Report on State Measure 5 Finances Intercollegiate Athletic Fund By Increasing Malt Beverage, Cigarette Taxes

City Club of Portland (Portland, Or.)
This report includes both a Majority and Minority recommendation. The membership will decide which recommendation to support at the vote taken on November 4, 1988. Until that vote, the City Club does not have an official position on this measure. The outcome of the membership vote will be reported in the City Club Bulletin (Vol. 69, No. 25) dated November 18, 1988.
Report on
Ballot Measure 5
"Finances Intercollegiate Athletic Fund by
Increasing Cigarette, Malt Beverage Taxes"

To The Board of Governors,
City Club of Portland:

Ballot Measure 5, sponsored by the One Cent for Sports Committee, proposes to increase the state's beer and cigarette taxes to fund intercollegiate athletic programs in state schools.

The increases, ten cents more per gallon of malt beverage and a penny more on a pack of cigarettes, would raise an estimated $8.8 million a year. This would be apportioned to both "revenue producing" and "non-revenue producing" athletic programs at seven state colleges and universities.

In addition, the measure imposes a ten-year moratorium on any increase in the state malt beverage tax. The moratorium does not apply to increases in the cigarette tax. The language as it will appear on the ballot follows:

Question: "Shall taxes on cigarettes and malt beverages (such as beer) be increased in order to finance an Intercollegiate Athletic Fund?"

Explanation: "Amends Oregon statutes. Increases cigarette tax by one cent per 20 cigarette package. Increases malt beverage (beer, ale, etc.) tax by 10 cents per gallon. Money from increased taxes goes into new Intercollegiate Athletic Fund to assist sports programs at state colleges and universities. Sixty percent must go to sports not producing profits, 40 percent to sports producing profits. State Board of Higher Education divides Fund money based on athletic conferences in which schools compete, and schools' efforts to get private help for sports programs."

I. BACKGROUND

A. Current Sources of Funding for Intercollegiate Athletics

Sources of revenue for athletic programs include ticket sales, donations, student fees, a share of league revenues, and receipts from TV and radio broadcasts. Each public higher educational institution has a separate budget for athletics subject to State Board of Higher Education rules and regulations. The State of Oregon currently does not spend any money on university intercollegiate athletic programs.
B. History of Funding for Intercollegiate Athletics

The first attempt to secure state funding of intercollegiate athletics was initiated by then University of Oregon Athletic Director Len Cassanova in the 1969 legislative session. Other attempts were made in the mid-70s.

Title IX of the federal Educational Act of 1972 prohibited discrimination based on sex in federally assisted education programs. The U.S. Supreme Court interpreted the Act to require women's athletic programs be improved so as to achieve equality with men's programs. This requirement strained already limited resources and in 1977 each public college and university in Oregon requested state funds to assist in meeting this goal. The Oregon Legislature provided some funding for the implementation of Title IX, but only for one-year.

C. Distribution of Funds

Tax revenues generated by Measure 5 would be collected by the state treasurer along with current cigarette and malt beverage taxes and would then be distributed to the Intercollegiate Athletic Fund. The State Board of Higher Education would apportion the money among seven state schools based on the athletic conference in which each school competes and each school's efforts to gain private assistance. The seven state schools are the University of Oregon (UO), Oregon State University (OSU) Portland State University (PSU), Southern Oregon State College (SOSC), Western Oregon State College (WOSC), Eastern Oregon State College (EOSC), and Oregon Institute of Technology (OIT).

The measure requires that 40 percent of the revenues collected be apportioned to revenue producing sports with the remaining 60 percent distributed to non-revenue producing sports. Revenue producing sports are defined as those that produce net revenue in excess of expenditures. The only Oregon intercollegiate sports programs which are revenue producing under this definition are men's football and basketball at Oregon State University and the University of Oregon. No other programs at OSU or UO nor any program at the other five state schools qualify as revenue producing.

