



2009 LEGISLATIVE SESSION

Taxes...Taxes...Taxes...A billion dollar session

While the current biennium shortfall in revenue to achieve a Constitutionally required balanced budget was filled with grabs from various pots of money, agency cuts and federal stimulus dollars, the projected shortfall of approximately \$4 billion in the next biennium led to revenue raising measures that were passed with the help of Democrat super-majorities in both the House and Senate.

To balance the general fund budget:

Corporate Tax

HB 3405 raises business taxes for profitable companies from the current rate and also creates a sliding scale increase to the alternative "corporate minimum tax" now set at \$10. Currently 6.6%, the corporate tax rate will be raised to 7.7% in 2009-2010, then adjusted down to 7.6% for 2011-12. After 2012, the rate will return to 6.6% for taxes on profits under \$10 million, but the rate will remain 7.6% for all profits over \$10 million and revenue will be dedicated to the Rainy Day Fund. The sliding scale for the alternative corporate minimum tax (for those companies that are not profitable) will be a minimum tax of \$150 for companies under \$500,000 in annual sales revenue, up to \$100,000 for companies with sales of \$100 million or more. HB 3405 also alters corporate filing fee structures to garner \$325 million for Oregon.

Personal Tax

HB 2649 raises personal income tax rates for individuals who earn \$125,000 per year, or households that earn \$250,000, to 10.8 percent. This increase means that Oregon will be tied with Hawaii for having the highest personal income tax rate in the nation. HB 2649 also increases the rate of taxation on S-corps and LLCs. This tax is retroactive to the beginning of the current tax year.

Together, these bills are expected to raise \$733 million in the next biennium.

To pay for health care:

HB 2009 establishes universal health care for Oregon. It establishes the Oregon Health Authority and transfers health functions to Authority from the Department of Human Services, Oregon Health Fund Board and Oregon Health Policy Commission. The plan is to be paid for with HB 2116 revenue.

HB 2116 creates a tax on insurance premiums, increases hospital provider tax, creates a tax on medical claims received by the Public Employees Benefit Board (PEBB), and creates a tax on capitation payments to Medicaid managed care plans. The Act is expected to raise \$433 million in increased and new taxes. The taxes are designed to help bring into Oregon an additional \$2 billion in federal Medicaid matching money over the next few years in order to pay for the expanded public health insurance coverage established in HB 2009.

To improve the transportation infrastructure:

HB 2001 (Jobs and Transportation Act) increases dedicated gas tax and automobile fees to improving our transportation infrastructure. Understand that the Oregon Constitution does not allow these taxes and fees to be placed in the general fund to be used for such things as schools and public safety. Any auto related revenue must be used for transportation related purposes.

To raise almost \$300 million in the next biennium and \$600 in the subsequent 2011-13 biennium, the Act increases vehicle title fees (from \$55 to \$77), vehicle registration fees (from \$27 to \$43), motor fuel taxes (from 24 cents to 30), weight-mile taxes, identification card renewal and replacement (plus \$10), replacement registration plate fees, temporary permit fees and customized registration plate fees.

Advocates say the bill will create 4,600 new construction jobs, reduce road congestion, improve safety, enhance freight mobility, and modernize Oregon's transportation system.

The Jobs and Transportation Act allocates \$300 million per year for road maintenance, preservation, safety, and modernization. Thirty percent of those funds will go to counties and twenty percent will go to cities for local streets. In addition, \$100 million in bonds will fund Connect Oregon 3 multi-modal projects including rail, marine, air, and transit. The Act also includes an additional \$3 million per year for bike-pedestrian projects and \$24 million per year for other non-road multi-modal projects.

NACM LEGISLATIVE REPORT

HB 2067 PASSED

Creates or adjusts sunset provision for certain personal income or corporate excise tax credits not required.

WHAT THE MEASURE DOES:

Assigns most income and corporate excise tax credits one of three sunset dates – January 1 of 2012, 2014, or 2016. (Excludes the personal exemption credit, the credit for taxes paid to another state, the claim of right income credit, and the corporation surplus refund credit.) Allows taxpayers claiming the rural medical credit at the time of sunset to continue claiming the credit for an additional ten years. Creates a default sunset date for new tax credits of six years after the credit is first effective unless statute specifies a different date or states that no sunset is required.

BACKGROUND:

Most tax credits are included in the Governor's biennial Tax Expenditure Report, which generally includes an evaluation by a state agency that has program expertise related to the credit's policy purpose. For credits that are scheduled to sunset in the subsequent biennium, the Governor recommends whether that tax credit should have its sunset date extended or be allowed to sunset. Roughly half of the existing tax credits have a sunset date. The table below shows how the credits are categorized in the bill. In some cases, the sunset date contained in the bill is December 31 of a given year; for the sake of brevity and clarity, these are included here as January 1 of the subsequent year. For example, December 31, 2013 is treated as equivalent to January 1, 2014.

