

SENATE ETHICS, ELECTIONS, AND CAMPAIGN FINANCE COMMITTEE

April 22, 1993 Hearing Room B 3:00 p.m. Tapes 47 - 50 MEMBERS

PRESENT: Senator Grattan Kerans, Chair Senator Neil Bryant Senator Joan Dukes Senator Rod Johnson Senator Dick Springer STAFF

PRESENT: Annette Talbott, Committee Counsel Tamara Brickman, Committee Assistant

MEASURES CONSIDERED: PUBLIC HEARING AND WORK

SESSION SB 321 SB 322 PUBLIC HEARING SB 318 WORK SESSION SB 319 SB 323

SB 324 ... . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. TAPE 47, SIDE A

005 CHAIR KERANS: Calls meeting to order at 3:15 p.m.

PUBLIC HEARING ON SB 321 WITNESSES: TIMOTHY WOOD, Assistant Attorney General, Department of Justice

012 TIMOTHY WOOD, Assistant Attorney General, Oregon Department of Justice: Testifies in favor of SB 321. (EXHIBIT B)

023 CHAIR KERANS: Comments on Mr. Wood's testimony.

029 TALBOTT: Asks if Mr. Wood what the suggestion for the level of felony should be.

033 WOOD: Comments that he does not have a suggestion, but could speak with Attorney General Kulongoski and reply.

036 SEN. SPRINGER: Discusses the issue of the prosecution of Terry Canby. Asks if there are still matters that cannot be discussed because "their subject to possible further criminal prosecution?" Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 2

041 WOOD: Explains that there procedures still pending and that he would not be the person to comment on those proceedings.

047 TALBOTT: Discusses line 24 of the bill, in regards to inserting after the word "action" the words "by the state", for purposes of clarification.

PUBLIC HEARING ON SB 322

WITNESSES: ELISE FULSANG, Marion County District Attorney's Office DAVE KRAMER, Marion County District Attorney's Office TIMOTHY WOOD, Department of Justice

072 TALBOTT: Refers to the memo from Mr. Wood and testimony from Ms. Fulsang. (EXHIBITS E and F)

076 DAVE KRAMER, Marion County District Attorney's Office: Testifies in support of SB 322.

091 ELISE J. FULSANG, Marion County District Attorney's Office: Testifies in support of SB 322. Discusses the SB 322-1 amendments. (EXHIBIT E) 146 CHAIR KERANS: Asks if a subpoena would be required in all cases in order to access tax records. 148 FULSANG: Responds to Chair Kerans' question. Continues to discuss the SB 322 -1 amendments

and refers to revisions to the SB 322-1 amendments, attached to her testimony. (EXHIBIT E) 180 CHAIR KERANS: Comments on Ms. Fulsang's testimony and SB 322. 187 FULSANG: Continues to discuss SB 322. 191 CHAIR KERANS: Discusses the issue of false claims. 202 SEN. JOHNSON: Asks a question in regards to Section 5 of the original bill. 210 FULSANG: Explains the amendments to SB 322 section 5. Discusses the issue of private cause of action. (EXHIBIT C) 222 SEN. JOHNSON: For clarification discusses that section 5 does not contain a private cause of action. Discusses his objections to private cause of action and comments that he is glad it was removed. 231 TALBOTT: Refers to the preliminary staff summary which lists the major differences between the bill and the amendments. (EXHIBIT D) 236 KRAMER: Discusses SB 322 and explains that it would give criminal and civil tools to address fraud. 270 TIMOTHY WOOD, Assistant Attorney General, Oregon Department of Justice: Testifies in support of SB 322-1. Discusses the history of fraud and remedies to get at the problem. Discusses using the federal model for certain purposes. Suggests additional revisions to the SB 322-1 amendments. 347 SEN. JOHNSON: Asks if more money is going to be needed because of creating a new crime. .

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350 KRAMER: Comments that he does not believe it would lead to more costs because of the "tools" the bill gives and that they would "have a self funding mechanism." Discusses the issue of fiscal impact.

389 WOOD: Discusses the fiscal impact of the bill.

403 CHAIR KERANS: Discusses the fiscal impact. Asks a question in regards to a suggestion by Mr. Wood on changing the definition of the word "knowing." Asks if that suggestion is contained in the revisions of the SB 322-1 amendments. 416 FULSANG: Discusses the definition of "knowing" and why the revisions to the SB 322-1 amendments do not include a change in the definition. Discusses "common law elements of fraud." 449 KRAMER: Continues the discussion on the definition of the word "knowing."

TAPE 48, SIDE A

031 WOOD: Comments on his suggestions to the committee in regards to SB 322. 037 CHAIR KERANS: Asks if it would be possible for Mr. Wood to appear before the Senate Judiciary Committee. WOOD: Comments that he would be able to do that. 039 CHAIR KERANS: Discusses having SB 322 moved to Senate Judiciary. 046 FULSANG: Comments that they could discuss the suggestions put forth by Mr. Wood. 048 CHAIR KERANS: "What I would do would be to focus on your dash 1 revised as the vehicle, have that printed, and send it to Sen. Springer's committee. You could then use that as the basis for your further amendments and compromise." 053 TALBOTT: Asks a question in regards to the access to tax records. "In the dash one amendments that were printed by Legislative Counsel it doesn't seem exactly clear when in terms of the subpoenas you could get through a Grand Jury, that seems clear, and then it just says or by the parties to a civil or criminal action. It's on page 6 of the LC dash 1 amendments. Is that by agreement of the parties through some civil administrative process that you spoke of. . . it could potentially be a little clearer about what you intended there. Line 14 and 15." (EXHIBIT

C) 063 FULSANG: Comments that they can clarify that. 064 TALBOTT: "The intent was that the parties though wouldn't have to be an agreement of both parties to get access or that the state could (a prosecuting attorney) could seek those?" 067 FULSANG: "I don't think that we intended for there to be some need for a joint stipulation between the parties. We simply didn't want to make one thing available to one side in a dispute that wasn't available to the other side." TALBOTT: "So after you sought the documents you would certainly turn them over to the other party."

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071 FULSANG: "Or they would be permitted, once an action was filed, to obtain those records as well, either way. We can clarify that."