Several witnesses offered conflicting testimony as to how the monies collected would be divided among the seven schools. Witnesses stated that the majority of the money would be distributed to Oregon State University and the University of Oregon with each of those schools receiving approximately $3 million, PSU receiving approximately $1 million and the other state schools receiving approximately $500,000 each. However, final allocation would be made by the State Board of Higher Education.
D. Comparison of OSU and UO to Other PAC-10 Schools

UO and OSU are members of the Pacific Ten Conference (PAC-10), a well-known association of ten western educational institutions which compete in athletic events. OSU and UO are two of only three state schools in the PAC-10 which do not receive funding support from the state. The University of Arizona and Arizona State University each receive approximately $2 million per year in direct appropriations, and can waive out-of-state tuition for athletes. The University of California-Berkeley and UCLA receive tuition waivers worth $2 million from the state. Washington State also receives direct appropriations. The University of Washington is eligible for such funds but because it is well-endowed, it has not received state money for some time. Stanford and USC are private schools which do not receive state funding.

E. Effects of Increased Funding on Other Oregon Schools

Athletic directors at each of the other state schools, except for Portland State, discussed their intercollegiate financing with your Committee.

The current budgets of the three regional colleges and OIT range from approximately $300,000 to $500,000. Based on estimates provided during testimony, the athletic budgets of each of these schools will approximately double should Ballot Measure 5 pass.

The athletic directors of these schools stated that the additional funds would be used to improve the funding of current sports, reinstate sports that have been dropped, and reduce funding from student fees. The athletic directors also believe that athletic programs at comparable out-of-state schools were better funded by their respective states.

F. Current Status of Athletic Programs

OSU and PSU have current athletic department deficits of approximately $1 million each and UO has a debt of $650,000. These funds must be repaid, with interest. UO and PSU have developed five-year repayment plans based on a combination of reduced operating expenditures and increased revenues for the athletic department.

As a result of financial difficulties, UO and OSU have eliminated 12 men's and women's sports programs in the last seven years. PSU needs additional funds to meet its present needs and its goal of moving up to a higher division, from Division II to Division IAA.

Guarantee of gate revenue -- the amount paid to the visiting team -- in the PAC-10 was increased for the 1987
season from $75,000 to $125,000 or 50 percent of gate, whichever is higher. The Oregon teams generally pay the $125,000 minimum due to insufficient gate receipts. As a result, visiting teams are reluctant to come to Oregon and there is increasing concern that financial constraints may force one or both Oregon schools to leave the PAC-10. Membership in the PAC-10 provides increased visibility from television broadcasts and increased revenues from gate receipts and television broadcasts, particularly from the Rose Bowl. Many believe that PAC-10 membership enhances the overall image of the participating school.

Table 1

<table>
<thead>
<tr>
<th>School</th>
<th>Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stanford</td>
<td>$18.3 m</td>
</tr>
<tr>
<td>University of Southern California</td>
<td>13.7 m</td>
</tr>
<tr>
<td>Arizona State</td>
<td>13.5 m</td>
</tr>
<tr>
<td>UCLA</td>
<td>13.5 m</td>
</tr>
<tr>
<td>University of Arizona</td>
<td>11.0 m</td>
</tr>
<tr>
<td>University of Washington</td>
<td>11.0 m</td>
</tr>
<tr>
<td>UC-Berkeley</td>
<td>9.0 m</td>
</tr>
<tr>
<td>University of Oregon</td>
<td>8.6 m</td>
</tr>
<tr>
<td>Oregon State University</td>
<td>7.0 m</td>
</tr>
<tr>
<td>Washington State</td>
<td>6.5 m</td>
</tr>
</tbody>
</table>

G. Cigarette Taxes

Ballot Measure 5 would add an additional 1 cent tax per pack of cigarettes. It is estimated that this increase would raise approximately $2.8 million for the Intercollegiate Athletic Fund per year.

The last increase in the state cigarette tax came in 1985, when the tax was increased from 19 cents to the current 27 cents per pack. Of this 27-cent tax, 22 cents goes to the state general fund, 2 cents goes to cities, 2 cents goes to counties and 1 cent goes to the Elderly Mass Transit Fund. Cities and counties receive funds based on relative population, and are free to use the money as they wish.

Current taxes on cigarettes levied by other western states, exclusive of sales taxes, are 31 cents per pack in Washington, 20 cents in Nevada, 18 cents in Idaho, and 10 cents in California. Sales tax adds approximately 10 cents per pack in each of these states.

