

Tapes 207-208 (A/B) Tape 209 (A) Work Session: HB 3050 HOUSE COMMITTEE ON REVENUE AND SCHOOL FINANCE May 28, 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: Steve Meyer, Legislative Revenue Office Linda Leach, Committee Assistant Witnesses Present: Gary Carlson, Association of Oregon Industries (AOI) Jim Brown, Department of Revenue Elizabeth Stockdale, Department of Justice Jim Kenney, Department of Revenue TAPE 207 SIDE A 005 CHAIR JONES called the meeting to order at 8:08 and conducted administrative business. WORK SESSION - HB 305 0 015 CHAIR JONES referred to Summary of Revised HB 3050 (-4) from AOI and she noted the issues are incorporated in Proposed Amendments HB 3050-4. Exhibits 1, 2 040 GARY CARLSON reviewed working group meetings and noted agreement on some issues with the Department of Revenue. He reviewed his Summary of Revised HB 3050-4. Exhibit 1 100 GARY CARLSON noted AOI agreed to withdraw the court award of attorney's fees and costs. 120 GARY CARLSON reviewed areas where AOI and the Department of Revenue do not agree. 1) Third party subpoena (Section 8) is too great a risk to taxpayers. 155 REP. CLARK described a scenario of a third party subpoena variation which would involve a hearing and a judge's approval prior to information made public.

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 28, 1991 Page 2 175 GARY CARLSON commented that the proposal presented by Rep. Clark was an improvement from the current situation allowing third party subpoena. He addressed issues of a competitive environment and gave examples. 190 GARY CARLSON explained Section 9 relating to intangibles is a key area where AOI and the Department of Revenue do not agree. He reviewed a difference of interpretation of what is an intangible. AOI proposes to use a standard definition of intangibles. 226 GARY CARLSON reviewed Section 10 which AOI and the Department of Revenue have not reached agreement. Section 10 relates to information requested under an income approach and limitation of same. He reviewed the proposed definition of financial statements from AOI. Another provision in Section 10 relates to an ability to opt out from the income approach for industry property. 279 GARY CARLSON explained two other issues where there is not agreement with the Department of Revenue. The initial roll value setting remaining unchanged and the limitation of the use of evidence in finding value. 288 Questions and discussion regarding appraisal rules and federal legislation which will require more appraisal standardization and possible conflicts with AOI proposals. 313 Questions and discussion regarding appraisal methodology (art v. science) and interpretation differences. 358 Questions and discussion clarifying that HB 3050 affects industrial taxpayers except the ombudsman section and Sections 4 and 6. 378 Questions and discussion regarding a federal law and certification of appraisers. 407 JIM BROWN reviewed how the Department of Revenue will present Proposed Amendments HB 3050-3, 5/27/91. Exhibit 3 TAPE 208 SIDE A 004 JIM BROWN explained Section 4 of AOI's issue list is not included in the proposed amendments from the Department of Revenue HB 3050-3. He provided examples of why Section 4 may be injurious to taxpayers. Exhibits 1, 3 026 Questions and discussion regarding policy relating to limitation of the use of evidence and the use of evidence in other sections of law. 130 Questions and discussion regarding language of "not available before June 30" in Section 4 of AOI amendments.

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140 Questions and discussion regarding availability of financial statements and timing of use by the Department of Revenue. 156 Questions and discussion regarding timing of evidence and cut off dates. 170 JIM BROWN reviewed Section 6 of AOI's issue list which is not included in the proposed amendments from the Department of Revenue HB 3050-3. He provided an example illustrating why the Department does not support Section 6. Exhibits 1, 3 198 Questions and discussion relating to if the Legislature can tell the court as to what the court can find as a matter of fact. Reference is made to Oregon's rules of evidence. 274 REP. HOSTICKA was concerned with Section 6 of AOI's proposed amendments relating to finding matters of fact. 285 JIM BROWN pointed out that Section 7 of AOI's issue list is found in Section 3 of Proposed Amendments HB 3050-3 from the Department of Revenue. Exhibits 1, 3 300 JIM BROWN related that the Department of Revenue will provide materials to the county assessors relating to Section 3 of HB 3050-3 and that this section affects all taxpayers. 330 Questions and discussion. 345 JIM BROWN explained a significant difference between the Department of Revenue and AOI relating to Section 8 (third party subpoena in industrial valuation). He reviewed a current court case Simplot v. Department of Revenue and reasons for a third party subpoena to Lamb-Weston. He referred to the Department's proposal in Section 4 of HB 3050-3. Exhibit 3 TAPE 207 SIDE B 001 JIM BROWN explained the effect of Section 4 of HB 3050-3 and when information from a third party subpoena would be available with limited guidelines. 019 Questions and discussion regarding the limited use of third party subpoenas (industrial valuation) by the Department of Revenue. 046 JIM BROWN reviewed Section 1 of HB 3050-3 which proposes a thorough analysis of appraisal methods and necessary information. 056 Questions and discussion regarding Section 4 of HB 3050-3.