January 1, 2012

Film Production Development Contributions
Qualified Research Activities
Qualified Research Activities (Alternative)
Long-term Rural Enterprise Zone*
Electronic Commerce Enterprise Zone
Water Transit Vessel Manufacturing
Crop Gleaning
Riparian Lands Removed from Farm Production
Diesel Truck Engines (New)
Diesel Truck Engines (Retrofit and Repower)
Fish Screening
Alternative Energy Devices (Residential)
Alternative Fuel Stations
Business Energy Facilities
Energy Conservation Lender's Credit
Biofuel Consumer Credit
Biodiesel Used in Home Heating
Production or Collection of Biomass
Reforestation
Fire Insurance
Workers' Compensation Assessments

January 1, 2016

Costs in-lieu of Nursing Home Care
Long-Term Care Insurance
Disabled Child
Elderly or Permanently Disabled
Loss of Limbs
Severe Disability
Public University Venture Development Fund
Child and Dependent Care
Working Family Child Care
Employer Provided Dependent Care Assistance
Devices Child Care Division Contributions
Individual Development Account Contributions
Individual Development Account Withdrawals
Oregon Life and Health IGA Assessments
TRICARE Health Care Providers
Oregon Veterans' Home Physician

January 1, 2014

Reservation Enterprise Zone
Youth Apprenticeship Sponsorship
Contributions of Computer Equipment
Employer Provided Scholarships
Earned Income Credit
Rural Medical Practice
Volunteer Rural Emergency Medical Techs
Farmworker Housing Construction
Farmworker Housing Lender's Credit
Oregon Affordable Housing Lender's Credit
Mobile Home Park Closure
Political Contributions
Oregon Cultural Trust
Retirement Income

*Certification for this credit is related to property taxes, so the sunset date is technically June 30, 2014.

HB 2070

FAILED

Increases corporate minimum tax levied on C corporations with business activity in state.

HB 2071

FAILED

Increases fees for recording or filing certain documents with county clerk.

HB 2073

PASSED

Modifies conditions under which Legislative Assembly may appropriate moneys from Oregon Rainy Day Fund.

WHAT THE MEASURE DOES:

Directs revenue collected from corporate income and excise tax rates above 6.6% to the Oregon Rainy Day Fund. Directs Department of Revenue to estimate collections resulting from corporate rates above 6.6% prior to the end of each biennium and then deposit estimated amount into Oregon Rainy Day Fund on or before June 30 of each odd numbered year. First applies to the 2013-15 biennium.

BACKGROUND:

In 2007, the Legislature established the Oregon Rainy Day Fund. The Rainy Day Fund received a one-time injection of corporate income tax revenue in September of 2007 based on a suspension of the corporate surplus kicker credit. Other revenue sources for the fund under current law are the General Fund ending balance up to 1% of prior biennium appropriations and interest earnings on the fund's balances. HB 2073A would add a potential revenue source for the Rainy Day Fund for periods after 2013 in which corporate income and excise tax rates exceed 6.6%

HB 2089

FAILED

Requires corporation and limited liability company to appoint records custodian to keep certain records.

HB 2147

FAILED

Establishes program in Department of Revenue under which state agencies making payments to person may set off amount of debt person owes department or other public body from payment.

HB 2148

FAILED

Oppose

Allows transfer of liability to and assessment of liability against reorganized business entity where predecessor entity owed debt to state agency.

HB 2191

PASSED

Authorizes Director of Department of Consumer and Business Services to register persons that provide debt management services.

HB 2199

PASSED

Authorizes Director of Department of Consumer and Business Services to set different fees for different financial institutions and to share information with federal agencies that regulate financial institutions.

WHAT THE MEASURE DOES:

Authorizes Department of Consumer and Business Services (DCBS) to share information with Financial Crimes Enforcement Network. Grants department certain authority to ensure that financial institutions comply with federal regulations. Revises provisions related to fees paid to department by financial entities and licensees. Revises provisions related to department's calculation of discount rate. Eliminates 30-day posting requirement for consumer finance license applications. Repeals regulations governing savings associations. Declares an emergency; effective on passage.

BACKGROUND:

House Bill 2199A addresses numerous issues related to the DCBS regulation of financial entities and consumer finance licensees. The measure provides for certain information sharing with the federal Financial Crime Enforcement Network, enabling federal and state authorities and personnel to jointly counter financial criminal activity. HB 2199A also repeals unnecessary statutory provisions relating to savings associations and includes various amendments requested by financial service associations.

HB 2287

PASSED

Establishes Judicial System Surcharge Account.

WHAT THE MEASURE DOES:

HB 2287 extends the sunset on existing filing fee surcharges from June 30, 2009 to September 30, 2009. The bill establishes temporary surcharges on a variety of filing fees. The bill also establishes several temporary fees, and increases the amounts charged based on the value claimed by a plaintiff in civil cases. All of the surcharges and fees are temporary, and are effective October 1, 2009 through June 30, 2011. The bill creates a Judicial System Surcharge Account, and all fee and surcharge revenue collected from July 1, 2009 through June 30, 2011 is deposited into this new account, with the exception of that raised by local Justice of the Peace, municipal, and county courts. The measure would raise an estimated \$39.6 million in surcharge and new fee revenue. The measure has an emergency clause and requires 3/5th vote for passage. All the surcharges and fee amounts would be statutorily established and be temporary with a June 30, 2011 sunset. The bill provides for an initial distribution of up to \$10 million from the Judicial System Surcharge Account contingent on funds being available in the Account. These funds would be distributed on a 65%/35% basis to the Judicial Department and the Public Defense Services Commission. Any further distribution would require Legislative action, which is anticipated to include an allocation of \$275,000 for backfilling General Fund reductions related to the Council on Court Procedures and the Oregon Law Commission. The bill establishes an Interim Committee on State Judicial System Revenues, with staff support provided by the Legislative Fiscal Office (LFO), Legislative Committee Services, and the Judicial Department. The Committee will make recommendations on Judicial Department fees, fines and surcharges, and recommend distribution of the temporary fee and surcharge revenue to justice system entities.

