

Tapes 193-194 (A/B) Tape 195 (A) Work Session: HB 3050 Informational: SB 814 HOUSE COMMITTEE ON REVENUE AND SCHOOL FINANCE . May 16, 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 Bev Clarno Representative Mike Nelson Representative Fred Parkinson Representative John Schoon Representative Jim Whitty Member Absent: Representative Kelly Clark Staff Present: Steve Meyer, Legislative Revenue Office Terry Drake, Legislative Revenue Office Linda Leach, Committee Assistant Witnesses Present: Gary Carlson, Association of Oregon Industries (AOI) David Canary, Attorney, Portland Jim Brown, Department of Revenue Jim Kenney, Department of Revenue Elizabeth Stockdale, Department of Justice TAPE 193 SIDE A 005 CHAIR JONES called the meeting to order at 8:16 as a subcommittee until a quorum was reached at 8:17. She conducted administrative business. WORK SESSION - HB 303 0 020 GARY CARLSON referred to Proposed Amendments HB 3050-1, 5/14/91 and reviewed meetings with the Department of Revenue. As a result of the meetings the scope of HB 3050 was reduced, but there was not agreement on key issues. The key issues where agreement was not reached were the definition of intangibles and the third party subpoenas dealing with industrial property valuation process. He reviewed in detail the Proposed Amendments HB 3050-1 and cross referenced original HB 3050 while pointing out changes. Exhibit 1 085 Questions and discussion relating to Section 4, subsection 2 of HB 305 0. . . 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 May 16, 1991 Page 2 098 DAVID CANARY reviewed examples of "available evidence". 128 DAVID CANARY reviewed language relating to "income and other data". 140 Questions and discussion regarding the value of industrial property. 170 GARY CARLSON reviewed Section 4, Subsection 3 of HB 3050 which is Section 6 of Proposed Amendments HB 3050-1 and relates to what value is ,the target for defending in litigation. He gave examples of changes to the value. Exhibit 1 190 REP. HOSTICKA noted his concern regarding if the Legislature can and should direct the court in terms of what the court may find as matters of fact. 200 Questions and discussion regarding Rep. Hosticka's concern. 236 GARY CARLSON reviewed Section 5 relating to an ombudsman which has been modified and is now Section 7 of HB 3050-1 proposed amendments. Exhibit 1 263 Questions and discussion regarding impact on rural counties and their options (ombudsman section). 306 Questions and discussion regarding definition of a "qualified county employee". 310 GARY CARLSON reviewed sections relating to the courts awarding attorney fees and costs to the prevailing party in property tax cases and referred to Sections 9 and 10 of Proposed Amendments HB 3050-1. AOI supports a 10% deviation percentage and the Department of Revenue supports a 20% range. Exhibit 1 365 Questions and discussion regarding 10% compared to 20% deviation range. 397 GARY CARLSON reviewed Section 7 of HB 3050 relating to appraisal report exchange (20 days prior to a hearing) which has been deleted and does not appear in Proposed Amendments HB 3050-1. Exhibit 1 404 GARY CARLSON discussed Section 8 of HB 3050 which is redrafted into Section 8 of HB 3050-1 and relates to the third party subpoena. New language is clearer and adds a new subsection 4 which he read. Exhibit 1

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words. For complete context of proceedings, please refer to the tape recording. House Committee on Revenue and School Finance May 16, 1991 Page 3 TA]PE 194 SIDE A 020 DAVID CANARY reviewed an Oregon Tax Court case, Simplot v. Department of Revenue relating to third party subpoena and a competition issue. Exhibit 2 - 068 Questions and discussion regarding restrictive language in Section 8 of HB 3050-1 proposed amendments. 075 Questions and discussion regarding acquisition of information by ,the Department of Revenue. 100 GARY CARLSON pointed out Section 9 of HB 3050 was deleted because of the narrowing scope of the subpoena power. AOI agreed to delete Section 12 of HB 3050. 121 GARY CARLSON explained that Section 13 is a key issue for AOI which relates to the statutory definition of exempt intangibles under the property tax system. He reviewed proposed specific language. Exhibit 1 158 Questions and discussion regarding definition of intangibles and what is considered "secret" and who determines what is "secret". 240 DAVID CANARY gave examples of how the Department of Revenue calculates the value of industrial properties (income from a product). 265 Questions and discussion regarding a tangible value of a machine v. a process. 301 Questions and discussion regarding a pending court case involving Boise Cascade and the Department of Revenue. 316 Questions and discussion regarding current statutes relating to intangible property definition. 336 REP. HOSTICKA was concerned with language "but not limited to". 357 Questions and discussion. 390 GARY CARLSON reviewed Section 14 of HB 3050 which he called the "Douglas County wood products section". He reviewed a taxpayer option of not agreeing to the income approach and described a punitive effort on the part of the Department of Revenue. Section 14 remains in the Proposed Amendments HB 3050-1 as Section 12. Exhibit 1 TAPE 193 SIDE B 010 Questions and discussion regarding financial statements requested by the Department of Revenue for calculation of value.

