

**HOUSE COMMITTEE ON COMMERCE**  
**SUBCOMMITTEE ON TRADE AND ECONOMIC DEVELOPMENT**

March 01, 1999 Hearing Room 350

1:00 p.m. Tapes 15 - 17

**MEMBERS PRESENT:** Rep. Jerry Krummel, Chair

Rep. Ryan Deckert

Rep. Jim Hill

Rep. Bob Montgomery

Rep. Diane Rosenbaum

**VISITING MEMBER:** Rep. Anitra Rasmussen

**STAFF PRESENT:** Jason Cody, Administrator

Annetta Mullins, Administrative Support

**MEASURE/ISSUES HEARD:**

HB 2634 ñ Public Hearing and Work Session

HB 2092 ñ Work Session

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
TAPE 15, A		
004	Chair Krummel	Calls meeting to order at 1:11 p.m. and opens the public hearing on HB 2634.
<b><u>HB 2634 ñ PUBLIC HEARING</u></b>		

010	Rep. Lane Shetterly	State Representative District 34 and sponsor of HB 2634. Testifies in support of HB 2634. Explains that the bill repeals a series of statutes known as the Oregon Anti-Apartheid Act of 1987. Adds that the bill gives us a chance to step back and recognize what has happened since 1987 in South Africa making this act obsolete.
048	Sen. Avel Gordly	Advises that their group plans to do a panel discussion and asks Rep. Bowman and State Treasurer Jim Hill to join the panel.
065	Sen. Gordly	Submits and reads a prepared statement in support of HB 2634 <b>(EXHIBIT A)</b> .
148	Jim Hill	State Treasurer. Reviews legislative history of anti-apartheid legislation in Oregon. Tells about the privilege of going on an investment trip to South Africa and hearing the all the thank yous for Oregon's investments. Tells about the poor living conditions and handwritten textbooks and the inadequate number of books for the students. Adds that even under the poor conditions the people were so full of hope. Explains that when President Bush lifted the sanctions, the effects of the Anti-Apartheid Act were lifted.
223	Hill	Comment that what remains to be done is to take the act off the books. We should be proud of the part we play in bringing apartheid down in South Africa. It is time to move on to find investment opportunities that are good for the State of Oregon and in South Africa.
237	Chair Krummel	Welcomes Rep. Rasmussen as a visiting member to the subcommittee.
251	Rep. Rasmussen	Comments she had an opportunity to travel to South Africa last summer. Asks if Mr. Hill would explain how South Africa is often interlocked with surrounding countries and the interlock between South Africa's economy and the rest of the continent.
259	Hill	Responds the economic engine for Africa has been South Africa. South Africa is in a position to be a positive economic leader. Adds that what we do in South Africa is very important. Adds that while it was difficult to get legislation on the books, it has been a problem in some places to get it off the books because, not unlike how people here feel about the civil rights movement, it is not over yet and people say they need to know how everything has changed and how much better things are. Thinks the progress in South Africa has been slow, but it is important for all of Africa for South Africa to be in the leadership position.
290	Rep. Jo Ann Bowman	State Representative District 19. Comments she was asked by Rep. Shetterly to speak about some of the lessons that people in the United States could learn from what has taken place in South Africa over the last eight years. Recounts efforts of Africans to get to the voting places, creation of the new constitution and Africa's public education system.
358	Rep. Bowman	Adds that as we think about repealing the anti-apartheid law, she hopes we think about some of the things we should be doing as U. S. citizens to make sure that not only do we never have to pass another law to prohibit discrimination, but about identifying our own individual roles and making sure we are really living

