

## SENATE COMMITTEE ON RULES

March 08, 2005  
8:30 a.m.

Hearing Room 343  
Tapes 21 - 25

Corrected 10/04/05

**MEMBERS PRESENT:** Sen. Kate Brown, Chair  
Sen. Ted Ferrioli, Vice-Chair  
Sen. Jason Atkinson  
Sen. Charlie Ringo  
Sen. Frank Shields

**VISITING MEMBER:** Sen. Joanne Verger

**STAFF PRESENT:** Tiffany Harris, Committee Administrator  
Patricia Nielsen, Committee Assistant

**MEASURE/ISSUES HEARD:**  
Executive Appointment – Public Hearing and Work Session  
State Board of Forestry  
Les AuCoin  
Approval of drafting requests – Work Session  
Introduction of Committee Measures – Work Session

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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.

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TAPE/#	Speaker	Comments
<b>TAPE 21, A</b>		
005	Chair Brown	Calls the meeting to order at 8:32 a.m. Opens work session for consideration of drafting requests and introduction of committee measures.
<b><u>APPROVAL OF DRAFTING REQUESTS AND INTRODUCTION OF COMMITTEE MEASURES – WORK SESSION</u></b>		
010	Chair Brown	<b>MOTION: Moves drafting requests 1 through 18 be approved for drafting by Legislative Counsel (EXHIBIT A).</b>
030	Sen. Ferrioli	Points out #12 is at the request of Sen. Kruse, Sen. Morse, Sen. Winters and Sen. Bruce Starr.
035	Chair Brown	Continues describing requests for drafting and introduction.
040	Sen. Brown	<b>MOTION: Moves LC's: LC 1369 (EXHIBIT B), LC 1482 (EXHIBIT C), LC 2992 (EXHIBIT D), LC 3092 (EXHIBIT E), and LC 3237 (EXHIBIT F) BE INTRODUCED as committee bills.</b>
045		<b>VOTE: 5-0-0</b>
	Chair Brown	<b>AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.</b>
		<b>*NOTE: LC 1369 printed as SB 1009</b>
		<b>LC 1482 printed as SB 1010</b>
		<b>LC 2992 printed as SB 1013</b>
		<b>LC 3092 printed as SB 1011</b>
		<b>LC 3237 printed as SB 1012</b>

060 Chair Brown Closes work session for drafting and introductions. Opens public hearing on executive appointment of Les AuCoin to the State Board of Forestry.

**EXECUTIVE APPOINTMENT – PUBLIC HEARING**

**STATE BOARD OF FORESTRY – APPOINTMENT OF LES AU COIN (EXHIBIT G)**

065 Sen. Dave Nelson District 29. Testifies in opposition to the appointment. Submits written testimony of Kent Madison (**EXHIBIT H**). Discusses qualifications of current incumbent, Chris Heffernan.

130 Rep. Chuck Burley District 54. Testifies in opposition to the appointment. Refers to written testimony of Kent Madison (**EXHIBIT H**). Discusses qualifications of Chris Heffernan. Points out unique perspective of Heffernan with family-owned forestland in eastern Oregon.

165 Sen. Ferrioli Asks why it is important to have a family forestland owner on the Board of Forestry.

175 Rep. Burley Explains there is a unique perspective, particularly in eastern Oregon.

185 Sen. Ferrioli Comments it is not in statute or rule and asks whether it is a tradition to have that member on the Board.

190 Rep. Burley Affirms.

195 Rep. Jeff Kropf District 17. Testifies in opposition to the appointment. Discusses experiences visiting Chris Heffernan on his land in eastern Oregon. Suggests AuCoin could not replace Heffernan's perspective.

230 Rep. George Gilman District 55. Testifies in opposition to the appointment. Agrees with the previous speakers.

250 Sen. Ringo Points out the appointment is not a criticism of Heffernan but is an effort to bring balance to the Board by adding a conservation perspective. Observes five of the seven current members are connected to the timber industry.

260 Rep. Kropf Urges members to visit Heffernan's ranch to see his commitment to conservation. Argues he is not connected to timber but is a farmer and rancher.