075 SEN. JOHNSON: "What other kinds of criminal offenses or quasi criminal with some of your civil things currently allow you to have access to tax records?" 078 FULSANG: "To the best of my knowledge none. I'm certainly not sure about civil." 082 SEN. JOHNSON: "This bill would right."

083 KRAMER: Explains that there is a statute "that allows district attorneys through the Grand Jury to get to those records." Discusses the statute and when it applies.

100 SEN. JOHNSON: Comments that he will not "be supportive of adding new rights to of the Government to get their hands on people's tax records, at least until they have been convicted of some other crime."

112 KRAMER: Comments on Sen. Johnson's remarks. Discusses the possibility of limiting it to the Grand Jury's authority.

127 CHAIR KERANS: Discusses the access to tax records issue. Comments that it is a new issue.

159 FULSANG: Discusses the possibility of "rewording" that section.

WORK SESSION ON SB 322

166 CHAIR KERANS: Discusses what the SB 322-1 amendments contain.

168 TALBOTT: "They contain a subsection in regards to the Department of Revenue."

171 CHAIR KERANS: "What do they say about tax records?"

172 TALBOTT: "Section 9 sub 3 is the reference to the tax records and 11 through 18, page 6 and you could certainly make a distinction as they suggested between what's available through Grand Jury or otherwise or just delete the whole thing." 177 MOTION: CHAIR KERANS: MOVES to delete on page 6, lines 11-18, which is Section 9, subsection 3. VOTE: Hearing no objections THE MOTION IS ADOPTED. All members are present. MOTION: CHAIR KERANS: MOVES to ADOPT the SB 322-1 amendments AS FURTHER AMENDED. VOTE: Hearing no objections THE MOTION IS ADOPTED. All members are present. 188 MOTION: CHAIR KERANS: MOVES to REFER SB 322 AS AMENDED to the Judiciary Committee BY SUBSEQUENT REFERRAL. - These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a

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VOTE: Hearing no objection THE MOTION CARRIES. All members are present.

WORK SESSION ON 321

197 MOTION: CHAIR KERANS: MOVES to insert the words "by the state" after the word "action" on page 1, line 24. VOTE: Hearing no objections THE MOTION IS ADOPTED. All members are present. 205 MOTION: CHAIR KERANS: MOVES to REFER SB 321 AS AMENDED to the Judiciary Committee by SUBSEQUENT REFERRAL. VOTE: Hearing no objections THE MOTION CARRIES. All members are present.

PUBLIC HEARING ON SB 318

WITNESSES: TED KULONGOSKI, Oregon Attorney General DALE PENN, Marion County District Attorney BILL LINDEN, Supreme Court Administrator, Oregon Supreme Court

217 TED KULONGOSKI, Oregon Attorney General: Testifies in opposition to SB 318 . Discusses the complexities of the bill. Discusses constitutional issues. Discusses the problems with implementation of this bill into the current court system in Oregon.

392 CHAIR KERANS: Discusses the Morrison V. Olson case, in regards to independent counsel "enhancing rather than detracting from constitutional values by the use of checks and balances among the separate branches of government." Discusses issues revolving the public records law. 418 KULONGOSKI: Asks if that is an Oregon Supreme Court case. 420 CHAIR KERANS: Explains that the Morrison V. Olson case deals with federal law. Asks what can be done when there is "malfeasance at the very top of the political pyramid and no one acts."

450 KULONGOSKI: Responds to Chair Kerans and explains that a person could go to the Marion County District Attorney (DA) or a county DA, or a person could ask the Attorney General's office to investigate.

457 CHAIR KERANS: "What if you ask the Attorney General's office to investigate and nothing happens?" 459 KULONGOSKI: "My answer to that is that you could go to the District Attorney." CHAIR KERANS: "What if the District Attorney says that's a state problem, go see the Attorney General. I have no budget for this."

463 KULONGOSKI: Comments that the DAs "are the officers primarily charged under system of government with prosecuting criminal law statutes." Comments that even if he were to investigate he does not have the ability "to bring about prosecution directly myself. I in essence end up becoming sworn in as an Assistant Deputy District Attorney and it is the District Attorney's decision to utilize the Grand Jury process. There is no process in the law, here in Oregon, to do independently, outside of the District Attorney's office, what ~ , These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 6

you're talking about."

478 CHAIR KERANS: Discusses Attorney General Kulongoski's comments. Discusses the issue regarding a district attorney having prosecutorial discretion but that district attorney does not "want anything to do with it."

TAPE 47, SIOE B

034 KULONGOSKI: "I might tell you that in fact that has been said to us and how it comes back is the district attorneys have in the past told the Attorney General's office, you prosecute it, I will swear you in as a deputy district attorney and you will and we will impanel a Grand Jury and you will do it that way. It has been done that way."

038 CHAIR KERANS: "And then the Attorney General says to the district attorney no I told them I didn't want anything to do with, and didn't care about it and go peddle your papers someplace. I tell you the district attorney the same thing." 041 KULONGOSKI: "If in fact the district attorney does not want the prosecution to go forward, under existing statutes, it doesn't have anything to do with the Attorney General. It is the district attorney's choice to make that decision to go forward." 044 CHAIR KERANS: "But if you were to then say well I won't but maybe we'll get the DOJ to do it. The DOJ says I don't want to do that, then you find yourself in the same place." 046 KULONGOSKI: "I can not do it without the acquiescence of the district attorney." 048 CHAIR KERANS: "You're assuming that you want to." KULONGOSKI: "Yes." 049 KULONGOSKI: "I do not know of any situation I have to tell you, myself, where the district attorney has actually given the authority to the Attorney General and the Attorney General has said I'm not going to go forward." 057 DALE PENN, Marion County District Attorney: Discusses "other opportunities for investigation of high malfeasance. The federal government from the US Attorney's office maintains capability to investigate public corruption...you are always in a situation of is there evidence first to act upon."

065 CHAIR KERANS: Asks what a person does if he/she is referred back to the district attorney of the Department of Justice (DOJ).