BACKGROUND: Justice System agencies are facing General Fund budget reductions that could affect access to justice. The Co-Chairs of the Joint Committee on Ways and Means convened a work group consisting of civil and defense trial lawyers, the Oregon Bar Association, representatives from collections and victims rights associations, the Oregon Judicial Department, and legislators to identify temporary surcharges that could be collected to partially restore these reductions. The distribution will be made by the legislature in a supplemental session, based on recommendations from the Interim Committee on State Judicial System Revenues, the revenue available, and the judicial system needs identified during the interim. Also identified was the need to simplify the arcane fee structure of the Judicial Department.

HB 2300

FAILED

Support

Requires certain collection agencies to maintain business office and keep certain records within this state.

HB 2301

FAILED

Support

Raises allowable fee for dishonored check from \$25 to \$35.

HB 2302

FAILED

Authorizes county or city to seek reimbursement from person committed to local correctional facility any time after persons release.

HB 2306

ORIGINAL BILL - FAILED:

OPPOSE

Allows Oregon resident filing for bankruptcy to either claim exemptions established by federal law or claim exemptions established by state law.

REPLACEMENT BILL – PASSED

WHAT THE MEASURE DOES: Increases amount for vehicle and homestead exemption in bankruptcy proceedings. Adds floating and manufactured homes to exemption. Declares emergency, effective on passage.

BACKGROUND: Currently vehicles valued up to \$2,150 and home valued up to \$30,000 for a single homeowner and \$39,600 for two or more debtors are exempted in bankruptcy proceedings. HB 2306A increases the vehicle exemption to \$3,000 and homestead exemption to \$40,000 and \$50,000. In addition, HB 2306A applies the exemption to floating and manufactured homes. The exemption was last raised in 2005.

HB 2307

PASSED

Oppose

Provides that person soliciting, collecting or attempting to collect claim owed or due another person is not collection agency unless debt is owed to other person at time of solicitation, collection or attempt to collect.

WHAT THE MEASURE DOES:

Excludes from definition of collection agency person assigned debt without obligation to pay assignor any proceeds of debt collection. Includes in definition of collection agency person soliciting, collecting or attempting to collect claim if claim is owed at time person solicits, collects or attempts to collect claim.

BACKGROUND: House Bill 2307 addresses an issue raised by *In re Krysl*, a bankruptcy case in which the judge prohibited an unregistered debt buyer from collecting a debt and allowed the debtor to recover attorney fees and costs. The court in *Krysl* indicated that the debt buyer needed to register with the Department of Consumer and Business Services. In cases of outright sale of debt, there is no ongoing agreement between the debtor and the debt collector for the state to monitor and no need for the debt buyer to be registered. HB 2307 statutorily removes the requirement created by case law.

HB 2366

FAILED

Oppose

Establishes Residential Structure Lien Assistance Fund.

HB 2368

FAILED

Oppose

Prohibits person from providing or offering to provide debt management service in return for money or other consideration.

HB 2371

PASSED

Support w/ amendments

Restricts situations in which private entities may read or store information that is electronically retrieved from individuals driver license, driver permit or identification card.

WHAT THE MEASURE DOES:

Prohibits, with certain exceptions, private entity from swiping individual's driver license or identification card. Prohibits, with certain exceptions, storing, sharing or selling information electronically retrieved from driver license or identification card. Limits data that may be electronically retrieved and collected. Allows use of certain transmitted data to prevent fraud or other criminal activity. Allows governmental entity to swipe driver license or identification card if license or card is knowingly provided, lawfully confiscated or obtained in certain emergency situations. Provides exception for certain actions by person regulated under federal Fair Credit Reporting Act. Allows wireless or telecommunications entity to swipe license or card with individual's permission. Allows collection of certain personal information by wireless or telecommunications entity for purpose of establishing or maintaining contract. Allows manual collection of information if individual refuses swiping. Allows swiping of license or identification card pursuant to court rule. Provides certain monetary and equitable relief for violation of provisions. Requires award of reasonable costs and attorney fees to prevailing plaintiff. Allows increase up to three times award if court finds violation willful or knowing.

BACKGROUND:

Information can be electronically retrieved and collected from state-issued driver licenses, permits and identification cards. House Bill 2371B provides parameters and procedures for the collection, retention and exchange of information retrieved from an individual's license, permit or identification card.

HB 2373

FAILED

Provides that person engages in unlawful practice when in course of persons business, vocation or occupation person employs unlawful collection practice.

HB 2393

PASSED

Support

Increases fees collectible by sheriff for serving legal documents and performing other civil duties.

WHAT THE MEASURE DOES:

Increases fees collectible by sheriff for serving legal documents and performing other civil duties. Requires establishment and maintenance of website for purpose of posting legal notices relating to writs of execution issued to sheriffs if all sheriffs in this state enter into intergovernmental agreement to establish and maintain website. Specifies procedures by which challenges to notices of garnishment issued by state agencies are provided to sheriffs. Requires the law enforcement agency seizing certain property for forfeiture to hold the property rather than delivering it to the sheriff. Makes fee changes effective on January 1, 2010.

BACKGROUND:

In addition to being the chief law enforcement officer for a county, sheriffs perform other functions such as the service of summons, subpoenas and other legal documents in civil and criminal matters. They also serve as the legal custodian of seized illegal gambling devices and boats and fishing gear used illegally. This bill changes a number of sheriff's service fees: it increases (1) fees collectible by sheriff for serving legal documents and performing other civil duties from current \$28 to \$36, (2) the fee for serving an additional party at the same address from \$15 to \$20, (3) the fee from \$47 to \$70 for seizure and sale of property pursuant to a writ of execution or judgment of restitution or other writ of attachment or execution, (4) the fee for a conveyance of real property from \$15 to \$30, and (5) the fee for delivery of a writ of garnishment from \$15 to \$25. Some of the fees have not changed since 1981.

