

**HOUSE COMMITTEE ON**  
**BUSINESS, LABOR, AND CONSUMER AFFAIRS**

**April 06, 2005 Hearing Room B**

**8:30 A.M. Tapes 79 - 80**

**MEMBERS PRESENT:       Rep. Alan Brown, Chair**

**Rep. Sal Esquivel, Vice-Chair**

**Rep. Mike Schaufler, Vice-Chair**

**Rep. Paul Holvey**

**Rep. George Gilman**

**Rep. Derrick Kitts**

**Rep. Chip Shields**

**STAFF PRESENT:       Janet Adkins, Committee Administrator**

**Katie Howard, Committee Assistant**

**MEASURES/ISSUES HEARD:**

**HB 3439 – Public Hearing and Work Session**

**HB 2603 – Public Hearing**

**HB 2979 – Public Hearing and Work Session**

**HB 2980 – Public Hearing and Work Session**

**HB 2981 – Public Hearing and Work Session**

**HB 2982 – Public Hearing and Work Session**

**HB 2003 – 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.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
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**TAPE 79, A**

003	Chair Brown	Calls the meeting to order at 8:38 a.m. Opens the public hearing on HB 3439.
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**HB 3439 – PUBLIC HEARING**

006	Janet Adkins	Committee Administrator. Explains HB 3439.
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021	Rep. Greg Smith	House District 57. Speaks in support of HB 3439. Wants the Oregon Economic and Community Development Department (OECDD) to look into privatizing the Oregon Entrepreneurial Development Loan Fund (OEDLF). Says that a bipartisan effort exists to look into the way the OECDD works. Believes that HB 3439 will help stimulate Oregon's economy.
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040	Rep. Holvey	Says that economic development is important to everyone. Asks why a study should be done to privatize the OEDLF.
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047	Rep. G Smith	Directs the committee to look at the relating clause, which relates to public finance. Talks about the loan programs that fall under the OEDLF and says that HB 3439 will allow the legislature to look at four of the loan programs. States that the Ways and Means Committee is interested in looking at the relating clause.
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061	Rep. Esquivel	Asserts that the program is important to help reach benchmarks in economic development.
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067	Rep. G Smith	States that it is another tool to ensure that entrepreneurs can thrive in Oregon.
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075	Rep. Schaufler	Asks about the privatization part of the study and wants to know how much the study will cost.
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082	Rep. G Smith	Directs the committee to look at the relating clause. Believes that section one of the bill will not be there when it is introduced on the floor of the House of Representatives. Emphasizes that HB 3439 is a bipartisan effort
100	Lynn Beaton	Manager, Central Operations Division, Oregon Economic and Community Development. Says that they are in support of creating a study to look into the privatization of the OEDLF.
115	Chair Brown	Closes the public hearing on HB 3439 and opens the work session on HB 3439.

### **HB 3439 – WORK SESSION**

122	Rep. Kitts	<b>MOTION: Moves HB 3439 with a DO PASS recommendation and BE REFERRED to the committee on Ways and Means.</b>
124		<b>VOTE: 7-0-0</b>
		<b>AYE: In a roll call vote, all members present vote Aye.</b>
	Chair Brown	<b>The motion CARRIES.</b>
127	Chair Brown	Closes the work session on HB 3439 and opens the public hearing on HB 2603.

### **HB 2603 – PUBLIC HEARING**

132	Janet Adkins	Committee Administrator. Explains HB 2603.
157	Rep. Donna Nelson	House District 24. Submits and reads from written testimony in support of HB 2603 ( <b>EXHIBIT B</b> ). Talks about what the fee is used for and says that the fee does not return to small businesses. Asserts that the fee is a “covert tax”. States that the extra thirty dollars collected is automatically removed from the Secretary of States’ budget and sent to the General Fund.
221	Rep. Kitts	Submits and summarizes a letter on the behalf of Melvin Van Domelen urging that the business fee for filing papers with the Secretary of State be waived for non-profit organizations ( <b>EXHIBIT C</b> ). Asks if Rep. Nelson would be open to an amendment that would require no fee for non-profits.