		the ideal. Adds that there are many examples in our own communities that we know are wrong but we refuse to speak or act to make the situations better.
374	Rep. Montgomery	Comments we have vote-by-mail and cannot get people to vote.
390	Rep. Gordly	Displays sample ballot of election in 1994 in South Africa. Comments Oregon does have trade relations with South Africa, but also has the opportunity to expand that trade to many other African nations.
422	Rep. Gordly	Continues presentation of prepared statement ( <b>EXHIBIT A, page 2</b> ). Acknowledges Warren Banks, Director, International Division, Economic Development Department, and comments that he has been a remarkable partner in moving the Africa trade initiative forward.
458	Rep. Gordly	Introduces George Hendrix and Dr. Francis Wambalaba and explains they chaired the African Task Force and produced the report on African economic environment and market assessment. Adds that the report was made to the Oregon International Trade Commission in September 1998.
<b>TAPE 16, A</b>		
034	George Hendrix	Co-Chair, African Task Force. Comments that Africa is over three times the size of the continental United States. Historically, the United States has not had much interest in trade relations with Africa except for some of the strategic resources, metals and petroleum. With the emergence of the European Union, which will be a single trading block to rival the United States, and the downturn in the economies in Asia and Latin America, especially Brazil, American government, as well as major businesses and industries in the U. S., are looking for trade opportunities in Africa.
051	Hendrix	Comments a bi-national commission formed in 1994 has been working to open up relationships. Adds that according to a responsible research center in Washington, D.C., America is now South Africa's leading direct investor in its private economy. In 1998, the U. S. invested over \$540 million in Africa's private sector.
069	Hendrix	Adds there are 54 other countries in Africa and all are ready and able to participate in some kind of trade and cultural exchanges with the U. S.
110	Hendrix	Comments they are here to urge that Oregon become cognizant of the opportunities that exist in Africa.
118	Hendrix	Refers to the Task force report. Would like to encourage the state to insist on and EDD to provide assistance for economic development.
142	Francis Wambalaba	Co-Chair, African Task Force. Supports comments of Mr. Hendrix. Encourages Oregon to make investments in South Africa. The return on investments has been very high. It makes sense that Oregon be a part of the process.

184	Rep. Gordly	Asks to bring up Warren Banks, Director, International Division, Oregon Economic Development Department, and have him describe where the division is in implementing the recommendations from the task force.
199	Rep. Montgomery	Asks if all the countries in Africa have free trade among themselves.
206	Hendrix	Responds there are some semi-free trade zones. Explains there is a fairly free flow of tariff-free trade in the trade zone. Adds there is an effort on the part of the Africans in the regional areas to have a free flow of trade. Notes that the biggest problem is getting the products from one area to the other because of logistics.
223	Wambalaba	Adds that the economic operations region of west African includes 16 countries. In the east African region, there are three countries. Adds that the organizations are pushing to move toward a common currency.
237	Rep. Montgomery	Asks if the Commission on Black Affairs is involved in working with South Africa. Asks if the monetary value in Africa is stable. Also asks if the countries all use the same currency.
258	Wambalaba	Responds that each country has its own currency
266	Hendrix	Comments on the different currencies used in Africa.
271	Rep. Rasmussen	Comments on her experiences during her trip to Africa last summer.
303	Sen. Gordly	Responds she believes the Commission on Black Affairs is familiar with the task force report. Adds she does not know if they have settled on a formal roll for the organization in moving the agenda forward. .
330	Warren Banks	Manager, International Division, Oregon Economic Development Department (EDD). Comments that it has been a pleasure working with Rep. Gordly on projects.
347	Banks	Explains that the primary focus of the division is to help Oregon export-ready companies export. Explains that the large companies have expertise and resources in house and do not need assistance except on rare occasion. The International Division works in conjunction with the International Trade Division. The executive summary of the African Task Force report was part of the Biennial Report of the Oregon International Trade Commission. The report was submitted to the Economic Development Commission in late September 1998. The African Task Force was formed at a meeting of the commission, at which Carl Flipper attended and asked if it would be appropriate to have a task force as part of the commission. The commissioners thought it was a good idea and Sen. Gordly nominated a list of members. It was implemented from there.
386	Banks	EDD is currently working on a recommendation to send letters out to appropriate people in Africa to find out where further relationships can be made, and to

