

March 8, 1991 8:00 AM Hearing Room A State Capitol Building

Members Present: Representative Delna Jones, Chair Representative Carl Hosticka, Vice-Chair Representative Mike Burton Representative Kelly Clark Representative Bev Clarno Representative Mike Nelson Representative Fred Parkinson Representative John Schoon Representative Jim Whitty Staff Present: Jim Scherzinger, Legislative Revenue Officer Mary Ann Zimmermann, Committee Assistant Witnesses Present: Ray Wilkeson, Oregon Forest Industries Council (OFIC) Jane Meyers, OFIC Ron Chastain, Western Oregon Severance Tax (WOST) Consortium John Danielson, Oregon Education Association (OEA) Sara Baker-Sifford, Oregon Rural Electric Cooperative Association Jim Brown, Department of Revenue (DOR) Jim Wilcox, DOR Elizabeth Stockdale, Department of Justice Don Schellenberg, Oregon Farm Bureau Federation Gary Carlson, Associated Oregon Industries (AOI) TAPE 105 SIDE A 005 CHAIR JONES called the meeting to order at 8:09 A.M. in a subcommittee until when a quorum was present at 8:10 A.M. Administrative business was conducted. WORK SESSION - HB 255 0 025 RAY WILKESON presented a proposed amendment to HB 2550 making the severance tax a privilege tax (removing it from the impact of Measure 5) and reducing the rate. EXHIBIT 1 065 RAY WILKESON explained the fourth method of calculating the rate reduction trying to reduce the rate in the same proportion that Measure 5 reduces property taxes.

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070 RAY WILKESON presented the variables in the proposed methodology for computing equivalency. EXHIBIT 2 095 RAY WILKESON explained the fourth proposal reduces the Western Oregon rate less than the Eastern Oregon rate. 102 REP. CLARK asked for clarity to the phrase "equivalent". 104 RAY WILKESON addressed how much Measure 5 will affect property taxpayers in general and what will be the percentage of overall ,property tax relief for the entire state. 112 REP. CLARK asked why some districts were excluded from the calculation. 119 RAY WILKESON responded they included only districts in which timber severance tax has an impact. 133 JIM SCHERZINGER explained that staff has not had the opportunity to evaluate the proposed calculation methodology (noting the proposal had calculated a rate reduction in the first year only). 141 CHAIR JONES discussed the option for future years, of putting the methodology in the bill with the determination of the rate to be done using that methodology. 157 REP. SCHOON commented on the arbitrary figure but said placing a methodology would also be arbitrary. 169 Discussion and questions follow regarding the methodology and determining severance tax rate. It was clarified that the amounts in the proposal are projections. 200 REP. CLARK favored using a methodology rather than setting a rate. 212 REP. HOSTICKA felt the methodology should not be used because of the initial rate was arbitrary and a number should be voted on. 225 RAY WILKESON agreed that this is a short term approach and announced OFIC welcomes alternatives. 247 CHAIR JONES recapped the decision of putting a specific rate in the bill versus a methodology in which the DOR would add the amount. Reference was made to the rate in the proposed amendment. EXHIBIT 2 268 Discussion follows regarding the rate. 315 RON CHASTAIN presented a chart and graph

comparing property tax levies since 1978 to WOST taxes. It showed substantial relief for timber. EXHIBITS 3, 4

