

Senate T&E Committee  
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SENATE LEGISLATIVE COMMITTEE  
ON TRADE AND ECONOMIC DEVELOPMENT

May 08, 1991Hearing Room 343  
3:00 P.M.State Capitol  
Salem, OR

Tapes 114 - 115  
Commodity Commission Contracting  
ORTDC Privatization  
County Revolving Loan Fund Authority  
Oregon Business Development Fund Modifications

MEMBERS PRESENT:           SEN. WAYNE FAWBUSH, CHAIR  
                                  SEN. SCOTT DUFF  
                                  SEN. JEANNETTE HAMBY  
                                  SEN. JIM HILL  
                                  SEN. PEG JOLIN  
                                  SEN. EUGENE TIMMS

MEMBERS EXCUSED:

STAFF PRESENT:            JOSEPH CORTRIGHT, EXECUTIVE OFFICER  
                                  TAMIRA MILLER, POLICY ANALYST  
                                  JERI CHASE, OFFICE MANAGER  
                                  HOLLY BROWN, COMMITTEE ASSISTANT

WITNESSES:JOHN MC CULLEY, ORCHARD GRASS COMMISSION/OREGON  
                                  PROCESSED VEGETABLE COMMISSION  
                                  JANE ARD, ASSISTANT ATTORNEY GENERAL, DEPARTMENT  
                                  OF JUSTICE  
                                  PHIL WARD, ASSISTANT DIRECTOR, DEPARTMENT OF  
                                  AGRICULTURE  
                                  JANE MARTIN, EMPLOYMENT DIVISION  
                                  SEN. JOYCE COHEN, DISTRICT 13  
                                  WAYNE EMBREE, DEPUTY DIRECTOR, OREGON RESOURCE  
                                  AND TECHNOLOGY DEVELOPMENT CORPORATION  
MICHAEL RYAN, EXECUTIVE ASSISTANT TO OREGON STATE  
                                  TREASURER  
                                  PETER THURSTON, LANE COUNTY  
                                  TERESA WILSON, ASSISTANT COUNSEL FOR LANE COUNTY

NOTE: These minutes contain materials which paraphrases and/or summarizes  
statements made during this  
meeting. Only text enclosed in quotation marks reports a speaker's exact  
words. For complete contents of the  
proceedings, please refer to the tapes.

TAPE 114, SIDE A

000 CHAIR FAWBUSH convenes the meeting at 3:18 p.m.

SB 1192 (Commodity Commission Contracting) - Work Session

013 CORTRIGHT: Reviews status of SB 1192. The interested parties were asked to address three issues:

1) continuing authority for Department of Agriculture to continue supervising contracts in the same manner as they have historically; 2) eliminating exemption for unemployment insurance purposes so the state remains in compliance with federal law; 3) narrowing scope of exemptions.

023 JOHN MC CULLEY: We did meet, as the Committee directed, with involvement from Employment Division, Executive Department, Department of Justice, Department of Agriculture, and some commodity commissions. The amendments are the agreement we have reached that address the three issues described above. The commissions are satisfied that this maintains the status quo. Present proposed amendments to SB 1192 (EXHIBIT A).

050 MOTION: SEN. JOLIN MOVES that the proposed amendments to SB 1192 (EXHIBIT A) be adopted.

052 VOTE: There being no objection, the above amendments are adopted.

054 CHAIR FAWBUSH: Is the Attorney General's Office agreeable to these amendments?

055 JANE ARD: There are a couple of legal effects of the bill that need to be pointed out. Because this is discretionary with the Commission those Commissions who currently have contractors can continue to have contractors.

071 CHAIR FAWBUSH: But if I am a Commission with employees those employees would be subject to ethics laws, etc. Why are we making this distinction?

073 ARD: This is being done so that Commissions that currently have independent contractors, rather than employees, can continue to have those contractors.

078 MC CULLY: We believe that does not change what existed prior to the AG's ruling. Those are the assumptions that Commissions had historically been operating under.

082 ARD: It does change some things because - as a general rule - independent contractors that perform any governmental function would be subject to the ethics law. This legislation would exempt them from that because they would no longer be a public official for purpose of Oregon law. That does have some affect on how things are currently, but it is legally permissible to do that.

