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HOUSE OF REPRESENTATIVES
900 COURT ST NE
SALEM, OR 97301

TO: CHIEF CLERK'S OFFICE

Vote Explanation: Why I voted No on HB 4301, May 21, 2018

Governor Brown inherited a bad tax policy passed during the 2013 Grand Bargain. While there were many good aspects of the 2013 revenue bill (which is why I ultimately voted for it), I strongly objected to the poorly designed pass-through tax break that was included in the bill negotiations.

The pass-through tax break was touted as "targeted relief for small businesses;" but *it is neither targeted, nor limited to small businesses:*

- Contrary to the many floor speeches today about "small businesses," the tax break does not focus on the size of the business. It is instead based on the pass-through income to business owners, not the gross revenue or net profit of the business. Owners of a \$100 million business (hardly a small business!) could qualify for the tax break if they have "material participation" in an S Corp, LLC or partnership business.
- Over two-thirds of the benefit goes to tax filers who receive over \$500,000 in pass-through income. 75% of the proposed tax break would go to sole proprietors with pass-through income of over \$200,000.
- The "marginal" tax break up to \$5 million per business owner means that business owners who receive \$10 million in pass-through income get a benefit off of their first \$5 million in income.
- The tax break also goes to business pass-through income from businesses based outside of Oregon due to the Commerce clause, despite the bill's intent to help grow "Oregon businesses."
- The original bill had no sunset, despite the law passed in the 2013 regular session (with an implementation date of Jan 1, 2014) to put an automatic six year sunset on every tax credit or tax break to ensure that the tax break was serving as intended.

Read my 2013 Grand Bargain summary on my legislative website to understand the details: <https://www.oregonlegislature.gov/keny-guyer/Pages/news.aspx>.



I appreciate that this Special Session forced us to focus on this one policy since various attempts to amend it have failed over the past five years; and I appreciate that the Governor proposed to fix one aspect of fairness, and the omission of sole proprietors. I had hoped that the Legislature would take her initiative and address other aspects of the bill to ensure we are truly helping small business owners rather than the wealthiest business owners.

I testified on HB 4103 on 5/16/2018 and submitted amendments for consideration by the committee. I posted the -10 amendment, a variation of the amendment proposed by Rep. Gomberg, in hopes it would be adopted by the Committee: (<https://olis.leg.state.or.us/liz/2018S1/Downloads/ProposedAmendment/13522>).

Elements of my -10 amendments included:

- Capping the tax break to business owners with income up to \$250,000/yr as a qualifying income, meaning that owner with income over that level would not qualify for the lower rates.
- Setting the tax rate at 5% for filers with incomes below \$50k, 6% for incomes below \$100k, and 7% for incomes up to \$250,000.
- Lowering the employee hour requirement from 1200 to 1000 hours and removing the requirement for a minimum 30-hour work week to count towards those total hours, allowing approximately 6000 more small business owners to qualify for the tax break.

These reforms would provide a greater level of support to a larger number of truly small business owners, while also recapturing millions of dollars in revenue currently lost to large business owners, which could be redirected to foster kids, schools, health care, human services, and housing, as well as to the truly small business owners.

Even if we didn't adopt the hard cap of \$250k, I argued that **we should at the very least add a sunset and make the bill revenue neutral**. Given that we did not take these minor steps to improve the bill, I voted NO. I will continue to fight vigorously for a better policy in the 2019 session.

Sincerely,



Alissa Keny-Guyer
House District 46