067 PENN: "That may be a response of saying have those people request that this be referred to our agency. I don't know." 071 CHAIR KERANS: Continues to discuss the subject of investigations of malfeasance in high public office, and what a person would do if she/he were turned down by the DOJ and the federal attorney. "What do you when find yourself in a situation where that kind of thing occurs and it appears given the fact that there is a uniformity of political party? There might be long standing friendships and political associations. - These minuba co~ materids ~vbich paraprase auf/or s ~marize statements made durmg this session. Only text enclosed m quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 7

What do you do when you feel there is a double standard of justice and you need somebody who is an independent counsel to take up that matter. How do we arrive at that point?"

090 PENN: Remarks that constitutionally if the district attorney does not wish to proceed, and the reason for the decision is that the district attorney is corrupt, then the Governor would have the authority to request "either the Attorney General to take the case and prosecute it or in the alternative to assign a special prosecutor" because the Governor is the chief law enforcement officer of the state. "The issue

is more of an issue of resource and evidence." Comments that he thinks the bill is "unworkable from a practical point of view of criminal investigation."

142 CHAIR KERANS: "What do you do when it's the Department of Justice?"

143 PENN: Responds to Chair Kerans' question.

170 CHAIR KERANS: Continues to discuss the issue. "I guess the bottom line is how do you get justice if you have every reason to believe that there has been a closing of ranks at the top and no one to take up the case?"

182 SEN. BRYANT: Discusses the option of filing civil action.

189 CHAIR KERANS: "If I can get Sen. Johnson to agree to a private right of action and a recovery of attorney's fees in that case, then I wouldn't object to it so much." 191 SEN. BRYANT: "To me that would be a better alternative than what's offered in 318." 194 CHAIR KERANS: Asks Mr. Penn what other methods might be available to address this sort of situation. 215 PENN: Responds to Chair Kerans and explains that a major impediment is resources, and discusses possible alternatives. Discusses a personal experience in this type of situation. 238 CHAIR KERANS: Makes remarks on different levels of standards of justice.

268 PENN: Discusses the issue of evidence. 282 BILL LINDEN, Supreme Court Administrator, Oregon Supreme Court: Discusses issues regarding "the role that is carved out for the Supreme Court.. the other issue has to do with the language in 318 that in several points invites the court to make a decision about keeping information confidential."

347 TALBOTT: Discusses why Legislative Counsel drafted the language the way they did, in regards to creating a panel.

353 LINDEN: Discusses Ms. Talbott's remarks. 362 CHAIR KERANS: Makes general comments in regards to SB 318. 443 CHAIR KERANS: Recesses the hearing at 5:00 p.m., announces the committee will reconvene at 6:00 p.m.

TAPE 48, SIDE B

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008 CHAIR KERANS: Reconvenes the hearing at 6:09 p.m.

WORK SESSION ON SB 319

012 TALBOTT: Refers to the material on SB 319. (EXHIBITS H, I, J)

039 GARY COMBS, Real Estate Investment Officer, Oregon State Treasury: Comments that there are changes to the SB 319 amendments. (EXHIBIT I)

044 BOB MUIR, Assistant Attorney General: Discusses the changes to the wording in paragraph 5 of SB 319. Explains that the language identifies the existing commercial loan program. "The intent of this is to insure that this paragraph requires that no loans be made that exceed the loan to value ratio established by the council based upon an evaluation by a qualified certified and independent appraiser. (EXHIBIT

I) 060 TALBOTT: Asks if they want to go through their explanation.  
(EXHIBIT I) 067 COMBS: Comments that a memo from Pension Consulting Alliance has been attached to the explanation. "We believe the intent of the bill is to provide that no properties are sold for less than fair market value as far as item number 4 the initial bill. What we had suggested and explained here is that we would change that. What we are trying to get away from is the required appraisal, especially for equity programs different from our loan program." Explains the differences with the equity program. "What we would ask is that the change would include that we've done the proper due diligence. That's what we've tried to include with the amendment that we've made. That goes for both the selling and when we purchase a property." (EXHIBIT I) 103 CHAIR KERANS: Refers to the amendments dated April 22, 1993. (EXHIBIT H)

106 TALBOTT: Explains the amendments submitted by Senator Kerans (to SB 319) dated 4/22/93. Discusses the issue of appraisals of property. (EXHIBIT H) COMBS: Explains that the loan to value ratio is currently at 70%.

TALBOTT: Continues with the explanation of the amendments, including a discussion on the loan to value ratio. (EXHIBIT H)

210 CHAIR KERANS: "It's pretty clear that sub 5 is appreciably the same. What's in and what's out?" Reads the language submitted by the Treasury in regard to subsection 5. (EXHIBIT I) Reads the language from his amendment. (EXHIBIT H) "Clearly, your language is broader. Isn't that correct Mr. Combs?"

COMBS: "Yes"

232 MUIR: "It appears to be Senator, yes."

233 CHAIR KERANS: "I'd rather start with the State Treasurer or the Oregon Investment Council shall make and then we can pick up no investment of any investment fund in a loan by real property originated at least in part by the office of the Treasurer for a sum that exceeds. Alright? I like that better. Is that OK with you?" ~ , These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 9

241 MUIR: "It doesn't affect the substance."

CHAIR KERANS: "How about you, Ms. Talbott?"

243 TALBOTT: Repeats Chair Kerans' suggestion for the record. "The State Treasurer or the Oregon Investment Council shall not make investments of any investment funds."

248 CHAIR KERANS: "Actually I would shall make no investment of any investment fund. Actually it ought to be no investment from any."

252 TALBOTT: "From any investment fund." CHAIR KERANS: "In a loan which is secured by real property and originated at least by part of the office of State Treasurer." 256 TALBOTT: "I would like Mr. Muir, perhaps, to speak to that. Is that you want the loan generally or when I talked with Legislative Counsel they felt like perhaps using the loans, mortgages, or trust deeds secured by real property was a broader way depending upon what instrument you use to execute the transaction. If

you are doing loans on your own as opposed to participating with another institution. I don't know what you always use. A trust deed at some point so you could go after them for the.."