099 PHIL WARD: The Department of Agriculture is satisfied with these amendments (EXHIBIT A).

100 JANE MARTIN: We have an opinion from the Department of Labor that our concerns are also satisfactorily addressed by these amendments (EXHIBIT A).

110 MOTION: SEN. JOLIN MOVES SB 1192, as amended, to the Senate Labor Committee by subsequent referral, with a Do Pass recommendation.

120 VOTE: Passes, 4-0. Voting AYE: SENATORS DUFF, JOLIN, TIMMS, and FAWBUSH.  
EXCUSED: SENATORS HAMBY and HILL.

SB 1172 (ORTDC Privatization) - Public Hearing and Work Session

125 SEN. JOYCE COHEN: Submits Proposed -3 amendments to SB 1172 (EXHIBIT B). SB 1172, with - 3 amendments, would free the Oregon Resource and Technology Development Corporation. It would become a private entity under the management of the Oregon Investment Council according to the criteria and mission in the original statutes which would remain. Therefore, the mission of the ORTDC would remain the same. This would also include a network to match private investors with local businesses. I think the ORTDC has been the most successful entity created since I have served in the Legislature. They have done what they were assigned and they have a quality reputation in the venture capital industry and their targeted business group. We expected them to be self-sufficient after seven years if we provided them with a \$25 million base. They have done their best to achieve that self-sufficiency even though we have only provided them with \$8 million. We now have a choice of investing \$2 million more or allowing them to be private and raise capital in other ways. If they do not receive additional funding, their function would be only managing the portfolio they currently have because all of the past biennium's funds have been committed. This does not make sense to me. They would no longer have the capacity to address new ideas, new research, etc., to expand Oregon companies. This is an opportunity to keep the funds we have invested tied to the intent, with management by the Oregon Investment Council which would continue to allow us to evaluate their performance. There are very few other existing venture capital firms addressing their funds to fulfill a mission like we have established for ORTDC. If this bill does not pass, we need to try to allocate additional lottery funds for this agency this biennium.

230 SEN. JOLIN: Have you thoroughly reviewed the Proposed -3 Amendments?

233 SEN. COHEN: Yes. We have chosen the ORS sections that apply to ORTDC that we thought would be appropriate to retain. This agency was very time-consuming to initiate and it was difficult to convince the Legislature that should be done. It has been a very good thing and we would like the funds invested to continue to fulfill the established mission while allowing for new investment.

263 SEN. TIMMS: Would they be under contract with the Oregon Investment Council?

270 SEN. COHEN: The Investment Council has committed a certain amount of their funds for venture capital use (approximately \$150 million), but those are firms throughout the country.

285 SEN. TIMMS: This would be the first government-created entity I have ever seen divested from government. That would be nice to see it happen.

291 SEN. DUFF: I have a concern that by tying them to the Oregon Investment Council we could be tying their hands worse than they are now.

294 SEN. COHEN: That was a concern of ours also. That is the reason that we want to retain the statutory mission. That is as clear as we could get. The Legislature has had a "hands off" position in terms of direction to the Investment Council. We would be giving them the stewardship of \$8 million within ORTDC for the purpose of management according to statutory guidelines. That is as clear as we can make it and I am comfortable with it.

314 SEN. DUFF: Would that apply only to the \$8 million? Not to interest earnings or increased funds?

319 SEN. COHEN: The profits from the \$8 million will also be included. Funds that ORTDC, if privatized, would privately generate would not be included under the statutory mission. That would be separately managed by ORTDC, not the Investment Council. The bill also stipulates that if, for any reason, the Investment Council, were to make the decision to dissolve the fund, oversight authority would return to the State for purposes of the original mission.

387 SEN. DUFF: There is no guarantee in this proposed legislation that the Investment Council will contract with ORTDC for management of these funds.

396 SEN. COHEN: If the Investment Council were to determine that the ORTDC was not doing the job correctly, they would have the authority to find a better manager of these funds. This is a risk but there is no way to guarantee that ORTDC will always exist.

424 SEN. HAMBY: How would the original \$8 million (including profits, interest etc.) and any other privately-generated funds be separated out?

428 SEN. COHEN: Venture capital firms manage various different pieces of money. I would assume that the ORTDC group will manage the bulk of these funds. We have been advised that this can be done by the Governor's Office, Treasurer, and Oregon Investment Council members.

