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Testimony of Pete Shepherd

On Behalf of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians

Senate Finance & Revenue Committee -- February 22, 2012

HB 4041A

The Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (CTCLUSI) support HB 4041A. We also support the –A5 amendments. HB 4041A provides a flexible framework within which Tribal governments can add to stocks of low-income housing under the same conditions as local governments perform the same governmental function.

We own land in Florence, Oregon that we intend to develop for low income housing. Like similar projects undertaken by public housing authorities, we intend to enter into a partnership with a for-profit partner to finance and construct the project. The financing partner typically is a limited partner; the tribe is a general partner. If the CTCLUSI were a unit of local government instead of an Indian Tribal government, the ground and the final project would be exempt from property tax under ORS 307.092. That exemption encourages private, for-profit developers to form partnerships with units of local government and public housing authorities. Under current law neither the ground under our project nor the resulting final structure will be exempt.

HB 4041A equalizes the tax treatment of our proposed project. If we undertake a public-private partnership for a project to be used "exclusively for low income housing," and we satisfy *all* three requirements of lines 9 – 13 of page two of HB 4041A, and we meet *all* three of the "governmental service" requirements of lines 21 – 36 on the same page, and we submit a timely claim to the county tax assessor as required by ORS 307.112 and ORS 307.162 as amended in the bill, then our project will be exempt from property taxation. Lines 1-2 of page one of the –A5 amendments make it clear that if we instead undertook the project through the alternative mechanism of a nonprofit corporation, then we would *also* be required to satisfy the requirements of ORS 307.540 to 307.548 (which apply to nonprofit corporations developing low income housing and limit the availability of the property tax exemption).

We supported amendments rendered by the House Revenue Committee that address fears of unbridled exploitation of the tax expenditure authorized for low income housing. The –A5 amendments further address this concern. The tax expenditure attributable to properties rendered exempt by HB 4041A and now owned by the CTCLUSI totals approximately

\$16,000 per annum. The checks and balances imposed by the bill and the –A5 amendments include:

- Tribal housing projects are ineligible unless they are located in a county in which more than 10 percent of the enrolled members of the tribe reside. For the CTCLUSI, this means the low income housing exemption applies only in Lane and Coos Counties. Page 2, lines 12 – 13 of HB 4041A.
- For low income housing projects effectuated through a non-profit corporation, the availability and extent of the exemption depends on approval by local taxing districts. Page 2, line 8 of HB 4041A; same rule clarified and emphasized on page two, lines 1-2 of the –A5 amendments.
- Tribes claiming any of the exemptions must notify the local assessor so that the assessor can make appropriate inquiry testing the claim of exemption. Page 3, line 5 of HB 4041A; page 4, line 2 of HB 4041A.
- If the use changes from any exempt use to non-exempt, the tribe must notify the Assessor within 30 days. Page 3, line 39 of HB 4041A; page 4, line 41 – 44 of HB 4041A. By definition, property becomes taxable once the foundation for the exemption is eliminated.
- Tribes claiming the low income housing exemption are required by page one, lines 5 – 17 of the –A5 amendments to report annually to the Legislative Commission on Indian Services the percentage of enrolled members residing in the project. The report must also include the value of the exemption.
- Low income housing projects that have not been commenced before July 1, 2017 will not be eligible for the exemption – unless, of course, a future Assembly has removed this “sunset” provision. See, page three, lines 2 – 4 of the –A5 amendments.

The risks and rewards of this measure received careful legislative scrutiny in the 2011 session. During the interim, Rep. Bentz gave generously of his time to address the perceived shortcomings in the bill’s previous incarnation. The House Committee and its staff, with continued direct personal involvement of Rep. Bentz and his colleague Rep. Conger, has conducted during this session a further examination of the issues.

With the –A5 amendments, HB 4041A would create functional equivalence between the tax treatment of low income housing projects sponsored by tribal governments and the treatment of low income housing projects sponsored by other governments serving Oregonians. We respectfully ask that the Committee move the –A5 amendments and send the amended bill to the floor with a “do pass” recommendation.