

MEASURE: HB 2562
EXHIBIT: P
HOUSE REVENUE COMMITTEE
DATE: 4/19/2011 PAGES: 2
SUBMITTED BY: LAURIE WIMMER

Date: April 19, 2011
To: House Revenue Committee, CO-chairs Berger and Barnhart, and Members
From: Laurie Wimmer, OEA Government Relations
RE: *Capital Gains Tax Cuts*

On behalf of OEA's 45,000 members, I respectfully submit testimony in strong opposition to the enactment of special tax treatment for the realization of a capital gain in Oregon tax law. This is, plain and simple, a tax break for the wealthy that Oregon can ill-afford with its \$3.5 billion revenue shortfall and a grim future ahead in terms of cuts to education and other vital services that our citizens value.

The research literature is clear: most plans to reduce capital gains taxes simply enable individuals -- generally wealthy tax subjects -- to avoid paying taxes on this form of income, but it does not provide economic stimulus, job creation, or business development incentives.

Some have argued that a reduction that favors investments made in Oregon would be viable because it would induce investment here. We disagree. Assuming that the Interstate Commerce Clause of the U.S. Constitution is enforced, Oregon-only investing would never be possible. Multi-state corporations could easily manipulate the law, too, by shifting their reported investments "on paper". Oregon would not be able to assume that investments claimed are truthfully "Oregon" investments unless a huge enforcement and regulatory operation is invested in by the state to ensure compliance.

Finally, there would be no way to ensure that only labor-intensive investing would occur, instead of capital-intensive investing. Put another way, you couldn't likely structure a capital gains tax cut that would reward only the investor who buys or creates an Oregon car wash, for instance, that employs 10 people to hand-wash cars. More likely, if an Oregon investment is made at all, it would be to mechanize the 10-worker car wash, thereby laying off seven of the employees because the new capital investment has reduced the cost of -- and need for -- labor. Your Oregon-only capital gains tax cut will have just rewarded the elimination of 70 percent of that business's workforce. ***Not all capital gains tax cuts are created equal.***

If you do ultimately move forward with some sort of cap-gains tax break, we ask you to do so carefully. Think of a jobs-stimulus-intended capital gains tax cut law as a contract with corporations doing business in Oregon. Ask yourself the following questions:

- What should be the *quid pro quo* for the state's significant lost revenue?
- How will we be assured that good jobs will result from the benefit's inducement to make qualifying investments?
- What recourse will the state have if a taxpayer does not invest as required but claims the cap-gains tax cut nevertheless?

We would argue that Oregonians expect good stewardship of their public weal. It would be bad stewardship to offer this tax break without a structural guarantee of accountability and transparency. With this thought in mind, we suggest that any rate reduction or subtraction you may consider should have the following features:

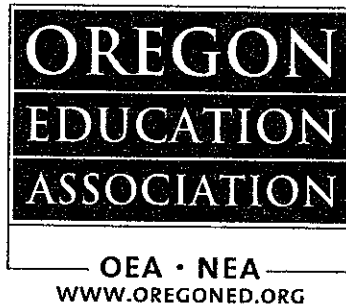
1. A reporting, certification, tracking, and enforcement process must exist and be used.
2. Sanctions, including claw-back provisions, must be tied to the rate cut.
3. Corporate disclosure ought to be a feature of this rate cut, because the public deserves to know where their resources are being invested.
4. If possible, incentives to target investment in areas of the state hardest hit by the economic decline ought to be prioritized.
5. A taxpayer must demonstrate that qualifying investments create jobs at Oregon's prevailing wage level. The tax break must be economically efficient on a cost-per-job basis to be defensible.
6. Any rate reduction must be tied to the successful passage of kicker reform at the ballot box.
7. The cut ought to reward investments made subsequent to the enactment and effective date of the tax-cut legislation. Investments made prior to the rate reduction would not qualify – clearly no inducement was required for past capital purchases to be made and so awarding a cut to such investments constitutes only windfall tax-liability avoidance with no beneficial policy outcome for the state or its workforce.

With thousands of teachers and other education employees about to lose their jobs due to Oregon's revenue shortfall, it's difficult to even contemplate passing a tax break for affluent individuals and companies doing business in Oregon. **The most modest capital gains tax break would still have a \$25 million revenue impact to Oregon in the next two years. That amount would save 267 teaching jobs.**

We would prefer that you leave the capital gains rate at its current level, which will automatically decrease in two years without your action on any bill.

Because so many Oregonians are still unemployed, we know that it is this committee's hope to find a strategy to induce investment and job-creation to put more of our people back to work. We want that too, but as one wise person once said, **"Hope is not a strategy."** We need a proven job-creation strategy in Oregon, not just wishful thinking.

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MEASURE: HB 2730
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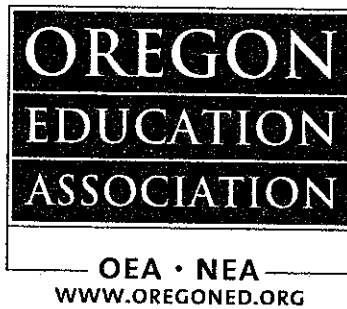
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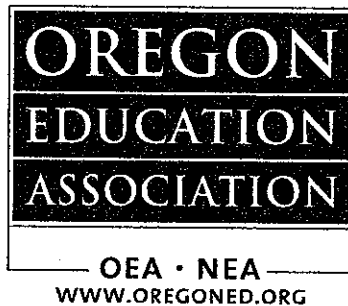
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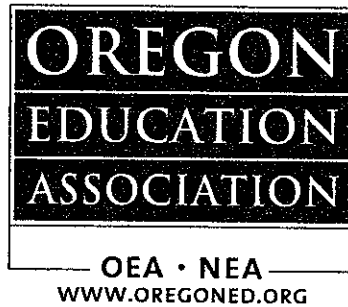
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MEASURE: HB 3296
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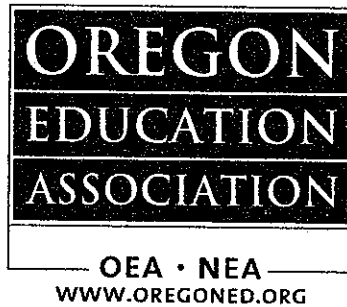
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