285 Rep. Greg Smith District 57. Discusses qualifications of AuCoin but suggests he is not the right man for the job. Describes how Heffernan has operated in moderation on the Board.

325 Rep. Gordon District 3, location of the 2002 Biscuit Fire. Asks to stay with the current direction of evidence-based science. Comments Anderson Heffernan has a scientific background but AuCoin does not.

355 Les AuCoin Ashland, Oregon. Author; retired U.S. Congressman; former Oregon Representative; retired Glen L. Jackson professor of Political Science, Southern Oregon University (SOU); AuCoin Institute for Economic, Environmental and Civic Studies. Discusses his interest and qualifications for the appointment. Describes activities of his mediation institute. Describes the Governor's goals for his term on the Board to raise the visibility of the Board and bring public experience in forestry to the Board to better reflect the diverse views of Oregonians. Discusses his experience with forest issues including wilderness, wild and scenic rivers, mining, dams, endangered species and timber industry economics.

**TAPE 22, A**

020 Chair Brown Refers to Ballot Measure 34 and asks if he would throw out the Tillamook and Clatsop Forest plan and start over.

030	AuCoin	Responds he would follow the structure-based management plan of the Department of Forestry. Discusses mixed uses to create a healthy standing forest. Pledges to participate in the Board's consensus process.
045	Chair Brown	Asks about his intent to work to guaranty an adequate revenue stream from state timber for the counties.
050	AuCoin	Confirms he will work to find ways to continue to develop rural economies.
055	Chair Brown	Inquires about his position on clear cutting.
060	AuCoin	Discusses different ways and areas of clear cutting. Objects to massive clear cuts which focus on getting out the timber at all costs.
070	Chair Brown	Inquires about his position on salvage logging.
075	AuCoin	Explains he is not against it, but suggests avoiding old growth preserves, roadless areas and other ecologically sensitive areas.
090	Chair Brown	Asks how he would approach the Biscuit Fire salvage operation to get the timber out in a timely, environmental and economic manner.
095	AuCoin	Observes the fundamental problem was the John Sessions report, which was not subjected to traditional peer review, did not have any input from wildfire biologists and failed to consider ecological and economic costs of his plans. Discusses political pressure to increase the amount of timber cut.
150	Chair Brown	Asks whether the Board's decision-making process should be political.
155	AuCoin	Suggests there should be more public interest input in the process.
160	Sen. Ringo	Asks about conflict resolution process he manages in Ashland.
170	AuCoin	Discusses dispute resolution techniques: <ul style="list-style-type: none"> <li>• Bring in participants with every point of view</li> <li>• Conduct discussions between those at opposite ends of each issue, using a professional facilitator</li> </ul> Explains how participants can disagree without anger, recognize different points of view and understand each other's perspectives.
230	Sen. Ringo	Asks whether state forests can be managed to balance recreation, water quality and habitat maintenance with jobs and revenue to counties.
240	AuCoin	Suggests it is possible and offers to work toward that goal. Points out the author of the structure-based management plan said mixed areas are important. Argues the Board must consider that in its consensus process.
260	Sen. Ferrioli	Plays a recorded statement. Asks about the non-elite public mentioned in the statement.
290	AuCoin	Responds it is the general public who are not privy to or able to spend time learning which science is sound and which is not.
325	Sen. Ferrioli	Asks whether he one of the elites.
330	AuCoin	Responds he is an experienced policy maker who has served in many capacities.
335	Sen. Ferrioli	Asks about size of a "massive" clearcut.
340	AuCoin	Explains it extends over a large number of acres. Argues they could be handled with more sophistication and sensitivity to