241	Rep. Nelson	States that she would be happy to talk about the amendment. Says that she does take issue with some large non-profit organizations.
249	Chair Brown	Asks if the \$50 fee is a yearly fee and if the non-profit has to pay the exact same fee. States that the state would lose \$15 million over the next biennium if HB 2603 passes.
265	Rep. Nelson	States that the \$50 fee is yearly, and non-profits do have to pay it at the same rate. Reiterates that small businesses hire the majority of people in Oregon.
277	Rep. Schaufler	Talks about the importance of having a well-educated workforce. Asks where the money will come from to fund higher education if we continue to chip away at the bottom line.
301	Rep. Nelson	Believes that the state can find funds by eliminating non-essential programs.
320	Dennis L. Goecks	Small Business Owner, McMinnville and McMinnville Area Chamber of Commerce. Submits written testimony on the behalf of Celia Wheeler and Eric Wright in support of HB 2603 ( <b>EXHIBIT A</b> ). Talks about his experience with the fee going from \$20 to \$50. Explains what happens if he fails to submit the report and pay the \$50 fee.
382	Goecks	Talks about the difficulty in paying the fee. Reads the Corporation Division's Testimony ( <b>EXHIBIT A, Page 1, Section D</b> ). Reads the quote from the McMinnville Chamber of Commerce ( <b>EXHIBIT A, Page 1, Section A</b> ). Mentions HB 3253 and the potential financial burden it could place on businesses. Wonders where the fee increases will end.

**TAPE 80, A**

001	Goecks	Asserts that small businesses should receive the benefit of the fee.
020	Rep. Kitts	States that HB 2603 will be postponed so that amendments can be drafted which address his concerns.
026	Rep. Nelson	Says that she will work with Rep. Kitts on the amendments.

027	Rep. Kitts	Mentions that he would like to be a co-sponsor of HB 2603.
029	Chair Brown	Notes that he would also like to be a co-sponsor of HB 2603.
032	JL Wilson	National Federation of Independent Business (NFIB/Oregon). Speaks in support of HB 2603. Believes that business registration fee is a regressive, corporate tax.
058	Chair Brown	Asks when the business registration fee becomes a tax and not a fee.
059	Wilson	States that the two cannot be divorced, but that the \$20 should cover the Secretary of State's cost. Says that it becomes a tax issue because \$30 goes into the general fund.
068	Chair Brown	Asks if the fees should be more transparent so that a person knows what their fees are supporting.
070	Wilson	States that showing where the monies from the fees go is a more honest way of doing business.
072	Rep. Schaufler	Agrees with the chair about transparency. States that the \$30 supports healthcare, state troopers and other services. Wants to create transparency on the benefits that the government provides for small business owners. Believes that there has to be a balance between the benefits that businesses receives from government programs.
097	Wilson	Addresses Rep. Schaufler's concerns and states that he understands the balancing act. States that from a small business perspective owners have difficulty paying the fee when they do not know where the money goes.
107	Rep. Kitts	Says that the Oregon Health Plan is going to be needed at a much higher level if the state continues to bankrupt businesses.
125	Peter Threlkel	Director, Corporation Division, Secretary of State. Submits graph relating to HB 2603 ( <b>EXHIBIT D</b> ). Offers to answer questions.
130	Chair Brown	Asks how many businesses pay the fee.
131	Peter	Believes that it is about 330,000 businesses.