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080 JIM BROWN reviewed the Department's concerns regarding third party subpoena language in AOI's HB 3050-4 proposed amendments. He referred to page 3, lines 11-17 language limiting ability. He noted on line 14 "valuation of that particular industrial property" may be too broad and gave examples. 095 ELIZABETH STOCKDALE reviewed potential problems with language on line 11 concerning industrial property. 108 JIM BROWN reviewed Section 9 from AOI summary list relating to the value of property and intangibles. He referred to a related court case Boise Cascade v. Department of Revenue. He noted the Department's proposal of an evaluation study in Section 1, page 1, line 5 of HB 30503. Exhibit 3 145 Questions and discussion regarding specific language in HB 3050-3 relating to the Boise Cascade court case. 157 JIM BROWN explained that Section 10 of AOI summary list is not included in the Department's proposed amendments. He gave an example of the Department's primary concern relating to a taxpayer opting out of the income approach method and a current consequence relating to use of economic obsolescence. He

reviewed another concern relating to Section 10 and limitation of financial information. He addressed a proposed study to work with industry relating to what is important in an appraisal and limiting requests by the Department. 204 Questions and discussion regarding limitations on the Department of Revenue during a study of intangibles and financial information. 213 Questions and discussion regarding reasons behind the development of HB 305 0. 238 Questions and discussion regarding possible inconsistencies with AOI amendments relating to available financial statements and various kinds of subpoenas. 327 Questions and discussion regarding determination of economic obsolescence. 360 JIM BROWN noted agreement with AOI's Section 11 of issue list and is Section 2 of HB 3050-3 proposed amendments. 371 JIM BROWN addressed a concern with an effective date in HB 3050-4 in Section 13 and a potential imbalance between parties who appeal and those who do not appeal. 390 Questions and discussion. 413 CHAIR JONES conducted administrative business and recessed the meeting at 9:32.

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TAPE 208 SIDE B 008 CHAIR JONES reconvened the meeting at 9:51 as a subcommittee until a quorum was reached at 9:55. Questions and discussion regarding committee procedure. 058 MOTION REP. CLARK moved adoption of Section 7 of Proposed Amendments HB 305 0-4, 5/27/91 (ombudsman). Exhibit 2 066 Questions and discussion regarding committee procedure. 081 Questions and discussion regarding the Department of Revenue providing information to the county assessors (within their current budget) to comply with Section 7. 091 ORDER There being no objection, CHAIR JONES so ordered. 098 MOTION REP. CLARK moved adoption of Section 11 of Proposed Amendments HB 3050-4, 5/27/91 (personal property tax collection procedures). 100 DISCUSSION 106 ORDER There being no objection, CHAIR JONES so ordered. 110 MOTION REP. CLARK moved adoption of Section 6 of Proposed Amendments HB 3050-4, 5/27/91 (limitation on ultimate adjudicated value to first value placed on the roll). 113 DISCUSSION 134 REP. HOSTICKA opposed Rep. Clark's motion and explained the Legislature should not direct courts in matters of fact finding. 154 REP. CLARK provided examples showing a precedent of finding fact. He believed value should be fixed in an area of dispute. 173 VOTE In a roll call vote, the motion failed (4-4). AYES: Reps. Whitty, Clark, Nelson, Jones. NAYS: Reps. Parkinson, Schoon, Burton, Hosticka. EXCUSED: Rep. Clarno. 184 MOTION REP. CLARK moved adoption of Section 4 of Proposed Amendments HB 3050-4, 5/27/91 (limitation on use of evidence). 194 DISCUSSION

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Page 6 214 REP. SCHOON believed Section 4 may impact a process for gathering evidence. 240 Questions and discussion regarding language of "not available" and evidence prior to June 30. 303 MOTION WITHDRAWN REP. CLARK withdrew his motion. 305 ORDER There being no objection, CHAIR JONES so ordered. 308 MOTION REP. CLARK moved Section 4 of Proposed Amendments HB 3050-4 with a conceptual amendment to read events or activities that occurred after June 30 and a

limitation of Section 4 to industrial property. 328 REP. CLARK explained reasons of a limit for industrial properties. 340 Questions and discussion. 345 . CHAIR JONES read Section 4 with conceptual changes proposed by Rep. Clark. 350 Questions and discussion regarding examples. 376 Questions and discussion regarding when financial information is available. 390 Questions and discussion regarding clarification of Rep. Clark's motion. 420 VOTE In a roll call vote, the motion failed (4-5). AYES: Reps. Whitty, Burton, Clark, Clarno. NAYS: Reps. Schoon, Nelson, Parkinson, Hosticka, Jones. TAPE 209 SIDE A 023 MOTION REP. CLARK moved adoption of Section 6 of Proposed Amendments HB 3050-4, 5/27/91 (previously failed). 030 VOTE In a roll call vote, the motion was adopted (5-4). AYES: Reps. Whitty, Clark, Clarno, Nelson, Jones. NAYS: Reps. Burton, Parkinson, Schoon, Hosticka. 036 MOTION REP. CLARK moved adoption of Section 9 of Proposed Amendments HB 3050-4, 5/27/91 (intangibles). 040 DISCUSSION

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