HB 2479

FAILED

Authorizes civil action against person who submits false claim paid directly or indirectly by state.

HB 2480

FAILED

Clarifies that doctrine of contributory negligence is abolished.

HB 2481

PASSED

Prohibits agreement for transfer of real property that reserves right to payment or profit upon, or as condition or result of, future transfer of fee simple interest in property.

WHAT THE MEASURE DOES:

Prohibits conveyance of or agreement for transfer of real property that imposes fees or other consideration upon actual or purported future transfer of the property. Allows certain exceptions to prohibition. Declares an emergency; effective on passage.

BACKGROUND:

Private transfer fees in real property transactions are increasing in many states. A transfer fee is a type of restriction on a deed or a provision in covenants, conditions and restrictions (CCRs) requiring that a fee be paid to a specific person or entity each time the property is sold. With limited exceptions noted in the measure, House Bill 2481B prohibits the imposition of private transfer fees in real property transactions in Oregon.

HB 2584

PASSED

Modifies antitrust laws so that person with indirect dealings with adverse party may sue and recover treble damages.

WHAT THE MEASURE DOES: Allows plaintiff to bring antitrust lawsuit if plaintiff is an indirect purchaser.

Allows Department of Justice lawsuit to be deemed superior to a private plaintiff's suit, if the department files an action within thirty days on behalf of the same class of people.

BACKGROUND: In 1977, the U.S. Supreme Court decided Illinois Brick which held that only a direct purchaser could bring a lawsuit for an antitrust violation. Since that time 23 states have passed laws allowing indirect purchasers to sue for antitrust violations. In 2001, Oregon passed a partial repeal of the Illinois Brick rule by allowing the Attorney General's office to bring cases on behalf of consumers. HB 2584A allows indirect purchasers, including consumers and businesses, to file lawsuits for alleged antitrust injuries.

HB 2585

PASSED

Repeals Oregon Rule of Civil Procedure prohibiting class action for recovery of statutory minimum penalties for violations of Unlawful Trade Practices Act, federal Truth in Lending Act and similar statutes.

WHAT THE MEASURE DOES:

Repeals the prohibition on class actions for unlawful trade practices, Truth in Lending Act, and similar lawsuits. Applies retroactively unless a judgment was entered before the date of enactment. Declares emergency, effective upon passage.

BACKGROUND: Oregon Rules of Civil Procedure (ORCP) K states that a class action lawsuit cannot be brought for the recovery of statutory minimum penalties for any class member as provided in ORS 646.638, the unlawful trade practices act, or 15 U.S.C. 1640(a), the Truth in Lending Act, or any other similar statute. HB 2585A repeals ORCP K. Oregon’s unlawful trade practices act, ORS 646.638, allows recovery for actual damages or \$200, whichever is greater. The Truth in Lending Act 15 USC §1640(a) allows recovery of a minimum penalty of \$100 and a maximum penalty of \$1,000. (For credit secured by real property the limits are \$200 minimum and \$2000 maximum.)

HB 2631

FAILED

Oppose

Provides that consumer contract may not contain provision to renew contract for additional term automatically or unless consumer declares intention to terminate or not renew contract.

HB 2648

FAILED

Reduces amount of federal income tax deductions and state tax credits allowable in calculation of state income or excise tax by 10 percent.

HB 2649

PASSED

Establishes 7.5 percent Oregon alternative minimum tax for taxpayers with federal adjusted gross income exceeding \$125,000.

WHAT THE MEASURE DOES:

Increases personal income tax rates on higher-income households. Creates a 10.8% tax bracket for joint filers with taxable income between \$250,000 and \$500,000 (between \$125,000 and \$250,000 if single) and creates an 11% tax bracket for joint filers with income above \$500,000 (above \$250,000 if single); applies to tax years 2009 through 2011. Reduces top rate to 9.9% for joint filers with income above \$250,000 (above \$125,000 if single) for tax years 2012 and later. Phases out the federal tax subtraction for joint filers with adjusted gross income above \$250,000 (above \$125,000 if single). Excludes up to \$2,400 of unemployment compensation for tax year 2009. Becomes effective 91 days following sine die.

BACKGROUND:

The measure came to the Joint Committee on Ways and Means from the House Revenue Committee, where it was one of several options considered for raising revenue. The personal income tax was created in 1929 for the primary purpose of property tax relief. The tax rates ranged from 1% to 5%. The top rate was applied to income above \$8,000 for joint filers and \$4,000 for single filers. The highest rate of 11.6% was in place for 1955 and 1956 and applied to income above \$10,000 (joint) or \$5,000 (single); from 1982 to 1984 the top rate was 10.8%, and for 1985 and 1986 the top rate was 10% - all applicable at \$10,000 (joint) or \$5,000 (single). The current 5%-7%-9% structure has existed since 1987 and was adopted in response to a significant change in federal taxes that occurred in 1986 that essentially broadened that tax base so that rates could be reduced.

REVENUE IMPACT:

	Fiscal Year		Biennium		
	2009-10	2010-11	2009-11	2011-2013	2013-2015
General Fund	\$230	\$242	\$472	\$375	\$379

Most of the revenue impact comes from the higher marginal tax rates – about 92 percent. The remaining eight percent is due to the phase-out of the federal tax subtraction. The leveling of the revenue impact in the latter two biennia is due to the reduction in the top rate to 9.9% beginning with the 2012 tax year. The 2009-11 impact includes a revenue reduction of roughly \$32 million due to the exclusion of unemployment compensation.