134	Chair Brown	Asks how much of the fee is paid by large businesses.
136	Threlkel	Says that about 300,000 small businesses pay the \$50 fee. States that they do not collect information about the size of businesses.
140	Rep. Schaufler	Speaks in support of dropping the fee to \$20 for non-profits. Refers to the graph and notes the low fees when compared to other states <b>(EXHIBIT D)</b> . Talks about how our restrictive rigid regulation of land use and the lack of resource development in Oregon that is causing high unemployment.
175	Chair Brown	Asks about the fees under the Annual Report row listed under Business Corporation <b>(EXHIBIT D)</b> and if that is the fee that they pay every year. Asks if Oregon is at \$50 and California is at \$25.
180	Threlkel	States that the Annual Report is the fee they pay every year and that Oregon is at \$50 and California is at \$25.
181	Rep. Kitts	Asks what happens when a registered business goes dormant and then wants to go back to being an active business on the registry.
195	Threlkel	States that the companies are reinstated as if they had never lapsed for up to five years. Says that they have to pay the back fees.
206	Rep. Kitts	Asks if a person pays \$150 to the government if he/she forms the business after being away for three years.
209	Threlkel	States that a person would have to pay \$150 if they want to reinstate the business entity.
213	Rep. Kitts	Asks about the renewal fee that he is paying and wonders what expenses the renewal fee covers.
231	Threlkel	Talks about how Oregon went to a flat fee structure in 1999. States that the \$20 fee for the articles of incorporation and the annual report would adequately support the operations of the Corporation Division. Notes what the Division maintains for corporations.
254	Rep. Kitts	Asks if the Secretary of State's Office would be willing to stay at \$50 for the articles of incorporation and then reduce the annual report fee back to \$20. Asks if they would be willing to waive the annual report fee for nonprofit corporations.

278	Threlkel	States that he has a similar letter to the one Rep. Kitts received <b>(EXHIBIT D)</b> . Mentions SB 158 and how it lowers fees for the non-profit community. Wants to work with Rep. Kitts to make a workable proposal. Says that the Secretary of State does support HB 2603.
295	Chair Brown	Asks if the lists of the corporations are provided to the public and asks if they charge a fee for providing the information. Asks if the Secretary of State sells the information.
300	Threlkel	States that the records have to be provided when asked. Notes that companies like Lexus Nexus do ask for the information. Says that the cost is set for those requests as a means to recover the cost of developing the computer programs to create queries and provide the information to the companies.
314	Chair Brown	Closes the public hearing on HB 2603 and opens the public hearing on HB 2979.

#### **HB 2979 – PUBLIC HEARING**

329	Janet Adkins	Committee Administrator. Explains HB 2979.
343	Tim Martinez	Oregon Bankers Association. Speaks in support of HB 2979. Says that they are trying to make it easier to go to online filing for the financing statement for farm products. Notes that HB 2979 does this by deleting the requirement that the finance statement, UCC 3, will have to be signed by the debtor. Adds that the description of the agricultural product's location will be based on the county where it is grown.
392	Chair Brown	Closes the public hearing on HB 2979 and opens the work session on HB 2979.

#### **HB 2979 – WORK SESSION**

395	Rep. Esquivel	<b>MOTION: Moves HB 2979 to the floor with a DO PASS recommendation.</b>
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**400** **VOTE: 6-0-1**

**AYE: In a roll call vote, all members present vote Aye.**

**EXCUSED: 1 - Schaufler**

**Chair Brown            The motion CARRIES.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

**405            Rep. Esquivel            MOTION: Moves HB 2979 be placed on the CONSENT CALENDAR.**

**410                            VOTE: 6-0-1**

**EXCUSED: 1 - Schaufler**

**Chair Brown            Hearing no objection, declares the motion CARRIED.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

**TAPE 79, B**

**001            Chair Brown            Closes the work session on HB 2979 and opens the public hearing on HB 2980.**

**HB 2980 – PUBLIC HEARING**

**003            Janet Adkins            Committee Administrator. Explains HB 2980.**

**010            Tim Martinez            Oregon Bankers Association. Speaks in support of HB 2980. Says that it creates clarification in the law regarding when notice is served for foreclosure sales. Details what is required when the notice of foreclosure sale involving a trustee is mailed.**