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339 REP. CLARK questioned increase in property taxes being a relief in timber. 350 RON CHASTAIN addressed equivalency between the severance and property tax. Under Measure 5, lower severance taxes will not hurt schools, but will increase the states obligation to pay for schools, thus lowering the severance tax will increase demands on the General Fund. 368 REP. WHITTY asked what Measure 5 did to the severance tax. 375 RON CHASTAIN referred to the Attorney General's opinion that Measure 5 would reduce severance tax. The Consortium does not agree with that opinion. Discussion follows. 398 JOHN DANIELSON addressed equivalency with reference to the decision made in 1977 when WOST was enacted. The graph in Exhibit 4 shows the WOST was not sufficient with an ad valorem tax. TAPE 106 SIDE A 000 JOHN DANIELSON continued the discussion with reference to the General Fund being drawn upon for timber relief and presented reasons why it would not be good policy to allow timber relief at this time. 033 REP. CLARK asked why OEA is interested if schools are not affected by the severance tax decision. 036 JOHN DANIELSON is concerned about the interim period in which timber taxes have disproportionate effects on school districts. The issue is why should timber get major relief in areas where no one else is getting it. 061 REP. CLARNO questioned how the figures were achieved in EXHIBIT 3 and 4. Discussion follows regarding property tax value. 096 JOHN DANIELSON responded with reference to the demand for timber causing fluctuating values. 124 REP. WHITTY asked if the value of timber remained constant and the cut remained constant then the third column in Exhibit 3 would go down. It was suggested to do severance by setting a fixed percentage and evaluate the tax based on previous year's figures. 156 JOHN DANIELSON responded speculation would be created in which timber would be cut during the times of the lower periods causing delay in cuts. 163 REP. WHITTY addressed comparing burden in EXHIBIT 3.

., _ . These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speakers exact words. For complete context of proceedings, please refer to the tape recording. House Committee on Revenue and School Finance March 8, 1991 Page 4 171 JOHN DANIELSON pointed out there are many areas of the state that would not get property tax relief during the 199192 fiscal year. It is premature to address reduction of timber severance during the implementation of Measure 5. 184 REP. SCHOON addressed the issue of second growth. 203 REP. PARKINSON questioned the absence of stumpage figures. 212 JOHN DANIELSON responded to the difficulty of getting a figure on ,stumpage because of the holdings being on private land. 227 CHAIR JONES explained the question before the committee is the adoption of the amendments proposed by OFIC and if adopted how to determine what goes into the amendment in relationship to either a rate or a method for determining that rate. The question was asked if there is enough information available to put in a number or is it arbitrarily supplied. 239 JIM SCHERZINGER addressed the time element in supplying the data. 292 CHAIR JONES discussed the two choices before the committee of the DOR putting in the number by rule using the methodology or by the committee supplying a number recognizing that only the first year has been figured under the supplied methodology. 310

REP. SCHOON asked how difficult it would be to put the methodology in writing. 317 JIM SCHERZINGER responded the writing of the methodology is relatively easy but it would be difficult to pick out specific districts unless tied to a theoretical category. 333 CHAIR JONES asked if OFIC had the criteria for obtaining the provided tax district exclusions in Exhibit 2. 337 RAY WILKESON explained how the list was chosen. It was a subjective process. 350 REP. SCHOON addressed supplying numbers based on future projections or having it calculated by the DOR using an equation. 390 Discussion and questions follow regarding the difficulty in writing the methodology. Reference is made to the list of tax districts supplied in Exhibit 2. TAPE 105 SIDE B 014 CHAIR JONES recommended putting the process in the bill with the understanding that the DOR establish the rate by rule.

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018 REP. BURTON commented on the policy being a hit against the General Fund and is there assurance that enough money is available to replace these funds. It was suggested supplying a number while referring to the methodology. 043 REP. HOSTICKA favored putting in an arbitrary number and leave the methodology out 059 CHAIR JONES addressed the fact that OFIC did not supply a number for all three years. It was clarified that the data was not available ,for calculating the second and third year. 071 REP. SCHOON agreed it is better to deal with the formula. 077 MOTION REP. SCHOON moved to adopt the proposed amendment LC 2386 which is the HB 2550-2 amendment dated 2/21/91 substituting the formula that was presented in EXHIBIT 2 by OFIC and put in the numbers for the first year as shown and future years would be determined by the formula. 099 DISCUSSION 104 Discussion and questions follow and it was clarified that there is a sunset so policy is not being made for long term but for the issue of this amendment. 127 REP. NELSON would support the motion but voiced concern with the DOR doing the choice by rule and not the Legislature. 141 REP. PARKINSON asked if the DOR by rule would come up with a figure higher the second year. The reason for projecting into the third year was addressed. 162 REP. HOSTICKA asked if the amendment was conceptual so the committee would review and adopt it at a later time. The response was the committee can redo the amendment after the language was completed. 179 REP. HOSTICKA continued to oppose the motion with reference to the law in 1977 which dealt with the transition which is still present. 191 REP. BURTON referred to the assumption that whoever drafts the amendment will exclude the listed tax districts and the procedural issue was questioned. 208 CHAIR JONES clarified that concepts and language have been adopted and then brought before the committee. 220 Discussion follows regarding the reduction of the privilege tax.