		whom we should be talking to about trade. The rest of the recommendations need to be discussed by a couple of the EDD commissioners, people from the task force and people from the International Division on where the priorities are, what the next steps are after the letter and what can be done by their division and others.
024	Chair Krummel	Asks what kind of infrastructure is in place to address a high amount of growth in a short period of time.
448	Wambalamba	Responds that some countries are farther ahead than others are. Adds the infrastructure systems will be included in their analysis.
<b>TAPE 15, B</b>		
040	Hendrix	Comments there is a banking system on the continent. Adds that in northern Africa the infrastructure is pretty well in place and they have carried on trade with Europe. In west, east and south Africa there is an infrastructure and trade can be done.
057	Sen. Gordly	Comments they learned through a series of meetings with the Minister of Environment and Development that Zambians have thoroughly researched Oregon's agriculture and forestry industry. They know what they need in a trade relationship. They want to do a sustainable development of their forestry industry, and need more modernized equipment, technology transfer, and training of their work force.
093	Rep. Rasmussen	Asks if they need direction or support from the legislature this session.
095	Sen. Gordly	Responds there are two positions in EDD budget that could assist with this initiative.
103	Banks	Comments two positions are recommended in the Governor's budget. One is for the position of wood products and building materials and the other is a position called overseas office representation. Adds there is no funding attached to the positions. There is another budget item for \$200,000 to help with new initiatives to get in new countries as well as possible-low level representation in a couple of identified areas.
126	Sen. Gordly	Comments volunteers who put in a lot of hours and excellent research produced the African Task Force report.
135	Hendrix	Comments the task force would like to see a policy developed as Oregon's position on trade with Africa. Would also like support from EDD or others to further foster citizen involvement.
169	Sen. Gordly	Thanks the committee for holding the hearing on HB 2463.
199	Chair Krummel	Closes the public hearing and opens the work session on HB 2634.

<b><u>HB 2634 n WORK SESSION</u></b>		
207	Rep. Rosenbaum	<b>MOTION: Moves HB 2634 to the full committee with a DO PASS recommendation.</b>
		<b>VOTE: 4-0</b>
	Chair Krummel	<p><b>Hearing no objection, declares the motion CARRIED.</b></p> <p><b>Rep. Rosenbaum will lead discussion in full committee.</b></p>
213	Chair Krummel	Rep. Rosenbaum will lead discussion in full committee.
216	Chair Krummel	Closes the work session on HB 2634 and opens the work session on HB 2092.
<b><u>HB 2092 n WORK SESSION</u></b>		
213	Jason Cody	Administrator. Reviews the history of hearings on the bill and explains the bill requires the transfer of assets of the Oregon Resource and Technology Development Fund to the Oregon Growth Account for management. Adds that the HB 2092-3 amendments are proposed by the State Treasurer's office and replace the language in the bill ( <b>EXHIBIT B</b> ).
240	Mari Anne Gest	Oregon State Treasurer's office, introduces Cynthia Burns, Assistant Attorney General, and Wayne Embry, Oregon Resource and Technology Development Fund (ORTDF).
271	Gest	Reports they have come to an agreement. Presents amendments to page 5 of the HB 2092-3 amendments ( <b>EXHIBIT C, page 2</b> ). Adds that they have added a provision at EDD's request to say that EDD would staff the ORTDF ( <b>EXHIBIT C, page 1</b> ).
301	Wayne Embry	Co-Manager, Cascadia Pacific Management. Explains that their firm manages the ORTDF. The board felt very strongly about having the ability to select the entity that would provide staff and support.
325	Rep. Montgomery	Asks if the board wants to hire the director instead of someone else doing it.
322	Embry	Explains the current structure. Adds that the structure has to change because of the constitutional issues that have been raised by the attorney general's office.