267 MUIR: "Typically trust (deed) that's the standard in Oregon, but my view of the terminology here is that the investment is in a loan. It is secured by a mortgage or it's secured by a trust deed. It's not like loans, trust deeds, and mortgages are three different things. You have loans secured by mortgages or loans secured by trust deeds and they have to be secured to be prudent. The program is one of securing them with real property. The typical way we secure them now is trust deeds, but I don't think you ought to specify in law that it should be trust deeds, there may be occasions in certain states, for instance, the law of mortgages may provide advantages that trust deeds don't have. It's the opposite in Oregon. Trust deeds are the best way to go" 282 TALBOTT: "You think the generic reference to loans secured by real property is OK without reference to mortgages or trust deeds?" 285 MUIR: "I think so, yes."

286 CHAIR KERANS: "It would read the State Treasurer or the Oregon Investment Council shall not make investments from any investment fund in a loan, which is secured by real property and originated in part by the office of State Treasurer for a sum that exceeds any loan to real property value ratio established by the Oregon Investment Council, based upon a valuation by qualified certified and independent appraiser. Is that OK? "

297 MUIR: "That's Ok, but in the conversation we just had gave me, I think, (I have) a better idea. It was the conversation about mortgages and trust deeds. I think the language secured by an interest in real property is broader than real property...an interest in real property would cover a broader category of security."

COMBS: "That would be better for the participation agreements, too."

307 TALBOTT: "Although an interest could be forseably your time shares." . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. - Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 10

310 MUIR: "The interest (in) the time share (is) a good question I understand the.."

312 CHAIR KERANS: "You haven't got anything when you've invested in a time share."

313 MUIR: "The interest in a time share is not an interest in real property. It is an interest in a cash flow which comes from ultimately from real property, but it's an interest in the cash flow. It's a revenue stream that you have an interest in." 318 TALBOTT: "The interest is kind of broad." 319 CHAIR KERANS: "I'm not that wild about the language and its structure, but I think it gets to what we both want and if we can further refine it when we see that whole sentence." 324 TALBOTT: "I think it may be helpful to say based upon a valuation by and reference the statutory reference to a qualified and independent appraiser in the Oregon statute...by a state certified appraiser under that or by an appraiser certified under the laws of another state if the real property is not located in Oregon."

333 MUIR: "I indicated, off the record, previously that that would probably be of no concern to the Treasury. I think that change would be more elegantly inserted in paragraph 6, which is a paragraph that applies to all valuations in any circumstance, so I think the statutory reference should be there because paragraph 5 is already developing a lot of subordinate clauses and it's getting a little awkward."

344 CHAIR KERANS: Comments that he does not have a problem with placing it in 6 "except for qualified investment manager or advisor when it comes to using that as a way to boot strap to finding a valuation under sub 5. Sub 5 is exclusive. You don't take that to mean that a qualified investment manager or advisor could substitute for the certified?"

351 MUIR: "Absolutely not. Paragraph 6 is broader but it's not intended to affect paragraph 5 at all. Paragraph 5 the valuations would be based upon what it says...Six recognizes the fact that some valuations are by qualified investment managers or advisors. Those in the equity program are not by independent appraisers, but rather by in house experts in the management firm and the valuation process that they go through is quite a bit more detailed."

367 TALBOTT: "You're talking about Alex Brown?"

MUIR: "Alex Brown is the key example there, yes." Continues to discuss what paragraphs 5 and 6 apply to.

378 CHAIR KERANS: "Unless there is objection we'll take 5 conceptually as we have read it into the record. We'll leave it to counsel and the treasury to look at the words when they are in black and white. Discusses paragraph 4. "I've got to say that I'm not enthusiastic about your language under 4." 392 TALBOTT: Comments that the treasurer's office felt that this concept addressed the flexibility to say that appraisals may not be the only customary method that you would want to look at and that would be employed by fiduciaries. The reference to fiduciaries is to entities, like public employee pension funds or trust companies. ~ . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 11

408 CHAIR KERANS: "I think it's rather soft for my purposes. I don't know what it means in a day to day utilization...I'd like to look at sub 4 (EXHIBIT H) to see if there is something that we can use there in combination with your 4 to try and come to a more specific, less ambiguous method." Discusses suggestions for subsection 4.

448 COMBS: "Part of what we're trying to get at is that the appraisal practices for equity differ greatly from the mortgage loans. That's really the main point we were trying to get here. Generally it's done in pension funds, especially a pension fund like ours who do not make, the staff and board do not make direct real estate purchases. It's made through a fiduciary, an investment manager acting as fiduciary. Their standards are much higher than that in an appraisal. Their standard of due diligence is much higher, and then they are also held accountable both fiduciarily but also for the performance after the real estate is purchased. They have several methods of oversight both the staff, the OIC, and a real estate consultant. Then internally they have their own policies and procedures that they have to follow before they make an

investment. Then it generally goes to an investment committee. What we really want to separate is the two. The problems that have occurred in the past have been through the commercial mortgage program. We just want to somehow separate out the two."

488 TALBOTT: "Is it possible then in subsection 4 to really only reference the equity part and not the loan part?" Because the loan aspect has been covered by sub 5 and you have the protection of not only having to have an appraisal, but the loan to value ratio as well?"

TAPE 49, SIDE A

037 CHAIR KERANS: "That's the problem. You are mixing the both. What are you doing on the equity side?"

039 COMBS: Explains that the treasury can not make the purchase and that they turn it over to an investment manager. Explains the process in which the investment manager performs an analysis of the market "in which they're going to purchase."

071 CHAIR KERANS: So the problem is the question of what you're doing when is you're buying the property.

074 COMBS: "It's really where it says real property. The purchase of real property."

075 CHAIR KERANS: "What I want to get at is real property. You could actually say no real property purchased by any investment fund shall be purchased for more or sold for less. Could you say that? I think we'll just repeat that language. The State Treasurer or the Oregon Investment Council shall not.."

083 TALBOTT: "Purchase for more nor sell for less."

CHAIR KERANS: "Any real property. For more nor sell for less than its fair market value. We'll still OK down to there. Let's quit at fair market value and talk about 'as reasonably determined by methods customarily employed by fiduciaries. Is there anything wrong if we were to take that language to then come to a full stop and then say that when your agents come back and say I'm buying an office building in San Jose, its within the parameters, its within the price range, I've exercised due diligence...Is there anything wrong with saying that as part of that the presentation of any outstanding any appraisals available?"