These minutes paraphrase and/or summarize statements made during this meeting. Text enclosed in quotation marks reports the speakers exact words. For complete context of proceedings, please refer to the tape recording. ~ House Committee on Revenue and School Finance March 8, 1991 Page 6 243 CHAIR JONES restated the motion by REP. SCHOON. 265 VOTE In a roll call vote, the motion was adopted (7-2) AYES: Representatives Parkinson, Schoon, Whitty, Clark, Clarno, Nelson, Jones. NAYS: Representatives Burton, Hosticka. 283 CHAIR JONES called a recess at 9:20 A.M. and reconvened as a subcommittee until a quorum was present at 9:47 A.M. 305 JIM SCHERZINGER explained the proposed amendments

which relate to Section 169 in HB 2550 dealing with the tax on rural electrical coops which is a gross earning tax. The current law sunsets the tax. The amendments remove the sunset. EXHIBIT 5 361 REP. HOSTICKA commented on the purpose of the sunset to give the opportunity for future review. 369 SARA BAKER-SIFFORD clarified that the taxes of the rural electric coops would be the same. 400 CHAIR JONES asked why the DOR recommended the change. 412 JIM BROWN explained the statute sunsets and the DOR is reinstating the language that currently exists. TAPE 106 SIDE B 007 JIM SCHERZINGER commented that the Measure 5 limit will affect these coops but that is not addressed in the amendments. 025 Discussion follows regarding extending the sunset date. 036 MOTION REP. NELSON moved amendments as described in HB 2550-1 (LC 2386) dated 2/4/91 be added to Section 169, Page 88 of HB 2550. 042 DISCUSSION It was clarified that the current law is being changed so their current tax treatment is continued and the sunset is removed. 082 SARA BAKER-SIFFORD explained that notices for this year have already gone out in February according to current statute. 088 Discussion and questions follow regarding the pay period. 106 JIM WILCOX explained why the payment was delayed from February to July, to make the payment date closer to the distribution date. 111 ORDER There being no objection to the motion, CHAIR JONES so ordered.

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123 JIM SCHERZINGER addressed five provisions in the bill dealing with local assessments that are currently certified to the tax role creating automatic leans on the property. The five provisions include: 1) Section 354, page 191 which are city irrigation and fire protection service charges. 2) Section 409 which is sewage disposal systems 3) Section 427 is drainage ditch assessments west of the Cascades 4) Section 436 agricultural guarantee control areas 5) Section 437 weed control assessments 153 REP. PARKINSON addressed the changes affecting ordinances. 171 JIM SCHERZINGER referred to the Measure 5 Implementation Issue list dealing with Section 246 on page 122 of HB 2550 in regard to penalties. The general provision is taking additional taxes that are imposed when property use is changed and naming them penalties because they will not be made subject to proration as taxes. If it was subject to proration then there may not be additional taxes because the limit may have been met. The provision makes it a penalty on the person rather than the property taking it outside Measure 5. EXHIBIT 6 208 REP. PARKINSON asked if it would provide additional revenue. 212 JIM SCHERZINGER responded it would be additional revenue but the distribution would be different. The difference is explained. The issue deals with making it a penalty bringing it outside of Measure 5. 243 Discussion and questions follow regarding the change in use of property with reference to charging an additional tax as opposed to charging a penalty. The calculation remains the same. 285 CHAIR JONES clarified that the question before the committee was to charge a penalty on the individual as recommended in HB 2550. 299 REP. HOSTICKA asked if there was a way to charge a penalty on the property rather than the individual. Selling of the property was addressed. 347 ELIZABETH STOCKDALE addressed the question of placing a penalty on the property rather than on the individual. The current structure is to charge an additional tax, encouraging people not the change the use of the property. Section 246 is structured so once the penalty is placed it becomes a lean that would pop up if property were to be sold. TAPE 107