The current federal tax on cigarettes is 16 cents per pack.
H. Malt Beverage Taxes

Oregon taxes on malt beverages have not been increased since 1977. Ballot Measure 5 would raise the current tax of 8.4 cents per gallon by 120 percent to 18.4 cents per gallon, an increase of about 1 cent per 12 ounce can of beer. The tax on malt beverages is an excise tax on the production and importation of malt beverages, and does not apply to beverages in the possession of the producer until ready for distribution. The measure imposes a ten year moratorium on any increase in the state tax on malt beverages. No moratorium is placed on the taxation of cigarettes. It is estimated that the proposed beer tax increase would raise $6 million for the Intercollegiate Athletic Fund per year.

The state general fund, cities, counties, and mental health programs share beer tax revenue.

Current taxes on beer levied by other western states, exclusive of sales tax, are 4 cents per gallon in California, 9 cents in Washington, 9 cents in Nevada, and 15 cents in Idaho.

III. ARGUMENTS ADVANCED IN FAVOR OF MEASURE

1. Intercollegiate athletic programs have a positive and significant economic effect on the state and should be supported with state revenues.

2. Oregon is the only state in the PAC-10 and the only state west of the Mississippi that does not provide some kind of public funding to intercollegiate athletic programs for state schools.

3. A successful athletic program has a positive effect on academics and leads to increased alumni support and enhanced state pride.

4. This initiative generates revenue not otherwise available. Collection and distribution expenses are minimal.

IV. ARGUMENTS ADVANCED IN OPPOSITION OF THE MEASURE

1. State funding of intercollegiate athletics is a low priority compared to other unfunded and underfunded state programs and needs.

2. Dedicated taxes should be used sparingly and the use of such funds should be related to the item being taxed.

3. The ten-year moratorium on new beer taxes may prevent the imposition of additional taxes on beer when such a tax is appropriate and needed.
4. The tax sends an inappropriate message linking consumption of alcohol and tobacco to improved athletic performance.

5. There is no evidence linking athletic and academic performance.

6. There is no evidence that the measure would have a positive economic effect.

V. MAJORITY DISCUSSION

This measure raises two primary questions: (1) Are intercollegiate athletics a state-wide concern and priority worthy of approximately $9 million of tax revenue? (2) If so, is Ballot Measure 5 an appropriate means to raise the revenue?

A. Are intercollegiate athletics worthy of $9 million of tax revenue?

Oregon only recently has emerged from a deep recession. During the height of the recession in the early 1980s, budgets for state programs were reduced due to a lack of state revenue. The state's system of higher education was no exception. Some academic programs were eliminated; others were reduced.

Many programs are in need of additional state funding. Examples include corrections, crime prevention, youth gang intervention, shelter and food for the homeless, elementary and secondary education, drug abuse, mental health, environmental clean-up and economic initiatives. The state faces increasing demands upon scarce resources.

The state funding of intercollegiate athletics has been a consistently low priority in the state legislature compared to other needs, including those cited above. Even within higher education, intercollegiate athletics do not appear to be a funding priority. In recent years, the Board of Higher Education's funding priorities have been faculty salary increases and a variety of academic programs including "centers of excellence."

Intercollegiate athletics are viewed by some as vitally important to the entire state and by others as providing benefits only to the athletes and their families. While a winning athletic program is undoubtedly important to some people, others argue that the budget problems of intercollegiate athletics are not a serious enough concern to most Oregon residents to justify this tax. Nonrevenue sports provide little or no benefits except to the athletes and are sparsely attended. Football and basketball programs are
self-funded and largely a part of the entertainment industry. The problems of intercollegiate athletics pale in significance to the state's other unfunded and underfunded needs.

B. Is Ballot Measure 5 an appropriate way to raise the revenue?

Legislative witnesses testified that dedicated taxes may result in a confused and poorly conceived tax structure. In their view, dedicated taxes should be used sparingly and then only to finance expenditures directly related to the item taxed or to finance high priority programs of state-wide importance. "Budgeting by ballot measure" is generally poor policy because it does not allow for change based upon conflicting priorities and budgetary restraints. The Legislature is in a better position to consider all funding requests, weigh competing needs, and decide how to appropriate available funds based on those needs.