470 WAYNE EMBREE: Presents Proposed -3 Amendments (EXHIBIT B). Submits "ORTDC Investments" (EXHIBIT C).

TAPE 115, SIDE A

030 EMBREE: Continues presentation of EXHIBIT B.

194 EMBREE: Concludes presentation of EXHIBIT B.

196 SEN. HILL: Would you still be a provider of seed capital? Does this legislation assure that you will continue with this purpose?

200 EMBREE: Yes. Section 3 of EXHIBIT B requires this. This is a clear competitive advantage to us in Oregon. We have good working relationship with researchers throughout the state - a lot of work that does not necessarily result in investment. There are several venture capital firms that are having difficulties currently in raising funds and I think that is because they are too general in scope. Investors are looking for competitive advantage. We have that. We understand research and development investment and seed capital investment.

223 MOTION: SEN JOLIN MOVES the adoption of the Proposed -3 Amendments to SB 1172.

VOTE: There being no objection, the amendments are adopted.

226 MICHAEL RYAN: We have reviewed these amendments. This would mark a different direction for the Oregon Investment Council. One of the provisions for this mission has not been the exercise of the Investment Council is the "prudent person" rule.

260 RYAN: During the yearly evaluation of the Oregon Investment Council there is a significant study conducted of asset allocation percentages of their entire portfolio. This venture capital function is part of that evaluation. This is a lengthy extensive review. We were wondering if we could have the effective date for this legislation delayed until after this review (in approximately seven months). If it were effective July 1992, this would give the Council members ample time to become educated about this fund.

270 CHAIR FAWBUSH: What is the effective date proposed in this bill?

271 SEN. COHEN: Page 4, Line 15, says "October 1, 1991". He wants to postpone that for nine months. I think it is too long.

277 CHAIR FAWBUSH: Waiting nine months is too long. We need to start this so they can begin to secure new capital. I would think you could do this.

283 RYAN: The October 1, 1991 operative date for management contracts could begin as soon as possible. I do not see anything in the legislation that requires the Investment Council to contract with the current operators of the corporation.

294 CHAIR FAWBUSH: We cannot tell you who to contract with. That would not be ethical. You can

choose the contractor. We are just assuming they are going to be competitive.

302 SEN. COHEN: You do not have to do an extensive search to do the first contract. You are going to evaluate the portfolio annually. It is not going to hurt you to open this up for public bid but for the first year you would not be expected to advertise nation-wide. It may be more comfortable for you to take more time, but I think you could do it in those timeframes.

327 SEN. TIMMS: The only thing you will be required to do is to contract with a venture capital firm to manage this portfolio. How often does the Oregon Investment Council meet?

333 RYAN: The Council ordinarily meets monthly. Under rare circumstances (during the evaluation period) twice monthly.

335 SEN. TIMMS: And you would be investing only the \$8 million currently in the corporation. What we are doing is providing \$8 million for a venture capital firm that is contracted for by the Oregon Investment Council to manage these funds.

343 SEN. COHEN: There will be no excess funds to work with. The portfolio is already invested in companies. You do not have \$8 million new funds. I do not understand why any delay is needed to do this for this year.

355 RYAN: This is a shift of management responsibility to the Oregon Investment Council; a shift of assets and liabilities. The Investment Council researches its investments very carefully. The dollar amount of this venture capital fund might seem small in relation to the Council's whole portfolio but the overall responsibility and management oversight of it would shift to the Oregon Investment Council very rapidly if the operative date is October.

387 SEN. DUFF: You have a deadline for your portfolio evaluation? Is that what you are saying?

394 RYAN: No. We have an annual discussion on percentages within the portfolio that are invested in certain activities.

399 SEN. DUFF: It would seem to me that the faster you could hire a firm to manage this portfolio, the simpler your "discussion" would be. You would only then be evaluating the firm that manages the portfolio, rather than each individual case. We do not intend for you to evaluate each individual company. Is that your concern?

413 RYAN: The Council would be have to accomplish an RFP process very quickly to establish the management firm for the oversight of this portfolio. That would have to happen very quickly if a contract would be signed by October 1.