**027            Chair Brown            Closes the public hearing on HB 2980 and opens the work session on HB 2980.**

**HB 2980 – WORK SESSION**

**030            Rep. Kitts            MOTION: Moves HB 2980 to the floor with a DO PASS recommendation.**



033

**VOTE: 6-0-1**

**AYE:** In a roll call vote, all members present vote Aye.

**EXCUSED: 1 – Schaufler**

**Chair Brown**

**The motion CARRIES.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

036

**Rep. Kitts**

**MOTION: Moves HB 2980 be placed on the CONSENT CALENDAR.**

039

**VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

**Chair Brown**

**Hearing no objection, declares the motion CARRIED.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

040

**Chair Brown**

Closes the work session on HB 2980 and opens the public hearing on HB 2981.

### **HB 2981 – PUBLIC HEARING**

045

**Janet Adkins**

Committee Administrator. Explains HB 2981.

053

**Tim Martinez**

Oregon Bankers Association. Speaks in support of HB 2981. Says that Department of Consumer and Business Services (DCBS) will not allow a bank to be incorporated without a registered agent or office.

064

**Chair Brown**

Asks if all the banks that were chartered since the Banking Act of the 1980s were legally chartered.

066

**Martinez**

States that HB 2981 does not mean that the banks are not legally chartered. Adds that the requirement to have a registered agent or office was not in statute, but it was still required by DCBS.

069

**Chair Brown**

Closes the public hearing on HB 2981 and opens the work session on HB 2981.

## **HB 2981 – WORK SESSION**

072            **Rep. Esquivel**            **MOTION: Moves HB 2981 to the floor with a DO PASS recommendation.**

**075** **VOTE: 6-0-1**

**AYE:** In a roll call vote, all members present vote Aye.

**EXCUSED: 1 – Schaufler**

**Chair Brown      The motion CARRIES.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

081 Rep. Esquivel **MOTION: Moves HB 2981 be placed on the CONSENT CALENDAR.**

**082** **VOTE: 6-0-1**

**EXCUSED: 1 – Schaufler**

**Chair Brown**      **Hearing no objection, declares the motion CARRIED.**

NOTE: See tape 80, B, page 9 of this tape log for Rep. Schaufler's vote.

085	Chair Brown	Closes the work session on HB 2981 and opens the public hearing on HB 2982.
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## HB 2982 – PUBLIC HEARING

091	Tom Perrick	Oregon Bankers Association. Speaks in support of HB 2982. Explains what the bill changes in current statute. Notes that the first three changes are technical in nature. States that the fourth change deals with a different issue. Explains that law enforcement and district attorneys' offices can request certain and specific financial information over a thirty day period of time. Indicates that HB 2982 would allow the information to be requested over a six month window, or three months prior and three months after a specific financial transaction. Mentions the Regional Economic Crime Investigation Center and their mission.
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139	Greg Olson	Marion County Sheriff Office. Speaks in support of HB 2982.
144	Chair Brown	Asks if the statutes apply to all financial institutions.
146	Perrick	Says that they do apply to all financial institutions.
147	Rep. Shields	Asks about the process of obtaining information and how the extended time period would be useful in an identity theft case.
154	Olson	Gives an example of an embezzlement case and how the time frame would be beneficial, because the crime is not always immediately apparent.
169	Rep. Shields	Shares the concern that there would be no judicial oversight. Asks if a longer time period could be obtained via the subpoena.
170	Olson	States that it could require multiple subpoenas and some counties' grand juries only meet once a month.
171	Rep. Shields	Asks if it could take up to 29 days in some counties to get a person's financial information.
172	Olson	Affirms that it could take 29 days in some counties.
174	Chair Brown	Asks why there is a time limitation.
175	Perrick	States that there is a significant cost involved and that the time frame focuses law enforcements' investigation.
187	Chair Brown	Asks if the information is used in drug enforcement investigations.
188	Olson	States that the information is used for drug enforcement investigations.
190	Rep. Holvey	Asks if there are any statutes that forbids the law enforcement agency from sharing the information to any other bodies or individuals.
194	Olson	Indicates that the grand juries proceedings are secret and says that he is not sure what happens after the case is put together. Believes that it

could be public record after the grand jury proceedings if it goes to trial. Says that he does not know the answer for certain.