The proponents of the tax argue that beer drinkers attend sporting events and therefore should contribute to the cost of those events. This argument does not survive critical analysis. Not all beer drinkers and cigarette smokers enjoy sports; not all sports fans drink beer and smoke cigarettes. If there is a justifiable link between beer/cigarettes and college athletics that warrants the tax, then popcorn, hot dogs, seat cushions and air horns should also be taxed.

Some witnesses suggest the measure carries an inappropriate message encouraging beer and cigarette consumption to improve college athletics. The message is delivered at a time when college and professional sports are faced with well publicized drug and alcohol abuse problems. Both the public and private sectors spend enormous sums of money, including tax dollars, discouraging the use of addictive products. Any hint of a contrary message is inappropriate, particularly when tax dollars are involved.

Ballot Measure 5 includes a ten-year moratorium on raising new beer taxes. According to proponents, the moratorium was inserted to obtain the support of the beer industry; the industry disagrees. Although the Legislature can eliminate the moratorium, witnesses told your Committee it is unlikely from a political standpoint that this would occur. Compelling reasons may exist now or in the future to raise the tax on beer to fund other needs more critical than intercollegiate athletics. No good reason exists to preclude this possibility. Proponents of the measure also oppose the moratorium.

It is uncertain whether the beer tax will be absorbed by the industry or passed on to consumers. Oregon beer distributors warn that the tax will be passed on and that price
increases will aggregate between $18 and $25 million. If the tax, regardless of amount, is passed on to the consumers, it is probably regressive. Beer distributors claim that 70 percent of beer is consumed by young men between the ages of 18 to 34. The tax is probably levied disproportionately upon a relatively less affluent segment of society.

It also appears that the majority of the benefits will accrue to Eugene and Corvallis. Witnesses indicated that they expect approximately two-thirds of the tax revenues to be allocated to UO and OSU. All sections of the state will thus be taxed for the benefit of those two communities.

Several witnesses testified that the tax will boost Oregon's economy as a whole. There was no credible evidence presented on this point. In fact, one witness testified that a dollar in tax transferred to an athletic program from beer consumers may simply divert funds from one expenditure to another and from the consumers' communities to college communities. The witness said it would be almost impossible to determine the economic effect of the tax on the state as a whole.

Your Minority states that the tax is "found money" and that it will be relatively painless. This is an unsatisfactory policy on which to justify a tax. It ignores whether the expenditure is a high priority and whether the tax-raising method is appropriate.

VI. MAJORITY CONCLUSION

In the opinion of your Majority, intercollegiate athletics are not a significant statewide concern. Given Oregon's many underfunded needs, a tax increase to fund intercollegiate athletics is not warranted. In addition, Ballot Measure 5 is not the appropriate means to raise additional funds for intercollegiate athletics. Dedicated taxes should be used sparingly to meet high priority needs of Oregonians. The 10-year moratorium on raising the beer tax for any purpose is not advisable nor justified.

VII. MAJORITY RECOMMENDATION

The Majority recommends a "No" vote on Ballot Measure #5.

Respectfully submitted,

Margery P. Abbott
Colleen O. Clarke
Mary M. Cramer
Joel S. Kaplan
William P. Buck, Spokesperson
FOR THE MAJORITY
VIII. MINORITY DISCUSSION

Your Minority agrees with your Majority regarding the two primary issues this measure raises. Your Minority, however, disagrees with the Majority view that the state should not fund intercollegiate athletics and that this measure is an inappropriate way to fund intercollegiate athletics.

A. It is appropriate for the state to provide financial support for intercollegiate athletics.

There are many good reasons why it is appropriate for the state to provide financial support for intercollegiate athletic programs. Perhaps the most important reason is that these programs have a positive and significant economic effect on the state. Ballot Measure 5 can be viewed as an economic development initiative, providing for the development of an existing, clean, viable and positive industry in this state.

PAC-10 caliber intercollegiate athletics is big business. Currently, the University of Oregon athletic department employs over 120 persons. An October 25, 1982 New York Times article reported that when Notre Dame played the University of Oregon, nine million dollars was pumped into the Eugene economy in a single weekend. Much of this money came from out-of-state spectators, spending out-of-state money.