HB 2858

FAILED

Adds state and federal tax identification numbers to personal information subject to provisions of Oregon Consumer Identity Theft Protection Act.

HB 2900

FAILED

Modifies circumstances under which moneys in Oregon Rainy Day Fund may be appropriated.

HB 2919

FAILED

Requires amounts paid that exceed amount due in consumer loan installment and additional payments made in installment period to be first applied to reduce principal of loan.

HB 3044

FAILED – see HB 2631

Oppose

Increases homestead exemption from \$30,000 to \$75,000 for individual debtor.

HB 3095

FAILED

Creates income tax credit for capital improvements to business facilities or homes that are commenced prior to later of September 1, 2009, or effective date of Act.

HB 3111

PASSED

Restricts award of attorney fees in civil action brought by private party to prevailing plaintiff unless action is frivolous.

WHAT THE MEASURE DOES:

Changes award of attorney fees from prevailing party to prevailing plaintiff in unlawful trade practices cases.

Allows defendant to recover attorney fees if a court finds that plaintiff had no objectively reasonable basis for bringing the lawsuit.

BACKGROUND:

Under the Unlawful Trade Practices Act, the Oregon Attorney General has broad powers to bring a lawsuit for actions such as employing unconscionable tactics in connection with the sale, rental or other disposition of real estate, goods or services, or in the collection or enforcement of an obligation, or in failing to deliver all or any portion of real estate, goods or services as promised. Private parties can sue for only the many actions listed in ORS 646.608 such as passing off real estate, goods or services as those of another. Current law states that a court may award reasonable attorney fees to the prevailing party. HB 3111 A limits the attorney fee award to the prevailing plaintiff unless the court finds that plaintiff had no objectively reasonable basis for bringing the action.

HB 3125

FAILED

Specifies earliest date for filing claim against construction contractor for unpaid labor or materials.

HB 3152

FAILED

Provides that reduction in, restriction or limitation on, or charge or fee imposed in connection with provision of item or service due to consumer under terms of warranty is void and of no effect unless manufacturer, distributor, retailer or seller discloses reduction, restriction, limitation, charge or fee.

HB 3168

FAILED

Limits punitive damages in civil action to amount not to exceed three times amount of economic and noneconomic damages awarded to plaintiff in action.

HB 3169

FAILED

Provides that individual who brings action to recover damages for ascertainable loss of money or property resulting from unlawful practice must prove actual damages measured by difference between amount paid for good or service and market value of good or service received.

HB 3189

FAILED

Establishes maximum withholding limit of 25 percent of obligors disposable monthly income when obligors disposable monthly income falls below federal poverty level.

HB 3358

FAILED

Prohibits financial institution from selling, sharing, transferring or otherwise disclosing consumers personal financial information to nonaffiliated party without consumers explicit prior consent.

SB 50
PASSED

Sets uniform deadline of 180 days for notices of claim made on contractors payment bond in connection with work performed on public contract.

WHAT THE MEASURE DOES:

Extends the deadline for notice of claim from a laborer or supplier on public contracts from 120 to 180 days following the last day labor or furnished materials were provided, and extends the deadline for notice of claim for a required contribution to an employee benefit plan from 150 to 200 days. Declares an emergency, effective upon passage.

BACKGROUND:

One of the provisions in Oregon's Public Contracting Code requires public improvement general contractors to provide payment bonds equal to the full contract price for the protection of persons providing labor or furnishing materials on such contracts. Contractors and subcontractors are also required to file a \$30,000 public works bonds with the Construction Contractors Board (CCB) for the purpose of paying unpaid prevailing wages as determined by the Bureau of Labor and Industries (BOLI).

The deadline for filing notice of claim against construction bonds is tied into the last day of work for each individual worker on a project. Because construction workers rarely participate on a project for identical periods of time, BOLI frequently receives complaints on projects where the 120-day filing deadline is imminent for some workers, but not for others. SB 50-A extends the notice of claim filing deadline from 120 to 180 days, providing additional time for resolving complaints without filing claim notices on contractors' bonds, and filing more accurate claim notices when necessary. The measure also extends the notice of claim deadline for an employee benefit plan from 150 to 200 days after the last worker performed work on a project.

SB 60
PASSED

Authorizes Bureau of Labor and Industries to charge respondent on certain claims actual fees incurred in collection of judgment.

WHAT THE MEASURE DOES:

Allows the Bureau of Labor and Industries (BOLI) to recover collection fees and full wages or damages owed to a complainant when BOLI uses the Department of Revenue for collection action. Allows BOLI to charge the respondent collection fees and full wages or damages owed due to either court order or a final order. Amends civil rights and wage and hour laws to provide for recovery of collection fees and full wages or damages owed to the complainant. Limits authority to collect fees, and wages or damages owed, to proceedings in which BOLI has obtained judgment and all appeals have been exhausted.

BACKGROUND: The Bureau of Labor and Industries (BOLI) has jurisdiction over wage claims and civil rights violations, which can result in judgments for wages or penalties owed to a complainant and are the result of either the issuance of a court order or a final order issued by the bureau in a contested case proceeding. BOLI has the authority to refer a judgment against a respondent to the Department of Revenue or a private collection agency for non-payment. Current law allows BOLI to charge respondent fees incurred in the collection of a judgment if a private collection agency is used, but does not allow a respondent to be charged for incurred fees if the Department of Revenue is used to collect on the judgment. SB 60 provides BOLI with the ability to recover the collection fees incurred, and full wages and damages owed, if BOLI refers collection to the Department of Revenue. The measure does not alter the bureau's current ability to recover collection fees when using a private collection agency.

