

HOUSE COMMITTEE ON AUDITS

March 24, 2005 Hearing Room D

8:30 A.M. Tapes 48 - 49

MEMBERS PRESENT: Rep. Jerry Krummel, Chair

Rep. Diane Rosenbaum, Vice-Chair

Rep. Alan Brown

Rep. Jackie Dingfelder

MEMBER EXCUSED: Rep. Tom Butler, Vice Chair

STAFF PRESENT: Jim Keller, Committee Administrator

Kellie Whiting, Committee Assistant

MEASURES/ISSUES HEARD:

HB 2001 – Public Hearing

HB 2027 – Public Hearing

HB 2028 – Public Hearing

These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

TAPE/#	Speaker	Comments
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TAPE 48, A

002 Chair Krummel Calls the meeting to order at 8:40 a.m. and opens the public hearing on HB 2001.

HB 2001 – PUBLIC HEARING

008 Jim Keller Committee Administrator. Explains HB 2001.

016 Rep. Karen Minnis Speaker of the House, House District 49. Testifies in support of HB 2001. Describes the legislative role for accountability and the ensuring trust in government. States HB 2001 brings Oregon's Legislative Branch into line with what most other state legislatures have for certain audit oversight over state agencies. States HB 2001 also preserves the constitutional role of the Secretary of State as the Auditor of Public Accounts. Explains the conversations she had at the National Conference of State Legislatures. Comments the conversations concluded with the notion that Oregon should have a legislative role in audit functions. States HB 2001 would create a legislative audit office in which would conduct performance management audits for state agencies and programs and operate and maintain government waste hotline. Emphasizes that the Secretary of State would keep the duty of Auditor of Public Accounts as established in article four, section two of the Oregon Constitution. States HB 2001 does not eliminate any constitutional required duties of that office.

089 Rep. Dingfelder Inquires about the scope of the proposed office in regards to tax expenditures.

107 Speaker Minnis Responds that if it were in the prevue of the legislative fiscal office, she would not object.

113 Rep. Brown Inquires about a timeframe in regards to the audit and reporting.

114 Speaker Minnis Responds a legislative branch has been at a disadvantage when trying to obtain numbers.

123 Bruce Anderson Speaker's Office. Responds the bill is establishing an office within the legislative body.

130 Rep. Brown

Refers to the -1 amendment (**EXHIBIT A**) and inquires if it directs who will make up the audit committee and activities.

- 133 Speaker Minnis Responds the office would fall under the oversight of the current Legislative Fiscal Office in addition to an Audits Committee.
- 143 Anderson Responds about the role of the Joint Audit Committee.
- 150 Rep. Brown Comments he likes the idea.
- 156 Rep. Rosenbaum Inquires if the change will politicize the audit function.
- 161 Speaker Minnis Responds it would strengthen the Legislative Branch.
- 170 Chair Krummel Inquires about the budget notes not having force of law. Inquires if the audit office would be able to follow up on the budget notes.
- 181 Minnis Responds that if the audit office is working in conjunction with the Legislative Fiscal Office, it will help hold the agencies accountable to the intent of the legislative body.
- 192 Bill Bradbury Oregon Secretary of State. Testifies in opposition of HB 2001. Provides the historical background of the Secretary of State's function and vested rights. Explains the 1962 Attorney General's opinion in regards to the delegation and legal vested functions of the Secretary of States office. Refers to the Attorney General's Opinion (**EXHIBIT B**). Comments on the current functions of the Secretary of State Audit Division.
- 294 Chair Krummel Inquires if the law creates the Secretary of State Audits Division.
- 311 Bradbury Responds it is created by the legislature as part of our constitutionally required audit function.
- 330 Chair Krummel Refers and reads Oregon Revised Statute 297.070. States the legislature delegated the task of performance audits to the Secretary of State Audits Division and asks what prevents the legislature from removing the function and moving it into its own legislative audit office and how does it diminish the Secretary of State function of Auditor of Public Accounts.