		other interests.
345	Sen. Ferrioli	Asks what is massive in relation to statutory limitations.
350	AuCoin	Explains the average in Tillamook and Clatsop forests is 40-50 acres, which is not massive.
355	Sen. Ferrioli	Asks about the size limitation of a clearcut.
360	AuCoin	Responds it is 120 acres.
365	Sen. Ferrioli	Asks about application of the Forest Practices Act.
370	AuCoin	Answers it applies to private industrial forest operators, including small woodlands, but not to public or federal forest lands.
385	Sen. Ferrioli	Suggests a thorough working knowledge of forestry is required but the candidate does not have sufficient forestry experience.
390	AuCoin	Responds he is a policymaker with experience, and that is needed on the Board.
400	Sen. Ferrioli	Asks about his opinion of cattle grazing on state lands and state-managed forest lands.
415	AuCoin	Refers to a commentary he wrote describing a cattle feeding operation.
<b>TAPE 21, B</b>		
005	Sen. Ferrioli	Asks whether he would support or oppose grazing on public lands managed by the Department of Forestry.
010	AuCoin	Responds he does not oppose in all cases. Discusses Bureau of Land Management (BLM) proposal about grazing in the Cascade Siskiyou National Monument area.
020	Sen. Ferrioli	Comments on the relation between the Board of Forestry and the current Director of the Department of Forestry. Asks about criticism of State Forester Marvin Brown as not neutral.
030	AuCoin	Responds he would prefer someone with greater environmental credentials and fewer forestry credentials. Adds since that commentary was written he has conversed with Brown and found him thoughtful and forthcoming, so the comment is outdated.
045	Sen. Ferrioli	Asks about Oregon's attempt to deal with the introduction of gray wolves. Refers to criticism of ranchers.
055	AuCoin	Clarifies he is critical of ranchers who from lack of knowledge might exaggerate perceived danger of introduction of wolves. Discusses experience in Yellowstone where introduction of wolves has had a positive effect on the local ecosystem with minimal effect on cattle. Disagrees that the mere introduction of the wolf will have a detrimental effect on ranching.
100	Sen. Ferrioli	Asks whether he would support habitat designation for wolves in Oregon on state-owned lands or lands governed by the Forest Practices Act.
105	AuCoin	Responds he has not studied the issue; it would be a question for the entire Board based on its consensus approach.
110	Sen. Ferrioli	Comments on criticism of Governor Kulongoski. Reads a column from April 2003.
130	AuCoin	Adds that the column also contained a statement that the Governor offered two budgets, one for each scenario. Opines it is acceptable to disagree with another politician. Points out the Governor has read the same columns, and did so before the nomination. Observes the Governor has tolerance for diversity.
155	Sen. Ferrioli	Suggests applicant will have a direct opportunity to participate in education funding.
165	AuCoin	Agrees there is a need for sustainable forestry to meet school funding needs.

175	Sen. Atkinson	Comments on the tragedy of the failure to salvage wood from the Biscuit Fire and the Northwest Forestry Plan. Asks if the Pulp Association endorses him.
195	AuCoin	Clarifies he won awards from a variety of groups, including environmental organizations and "O & C" counties (Oregon and California Railroad Grant Lands) whose timber harvests he saved. Defends his balanced approach in following facts where they lead.
215	Sen. Atkinson	Refers to commentaries critical of President Bush and the Department of Forestry and asks how to move from criticism to collaboration.
225	AuCoin	Acknowledges both sides have strong views. Points out President Bush is pressing for harvest and away from conservation. Recommends reaching common ground by both sides acknowledging their strong views and working through fears.
245	Sen. Atkinson	Refers to the appointment of Russell Sadler to the Marine Board, and the fear he would use his platform to push his views. Asks whether this appointment will limit the candidate's writing and whether he can avoid using the appointment for a platform.
260	AuCoin	Agrees it is inappropriate for a journalist to report what happens in the Board meetings.
280	Sen. Atkinson	Asks whether his recruitment included any discussion of this concern.
285	AuCoin	Responds it did not. Describes discussions with the Governor. Describes his current writing projects.
305	Sen. Atkinson	Predicts a big fire season coming. Asks about tanker bases, preventing fire, and his philosophy about initial attack.
320	AuCoin	Responds his priority is on the urban-rural interface, where families live and own homes. Expresses willingness to discuss with National Forest Service whether in the name of thinning we should focus on the deep forest. Suggests deep forests cannot be made fireproof.
355	Sen. Atkinson	Comments during the Biscuit Fire the national priority was forest, structure and then life, and state priority was life, structure, then forest. Asks his view.
360	AuCoin	Responds life, structure then forest.
375	Sen. Verger	Appears as visiting member because of different pressures in her district. Asks how he would plan to bring more moderate views in policy-making to the Forestry Board. Believes Oregonians have moderate views.
<b>TAPE 22, B</b>		
005	AuCoin	Agrees most Oregonians are moderate in fundamental values. Refers to record in Congress to explain he is a problem solver rather than an extremist. Discusses specific experiences in understanding opposing points of view and fashioning policies to get the job done.
060	Sen. Roger Beyer	District 9. Testifies in opposition to the appointment. Declares a conflict as a private woodland owner. Suggests candidate does not have perspective of a private forest land owner. Discusses statutory requirement for Board membership. Suggests there are not a majority of timber industry representatives on the Board. Argues Chris Heffernan is a representative of small woodland owners and brings that perspective. Suggests appointment of