426 SEN. TIMMS: What is the advantage to you of waiting?

430 RYAN: It would fit well with the evaluation of the Oregon Investment Council's policies, direction, and management of assets and liabilities. This is a new look for the Council - new enterprises within Oregon, seed money, not governed by prudent person rule. A very different philosophy to meld into the Council.

454 SEN. DUFF: It sounds to me like you want to evaluate each of these investments individually besides evaluating the investment firm. Is that correct?

461 RYAN: What we are attempting to do is merely have this fit with the operations of the Oregon Investment Council and State Treasury as smoothly as possible.

471 SEN. HAMBY: Why can we not accommodate the Treasurer's Office and delay the operative data? What would happen if we did?

472 CHAIR FAWBUSH: That would be almost a year before the change is made. We cannot allocate any lottery funds for the ORTDC this biennium. They cannot raise funds from the private sector. So they will be waiting for one year for more money. I cannot believe the Treasurer's Office cannot adapt an \$8 million program into their \$8 billion portfolio. They are professionals. This program would stand alone. I think you are being too cautious and sounding like you don't want to do this. We want to send the program there and get it started so more capital can be acquired.

TAPE 114, SIDE B

030 CHAIR FAWBUSH: That is my sense. This is too ponderous for an agency that does such a good job with the \$8 billion you already have.

040 SEN. TIMMS: They would be taking over a government-run corporation. We are going into a new area that already has a lot of controversy. October is soon, what about an effective date of January 1? This is a change - taking over a government corporation. I am not sure how involved I would want to be with this portfolio the more I look at it.

060 SEN. JOLIN: I am comfortable with the October date and I am confident that the Treasurer's Office can accomplish this. I think delaying hurts the opportunity you have before you rather than helping it.

076 MOTION: SEN. JOLIN MOVES SB 1172, as amended by the Proposed -3 Amendments, to the Senate Floor with a Do Pass recommendation.

082 SEN. COHEN: We are not expecting them to manage the money. The longer you wait the longer you leave the ORTDC board up in the air with their plans. There is certainly some risk involved.

104 SEN. DUFF: Calls for the question.

099 VOTE: Passes 6-0. All members voting AYE.

SB 1001 (County Revolving Loan Fund Authority) - Public Hearing and Work Session.

117 PETER THURSTON: Presents written testimony (EXHIBIT D) in support of SB 100 1. Submits Proposed -1 Amendments to SB 1001 (EXHIBIT E).

150 MOTION: SEN. JOLIN MOVES Proposed -1 Amendments be adopted.

151 VOTE: There being no objection, the Proposed -1 Amendments are adopted.

152 CHAIR FAWBUSH: Do we need to do this?

154 TERESA WILSON: There is potential conflict with the investment statutes for counties. From the borrower's viewpoint a loan is an investment for the lender. There is currently no clear authority for counties to make loans to private businesses. Rather than be on the wrong side of those investment statutes and have auditors issuing citations, we recommend this action. It removes audit problems risk. There is also good public purpose by having the purpose stated in advance of making any loans.

170 SEN. TIMMS: Almost all of my counties currently have a revolving loan fund. Are you saying those programs are illegal?

171 WILSON: I am saying there is the risk of audit citation. We have had questions about our doing that.

177 SEN. HAMBY: Would it broaden what counties are currently doing?

178 WILSON: Not to my knowledge.

180 MOTION: SEN. JOLIN MOVES SB 1001, as amended by the -1 Amendments, to the Senate Floor, with a Do Pass recommendation.

182 VOTE: Passes 6-0. All members voting AYE.

HB 2338 (Oregon Business Development Fund Modifications) - Public Hearing and Work Session

190 CORTRIGHT: Presents Staff Measure Summary on HB 2338 (EXHIBIT F).

215 SEN. DUFF: This has been a useful program in my district.

221 MOTION: SEN. DUFF MOVES HB 2338 to the Senate Floor with a Do Pass recommendation.

225 VOTE: Passes 6-0. All members voting AYE.

223 CHAIR FAWBUSH adjourns the meeting at 4:32 p.m.

Submitted by,

Jeri Chase  
Office Manager



EXHIBIT SUMMARY

EXHIBIT A -SB 1192, Proposed Amendments to SB 1192, submitted by John McCulley, 2 pages

EXHIBIT B -SB 1172, Proposed -3 Amendments to SB 1172, submitted by Sen. Joyce Cohen, 11 pages