SIDE A 010 Discussion continues regarding charging a penalty on individuals who change property use. Individuals filing bankruptcy was addressed.

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034 ELIZABETH STOCKDALE explained reasons for personal obligation rather than taxing the property. 041 Questions and discussion follows regarding the selling of the property and the realtors acknowledgement was addressed. Who can request the change of property use was also discussed. 092 It was clarified that if the property was already at the limit under the current taxation and use was changed then the limit would not allow more taxes to be charged against the property therefore there ,would be no penalty. 113 DON SCHELLENBERG pointed out that the changes in Section 216 was under investigation by Jim Kenney of the DOR because Section 6 on Page 126 of HB 255 0 could not only have the owner but also a leasee to disqualify the land by changing the use of the property. It was suggested to check with the DOR before making any decisions. 147 CHAIR JONES recommended the DOR look into the issue and bring information back to the committee recommending changes to pay the back assessment in a way without being compressed by Measure 5. 160 REP. PARKINSON related to previous decision about penalty on back taxes regarding disqualification from special assessment. 178 ELIZABETH STOCKDALE clarified that the issue in question deals only with changes in use in regard to the property tax system. 187 CHAIR JONES asked Elizabeth Stockdale regarding the decision of using the farm assess value for purposes of the Measure 5 cap, if that is in conflict with the Measure 5 definition of market value. 201 ELIZABETH STOCKDALE explained the Constitution imposes limitation on the taxing power of government but the Legislature is free to impose greater limitations. Examples are given. 219 JIM SCHERZINGER clarified real market value is not being redefined but a limit is being created under the Measure 5 limit on the property. 229 REP. HOSTICKA asked if property use has been changed, what prevents defining taxes from years prior to the passage of Measure 5. 240 ELIZABETH STOCKDALE explained the first years would relate the taxes to which the limit did not apply. 248 JIM SCHERZINGER continued addressing the penalty issues as listed in Exhibit 6 relating to Section 246 in HB 2550. The notice of disqualification was discussed as well as the distribution in the unsegregated tax account.

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262 CHAIR JONES wanted clarification on the penalty rate in ORS 311.505. 266 JIM SCHERZINGER read Section 252 in HB 2550 which related to ORS 311 .505 which is the normal property tax rate of 12 percent plus the special 4 percent. 279 JIM SCHERZINGER continued discussing Section 246, Subsection 5 which deals with the lean priority to the property. ,284 REP. PARKINSON questioned if the lean would pertain to the particular property or could a lean apply to other assets. 292 ELIZABETH STOCKDALE explained the difference of what is addressed in Section 246 of HB 2550 and the lean of a private creditor. Questions are interspersed and the issue of fairness is addressed. 369 JIM

SCHERZINGER discussed the issue raised on penalty which is in Section 4, Page 5 of HB 2550 dealing with the Enterprize Zone exemption. An additional penalty is imposed if notification of exemption is not done. The statute does not change process. AOI has referred to this section as a penalty on a penalty. 420 GARY CARLSON voiced objection in Section 4 dealing with the Enterprize Zone. The problem relates to the terminology of "penalty. TAPE 108 SIDE A 010 CHAIR JONES explained the change would involve changing existing statute and if AOI is interested in bringing a change the committee would be willing to listen to any proposals. 022 CHAIR JONES discussed next week's agenda and adjourned the meeting at 10:53 A.M.

Mary Ann Zimmermann, Committee Assistant

Kimberly Taylor, Office Manager

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