		AuCoin would change the perspective of the whole Board.
155	Sen. Ferrioli	Asks how many small woodland owners are in Oregon
160	Sen. Beyer	Suggests tens of thousands.
165	Sen. Ferrioli	Gives specific numbers of those who need representation on the Board.
170	Sen. Beyer	Refers to issue of productive and unproductive timberland in the early 1990s. Argues that perspective is needed and would be lost.
190	Sen. Ryan Deckert	District 14. Testifies in support of the appointment. Points out support from natural resource community and the timber industry in particular. Praises candidate's public service to the state.
215	Sen. Shields	Comments the Board needs open-minded members. Asks how he can assure the committee he can work within the environment of the Board.
235	AuCoin	Responds he will work to make the Board productive. Discusses complexities of the Board's work and the divisions in the state. Opines the Board must have a voice Oregonians can respect even if members do not always agree. Discusses experience acquiring Weyerhaeuser old-growth timber asset for inclusion in a wildlife refuge.
315	Sen. Shields	Asks for examples how he brought opponents together.
320	AuCoin	Discusses experience acquiring O & C Lands for a Grande Ronde reservation base of forest lands. Discusses bringing those with differences together for meaningful discussion, together with technical experts to address questions.
405	Sen. Shields	Refers to comment about replacing woodland owner on the Board. Asks about urban-rural divide of "two Oregons" and asks how to address the divide.
<b>TAPE 23, A</b>		
015	AuCoin	Explains part of governance must take into account the two Oregons. Refers to his upbringing in central Oregon. Plans to draw on his background to reach common ground between views. Answers misinformation in the press criticizing his position on logging. Clarifies he served on the committee which wrote the federal timber sales level for 12 years. Asserts he is not the enemy of logging nor has he tried to undermine timber businesses. Cites Timber Contract Relief Act to help mills sell logs at a reasonable price during a recession.
085	Rep. Peter Buckley	District 5. Testifies in support of the appointment.
095	K.C. VanNatta	Small landowner. Testifies in opposition to the appointment. Submits written testimony <b>(EXHIBIT I)</b> .
130	Link Phillippi	Rough and Ready Lumber Co. Declares conflict because his wife serves on the Forestry Board. Testifies in opposition to the appointment. Submits written testimony <b>(EXHIBIT J)</b> . Discusses lack of tolerance and ties to the environmental community.
180	Rick Sohn	President, Lone Rock Timber Co.; Chair, Oregon Forest Industries Council (OFIC). Testifies in opposition to the appointment. Expresses concern that AuCoin's approach is political not informational. Discusses his company's commitment for sustainability of forests. Explains role of forest protective associations to keep fires small and contained.
280	Jeff Merrick	Adjunct Professor of Law, Lewis & Clark Law School. Testifies in support of the appointment. Submits written testimony

