



Date: May 23, 2023

To: Co-Chairs and Members of Joint Committee on Tax Expenditures

From: Scott Bruun, OBI

RE: Testimony in opposition to HB 3039 -2 / Opportunity Zone Disconnect

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Co-Chairs Nathanson and Meek, and Members of the Committee:

I am Scott Bruun, director of tax, fiscal and manufacturing policy for Oregon Business & Industry. OBI is a statewide association representing businesses from a wide variety of industries and from each of Oregon's 36 counties. In addition to being the statewide chamber of commerce, OBI is the state affiliate for the National Association of Manufacturers and the National Retail Federation. Our 1,600 member companies, more than 80% of which are small businesses, employ more than 250,000 Oregonians.

**We are opposed to HB 3039 and the -2 amendments.** We are opposed to the base bill because we believe that it would disincentivize opportunity zone investments in Oregon, which in turn will narrow and limit the tools at our disposal toward economic revitalization and job creation in distressed areas. We oppose the -2 amendments because it would narrowly limit the Opportunity Zone tool so that Oregon investors could only invest in Oregon projects or face a tax increase.

The Opportunity Zone program was created to incentivize new investments in distressed and low-income areas. It does so by allowing taxpayers to defer federal capital gain taxes as long as those gains are reinvested into designated zones. A report by the Economic Innovation Group in March indicates that Oregon has the highest Opportunity Zone utilization in the country, 76% actually. Meaning that investors are placing their risk capital into more of Oregon's designated zones than in any other state. That is good news.

As you deliberate this bill, a key point to remember is that capital gain taxes are a choice, it's not like income taxes. There is no tax on a capital gain unless a taxpayer chooses to trigger the gain. Generally speaking, a taxpayer can sit on those gains as long as they want to. Opportunity Zones were passed because federal lawmakers understood the power of unlocking capital through tax incentives as a way to address blight and promote job creation. Encouraging investors to unlock static capital and reinvest that capital into troubled areas is the whole point of the opportunity zone program.

HB 3039 would reduce that incentive. For most Oregon investors, it would add an additional 9.9% marginal tax for Opportunity Zone investments. While this may not totally kill opportunity zone investments in Oregon, it would most certainly curtail them. It also means, importantly, that Oregon investors who still decide to use the Opportunity Zone program, are much more likely to invest into states that do not penalize the capital gain as Oregon would with passage of HB 3039.

The -2 amendments look to try to steer Oregon investors into Oregon investments, which is easy enough to understand at a surface level. However, these amendments would tie the hands and narrow the options for Oregon investors. For a federal program designed for coast-to-coast participation, we would be requiring Oregonians to pay a premium to do anything outside of Oregon. This not only puts

Oregonians at a competitive and participatory disadvantage with peers in other states, it also greatly limits options for Oregonians going forward. By that I mean that nationally, and in Oregon, there are only so many zones to invest in. The fact that Oregon currently has the highest zone investment rate in the country, as I mentioned earlier, also conversely means that there are fewer opportunities for Oregon-based investments in the future.

Finally let me just say that any windfall in tax revenues that advocates for HB 3039 or the -2 amendments might expect to see is highly unlikely. Remember, taking a capital gain is an investment choice, not a requirement. Investors react to potential investment returns, and if we limit those potential returns as we would with this bill, they can simply choose to do nothing. Or they can invest somewhere else. Either way, Oregon will lose the larger public benefits that the program was intended to provide.

Respectfully we urge you to oppose HB 3039 and the -2 amendments.

Thank you.

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