098 COMBS: "Do you mean prior to them actually making the purchase?"

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099 CHAIR KERANS: "They're going to clear it with you before they buy it."

COMBS: "Actually no they don't clear it with me before they buy it."

CHAIR KERANS: "What happens when they buy the apartment building in Florida and they come back and you say no you're supposed to be doing office buildings on the west coast."

101 COMBS: "Then they would have done something that would have violated their fiduciary duty. There would be serious legal problems for them." 104 CHAIR KERANS: "So they come back and say I committed

\$61,000,000 in an office building in San Jose, it's within my parameters, here's my demonstration of due diligence, they go through all those steps for you isn't that correct?" COMBS: "That's correct."

107 CHAIR KERANS: "What's wrong with saying in here that in addition to saying 'as reasonably determined by methods customarily employed by fiduciaries for the type and value of property involved'. That the demonstration of the methods used would include provision to the Treasury of any extant appraisals. Is there anything wrong with you having those, if they exist?" 115 COMBS: "No, not if they exist."

116 TALBOTT: "Doesn't Alex Brown manual require them to?"

113 COMBS: "Right, not prior to purchase. What happens is within one year after purchase we get an outside independent appraisal, we've just changed this, they don't order it. We're going to order it directly from now and that's what we've done this year. Then every three years we also get an appraisal. That is an effort to make sure that what they've done (and) the values actually measure up." 117 CHAIR KERANS: "Let's do both of those things." 125 SEN. DUKES: "Why do you have to get an appraisal after they buy the property?"

127 COMBS: Explains why an appraisal is needed after purchase.

152 SEN. DUKES: "If what they're using is far more in depth and better than an appraisal then it seems to me there wouldn't be much point in doing an appraisal within a year afterwards." 155 COMBS: Discusses Sen. Dukes' comments. "We do it just as a check." 161 CHAIR KERANS: Suggests taking the language beginning with "the State Treasurer and the Oregon Investment Council shall not purchase real property for more nor sell it for less than its fair market value as reasonably determined by methods customarily employed by fiduciaries for the type and value of property involved." Comments that he still wants to work on that language. "Then go on to say that as a part of the demonstration of due diligence involved in such a determination that any assessments done on the property within the previous three years shall be submitted."

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177 COMBS: "No, but generally it would have been done by the previous owner. We would not have access to it or rely on it."

179 CHAIR KERANS: Explains that he means only if it is available. Asks if there is any problem with that proposal.

185 COMBS: "No." 187 GARY BRUEBAKER, Deputy Oregon State Treasurer: "We would be more than happy to adjust our procedures to formally request those advisors to make such a request for those recent appraisals and to provide those to us, as long as their available."

190 CHAIR KERANS: Comments that that language will be used. "Then we'll say within 12 calendar months following the purchase you shall make an appraisal of your own and put that (language) right here."

195 COMBS: "Except not within 12 months. Within the following

calendar year." 197 TALBOTT: "In addition, after the sentence in regards to the 'fair market value as reasonably determined by' your proposal was that the State Treasury shall request?" 203CHAIR KERANS: "Shall request. That's all." Comments that it may not be the State Treasurer and that it will be either the Treasury or its agent.

Sen. Bryant leaves at 6:53 p.m. The chair has excused his absence.

210 TALBOTT: "OK, shall request that any..."

CHAIR KERANS: "Any appraisals done within the previous 3 years on the property shall be requested."

219 SEN. SPRINGER: "Is it customary to get documents that show what the valuation of the property for tax purposes (is) as part of any title report at a minimum?"

224 COMBS: "We get that automatically through the title company. It has no real value."

226 TALBOTT: "It depends, in Oregon for instance, your appraised value is supposed to be your real market value."

230 CHAIR KERANS: Discusses the issue of the valuation.30 to 60 percent of current value

232 TALBOTT: "Within the next calendar year the Oregon State Treasury shall order an appraisal on the property purchased or some such language. Do you want it to be by a state certified appraiser under ORS 674.010 or..."

237 CHAIR KERANS: "Or certified under the laws of another state if the real property is not located in Oregon. Is there any problem with that? We have a conceptual amendment." 249 TALBOTT: Asks if they purchase property in the equity program outside of the country.

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250 COMBS: Explains that they don't do it directly. "We had through funds."

252 TALBOTT: "So we have a sub 5, Mr. Chair, and a sub 4."

254 CHAIR KERANS: Comments that a decision has not been reached on subsection 6. "What does that mean to you, in relationship to 4 and 5 above?" 262 COMBS: "It means that it covers both the real property and a loan that's made. That it allows a valuation (to) be made by an investment advisor. One of the things that happens is internally every year the investment advisor makes an valuation in addition to supplement the appraisals that we

get..."

276 TALBOTT: Asks if that would be part of subsection 4.

283 CHAIR KERANS: Comments that subsection 6 is redundant because of what the committee has done so far.

286 MUIR: Comments that he didn't hear in the amendments to subsection 4 "that there would be authority to value the property based upon a qualified investment manager/advisor. What I heard was the way appraisals would work...this concept really has to do with what is the source of those valuations? Alex Brown does not go out and get independent appraisals. It uses its own staff and conducts a valuation.

332 TALBOTT: "If its clear that sub 6 doesn't relate to the issue of loans and negate the underlying appraisal in sub 5 then the valuation by either a qualified investment manager or an independent appraiser would be consistent with sub 4."

340 MUIR: "I'd fold that in to paragraph four so it's clear that paragraph 5 stands alone."

342 CHAIR KERANS: Discusses Mr. Muir's suggestion.

350 COMBS: Discusses what the Treasurer's office is trying to avoid in regards to the language. Discusses a new program of the Treasury (approved by the OIC) called "The Opportunistic Program" and "The Discount Loan Program."

374 CHAIR KERANS: It's got to go in subsection 4. "That's an extension of the equity program, correct?"

376 TALBOTT: "That's not necessarily a purchase of real property if they are buying blocks of loans."

377 COMBS: "That's correct. However, in performance it's such as the equity. The Commercial Mortgage Program is set up to be an alternative to the fixed income." 381 TALBOTT: Discusses drafting solutions.