. . 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 May 16, 1991 Page 4 055 GARY CARLSON pointed out concerns relating to time and money in producing information requested by the Department of Revenue. 066 GARY CARLSON explained Section 15 of HB 3050 which relates to personal property delinquent tax collection which is Section 13 in Proposed Amendments HB 3050-1. He noted agreement between AOI and the Department of Revenue. Exhibit 1 086 GARY CARLSON explained why Sections 16, 17, 18 and 19 of HB 3050 were deleted. The effective dates are in Sections 14 through 17 of HB ,3050-1. Exhibit 1 100 Questions and discussion regarding committee procedure for dealing with HB 3050. 126 JIM BROWN reviewed meetings with AOI and noted that Proposed Amendments HB 3050-1 addresses some of the Department's concerns. He responded to proposed amendments which address something the Department "might" do. He explained what items may or may not be appropriate to request when appraising property. Exhibit 1 162 JIM KENNEY presented Fiscal and Revenue Impact of HB 3050 which is based on Proposed Amendments HB 3050-1. He noted a correction to Section 11 Intangible Property (the amount is too low based on proposed additions for intangibles from AOI). Exhibit 3 188 JIM KENNEY believed the general taxpayer would be hurt from Section 4, page 1 of Proposed Amendments HB 3050-1. He reviewed a process for value set on the role with data and an appeal process. He noted concern with the term "available" on line 11. Exhibit 1 207 ELIZABETH STOCKDALE reviewed a drafting problem with Section 4 of Proposed Amendments HB 3050-1. Exhibit 1 259 JIM KENNEY noted concerns relating to Section 6 in Proposed Amendments HB 3050-1 which he believed would limit the courts in finding real market value

and would affect the ability of the assessor. He gave examples. Exhibit 1 283 Questions and discussion regarding Section 6 (what is value, finding value bound by court, trending of property, appeals, physical appraisal). 346 Questions and discussion relating to fact finding and statutory limits. 376 JIM KENNEY commented on Section 7 of Proposed Amendments HB 3050-1 relating to an ombudsman. He noted an impact on the assessors office. Exhibit 1

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 May 16, 1991 Page 5 391 JIM KENNEY reviewed Section 8 of HB 3050-1 and explained why a third party subpoena could be necessary involving industrial property which is limited in scope and numbers. He noted that since 1989 the third party subpoena power has been used once (court case described by David Canary earlier). He commented on the Simplot case as being specialized and limited available information. Exhibits 1, 4 TAPE 194 SIDE B 010 Questions and discussion regarding the committee's concerns with subpoena power and an example of Lamb-Western, Inc. as a third party in the Simplot case. 141 ELIZABETH STOCKDALE pointed out that language on page 3, line 20 of HB 305 0-1 amendments may be too broad relating to industrial property information. Exhibit 1 162 ELIZABETH STOCKDALE pointed out typos in the section relating to attorney fees in HB 3050-1 (page 6). She pointed out that the proposed attorney fees would be paid out of an unsegregated tax account. 188 JIM KENNEY explained that the sections dealing with intangibles and financial statements are the most concern to the Department and have the largest effect on assessment of properties. He reviewed concerns and gave examples. He pointed out that throughout history real property has been the basis for assessment. The proposed language would change that basis to real estate only. 237 Questions and discussion relating to reasons behind the introduction of HB 3050 and the administrative adoption of a rule relating to intangibles. 309 ELIZABETH STOCKDALE reviewed issues relating to intangibles. She noted a fundamental difference as what is intangible property and what is real property. She referred to current litigation relating to the intangible issue. ELIZABETH STOCKDALE reviewed a related issue of appraisal methodology (cost approach, income approach and market data approach) and what a purchaser is willing to pay and what is taken into account (should the court decide). 361 CHAIR JONES conducted administrative business and gave twenty-four hour notice that HB 2419A would be reconsidered on May 17, 1991. TAPE 195 SIDE A INFORMATIONAL SB 814 (LONG TERM SCHOOL FINANCE) 038 TERRY DRAKE presented School Fund Formula and pointed out student weighting as the major force. Exhibit 5 -

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Questions and discussion interspersed relating to school finance simulations, details of components, transportation, replacement for ESD's and early intervention. 329 CHAIR JONES conducted administrative business and adjourned the meeting at 10:31. Linda Leach, Committee Assistant Kimberly Taylor, Office Manager

EXHIBIT SUMMARY 1. Proposed Amendments HB 3050-1, 5/14/91, Association of Oregon Counties - HB 3050 2. Oregon Tax Court, Simplot v. Department of Revenue, 5/8/91, David Canary - HB 3050 3. Fiscal and Revenue Impact of HB 3050, DOR, 5/16/91 - HB 3050 4. Administrative Subpoena, Lamb-Weston, Inc. v. Department of Revenue, 11/8/90, DOR - HB 3050 5. School Fund Formula (Working Group Update), School Finance Simulation # 6, LRO, 5/8/91 - SB 814 6. Testimony from Oregon AFL-CIO, 5/16/91 - HB 3050 7. 1991-93 Budget Balance, LRO, 5/15/91 - Miscellaneous 8. Reading Material, LRO, 5/16/91 - Miscellaneous

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