		<b>(EXHIBIT K).</b> Discusses statutory requirement for Forestry Board membership and current lack of compliance.
310	Jessica Hamilton	Oregon League of Conservation Voters. Testifies in support of the appointment to return balance to the Board of Forestry.
320	Dave Moskowitz	Wild Salmon Center. Testifies in support of the appointment. Discusses need for diversity and science on the Board.
400	Sen. Ferrioli	Discusses logic of restriction of diversity and qualifications of Board candidates.
415	Merrick	Responds and discusses the specific qualifications.
<b>TAPE 24, A</b>		
005	Sen. Ferrioli	Suggests possible conflict by Oregon State University (OSU) professor and Board member because OSU owns regulated forest land.
010	Chair Brown	Describes declarations by Board members making clear their contacts.
020	Sen. Ferrioli	Asks about any lawyer or worker for timber contacts.
025	Merrick	Declines the broad statement. Discusses makeup of Board.
030	Rep. Deborah Boone	District 32. Testifies in support of appointment. Discusses the candidate's experience in forestry issues.
055	Sen. Ferrioli	Asks if she would be eligible for the Board of Forestry.
057	Rep. Boone	Declines.
060	Bob Duncan	Former Congressman, former Oregon legislator. Testifies in support of the appointment. Discusses experience working with AuCoin in his political career.
155	Joel Scoggin	Columbia Helicopters. Testifies in opposition to the appointment. Suggests AuCoin worked with timber interests during his years in Congress but has changed his view.
235	Alan Thayer	Small woodland owner; Oregon Small Woodlands Association (OSWA). Testifies in opposition to the appointment. Discusses the Oregon economic situation. Points out there are several types of woodland owners with differing interests. Explains the timber economy is hurting and needs to raise more wood.
275	Ron Larson	Small woodland owner; OSWA member. Testifies in opposition to the appointment. Recommends a small woodland owner be appointed.
300	Sen. Ringo	Compares management of small woodlands to management of state forests. Stresses importance of a balanced approach.
335	Jay Ward	Oregon Natural Resources Council. Testifies in support of the appointment. Submits written testimony <b>(EXHIBIT L)</b> . Discusses need for change in Board membership to meet the statutory mandate.
<b>TAPE 23, B</b>		
005	Sen. Ferrioli	Clarifies whether AuCoin will do for private forest lands in Oregon what has been done on federal lands.
008	Ward	Responds no, but AuCoin will bring perspective to forest management.
010	Ivan Maluski	Sierra Club. Testifies in support of the appointment. Submits written testimony of Jill Workman <b>(EXHIBIT M)</b> .
025	Les Halgeson	Native Fish Society. Testifies in support of the appointment.
050	Wayne Giesy	Former legislator. Testifies in opposition to the appointment. Submits written testimony <b>(EXHIBIT N)</b> .
075	John Hampton	Hampton Affiliates; former member of the Board of Forestry. Testifies in opposition. Does not believe the candidate can provide balance to the Board. Discusses Board's approach to

		consensus decision-making.
155	Chair Brown	Restates his position that while not happy with harvest levels under the Tillamook-Clatsop plan he is willing to live with them.
160	Hampton	Confirms if targets are achieved.
165	Dave Ivanoff	Hampton Affiliates; Chair, No on 34 Committee; past chair, OFIC. Testifies in opposition to the appointment. Discusses distress of the timber industry and the inability of the candidate to represent those interests. Approves of Chris Heffernan reappointment.
218		Recesses the committee at 11:36 a.m. for a call of the Senate.
220		Reconvenes the committee at 11:44 a.m.
222	Alan Foutch	Forester, Miami Corporation. Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT O</b> ). Asserts the appointment will not bring balance but will politicize the position.
275	Gary Springer	Starker Forests. Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT P</b> ).
300	Greg Miller	Weyerhaeuser. Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT Q</b> ). Respects candidate's different opinion but doubts ability to reach consensus.
355	Susan Ash	Audubon Society. Testifies in support. Submits written testimony ( <b>EXHIBIT R</b> ). Discusses support of other organizations expressed in submitted letter ( <b>EXHIBIT S</b> ).
<b>TAPE 24, B</b>		
010	Sen. Ferrioli	Refers to Jefferson public radio commentaries and asks if she agrees with them.
015	Ash	Responds she does not agree but has heard many good points.
020	Sen. Ferrioli	Refers to commentary about "Cowschwitz."
025	Ash	Declines to discuss in this forum.
030	Mark Mercier	Grand Ronde, Oregon; former Tribal Council member, Confederated Tribes of the Grand Ronde. Testifies in support of the appointment. Discusses experience with the Grand Ronde tribe to reacquire timber land to produce timber and support the tribe.
075	Chair Brown	Asks about the largest employer in Polk County.
080	Mercier	Answers it is the Tribe's Spirit Mountain Casino.
085	Mark McCollister	Oregon Trout. Testifies in support of the appointment.
095	Ray Wilkeson	Oregon Forest Industries Council (OFIC). Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT T</b> ).
115	Robert McNitt	Stayton Oregon; retired forester. Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT U</b> ).
170	Greg Addington	Oregon Farm Bureau. Testifies in opposition to the appointment. Submits written testimony ( <b>EXHIBIT V</b> ).
200	Terry Witt	Oregonians for Food and Shelter. Testifies in opposition to the appointment. Regrets the double negative of removing a tried-and-true contributor and adding a person with outward bias who would not bring balance.
245	Chair Brown	Closes public hearing on executive appointment. Recesses the committee at 12:15 p.m.
250	Chair Brown	Reconvenes the committee at 12:17 p.m. Opens work session on executive appointment.