391 COMBS: "For the commercial mortgage program we definitely agree. It's just that we don't want to be in violation because of a non-related investment program that we'd have." 396 CHAIR KERANS: Suggests language for drafting purposes. Discusses a summation of what activity occurred on SB 319. Comments that the committee will look at the amendments when they come back. - These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign finance Committee April 22, 1993 - Page 15

WORK SESSION ON SB 323

455 TALBOTT: Refers to the material on SB 323. (EXHIBIT K)

467 CHAIR KERANS: Directs the committee to go over the overview dated 4/12/93. (EXHIBIT K) "What we are really getting at is the question of loss and how it's reported. How to determine what it is and how it's reported. What we want to do is to find a way to include within the statutes requiring reporting of loss, those which occur in violation of the prudent person rule, OIC guidelines, investment manual, the policies, etcetera."

TAPE 50, SIDE A

036 CHAIR KERANS: Continues the discussion on the intent of SB 323. Discusses the proposed amendments. (EXHIBIT K) 054 MUIR: Discusses

history in regards to this legislation. Comments on former Treasurer Meeker's testimony before the Interim Special Investigative Committee on PERS Investments, in regards to the treasury not being a state agency. Discusses the definition of state agency. "Our office would say, and I'm saying it now, that the staff that the Treasury manages is a state agency, but the Treasury doesn't have any objection to your proposed amendments in any case." 067 CHAIR KERANS: "It requires that all reports of losses be made in writing that was a problem which I don't think you've got any problem with that." 072 STEVE FRASER, Commercial Mortgage Officer, Oregon State Treasury: "No. Losses are going to be reported in writing." 073 CHAIR KERANS: "However, you maintain the language which defines what a loss is for purposes of the Treasury's investment fund...you said earlier that you have two new information systems which track potential losses and actual losses, and since investment losses do not necessarily apply we go on to talk about wanting to have the actual loss reported. Your amendments struck that language. If you're actually getting the data what's wrong with reporting it? Is that the right question to ask?"

085 TALBOTT: Discusses a conversation she had with the Director of the Audits Division, Mr. Don Waggoner, and his suggestions for reporting investment losses as well as investments made outside "the guidelines," and "loss of public funds" in investments. Comments that Mr. Wagner would like to see the report in writing and be "within a specific number of days. He thought that would be helpful for all state agencies, not just the State Treasurer."

139 BRUEBAKER: "We would like to see that every place that loss is in this statute that we would insert the word realized in front of it."

143 TALBOTT: "For purposes of the Treasury, not for other state agencies. How do you look at that?"

155 CHAIR KERANS: "Realized means that when you come to the end sell the property and it's gone from your books and you take the purchase price minus the sale price and that represents the loss. Is that about the size of that?" Continues the discussion on "realized loss." "What I want to do is when there is such a loss which may not have been realized, but it's been recognized, it becomes a new basis for the value of the property." ~ , These min~te~ contain materials ~ paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 16

Continues to discuss the issue of reporting of losses. "I would say realized loss would simply negate what's proposed here. Am I wrong?"

190 BRUEBAKER: "No, sir you're not."

191 FRASER: Addresses Chair Kerans' statements about purchasing a piece of property outside the guidelines that is a "dog." Comments that the Treasurer's office has "several different ways that that's going to immediately come to surface," enumerates the "ways" in which those types of purchases would come to the surface.

234 CHAIR KERANS: Remarks that all Mr. Fraser mentioned would be "negated by putting realized loss here. Isn't that correct? For purposes of you it might be all well and good, you'd know, DOJ would know, the internal auditor would know, your annual report may not tell me and I

would not have any public notice that that's true."

240 FRASER: Discusses Chair Kerans' comments and states that "at any one point in time losses are very theoretical until they are fully realized and completed." Comments that he does not have a problem adding another reporting structure "on accountability, but to do it until the final event comes just too theoretical, and administratively an impossibility." 256 CHAIR KERANS: "That's a little too far. The fact of the matter is that the cases in point we had properties in which bumped downstairs a number of years in a row. They were reported as such in the annual report and the reason for it was not disclosed. What I want to do is to have you make a report under this statute. When you do that as a result of something that came on your books which came on your books outside the guidelines. That's a fairly small class of things isn't it? Is there anything wrong with that? You guys determine that it had a value less than what it had the year before and wrote it down on your books. Didn't you?"

272 BRUEBAKER: "How about the language rather than realized, how about recognized and recorded?"

274 CHAIR KERANS: "That's fine with me. Recognized and recorded works for me. That's not final sale, that's not the resolution of it. Is it?"

276 BRUEBAKER: "No that is not. That's correct."

277 TALBOTT: "Then it would include your internal write downs or you have a category of expected write downs on a couple of the things that I reviewed."

279 BRUEBAKER: "Once we had sufficient information to know that it needed to be written down that that's the point in time that it would be recorded."

281 CHAIR KERANS: "How about if we report those under this statute. Is that alright?"

MUIR: "Yeah."

283 CHAIR KERANS: "Recognized and recorded, that's fine. We'll put that in front of loss." Discusses the "for purposes of section 2 that when it's recognized and recorded it's going to be reported. Do you have any objection to doing that in the context of the bold faced language which says that occurs, or shall we just strike

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that? Then you tell me, we could do it even broader, and have you report by virtue of this statute when you do that in all cases if you're program does that for you. Or do you want to do that just for those where they are outside the guidelines?"

303 BRUEBAKER: "We would be happy to do it for all losses."

CHAIR KERANS: Asks Ms. Talbott if she has any objections to the proposal.

305 TALBOTT: Comments that it is "different in the context of subsection 1, which is somebody whose entrusted with funds and has arguably done something improper with them. When you start recording all write downs then maybe someone's going to argue that they all have some veil over them because they somehow were improper when not necessarily. .In the context of this particular audit section I'm not sure you would want to do it in section 2. You could do it clearly in section 3 or just add another section for something outside the guidelines."