The concept of taxpayers subsidizing an athletic team is hardly novel, even in Oregon. As recent articles in The Oregonian make clear, for years, the City of Portland has been subsidizing the Portland Trailblazers, and now the Portland Beavers, through favorable leases and other concessions. At present, the university athletic departments in this state get no state funds or any other kind of public subsidy.

As with any economic development program, there is an expected economic ripple effect. It is not unrealistic to believe that the $8.8 million generated by this measure would produce new jobs in the State. The Eugene/Springfield Convention and Visitor's Bureau estimates, perhaps optimistically, that each dollar spent will generate seven dollars of revenue. New income tax and other revenues generated by this economic development could be used for social service and other deserving programs.

Oregon schools are the only public schools in the PAC-10 that are not eligible to receive some kind of public funding for their intercollegiate athletic programs. Although the type of public funding varies from tuition waivers to direct general fund allocations, well over half the states support intercollegiate athletic programs with public
tax dollars. It is unrealistic to expect Oregon programs to be self-supporting when virtually no school with a viable program is able to exist on only the revenues generated by the programs themselves.

Only Washington State University has a lower budget in the PAC-10 than the UO and OSU and both Oregon schools have cut back program offerings to the minimum required to remain in the PAC-10. PAC-10 membership results in a significant distribution of revenue from television and gate receipts; more than two million dollars per year is received by the two schools' athletic budgets. If the schools cannot maintain PAC-10 standing, they would lose these PAC-10 revenues as well as both the athletic and academic advantages of membership, and probably experience lower gate receipts. Further, efforts to develop present sources of funding (ticket sales, donations, student fees, TV and radio) have been maximized. Football and basketball are self-supporting and have even been able to support non-revenue producing sports. But the new financial requirements of the PAC-10 diminish the capacity of these programs to continue to support women's programs and other non-revenue producing sports.

A lack of funds has already required many programs to be cut or discontinued. At UO, baseball and gymnastics were dropped and the wrestling program was severely curtailed. At OSU, the track program was discontinued. At EOSC, women's softball was discontinued. EOSC now fears that it may have to cut an existing men's program or risk being in violation of Title IX and the loss of federal funds. Neither UO nor OSU can eliminate any additional sports and still remain in the PAC-10. Funds generated by Measure 5 could be used to help existing programs, restore programs that have been cut, and improve facilities at the universities. In particular, the athletic facilities can use extensive renovations.

Several witnesses offered testimony, either written or oral, as to the benefits that a successful intercollegiate athletic program brought to a state university and to the state in general. In a report to his faculty and staff, Dr. John Byrne, president of Oregon State University, discussed the effect of a successful intercollegiate athletic program on a university. Dr. Byrne stated that athletic contests serve as a "window into the university" and keep the university in the public eye. In his report, Dr. Byrne also stated that he believed that a successful athletic program instilled a sense of pride in students and alumni of the university. At the University of Oregon, the track and field program has generated national and international renown for the university.

Several witnesses also testified that a successful athletic program engenders pride in the citizens of a state and a long lasting loyalty among members of the community and the general public.
Witnesses who testified as to these benefits could offer few concrete statistics to prove their assumptions. Your Minority believes, however, that these benefits do exist.

B. This initiative would create an appropriate mechanism for funding intercollegiate athletics from an available source of revenue.

There has been much discussion that the $8.8 million generated by this tax could be better spent on other programs. This assumes that the $8.8 million would be available to spend on other programs.

The $8.8 million does not come from general revenue funds, but from an increase in the beer and cigarette tax. The cigarette tax has been tripled (from 9 cents to 27 cents per pack) since 1980, with the last increase in 1985. Witnesses testified that it is unlikely that the legislature would increase this tax again in the near future.

On the other hand, since 1977, the legislature has consistently refused to increase the beer tax. Several witnesses explained that beer industry lobbyists have been able to defeat several proposals to raise beer taxes. These past proposals generally provided for the new revenues to be distributed to various mental health and social service programs.

Even if this ballot measure does not pass, it is unlikely that the Legislature would enact a tax increase in the near future, regardless of where the money would go. Therefore, the $8.8 million that would be generated by this proposal could be referred to as "found money" in the sense that without the passage of this measure, the money would not be collected at all for use in any program. Therefore, this tax increase does not take away existing or expected funds from other deserving programs.