SB 93
PASSED

Allows State Court Administrator to enter into intergovernmental agreement with United States Financial Management Service and Internal Revenue Service for purpose of offsetting federal tax refunds to collect liquidated and delinquent accounts of state courts and commissions, departments and divisions in judicial branch.

WHAT THE MEASURE DOES:

SB 93 relates to collection of delinquent accounts and is effective on passage. The measure would allow the Oregon Judicial Department (OJD) to enter into an intergovernmental agreement with the federal government to intercept federal tax refunds to offset debt owed to OJD for past-due liquid and delinquent accounts for crime victim restitution payments, compensatory fines, other fines, costs, and assessments. The revenue and fiscal impact of this measure is dependant upon the passage of federal legislation and an agreement reached between the state and the federal government.

BACKGROUND:

Oregon Revised Statute (ORS 1.204) establishes a Judicial Department collections and revenue management program including a Judicial Department Collections Account. The purpose of the program and the account is the collection of amounts owned the state that is subject to collection by the Judicial Branch of government. In general, collections are for past-due crime victim restitution payments, compensatory fines, other fines, costs, and assessments. The Department has recently begun intercepting state tax refunds to pay these obligations. A delinquent account moves through a progressive series of collection efforts as defined by each Circuit Court. In general, these steps include: Circuit Courts late payments notices (up to

SB 93...

one year); referral of an account by the Circuit Court to the Department of Revenue (DOR) for collection (up to one year); referral to a private collections firm (up to two years); and finally, a Circuit Court may refer an uncollected item to the Judicial Department's central staff for their attempt at collection.

FISCAL IMPACT:

The fiscal impact of this measure, as with the Legislative Revenue Impact, is dependant upon the passage of federal legislation and an agreement reached between the state and the federal government. If this measure was to become law at both the state and federal level, and an agreement was reached, OJD estimates that it would need to hire four limited duration Collections Specialists to update any balance changes to individual collection accounts and three limited duration Collections Specialists to process payments received from the tax refund intercept. The Department's 2009-11 cost, which is based on a September 1, 2009 start date, is estimated at \$647,632. The 2011-13 biennium cost will increase to \$863,509. By statute (ORS 1.204), the Judicial Department's administration of the revenue management program is reimbursable on an actual cost basis, which is based on a flat percentage of collected revenue. This percentage must be adjusted periodically to reflect actual program costs. The current administrative percentage is 8%.

SB 182

PASSED

Modifies definition of "financial organization" for corporate excise and income tax purposes.

WHAT THE MEASURE DOES:

Adopts a uniform definition of a "financial institution" and replaces the two definitions currently in statute. Effective for tax years beginning on or after January 1, 2009.. Applies to tax years that are subject to appeal, adjustment, audit, or refund for certain entities.

BACKGROUND:

Because of the two definitions currently in statute, there is the potential for different tax treatment for entities that may be functionally similar to each other but fit into the different definitions. This policy would treat certain corporations that are not considered financial institutions under current law (e.g. a credit card company) as financial institutions.

SB 203

PASSED

Makes construction contractor obligation to provide Construction Lien Law information notice to owner applicable only for construction that requires written contract.

WHAT THE MEASURE DOES:

Makes Oregon lien law consistent with Construction Contractors Board (CCB) statutes by establishing the same threshold requirement of \$2,000 for a written contract, and providing the "Information Notice to Owner" about construction liens. Increases renewal period for an expired license and authorizes CCB to sanction exempt independent contractors who hire employees. Requires that written residential contracts contain a list of notices and eliminates contradictory language.

BACKGROUND:

In 2007, the legislature enacted ORS 701.305(1) requiring a written contract for residential construction if the aggregate contract is greater than \$2,000. The contract must contain the "Information Notice to Owner" required by ORS 87.093. The "Information Notice to Owner" explains the pertinent provisions of the state's Construction Lien Law and the rights and responsibilities of the property owner and contractor. Oregon's lien law currently requires that contractors performing residential construction provide an "Information Notice to Owner" when the aggregate contract price exceeds \$1,000 (ORS 87.093(4)). SB 203-B creates a singular threshold requirement for a written contract and for providing the "Information Notice to Owner." CCB licenses two types of contractors: exempt and non-exempt (ORS 701.035). An exempt independent contractor cannot hire employees because it does not carry workers' compensation insurance. In 2007, several statutes involving license discipline were rewritten, and the previously held authority to sanction exempt independent contractors was inadvertently omitted. SB 203-B restores the authority to the CCB. A written contract for a residential structure is currently required to contain summaries of consumer notices (ORS 701.305) that must be provided on or before the date that the written contract is signed. SB 203-B replaces the required summaries with a list of required notices.

SB 240
PASSED

Provides that certain documents in judicial proceedings contain only last four digits of debtors Social Security number and driver license number.

WHAT THE MEASURE DOES:

Limits use of Social Security and driver's license numbers to the final four digits in judgment documents and liens and limits required information to birth year instead of birth date. Limits use of Social Security numbers to the last four digits in writs of garnishment. Provides for disclosure of full social security to garnishee if needed to identify debtor. Protects garnishee from liability for mistakes when relying on the last four digits of Social Security number. Declares emergency. Applies to documents recorded after effective date.

BACKGROUND:

Currently, there is confusion about what information is allowed or required to be placed in judgment documents and writs of garnishment. This bill seeks to balance the needs of financial institutions to have accurate information and the needs of the general public for protection from identity theft.

SB 266
FAILED

Provides that civil action is commenced for purposes of statutes of limitation when complaint is filed with court.