		The ORTDF would be moved under the Educational Endowment Fund and in the process other things had to be changed as well. That means there needs to be someone who keeps the minutes book and performs other administrative functions. The attorney general's office feels those duties and persons must be under a standing agency of the State of Oregon.
340	Rep. Montgomery	Asks if there is about \$11 million in the fund.
341	Embry	Responds the initial capital in the fund was \$12.3 million. The fund value as of the last audit is over \$24 million.
349	Rep. Montgomery	Asks if all expenses and costs come out of the fund.
349	Embry	Responds that is correct.
354	Rep. Montgomery	Asks if Boeing could move into LaGrande and put 150 people to work.
356	Embry	Responds they probably would not be able to do it. If it were a complete spin out from Boeing and the technology was not core to Boeing's operations, ORDTF could look at it.
365	Rep. Montgomery	Referring to page 5 of the amendments, asks if it is true they would not invest in tourism.
365	Embry	Responds that is correct.
384	Cynthia Burns	Assistant Attorney General. Explains the HB 2092-3 amendments section by section <b>(EXHIBIT B)</b> :
386		<ul style="list-style-type: none"> <li>Section 2 creates the new account within the Education Endowment Fund. The account needs to be created there because of the constitutional prohibition on agencies holding stock. The Education Endowment Fund has been removed from that prohibition by a constitutional provision.</li> </ul>
401	Rep. Montgomery	Asks if the State Treasurer's office has final approval of the budget, or whether the fund has one hundred percent autonomy.
402	Burns	Responds that under the proposed amendments it would have one hundred percent autonomy.
407	Burns	Continues explanation of the HB 2092-3 amendments <b>(EXHIBIT B)</b> :
	Burns	<ul style="list-style-type: none"> <li>Section 3 contains conforming amendments to the definitions. Some old definitions had to be deleted and the change from "fund" to "account" was</li> </ul>

		necessary.
413	Burns	<ul style="list-style-type: none"> <li>Section 4 changes the formation of the board. The number of members has been reduced to five. Currently only five people are sitting on the board and with a six-member board there can be a stalemate.</li> </ul>
423	Burns	<ul style="list-style-type: none"> <li>On page 5, there are two substantive changes in subsection (6). The board is given specific authority to enter into a limited partnership agreement with a management company. Explains that usually when one enters into a limited partnership, that is the investment. This says they can use that structure to manage the fund. The general partner of the partnership would be the management and the limited partnership would be the board. The general partner would invest the moneys in opportunities they feel meet the statutory criteria.</li> </ul>
441	Burns	<ul style="list-style-type: none"> <li>The amendment in subsection (6) (<b>EXHIBIT C, page 2</b>) deletes a change Legislative Counsel had made to the bill. Explains there is an investment standard set out in ORS 293.726. It is the prudence and productivity standard that the Oregon Investment Council applies to the Education Endowment Fund as a whole. This amendment was to make clear that the investment standard is slightly different for this account because by its nature it invests in a certain type of investments that are a little bit riskier and correspondingly, hopefully, has more return than what would be appropriate for the balance of the Education Endowment Fund.</li> </ul>
456	Burns	<ul style="list-style-type: none"> <li>Refers to State Treasurer's amendment to the HB 2092-3 amendments (<b>EXHIBIT C, page 2</b>). Explains that Legislative Council had added in an addition that took this out of the provision that appropriates earnings from the Education Endowment Fund (ORS 348.696). That statute draws off earnings from the Education Endowment Fund and currently puts twenty-five percent in the State Scholarship Commission and seventy-five percent in the School Capital Technology and Maintenance Development Fund. Adds it was not their intention to change those provisions and there may be a constitutional question as to whether they cannot have the earnings drawn off because by constitution the Education Endowment Fund has to generate earnings for furthering education in Oregon. If the amendment was left in and the earnings not drawn out, they would sit there in perpetuity until someone drew them off. There could be a question as to whether the constitution would allow that. The next amendment takes out the investment standards and leaves in the earnings appropriation.</li> </ul>
<b>TAPE 16, B</b>		
041	Burns	<ul style="list-style-type: none"> <li>Section 5 (<b>EXHIBIT B, page 6</b>) is a conforming amendment that says the purpose of the Oregon Resource and Technology Development Account is to earn returns for the Education Endowment Fund by making investments in small businesses and doing seed capital, etc., which is close to or what the commission did before. They have taken out some of the provisions that were not being followed. The provisions had more of a research bent than is compatible with the fund that is to generate earnings.</li> </ul>
051	Burns	<ul style="list-style-type: none"> <li>Section 6 reformulates the statutes that talk about the board's authority.</li> </ul>