As for whether this tax increase is appropriate, one thing your Committee found interesting was just how low the existing beer tax is. It is presently less than 1¢ per 12 ounce can or approximately 2 percent of the price of the beer. This compares with a mark-up on hard liquor of about 99 percent.

Assuming this tax increase is passed on to the consumer, it is unlikely that the consumer will notice it. Witnesses agreed that the beer tax could be raised even further without seriously affecting consumption.

Because beer and cigarettes are already subject to a state excise tax and this measure merely raises the level at which these products are taxed, the cost of collecting this increased tax is negligible. Similarly, distribution of
this new revenue will be determined by the state Board of Higher Education, again at little or no cost.

Opponents of the bill raise several arguments against passage of the measure. Opponents believe that the ten year moratorium on new beer taxes compels a vote against the bill. Testimony suggests that several groups want to increase the tax to fund certain social programs. Proponents argue that this portion of the bill could be repealed at a later date either by the legislature, or by initiative petition. Proponents testified they would support legislative elimination of the moratorium.

Several witnesses testified that the tax is regressive on the theory that most beer is consumed by those between the ages of 18 and 34, which the opponents argue are a less affluent segment of society. They have offered no concrete statistics, however, that support this theory. The purchase of beer and/or cigarettes is purely discretionary.

IX. MINORITY CONCLUSION

Your Minority finds that viable intercollegiate athletic programs provide direct economic benefits not only to the communities in which they are situated, but to the entire state. Maintaining membership in the PAC-10 is important for the University of Oregon and Oregon State University, but without public assistance, that membership is in jeopardy. It is important to continue non-revenue producing sports and reinstate those that have been cut because they offer enhanced opportunities in women's athletics or provide national and international recognition for Oregon programs, such as track. Increasing beer and cigarette taxes is an appropriate way to fund intercollegiate athletics and this type of initiative may be the best opportunity for funding intercollegiate athletic programs. The ten-year moratorium on beer tax increases can and should be removed by legislative action.

X. MINORITY RECOMMENDATION

Your Minority recommends a "Yes" vote on Measure #5.

Respectfully submitted,

James L. Hiller
Ramona Johnson
Michael Morgan
Mary Overgaard, Chair
FOR THE MINORITY

Approved by the Research Board on October 13, 1988 for transmittal to the Board of Governors. Approved by the Board of Governors on October 17, 1988 for publication and distribution to the membership and for presentation and vote on November 4, 1988.
APPENDIX A
Witnesses Interviewed

Peggy Anderson, Athletic Director, Eastern Oregon State College (telephone interview)
Scott Ashcom, Lobbyist for Anheuser-Busch
Brenda Babcock, Coalition Against Regressive Taxation
Bill Byrne, Athletic Director, University of Oregon
State Senator Jane Cease, Portland (telephone interview)
State Representative Dave Dix, Eugene
John Gram, Chief Petitioner
Gretchen Kafoury, Multnomah County Commissioner
Dick Kaiser, Athletic Director, Western Oregon State College (telephone interview)
State Representative Vera Katz, Portland (telephone interview)
Ellen Lowe, Ecumenical Ministries of Oregon
Chris Maletis, President, Maletis Distributing Company (beer distributor)
Roger Martin, One Cent for Sports Committee
Steve Meyer, Economist, Legislative Revenue Office
Chuck Mills, Athletic Director, Southern Oregon State College (telephone interview)
Howard Morris, Athletic Director, Oregon Institute of Technology (telephone interview)
State Representative Lonnie Roberts, Portland
Paul Romain, Attorney and Lobbyist for Oregon Beer and Wine Distributors
State Representative Bob Shipruck, Beavercreek
Lynn Snyder, Athletic Director, Oregon State University
State Representative Tony Van Vliet, Corvallis (telephone interview)
Jim Whittemore, Campaign Director, One Cent for Sports Committee
Pamela Reimer Williams, Coalition Against Regressive Taxation

APPENDIX B
Bibliography

Aiken v. Lieuallen, 39 Or App 779 (1979)


Secretary of State, Voter's Pamphlet, Arguments in Favor and Arguments in Opposition to Ballot Measure 5, 1988 General Election.