SB 268
PASSED

Support

Authorizes Chief Justice of Supreme Court to make rules relating to data that state courts may require to be submitted by parties for purpose of distinguishing particular persons from other persons with same or similar name.

WHAT THE MEASURE DOES:

Authorizes the Chief Justice to require persons before the court to submit data in such a way that the information supplied allows the court to distinguish one person from another. Allows the Chief Justice by rule to exclude from disclosure the information received unless good cause is shown that the information should be disclosed.

BACKGROUND:

ORS 1.002(2) allows the Chief Justice to make rules for the use of electronic transfer of information to the courts including the electronic filing of information by parties to lawsuits and other matters before the court. It is the goal of the court, to the fullest extent possible, to operate in a paper-free manner. The courts call the conversion to this process its eCourt Program.

SB 270
PASSED

Authorizes Chief Justice of Supreme Court to establish procedures for closing courts in emergencies and establish standards for determining when courts are closed for purposes of rules and laws.

WHAT THE MEASURE DOES:

Clarifies that the Chief Justice has authority to establish procedures for closing courts in emergencies. Clarifies that the presiding judge of a circuit has similar authority. Allows the Chief Justice to authorize courts to waive or suspend the court fee added on a judgment and authorizes recovery of more of the costs associated with collecting judgments. Requires clerk of court to file a motion or response with the court only if the party filing the motion or response has paid the appropriate filing fee. Allows a judge to waive sheriff's fee under ORS 21.410(1)(a) for service of process if the judge finds that the party is unable to pay the fee. Clarifies that a supplemental judgment may only contain provisions not included in the general judgment, except for judgments under ORS 416.880. Specifies type of judgment entered against a garnishee. Requires the court to issue a judgment rather than an order dismissing the accusatory instrument. Clarifies that an appellate record in a juvenile dependency or delinquency case is confidential, but that the appellate court decision is not. Section 3 of the bill expands the uses of the Collection Referral Assessment account to include some information technology programming costs, time spent reconciling data, and spent managing third party collections accounts

BACKGROUND:

SB 270A contains technical fixes to various statutes and the amendments introduced in the House Judiciary Committee for the most part clarified the original bill. However, the -5 amendment was introduced to respond to issues raised by the Hamblen case and clarify that juvenile court records remain confidential on appeal.

SB 312
FAILED

Oppose

Prohibits Secretary of State from disclosing street address of principal place of business of business entity by means of website or by other electronic means accessible via Internet to members of public.

SB 328
PASSED

Oppose

Provides that person engages in unlawful practice when in course of persons business, vocation or occupation person employs unlawful collection practice.

WHAT THE MEASURE DOES:

Subjects persons who violate the Unlawful Debt Collection Practices Act to the provisions of the Unlawful Trade Practices Act.

ISSUES DISCUSSED:

- Current remedies for violation of Unlawful Debt Collection Practices Act (UDCPA)
- Remedies available under the Unlawful Trade Practices Act (UTPA)
- Willful vs. unintentional violation
- Enforcement by the Department of Justice
- Participation in multi-state action against out-of-state collectors
- Alternative regulation by the Department of Consumer and Business Services

BACKGROUND:

Debt collection is not currently subject to the provisions of the state's Unlawful Trade Practices Act (UTPA). While an individual may take legal action against a debt collector for violating the Unlawful Debt Collection Practices Act, the Attorney General has no authority to take such action. SB 328 provides the Department of Justice with the authority to enforce debt collection laws in Oregon under the UTPA and to participate in multi-state suits against out-of-state debt collectors.

SB 386
FAILED

Oppose

Provides that attempt or threat to enforce right or remedy or collect debt that person knows or has reason to know does not exist is unlawful collection practice.

SB 474
FAILED

Eliminates taxes on capital gains.

SB 536
PASSED

Prohibits state from expending funds to comply with federal Real ID Act of 2005 unless certain requirements are met.

WHAT THE MEASURE DOES:

Prohibits state agencies from expending funds to implement the federal Real ID Act of 2005 unless sufficient federal funds are allocated to cover the estimated costs. Requires the Department of Transportation to analyze and report on the costs of implementing the Real ID Act. Requires the department to provide reasonable security measures to protect individual privacy and to prevent unauthorized disclosure before issuing Real ID-compliant identification. Prohibits participation in multistate or federal shared database unless sufficient security measures to prevent unauthorized disclosures are established.

BACKGROUND:

The federal Real ID Act (P.L. 109-13) was signed May 11, 2005. It creates national standards for driver license and identification cards to ensure acceptable documents for security checks at airports and federal facilities. States are not required to comply with the federal law and there is no monetary penalty for noncompliance, but residents of states whose licensing does not meet the minimum standards by December 31, 2009, will not be able to use their state identification for federal identity purposes. To date, 11 states have passed laws prohibiting the implementation of Real ID and 10 states have passed resolutions in opposition to federal Real ID.

Currently, the Department of Homeland Security (DHS) estimates nationwide implementation of Real ID will cost \$9.9 billion, with a cost to states of \$3.9 billion. Congress has appropriated \$48.6 million to assist states with implementation of Real ID, of which \$6 million has been obligated. Oregon has not appropriated money to the implementation of Real ID. The Oregon Department of Transportation (ODOT) has received federal grant funds used for driver license improvements and to implement systems for verification of residency documents.

Senate Bill 1080-A (2008) brought Oregon into compliance with many Real ID requirements, including requiring ODOT's Driver and Motor Vehicle Division (DMV) to verify applicants' social security numbers (SSNs) through the Social Security Online Verification (SSOLV) system, and requiring applicants to provide proof of U.S. citizenship or lawful presence in the United States, as well as a SSN or proof of ineligibility for a SSN, to be eligible for an Oregon driver license, driver permit or ID card.