- 340 Bradbury Responds the authority to perform performance audits comes from the basis of the territorial statues, in which were assumed and incorporated into the constitution.
- 351 Chair Krummel Respectfully disagrees. Refers to **(EXHIBIT B)** and discusses the functions within the opinion.
- 383 Bradbury Responds the Secretary of State's authority include the authority to conduct performance audits.

TAPE 49, A

- 002 Ted Reutlinger Senior Deputy, Legislative Council. Comments HB 2001 does offer a constitutional issue because it limits and shifts duties. Comments that when a constitution grants duties, such as in this case, the legislature cannot diminish a bridge or otherwise limit the constitutional duties. States that the Oregon Constitution does not define the scope of the Secretary of State's audit authority. Comments the Attorney General's opinion tries to define the scope and there are no judicial opinions as to what the Constitution means. States there are a number of Attorney Generals' opinions that conclude the Secretary of State's audit authority is limited to fiscal auditing of public claims and accounts. States the opinions also state that the Constitution does not provide independent authority for the Secretary of State to conduct program or performance audits. Comments the independent authority for the Secretary of State to perform performance audits has to come from statute and states the opinions also state the Secretary of State does have the authority to evaluate performance to conduct performance auditing when the Secretary determines it necessary in the context of a financial audit. Comments on the independent authority of the Secretary of State and the functions thereof. States the bill does not conflict with or limit the Secretary's authority to conduct a fiscal audit or to conduct a performance audit that happens in the context of a fiscal audit. Comments the bill removes the statutory authority granting the Secretary of State's office the ability to conduct just a performance or just a program audit and transfers the task to the Legislative Audit Office. Comments the bill is defensible against an allegation of intrusion upon the Secretary of State auditing authority under section two of article six.
- 077 Rep. Rosenbaum Inquires if the Secretary of State can continue to do exactly what they are doing now in addition to what the bill sets up in the legislative audit authority.
- 084 Reutlinger Responds the Secretary of State may conduct an independent or program audit at the direction of the Joint Legislative Audit

Committee. States the bill would remove the authority and move it to the Legislative Audit Office. Comments the bill would not affect the current constitutional authority to conduct financial audits and financial programs.

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| 101 | Rep. Rosenbaum | Inquires about the language adopted by other states that have a legislative audit function. |
| 103 | Reutlinger | Responds he cannot answer. |
| 106 | Rep. Dingfelder | Inquires how it would save the state money if there are two separate bodies dealing with audit functions. |
| 121 | Reutlinger | Responds he is not qualified on how it would save the state money. Comments under current law there is still a dual system. |
| 136 | Rep. Dingfelder | Requests information in regards to the amount of people hired to perform the audits. |
| 153 | Chair Krummel | Comments about the other states that have a legislative audit function and their number of staff. |
| 174 | Pat McGuire | Secretary of State Audits Division. Comments that the ability to perform single audits timely depends on having enough staff. |
| 206 | Sandra Hilton | Manager, Audits Division. Explains the functions of the staff and the allocation of resources. Explains the standards for competency in regards to audits. |
| 242 | Ken Rocco | Legislative Fiscal Office. Provides the background of HB 2001. Comments on the information from the National Conference of State Legislatures concluded that 44 states have Program Evaluation Offices. Explains the initiation of the offices. Comments on the FTE within the offices and to whom the offices ultimately report to. |
| 308 | Chair Krummel | Refers to ORS 297.065 and asks about the possibility of the Secretary of State not wanting to conduct an audit. |
| 326 | Rocco | Responds it has never happened, but it may be a possibility. |
| 329 | Rep. Dingfelder | |

		Inquires about the concern of duplication in regards to performance measures.
345	Rocco	Responds about the process of audit the data submitted by agencies.
382	Rep. Dingfelder	Inquires about the issue of tax expenditures. Inquires if performance measures could be in place for tax expenditures.
395	Rocco	Responds it would be a god idea.
402	Chair Krummel	Inquires when the Legislative Fiscal Office was created.
408	Rocco	Responds 1959.
410	Chair Krummel	Inquires if he knows why the office was created.
418	Rocco	Responds due to the nature of continuing budgets there needed to be a function addressing it.
429	Chair Krummel	Inquires if the Legislative Revenue Office was created for a fair assessment for spending and an independent forecast.