EXHIBIT C - SB 1172, ORTDC Investments: 1987 - April 1991, submitted by Wayne Embree, 1 page

EXHIBIT D - SB 1001, Written testimony, submitted by Peter Thurston, 1 page

EXHIBIT E - SB 1001, Proposed -1 Amendments to SB 1001, submitted by Peter Thurston, 1 page

EXHIBIT F - HB 2338, Staff Measure Summary on HB 2338, submitted by Joe Cortright, 2 pages

Senate T&E Committee  
May 8, 1991, 4:30 p.m.  
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SB 562 - WKS

SENATE LEGISLATIVE COMMITTEE  
ON TRADE AND ECONOMIC DEVELOPMENT

May 08, 1991Hearing Room 343  
4:30 P.M.State Capitol  
Salem, OR

Tapes 116 - 117  
Lottery Allocation

MEMBERS PRESENT:           SEN. WAYNE FAWBUSH, CHAIR  
                                  SEN. SCOTT DUFF  
                                  SEN. JEANNETTE HAMBY  
                                  SEN. JIM HILL  
                                  SEN. PEG JOLIN  
                                  SEN. EUGENE TIMMS

GUEST MEMBERS                REP. RAY BAUM, CO CHAIR  
REP. MARGARET CARTER, VICE CHAIR  
REP. JERRY BARNES  
REP. CEDRIC HAYDEN  
REP. VERA KATZ  
REP. DAVE MCTEAGUE  
REP. BOB PICKARD

MEMBERS EXCUSED:

STAFF PRESENT:               JOSEPH CORTRIGHT, EXECUTIVE OFFICER  
                                  TAMIRA MILLER, POLICY ANALYST  
                                  JERI CHASE, OFFICE MANAGER  
                                  HOLLY BROWN, COMMITTEE ASSISTANT

WITNESSES:

NOTE: These minutes contain materials which paraphrases and/or summarizes statements made during this meeting. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

TAPE 116, SIDE A

000 CHAIR FAWBUSH convenes the meeting at 4:35 p.m.

SB 562 (Lottery Allocation) - Work Session

009 CORTRIGHT: Presents "Proposed Amendments to SB 562/HB 2614 Staff Rough Draft -- May 8, 1991" (EXHIBIT A) and Trade Committee Adopted Lottery Allocation -- May 8, 1991" (EXHIBIT B).

138 MOTION: CHAIR FAWBUSH MOVES to adopt EXHIBIT A.

139 VOTE: There being no objection, EXHIBIT A is adopted.

140 SEN. JOLIN: Will we have the actual Legislative Counsel amendments at a later meeting?

141 CHAIR FAWBUSH: We would like to get them drafted and just move the bill out. I would like to pass the bill out in concept at this meeting.

147 SEN. JOLIN: For the record to establish intent, I want to note that in Section 8, of the \$1.5 million for Key Industries, \$200,000 will be tied to SB 1208 for telecommunications policy.

170 CHAIR FAWBUSH: I have met with the community college personnel and agreement has been reached on amendments governing community college equipment expenditures. "Proposed Amendments to Community College Equipment Allocation" (EXHIBIT C) submitted.

178 MIKE HOLLAND: Begins testimony on EXHIBIT C. I assure both Committees that if these amendments are adopted we will adhere to them and assure that expenditures from Lottery funds for equipment during 1991-93 will follow a more rigorous and tightly controlled process.

190 MOTION: REP. CARTER MOVES the adoption of EXHIBIT C.

VOTE: There being no objection, the amendments are adopted.

214 REP. PICKARD: I have an uneasy feeling of pressure. On Page 2, Section 12, as it relates to the Agricultural Opportunity Fund, is this agricultural research or marketing or both? I am concerned that the entire amount will go for field burning. If it is research and marketing, what are the proportions?

237 CHAIR FAWBUSH: This amount is for research and marketing. That will be up to the Department of Agriculture.

244 REP. PICKARD: That is not acceptable. My proposal would be nothing for research and \$1.5 million for marketing.

248 CHAIR FAWBUSH: We have a set of adopted amendments and if a member would like to move to amend those the bill has not yet moved and that would be in order.

