIKE MCCALLUM stated that carbonated drinks would be in competition with the previous motion. He agreed to delete them from the HB 2500-38. Discussion and comments.

253 MOTION REP. BURTON moved to delete lines 20-22 on page 2 of HB 2500-38.

257 ORDER CHAIR BRIAN, hearing no objections, so ordered.

260 MOTION REP. BURTON moved to adopt HB 2500-38

262 ORDER CHAIR BRIAN, hearing no objections, so ordered.

269 CHAIR BRIAN conducted administrative business.

303 BRUCE ANDERSON (with DON MINER) stated that the contractor can be either the consumer or retailer of certain items. In the case of fixtures, the contractor would be the retailer.

340 STEVE BENDER offered an explanation of fixture, which is attached to the real property but remains separate. In the case of materials, the contractor is the consumer of the materials and a sales tax is collected. For fixtures, the contractor is the retailer of the fixture, which is purchased free of tax and sold by the contractor with a sales tax. The rationale is that the buyer has a choice of fixtures.

TAPE 135 SIDE A

001 Discussion continued with BRUCE ANDERSON and the difference between materials and fixtures.

020 DON MINER suggested treating materials, fixtures, and equipment all under one formula. He also favors not paying any taxes on manufactured homes until the homes are sold.

Discussion and questions.

133 REP. GIROD suggested changing the language on lines 21-25, page 36 to: after the parenthesis put a comma, a fixture,

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machinery, or equipment that the contractor furnishes or installs in the performance of a construction contract.

Discussion concerning the contractor being a consumer or a retailer.

256 DON MINER would like to see the manufactured home business handled the same as in Section 67. The company would then issue resale certificates for both materials and fixtures.

285 MOTION REP. GIROD moved to adopt the language suggested earlier for

lines

21, 22, 23, 24, and 25 on page

36,

Section 110.

307 ORDER CHAIR BRIAN, hearing no objections,

so ordered.

319 DON SCHELLENBERG introduced Exhibit 6, which deals with Section 204. On line 18, page 72, he suggested adding after animal, "unless used for agricultural business as defined in Section 208a or sold in the ordinary course of business." This would include llamas, ostriches, mink, and animals termed as exotics but are becoming part of the agriculture industry.

TAPE 134 SIDE B

001 Discussion continued with DON SCHELLENBERG and the agricultural questions.

060 STEVE BENDER explained that category of nonfood animals is treated like

any tangible property. For breeding purposes, the animal is not going to be resold, so the animal is taxable.

Discussion with regard to food or nonfood animals.

186 DON SCHELLENBERG moved to the next section of Exhibit 6, where he objects to farmers having to collect taxes. Individuals often ask farmers to sell hay or feed for their horses, llamas, etc., and the farmer does not want nor should he have to collect taxes. He suggests that, if hay is bought somewhere other than a retail outlet, the hay would be exempt. Discussion and questions.

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250 STEVE BENDER explained that the farmers who sale hay would be retailers and they (the farmers) would be expected to collect sales tax on their taxable sales. However, feed for food animals or breeders is exempt.

320 MOTION REP. GIROD moved conceptually to amend HB 2500 to exempt hay.

321 ORDER CHAIR BRIAN, hearing no objections, so ordered.

341 MOTION REP. GIROD moved conceptually to amend HB 2500 to exempt the sale of nonfood animals if they are being used in an agricultural business or used in a breeding operation.

344 ORDER CHAIR BRIAN, hearing no objections, so ordered.

Discussion concerning medicated feed.

399 MOTION REP. GIROD moved conceptually to amend HB 2500, line 22, page 72, to insert "used for agricultural business."

405 ORDER CHAIR BRIAN, hearing no objections, so ordered.

TAPE 135 SIDE B

001 DON SCHELLENBERG continued his testimony on page 72 of the bill.

052 MOTION REP. GIROD moved conceptually amend HB 2500 to exempt medicine for food and nonfood animal that are used for agricultural purposes.

DISCUSSION

064 ORDER CHAIR BRIAN, noting one objection, so ordered.

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069 DON SCHELLENBERG moved to the next section, exempting semen and embryos for livestock.

095 MOTION REP. GIROD moved to conceptually exempt semen and embryos for livestock use.

097 ORDER CHAIR BRIAN, hearing no objections, so ordered.

102 CHAIR BRIAN closed the work session on HB 2500.

128 CHAIR BRIAN conducted administrative business.

139 CHAIR BRIAN adjourned the meeting at 5:49.

Mary Gottlieb, Committee Assistant  
Kimberly Taylor James, Office Manager

#### EXHIBIT SUMMARY

1. Proposed Amendments to HB 2500-1, Steve Bender, Legislative Revenue Office.
2. Proposed Amendments to HB 2500-18, Steve Bender, Legislative Revenue Office.
3. Nation's Business, July 1993, Gary Carlson, Associated Oregon Industries.
4. Model Sales and Use Tax Exemption--Food and Food Ingredients, Michael McCallum, Oregon Restaurant Assoc.
5. Proposed Amendments to HB 2500-38, Steve Bender, Legislative Revenue Office.
6. Proposed Amendments to HB 2500, Don Schellenberg, Oregon Farm Bureau.

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