TAPE 48, B

002	Rocco	Concurs.
007	Chair Krummel	Adds that the Legislative Fiscal Office (LFO) was also created for an independent forecast.
012	Rocco	Responds in 1990 added three positions to address fiscal impact statements.
020	Chair Krummel	Inquires if LFO does there own analysis in regards to fiscal impact statements.
028	Rocco	Responds about the process.
034	Chair Krummel	Clarifies the analysis is accurate as possible.

042	Rocco	Responds the office give great thought to any assumption and question the assumption as well.
059	Chair Krummel	Inquires if the legislative office would look at it after the fact.
060	Rocco	Concurs.
063	Reutlinger	Inquires about when the Legislative Council Office was created.
068	Reutlinger	Responds he believes it was in the mid 1950's.
073	Chair Krummel	Inquires about how the duties were preformed before the Legislative Council Office was created.
079	Reutlinger	Responds that volunteers from Oregon State Bar helped in part.
080	Chair Krummel	Inquires if at any time has the Legislature relied on the Executive Branch to draft bills.
082	Reutlinger	Responds he believes at one time or another, the Attorney General's office may have drafted bills.
088	Chair Krummel	Comments the Legislative Council Office was created for professional trained staff.
091	Reutlinger	Concurs. States it is a difficult task for a volunteer.
100	Chair Krummel	Inquires if the legislature created the Legislative Council Office as opposed to adding more staff to the Attorney General's Office.
104	Reutlinger	Responds it is an accurate assumption and the office was created so the Legislature had their own legal advice.
114	Chair Krummel	Inquires about rendered opinions.
120	Reutlinger	Responds about the interpretations of opinions.
126	Rep. Greg Smith	

House District 57. Testifies in support of HB 2001. Comments on the connection between accountability and fiscal responsibility. Comments on the other states that have this type of practice.

- 173 Chair Krummel Inquires about the idea of having a Legislative Fiscal Office.
- 192 Rep. Smith Responds about the budgeting approach within the Ways and Means Committee based upon performance measures. Explains the allocation of dollars based on priority from the performance measures.
- 228 Chair Krummel Comments on the idea of performance measures and the idea of budgeting for results.
- 237 Rep. Greg Smith Responds about the communication he had with the Chair of Ways and Means General Government Committee.
- 241 Chair Krummel Comments it is a non-partisan issue.
- 248 Rep. Greg Smith Comments about the results of coordinated performance audits.
- 253 Rep. Rosenbaum Inquires why the work cannot be done with the Secretary of State Audits Division.
- 260 Rep. Greg Smith Comments that when information is transferred, information can be lost, altered and can be lost in interpretation.
- 296 Chair Krummel Closes the public hearing on HB 2001 and opens the public hearing on HB 2027.

HB 2027 – PUBLIC HEARING

- 311 Jim Keller Committee Administrator. Explains HB 2027.
- 319 Chair Krummel Requests a work session to be scheduled for HB 2027. Closes the public hearing on HB 2027 and opens the public hearing on HB 2028.

HB 2028 – PUBLIC HEARING

- 343 Jim Keller

Committee Administrator. Explains HB 2028 and refers to the -11 amendment (**EXHIBIT C**).

346 Chair Krummel Requests a work session to be scheduled for HB 2028. Closes the public hearing on HB 2028 and adjourns the meeting at 10:01 a.m.

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EXHIBIT SUMMARY

- A. **HB 2001, -1 amendment, staff, 3 pp**
- B. **HB 2001, judicial opinions, Bill Bradbury, 21 pp**
- C. **HB 2028, -1 amendment, staff, 1 p**