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| 200 | Rep. Holvey   | Asks if in the course of the investigation information is obtained and no subpoena exists, the law enforcement agency is forbidden from disclosing the information to a private attorney or private investigator.   |
| 205 | Olson         | States that he does know exactly what is being asked. Asks clarifying question. Says that they do not release investigative reports until they have been completed.   |
| 215 | Perrick       | Says that the information does not go back to the banking community.  |
| 226 | Rep. Esquivel | Asks if when you have an ongoing investigation, if the information is shared with the public if the public asks for the information. States that a person in the audience indicates that statutes exist which keep the information from being released to the public. |
| 234 | Rep. Shields  | Refers to page two of HB 2982 and asks if an bank is authorized to provide everything about the individual's financial accounts.  |
| 243 | Perrick       | States that information that investigators request is very specific.  |
| 250 | Chair Brown   | Closes the public hearing on HB 2982 and opens the work session on HB 2982.   |

#### **HB 2982 – WORK SESSION**

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| 255 | Rep. Kitts  | <b>MOTION: Moves HB 2982 to the floor with a DO PASS recommendation.</b>                 |
| 258 |             | <b>VOTE: 7-0-0</b><br><br><b>AYE: In a roll call vote, all members present vote Aye.</b> |
|     | Chair Brown | <b>The motion CARRIES.</b><br><br><b>REP. KITTS will lead discussion on the floor.</b>   |
| 268 | Chair Brown | Closes the work session on HB 2982 and opens the public hearing on HB 2003.              |

## **HB 2003 – PUBLIC HEARING**

- 272 Janet Adkins Committee Administrator. Explains HB 2003. Submits informational packet on Small Business Friendly Regulation on the behalf of Connie Marshall (**EXHIBIT E**) and written testimony on the behalf of Marcia Ohlemiller in opposition to HB 2003 (**EXHIBIT F**).
- 315 Bruce Anderson House Speaker's Office. Speaks in support of HB 2003. States that small business can be especially hard hit by well-meaning legislation. Says that HB 2003 brings together regulators and business owners to write regulations that are common sense and good for everyone. Refers to regulatory flexibility (**EXHIBIT E, Page 1 and 2**) and cites the example as a model for how the legislation would work.
- 368 Connie Marshall Office of Advocacy, Small Business Administration. Submits informational packet in support of HB 2003 (**EXHIBIT G**). Explains what the Office of Advocacy does for small businesses on the federal level. States that small businesses with less than 20 employees spend an average of \$7,000 a year per employee to comply with federal regulations. Notes that there is a disparity between how much small businesses and large businesses pay. Reads the five critical elements contained in Advocacy's model bill (**EXHIBIT G, Page 3**). Says that the Office of Advocacy saved small businesses \$17 billion. Notes that similar legislation to HB 2003 did not require addition money to implement in Colorado or North Dakota

## **TAPE 80, B**

- 001 Marshall Elaborates about how the legislation did not have a fiscal impact on Colorado's Office of Policy Research and Regulatory Review or other agencies. Indicates that the additional responsibilities were absorbed by the agencies. Talks about other states who absorbed the costs. Reads from testimony (**EXHIBIT G, Page 6 – 7**). Emphasizes the importance of small businesses and the negative impact that government regulations can have on them. Encourages the committee to examine the materials in the packet.
- 038 Anderson Notes that a newly created small business advocacy group would lend some assistance to Oregon's regulatory system. Says that an existing small business impact statement is in statute and HB 2003 would expand these statutes. Points out that several changes need to be made to HB 2003. Urges the committee to support HB 2003.
- 056 Chair Brown Understands the issues facing small businesses in terms of government regulations.