SB 685
PASSED

Prohibits creditor from denying application for credit solely because applicant used business address instead of residential address if state or local law permits applicant to use business address in lieu of residential address.

WHAT THE MEASURE DOES:

Prohibits creditor from denying credit to applicant solely because applicant used business address instead of residential address if state law or local ordinance permits use of business address on application.

BACKGROUND:

Certain law enforcement personnel and other public officials are allowed to use business addresses on credit applications in order to protect their privacy. SB 685 prohibits the denial of credit based solely on the use of a business address by these individuals.

SB 690
PASSED

Authorizes Department of Revenue to disclose taxpayer-related information to state agencies and local law enforcement agencies, to develop data-matching systems with financial institutions doing business in state and to report taxpayers with tax delinquencies to consumer reporting agencies.

WHAT THE MEASURE DOES:

Allows the Department of Revenue to disclose taxpayer information to local law enforcement agencies under certain circumstances. Expands the department's authority to disclose information to the State Board of Tax Practitioners and the Oregon Board of Accountancy. Clarifies that the Oregon Tax Court may impose a penalty in cases of frivolous arguments. Allows the department to report to consumer reporting agencies certain information regarding delinquent taxpayers and provide advance notice to those taxpayers. Affected taxpayers are those who have neglected or refused to pay any tax and have not filed an appeal with the Oregon Tax Court. In February 2008, the Legislature passed SB 1082 requiring the Department of Revenue to conduct a study on individual taxpayer compliance. In January 2009, the department presented its report to the House Revenue and Senate Finance & Revenue committees. This bill is a continuation of that work in an effort to improve taxpayer compliance.

REVENUE IMPACT:

The policies contained in this bill add to the tools the Department of Revenue may use in enforcing Oregon's income tax laws. The general nature of these tools is increased information sharing that is expected to provide better leads on where non-compliance may be occurring and to enable the department to collect outstanding liabilities. Following up on these leads may result in a collection stream with significant variance depending on the specific characteristics of individual taxpayers. The revenue impact shown here reflects a long-term average increase in General Fund revenue.

SB 731
PASSED

Oppose

Provides that amount in debtors financial accounts equal to lesser of \$2,500 or total balance of debtors accounts is not subject to garnishment if specified exempt payment was deposited in one of debtors accounts by direct deposit or electronic payment within 45 days before writ of garnishment was delivered to financial institution.

WHAT THE MEASURE DOES:

Protects amount in garnishee's financial account that is equal to the lesser of amount of certain direct deposit or electronic transfer exempt funds deposited in calendar month preceding delivery of writ of garnishment or total balance in account. Specifies funds exempt from garnishment. Specifies that protection applies when financial institution can readily identify qualifying exempt funds or when account holder formally identifies qualifying exempt funds. Specifies first in, first out as accounting method to be used when identifying exempt funds. Prohibits financial institution from charging processing fee if debtor's deposited funds are not subject to garnishment. Increases garnishment search fee paid to financial institution from \$10 to \$15. Exempts Department of Revenue from search fee increase. Releases financial institution from liability if institution acts in good faith when determining whether funds are subject to garnishment.

ISSUES DISCUSSED:

- Commingled funds
- First in, first out accounting method
- Wild card exemption
- Response time after receiving garnishment notice
- Liability of financial institution in garnishment process
- Impact of garnishment on military veterans and dependents
- Unemployment and workers' compensation funds
- Determining readily identifiable funds
- Protected amount determined by direct deposit of exempt funds in preceding calendar month
- Search fee increase
- Department of Revenue as garnishor
- Account holder form identifying exempt funds

SB 731...

EFFECT OF COMMITTEE AMENDMENT:

Revises provisions relating to protected funds. Clarifies process for identifying qualified exempt funds. Revises garnishment search fee provisions. Adds limited good-faith exemption from liability for financial institutions.

BACKGROUND:

Federal and state law prohibit the garnishment of certain funds. Funds exempt from garnishment include: Social Security benefits, veterans' benefits, unemployment insurance benefits, public assistance, workers' compensation, and other similar benefits or payments. Current law permits a judgment creditor to garnish an account in a financial institution, even if the debtor's funds in that account are exempt. The financial institution pays the creditor from the garnished account. In order to recover the exempt funds, the debtor must file a challenge to the garnishment and go to court. A debtor may incur fees from the financial institution or other entities if, during the process of garnishment and recovery of exempt funds, the debtor overdrafts or makes late payments because of temporarily insufficient funds in an account.

SB 819

FAILED

Allows property owner to obtain disallowance of supplier liens for materials, equipment, labor or services that are basis of lien.

SB 883

FAILED

Allows Department of Revenue and financial institutions to enter into agreements to operate data match system under which financial institutions will provide information to department about persons who maintain account at institution and owe debt to state agency or county.

SB 887

FAILED

Creates income tax credit for qualified investments in new machinery and equipment.

SJR 2

FAILED

Proposes amendment to Oregon Constitution to transfer surplus corporate income or excise tax revenue to reserve fund intended to provide funding in response to economic decline.

SJR 13

FAILED

Proposes amendment to Oregon Constitution to transfer surplus corporate income or excise tax revenue to reserve fund intended to provide funding in response to economic decline.

SJR 14

FAILED

Proposes amendment to Oregon Constitution to require annual sessions of Legislative Assembly.

SJR 33

FAILED

Proposes amendment to Oregon Constitution to prohibit personal income and corporate excise and income taxes in tax years beginning on or after January 1, 2011.