#### **EXECUTIVE APPOINTMENT – WORK SESSION**

#### **STATE BOARD OF FORESTRY – APPOINTMENT OF LES AUCOIN (EXHIBIT G)**



255	Sen. Ringo	<b>MOTION: Moves the APPOINTMENT of Les AuCoin to the State Board of Forestry to the floor with the recommendation that the appointment BE CONFIRMED.</b>
265	Sen. Ferrioli	Explains his position and advises he will not support the appointment. Suggests review of the membership of the Board of Forestry to retain Chris Heffernan.
335	Sen. Ringo	Expresses disappointment at hearing so much about the divide in our state. Suggests the appointment is not the issue, but is made an issue by some who are not informed of the candidate's actual environmental policy.
375	Sen. Shields	Comments on the diversity of the points of view presented today. Challenges us to treat each other with more respect. Discusses changes in political opinions.
<b>TAPE 25, A</b>		
015	Sen. Atkinson	Expresses concern over how the Governor has been operating executive appointments. Suggests all issues have not been considered before the vote and opposes on those grounds.
040	Sen. Ringo	<b>VOTE: 3-2-0</b>
		<b>AYE: 3 - Ringo, Shields, Brown</b>
		<b>NAY: 2 - Atkinson, Ferrioli</b>
	Chair Brown	<b>The motion CARRIES.</b>
		<b>SEN. BROWN will lead discussion on the floor.</b>
051	Chair Brown	Closes work session on executive appointment. Adjourns the committee at 12:29 p.m.

## **EXHIBIT SUMMARY**

- A. Approval of drafting and introduction requests, memorandum, staff, 2 pp**
- B. Introductions, LC 1369 (1-21-05), staff, 4 pp**
- C. Introductions, LC 1482 (1-12-05), staff, 2 pp**
- D. Introductions, LC 2992 (2-24-05), staff, 32 pp**
- E. Introductions, LC 3092 (2-16-05), staff, 2 pp**
- F. Introductions, LC 3237 (2-25-05), staff, 3 pp**
- G. State Board of Forestry, staff and Governor's office, 7 pp**
- H. State Board of Forestry, written testimony of Kent Madison, Sen. David Nelson, 1 p**
- I. State Board of Forestry, written testimony, K.C. VanNatta, 1 p**
- J. State Board of Forestry, written testimony, Link Phillippi, 2 p**
- K. State Board of Forestry, written testimony, Jeff Merrick, 1 p**
- L. State Board of Forestry, written testimony, Jay Ward, 2 pp**
- M. State Board of Forestry, written testimony of Jill Workman, Ivan Maluski, 1 p**
- N. State Board of Forestry, written testimony, Wayne Giesy, 1 p**
- O. State Board of Forestry, written testimony, Allan Foutch, 2 pp**
- P. State Board of Forestry, written testimony, Gary Springer, 1 p**
- Q. State Board of Forestry, written testimony, Gregory Miller, 4 pp**
- R. State Board of Forestry, written testimony, Susan Ash, 1 p**
- S. State Board of Forestry, written testimony, Susan Ash, 1 p**
- T. State Board of Forestry, written testimony, Ray Wilkeson, 3 pp**
- U. State Board of Forestry, written testimony, Robert McNitt, 1 p**
- V. State Board of Forestry, written testimony, Greg Addington, 2 pp**