		<p>This section is modeled closely to the mechanism that is in place for the Oregon Growth Account. The board will contract with one or more management companies that will go out and do the necessary due diligence in looking for investments and bring them before the board for approval. A management company will carry out the day-to-day investment activities.</p>
061	Burns	<p>Explains there was a laundry list of very specific things that the ORTDF board could do. The details have been eliminated and broad provisions that give them the authority to do what they need to do have been put in.</p>
065	Burns	<p>The amendment also includes prudence and productivity standards (<b>EXHIBIT B, pages 11 and 12</b>). It is similar to the Oregon Growth Account provisions.</p>
075	Burns	<p>Explains that Section 9 (<b>EXHIBIT B, page 12</b>) provides for staff to the board. The board is a volunteer board. They meet and approve investments and the management company carries out the investment details. The board needs somebody to carry out the day-to-day functions.</p>
085	Rep. Montgomery	<p>Asks if the staff would be on the state benefit system.</p>
092	Burns	<p>Responds the staff would be independent contractors.</p>
093	Burns	<p>Continues section-by-section analysis of HB 2092-3 amendments:</p>
093	Burns	<ul style="list-style-type: none"> <li>Sections 11-17 put assurances in that say we re renaming and moving the fund from where it was into the Education Endowment Fund. It is a continuation of what is currently in the statute. All the liabilities, rights, powers of the board and everything transfers over.</li> </ul>
103	Burns	<ul style="list-style-type: none"> <li>Section 17 is a technical change to the Public Records Act because for years the Oregon Resource Technology Development Corporation was listed and there is no corporation.</li> </ul>
111	Burns	<ul style="list-style-type: none"> <li>Conforming amendments to ORS chapter 293 begin on page 20. Explains that ORS chapter 293 governs the Oregon Investment Council and the Education Endowment Fund as a whole. Because this is a piece of the Education Endowment Fund, certain provisions need to be carved out because the Oregon Investment Council is not managing it.</li> </ul>
120	Rep. Montgomery	<p>Asks where the money originally came from and what the original amount was.</p>
124	Embry	<p>Explains that a study was authorized by the 1983 legislature to look at Oregon capitol markets. A direct result of that study was to create a very early stage investment fund that would look at seed stage investment as well as opportunities that came out of research in higher education. As part of the legislative package in the 1985 session, the Resource and Technology Development Corporation was created and capitalized with lottery dollars. All</p>

		<p>the money that went into the fund over a six-year period came from the lottery. The fund was appropriated about \$20.5 million and received \$12.3 due to shortfalls in the lottery over the years. The last funds received were in the 1991 session.</p>
137	Rep. Montgomery	<p>Asks if the books will be open to the public at any time. Asks how much they are charged for administration. Asks why the move is necessary.</p>
150	Embry	<p>Responds that the records of the corporation are open with exception of those things that are listed as being confidential. Every year the fund has an audit and publishes the audit. There are two categories of administrative costs. One is the management fee paid to Cascadia Pacific Management, approximately \$384,000 a year. Other costs which the fund bares are attorney general fees, audit fees and other costs. The costs fluctuate depending on the demand for legal services. The total costs are less now than when state personnel managed the fund. Adds that the costs are detailed in the audit report.</p>
164	Burns	<p>Explains the reason for moving the fund is under the present structure the fund cannot constitutionally hold stock. Because the fund is being moved from one place to another and is being reconstituted as an entity that can hold stock, the changes are needed.</p>
188	Rep. Deckert	<p>Comments he feels the state should be doing more to assist emerging businesses. Gives example of a group starting up and wanting to know what the state's role is in assisting start up businesses.</p>
207	Embry	<p>Responds the only thing the state has actively done in terms of public policy with respect to venture capital investments has been the ORTDF and the Oregon Growth Account. The Treasury is involved in how to invest the Public Employee Retirement Funds. Adds that a couple of private entities have been formed in the last couple years to look at the issue. The Oregon Emerging Business Initiative is a subset of the Oregon Entrepreneurs Forum. Feels Oregon is short of early stage venture capital particularly.</p>
225	Rollie Weisbrock	<p>Chief of Staff, State Treasury. Comments he concurs with statements made by Mr. Embry. The Oregon Growth Account was designed to pick up where the ORTDF left off. They do early-stage seed level venture capital and the Oregon Growth Account takes a later stage. The Oregon Growth Account was created to address a separate set of needs. There was a capital gaps study done by four of the Big Six accounting firms and postulated that there was about \$150 million to \$200 million in unmet capital needs in the venture area. They thought that out of the Education Endowment Fund they could create a sub-fund which is the Oregon Growth Account to make money for the Education Endowment Fund.</p>
260	Rep. Deckert	<p>Asks how far the efforts went toward the \$200 million gap.</p>
265	Weisbrock	<p>Responds he asked that question of the Big Four when they presented their study. They said to hit the \$150 to \$200 million range, different partners needed to come together. Adds there are still other needs but other people need to start playing.</p>