322 MUIR: Discusses a conceptual issue that the treasury staff discussed regarding section 2, beginning on line 17. "The language caused or resulting from.. clearly you wanted to know about the deviations from the guidelines...and the losses, but sometimes you can't establish that it was caused by. In addressing that one of the reasons why Mr. Bruebaker was willing to say that we'll want to report all them is because it is difficult to identify those that are caused by deviations by the guidelines."

342 CHAIR KERANS: "How many cases would we have?"

326 BRUEBAKER: Comments that they hope to have "somewhere between none and very little."

346 FRASER: Discusses the existing portfolio and what would be required to determine deviations from the guidelines.

359 CHAIR KERANS: "Let's do this then. Strike subsection 2, lines 17 through 24. Simply say that you're going to report all losses, let's do that in section 3. Let's do in section 2, sub 1, just the division of audits within 30 days, etc. and then in writing. Then in section 3 create a new section which says when the State Treasurer recognizes and records a loss and all the appropriate verbiage that follows that, that you were then going to report it to the Division of Audits and you'll also report it to the Oregon Investment Council and Legislative Assembly and the reports will be made within...How many days after the discovery of the loss?"

383 BRUEBAKER: " 180. "

CHAIR KERANS: "No. "

383 BRUEBAKER: "90? If it got much less than 90 it would be an administrative problem for us, I believe."

386 MUIR: "The OIC does not always meet every month."

390 CHAIR KERANS: "90 days, is that OK?"

BRUEBAKER: "Yes, Mr. Chair, it is."

393 TALBOTT: "So that would be basically outside the confines then of section 2." . . . These mmutes contain materials which paraphrase and/or summarize statements made durlug this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. . Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 18

CHAIR KERANS: "That is correct."

TALBOTT: "So notwithstanding section 2, the Treasury does the filing."

398 CHAIR KERANS: "That is correct." Summarizes what took place during the work session on SB 323. "I want to make sure that we're not subjecting the Treasury or its staff to the (apparent) connotation that a loss is being reported in relationship to the intent of ORS 297.120 sub 1, to wit that something nefarious had occurred. Instead we are going beyond that and saying that it is being reported in the normal course of business being done with in 90 days and as a result of you having recognized and recorded it. Having said that is there anything wrong with going on within 3 and saying if it's determined, by the Treasury, that the loss was a result of, or if it can be determined by the Treasury that the recognized and recorded loss was the result of actions taken outside of the guidelines. I would lose some of this, but simply the written investment guidelines, the Investment Council, the State Treasurer, that should be noted?"

432 BRUEBAKER: "We would not have a problem with that."

433 CHAIR KERANS: "And report any remedial action taken or proposed?"

436 TALBOTT: "Actions or omissions of actions?"

437 CHAIR KERANS: "I think we understand that to be included. Good let's do that."

440 TALBOTT: "Any remedial actions taken.."

CHAIR KERANS: "I think remedial action proposed. Any objection?"

442 BRUEBAKER: "No sir. "

443 CHAIR KERANS: "The Treasury all nods its head in unison saying they have no problem."

WORK SESSION ON SB 324

455 TALBOTT: Refers to and discusses the computer engrossed version of SB 324 , in regards to the amendment submitted by the Treasury. Comments that lines 11 and 12 are the 'first change. " (EXHIBIT L)

476 CHAIR KERANS: Reads lines 11 and 12. "That's an addition."

483 TALBOTT: Discusses that she spoke with Mr. Muir about the intent "in terms of the private proprietary records and suggested that perhaps it would be clearer if they used a reference to ORS 192.501 and .502, which are the exemptions from the public records law." Discusses the concerns that the Treasury has in regards to public records and current legislation (SB 500).

TAPE 49, SIDE B

037 TALBOTT: Continues the discussion in regards to the Treasury's concerns about the public records legislation (SB 500) and comments that there would be conflict amendments. "It's certainly something that if the committee feels comfortable with it, the term private proprietary records, is something that is up to the council to determine..." - These notes contain "serials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please, see

044 CHAIR KERANS: Asks if it would be up to the council to determine.

045 TALBOTT: "As it is written, I don't know how else you would do it."

046 CHAIR KERANS: "I wouldn't know. That's somebody who brings you something and they've bought a stamp at the stationary store that says confidential and they give it to you and say this is a business plan which is proprietary and then they would say that it is. That might not meet the definition of the ORS. Isn't that correct?"

049 MUIR: "That's correct." Comments that it would "probably need a definition. "The intent here is information that isn't circulated and is of business value to the entity presenting it. The disclosure of which would be to the economic disadvantage of that private party."

054 CHAIR KERANS: "Those are really what's included under the present exemption."

055 TALBOTT: Comments that there "are several that would apply to records that the Treasury has. " Discusses which exemptions would apply.

064 CHAIR KERANS: Asks what is wrong with the current exemptions and comments that it is "extremely broad. "

065 MUIR: "Under SB 500, I believe there is a weighing test that permits disclosure of that under circumstances where the public's interest in disclosure outweighs. The problem with the weighing test from a practical point of view, is that the private parties won't give you the information in the first place if they feel that later some public body can release it. It puts that Treasury in the position of not even getting the information in the first place and losing the opportunities that that means." 071 CHAIR KERANS: Discusses SB 500. "If we can say that not but private proprietary records and information of, and I would define that further, ..valuable business information, trade secrets, or whatever you wanted to use and exclude that. I don't take that to be broader than what you've got now. Do you?"

082 MUIR: "That's not the intent. It would not be broader." Comments on the concern with SB 500.

088 CHAIR KERANS: "Why don't we take some of that language right there, received in confidence. Disclosure of which would cause economic harm to the person or interest from whom it was received. Language to that effect." .

MUIR: "That will achieve the intent."

CHAIR KERANS: "So what we're saying is we're not talking about somebody putting a confidential stamp on their laundry list and turning it in."

MUIR: "Right. n

102 SEN. DUKES: "Couldn't we reference the statute as of last year, so you freeze it in time and put a conflict amendment in here, so that no matter what happens to (SB ) 500 or any other bill floating around that it wouldn't change?"