252 CHAIR BAUM: I do not think we can move on a substantive issue that has been decided in a previous meeting.

254 CHAIR FAWBUSH: The process in a legislative committee is that if there is a bill in work session in front of the committee a committee member is entitled to make a motion of any character. Even if the issue has been discussed and voted any number of times. I will allow any

member to raise a question  
and amend a bill if it is properly in front of a committee and noticed.  
What is REP. PICKARD's  
suggestion?

284 REP. PICKARD: Ideally, I would like to see none of the funds go for  
field burning research.  
Realistically, I would like a breakdown formula included.

293 CHAIR FAWBUSH: In discussion with the Department of Agriculture, they  
would like to see the  
research funds dedicated to the CARR program - an existing structure that  
they would have control  
over. If this were amended to say that "\$1 million of the \$1.5 million is  
dedicated to research as  
designated by the CARR Board of the Department of Agriculture, and \$500,000  
would be at the  
discretion of the Department for either research or marketing efforts" that  
amendment would be  
acceptable to the Department.

306 MOTION: REP. PICKARD MOVES that the \$1.5 million lottery allocation for  
agriculture  
be broken out into \$500,000 for research and \$1 million for marketing.

VOTE: Fails on both sides. Voting AYE: REP. CARTER and REP. MC TEAGUE;  
SENATOR  
JOLIN. Voting NAY: REP. BARNES, HAYDEN, MC TEAGUE, AND BAUM; SENATORS  
DUFF, HAMBY, HILL, TIMMS, and FAWBUSH. EXCUSED: REP. KATZ.

324 SEN. HAMBY: Vote Explanation: We have to consider the fact that this  
bill will be moving to the  
Ways and Means Committee.

336 SEN. TIMMS: Did we make decisions on hard and soft allocations? Are  
there quarterly hard and soft  
allocations?

342 CORTRIGHT: There are three levels: 1) the back-out list which is tied  
to video lottery; 2) everything  
else on the list is subject to proportional reduction, except for; 3) the  
hard allocations to light rail and  
pay-off of prison Certificates of Participation. The allocation will be  
done under rules adopted by the  
Executive Department (which is identical to the procedure adopted by the  
198 9-91 Legislature) and rules  
provide for up-front allocation (prisons and light rail) and the remainder  
will get proportions. For cash  
flow reasons some programs will only get their funding during second,  
third, fourth, sixth, seventh, and  
eighth quarters of biennium.

379 CHAIR FAWBUSH: Last biennium we had more of a listing of hard and soft  
items. This time we are  
saying that prisons and light rail are "hard" and everything else is  
reduced proportionally in the event  
of lottery revenues that fall short of the forecast.

385 SEN. HILL: We have reached an agreement on what this package should  
look like. I hope that this

Committee will stick together in trying to keep it intact through the process through the Ways and Means Committee.

420 CHAIR FAWBUSH: The more specificity added before this goes to Ways and Means, the better off we will be. I would like a clear understanding on the \$1.5 million to the Department of Agriculture - that this will go to an existing structure (CARR Board) with allocation restrictions.

450 MOTION: CHAIR FAWBUSH MOVES that for the \$1.5 million for agriculture, \$1 million goes into the CARR fund to be allocated in normal manner; \$500,000 would be unspecified and could be used either for the Agricultural Opportunity Fund or for further research.

476 VOTE: There being no objection, the above motion passes.

480 MOTION: REP CARTER MOVES SB 562/HB 2614, as amended, to the Committee on Ways and Means (by prior reference) with a Do Pass recommendation.

487 REP. BARNES: Just to note, the section numbers in EXHIBIT C need to be corrected.

TAPE 117, SIDE A

026 VOTE: Passes 12-0. All members present voting AYE. EXCUSED: REP. KATZ.

039 CHAIR FAWBUSH: Adjourns meeting at 5:05 p.m.

Submitted by,

Jeri Chase  
Office Manager

#### EXHIBIT SUMMARY

EXHIBIT A -"Proposed Amendments to SB 562/HB 2614 Staff Rough Draft -- May 8, 1991, submitted by Joe Cortright, 10 pages

EXHIBIT B -"Trade Committee Adopted Lottery Allocation -- May 8, 1991, submitted by Joe Cortright, 1 page

EXHIBIT C - "Proposed Amendments to Community College Equipment Allocation", submitted by Tami Miller, 1 page