2781	Rep. Deckert	Comments he feels Oregon should be doing everything possible to encourage growth. Asks if there are models in other states.
324	Gest	Explains their amendment on page 5 of the HB 2092-3 amendments ( <b>EXHIBIT C</b> ) has the bracket in the wrong place. The deletion should be on line 18. "appropriation of earnings" should be deleted and at the end of the line "under" should be deleted. In line 19, "ORS 348.696" should also be deleted. Adds that the intent is to make it clear that this account is invested differently and under a different standard than the Oregon Investment Council.
342	Rep. Hill	Comments this fund will used for more high-risk investments. Asks if the language on page 5, line 21, "familiar with such investments" says we are not using the prudent investor rules as it relates to PERS and those types of moneys, but we are using a prudent investor in more high risk investments.
362	Wisbrock	Comments he thinks the prudent investor standard is the standard applied to ORTDF in this early stage venture capital area.
368	Burns	Responds Mr. Wisbrock and Rep. Hill are correct. The Oregon Investment Council has a prudent and productivity standard that is based on the distribution need of the funds it invests. That is a more conservative standard probably than what would be applied to this. This is saying this is an account that is intended to invest in things that are riskier by nature. Within that intent, they must still apply the prudent and productivity standard.
396	Chair Krummel	Asks if the constitution has changed since the fund was created.
408	Burns	Responds, yes. The constitution was changed since the ORTDF was originally developed to add a provision that creates the Education Endowment Fund and allows the fund to invest in stock. The other piece of the constitution addressed in the amendments has been there all the time.
<b>TAPE 17, A</b>		
030	Chair Krummel	Asks if members wish to act on HB 2092 today or wait to look at the revised amendments. .
042	Rep. Deckert	<b>MOTION: Moves to amend the HB 2092-3 amendments (EXHIBIT B) with the conceptual amendment proposed by the State Treasurer's office (EXHIBIT C), to adopt the amendments, as amended, and to send the bill as amended to the full committee with a DO PASS AS AMENDED recommendation.</b>
063	Chair Krummel	Asks that Ms. Gest review the suggested changes to the HB 2092-3 amendments.
064	Gest	Explains that the amendments on page 5 ( <b>EXHIBIT C, page 2</b> ) should read as follows: on line 17, after the last "the", insert "balance". In line 18, delete

		"appropriation of earnings" and "under". In line 19, delete "ORS 348.696". The amendment on page 12 ( <b>EXHIBIT C, page 1</b> ) would start on line 19. In line 19, delete "The Economic Development Department shall provide" and insert, "The board may, pursuant to ORS 190.110 enter into an interagency agreement with a state agency to cooperate with and assist the board in carrying out its duties under this Act by providing". In line 21, delete "to serve as the board's" and delete line 22. In line 23 delete the first "department, and in the same line delete the second "department" and insert "agency". In line 26, after "board." insert "under an interagency agreement."
114		<b>VOTE: 4-0</b>  <b>EXCUSED: 1 - Rep. Montgomery</b>
	<b>Chair Krummel</b>	<b>Hearing no objection, declares the motion CARRIED.</b>
120	Chair Krummel	Closes the work session on HB 2092 and adjourns the meeting at 2:58 p.m.

Submitted By, Reviewed By,

Annetta Mullins, Jason Cody,

Administrative Support Administrator

#### **EXHIBIT SUMMARY**

**A ñ HB 2634, prepared statement, Rep. Avel Gordly, 2 pp**

**B ñ HB 2092, HB 2092-3 proposed amendments, State Treasurer's Office, 23 pp**

**C ñ HB 2092, conceptual amendment to HB 2092-3 proposed amendments, State Treasurer's office, 2 pp**