061	Rep. Schaufler	Indicates that he wishes HB 2003 had been in the Clean Air and Clean Water Act, the Endangered Species Act and the American with Disabilities Act (ADA). Talks about the frustrations he and his wife have had while running small businesses. Shares concern about the financial impact to the state if HB 2003 is put into statute. Asks for a breakdown of all the states that have implemented similar legislation and the costs incurred.
094	Marshall	States that she will provide the information so that Rep. Schaufler can see the minimal budget impact HB 2003 will have on state agencies.
106	Rep. Schaufler	Talks about his time as a contractor and how it is impossible for him to be ADA compliant.
112	Marshall	Urges Rep. Schaufler to submit his testimony on the Office of Advocacy's website.
117	Rep. Schaufler	Says that it does not mean that he is not supportive of creating access to the workforce for people who need access.
125	JL Wilson	National Federation of Independent Businesses. Speaks in support of HB 2003. Talks about the bills history in the 2003 session. Mentions that the letter from the Bureau of Labor and Industries (BOLI) <b>(EXHIBIT F)</b> and says that 60% of Oregon businesses employees fewer than five or fewer and 77% employing 10 or fewer do not have the capacity to deal with government regulations that could cost them money. Notes that 330,000 businesses are paying an extra \$30 a year to file annual reports and this money could pay to fund HB 2003.
153	Joe Schweinhart	Associated Oregon Industries. Submits written testimony in support of HB 2003 <b>(EXHIBIT H)</b> . Emphasizes that small businesses need to grow in Oregon and believes that HB 2003 will move business and government closer together. Comments on the written testimony of Marcia Ohlemiller <b>(EXHIBIT F)</b> and says that BOLI and the judicial department will get together to make a rule that is not a hindrance to businesses.
180	Chair Brown	References the letter from BOLI <b>(EXHIBIT F)</b> and says that he has felt that BOLI does not often represent industry.
188	Jim Nass	Legal Counsel, Court of Appeals. Submits written testimony which is neutral on HB 2003 <b>(EXHIBIT I)</b> . States that they are concerned about the judicial review clause in section 4 of HB 2003. Elaborates

223	Chair Brown	Closes the public hearing on HB 2003. Opens the work session for the purpose of allowing Rep. Schaufler to vote on HB 2979, HB 2980, and HB 2981.
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230            **Rep. Kitts            MOTION: Requests unanimous consent that the rules be  
SUSPENDED to allow REP. SCHAUFLEER to BE RECORDED  
as voting AYE on the motions to move HB 2979, HB 2980 and HB  
2981 to the floor with a DO PASS recommendations and be  
placed on the CONSENT CALENDAR .**

NOTE: See tape 80, A, and 79, B, page 5 – 6 of this tape log for the original vote on HB 2979, HB 2980, and HB 2981.

258	Chair Brown	Closes the work session for the purpose of allowing Rep. Schaufler to vote on HB 2979, HB 2980, and HB 2981. Adjourns the meeting at 10:22 a.m.
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- A. HB 2603, written testimony, Dennis Goecks, 2 pp
- B. HB 2603, written testimony, Rep. Donna Nelson, 1 p
- C. HB 2603, letter of Melvin Van Domelen, Rep. Derrick Kitts, 1 p
- D. HB 2603, graph, Peter Threlkel, 1 p
- E. HB 2003, informational packet of Connie Marshall, staff, 19 pp
- F. HB 2003, written testimony of Marcia Ohlemiller, staff, 1 p
- G. HB 2003, informational packet, Connie Marshall, 18 pp
- H. HB 2003, written testimony, Joe Schweinhart, 1 p

- I. **HB 2003, written testimony, Jim Nass, 1 p**
- J. **HB 2003, informational packet, staff, 13 pp**