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106 MUIR: Comments that he doesn't know the answer to that. . . 106  
SEN. DUKES: "We can say that was a good idea, and we're going to freeze it in here."

107 MUIR: "I don't think the Legislature can freeze itself. It's always able to change subsequently what it has done before. A certain legislature can not bind a future one."

DUKES: "But we can say notwithstanding any other bill to pass this legislative session. Can't we?"

112 MUIR: Comments on subsequent laws clause.

114 CHAIR KERANS: "Let's put you in the same boat with everybody else.. .Let's reference the present statute, a conflict amendment will chase it and you are now..at this point committed to making your views known on that bill."

120 BRUEBAKER: Comments on going back to the language Chair Kerans' "liked a couple of minutes ago."

122 CHAIR KERANS: "I think the reference is probably best."

TALBOTT: "Do you want to reference .502 and .501?"

125 CHAIR KERANS: "Yes."

131 TALBOTT: Discusses the issue of "what a report will contain in terms of the Public Employes' Retirement Fund" on the second page. Discusses the deletions and additions found on page 2. Comments that is similar to the original proposal. Comments that "the only difference is that is basically defines delinquency and then in reference the annual report." (EXHIBIT L)

151 SEN. DUKES: Asks in regard to the deletion on page one line 27 "I don't know what investment funds that are trust funds are. I want to know if there is anything other than the language that's been put in its place, Public Employes' Retirement Fund, write offs made or loans more than 90 days delinquent. Did we lose something in here?" (EXHIBIT L)

161 TALBOTT: "SAIF funds are arguably trust funds."

MUIR: "That's correct." Comments there wasn't an intention to restrict it.

164 CHAIR KERANS: Asks why not say "or other trust fund? That would then capture any other trust fund."

167 BRUEBAKER: "We wouldn't have any problem with that."

168 SEN. DUKES: Asks why the language was eliminated. (EXHIBIT L)

CHAIR KERANS: Comments that the language should be in bold face. (EXHIBIT L)

170 TALBOTT: "That's proposed new language." (EXHIBIT L)

CHAIR KERANS: "They're simply striking what was proposed to be new in SB 324 ." (EXHIBIT L) ~ . These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes. - Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 21

171 SEN. DUKES: Asks why they want to delete it. (EXHIBIT L)

172 CHAIR KERANS: Comments that the Treasury wants to submit the new language within the arrows on page 2. (EXHIBIT L)

173 MUIR: "Beginning with line 26, 'The report' the report that is referred immediately before would not be the report that is suggested here. There are two separate reports. The proposed language is establishing a duty to provide with the council with a report. As a matter of fact right now the council is provided with a whole series of reports...The intent of this inserted language is to capture all of those, but within at least a yearly cycle."

187 CHAIR KERANS: "So this should be a sub B or a sub 2?"

189 MUIR: "Could be. The original language suggested that all this information be in the other report, and it isn't. "

191 SEN. DUKES: "Is it possible to fix reports and get it at least annually in there, but still keep 'include any reduction in value of any investments and investment funds that are trust funds?'" Explains the risks in enumerating lists. 197 BRUEBAKER: "Perhaps we could address that same issue by after Public Employees' Retirement and other trust funds. Which would be all inclusive." 200 CHAIR KERANS: Discusses placing "and other trust funds" on line 3, page 2. (EXHIBIT L)

202 TALBOTT: Explains why the language should be "investment funds that are trust funds."

205 CHAIR KERANS: "Then I think we ought to take their language, but I would break that into a sub 1 and sub 2, so that we know that there are two reports there. Apparently no objection to that." Asks what is different with section 3. 214 MUIR: "There is no difference here. We have a drafting problem here. The intent was to delete all of the language beginning with the comma including all the way through partners period." Comments that it was somehow picked up again. (EXHIBIT L)

220 CHAIR KERANS: Read through section 3. Asks why they don't run subsection 2 together with subsection 1. "I want to include what the report will contain. I'd like to have the aggregate amount of fees paid by category. Fees paid within the divisions of the Treasury, the classes." 234 BRUEBAKER: "We would be happy to provide that information the only qualification that we want to put on this is there are some fees that we pay that we don't know what they are. In other words, we'll negotiate something like we did with Columbia where it's a net return to us and we don't know what their fees are. We have some servicers where we have the same type of thing...We would be certainly be happy to report all of the fees we know about, whether we pay them directly or not."

243 CHAIR KERANS: Comments that he would like to know all of the fees they know about.

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248 MUIR: Comments that "nobody has any idea of what the brokers' fees are when they invest in mutual funds. "

250 CHAIR KERANS: Comments that he wants all those fees "that are identified by class." Discusses the types of fees. "All real estate fees, all fees that are the result of your money managers and what they are doing that are in contracts, and express those as a class. Those are negotiated and that's a public document, isn't it?"

MUIR: "Yes. "

CHAIR KERANS: "Can you do that?"

262 BRUEBAKER: "We do have some fees that cross classes."

266 TALBOTT: Asks if the consideration is also fees paid to individual mortgage brokers.

270 CHAIR KERANS: "Yes. "

271 TALBOTT: "So you would have to have some data base to collect that information?" 273 BRUEBAKER: "Yes. That may be one of the areas that we'll have a hard time getting that information."

275 TALBOTT: "With Hanford Healy oversight maybe that's something they can track."

276 MUIR: Discusses the issue of tracking. "There are some fees that if you went through the process you might be able to construct what the fee was..." Comments that it is important to know what they are asking for because it might increase the costs. "There are fees that are reported and there are fees that are being paid out of pocket."

287 CHAIR KERANS: Comments that is what he wants to know.

288 TALBOTT: Discusses the fees in relation to mortgage brokers. "Identifiable fees paid by asset class or.."

294 MUIR: Explains a problem with using identifiable. "What you want to say is...recognized and recorded fees. "

299 CHAIR KERANS: "Good. I'm OK on that." Comments on disclosure with regard to RJR. (EXHIBIT M)

323 BRUEBAKER: Explains that the way the bill is worded the fee to KKR would not be included. Explains that the fee is paid by a company that the Oregon Treasury owns a piece of. Discusses the language inserted with regard to "and other trust funds." Comments that SAIF does not "have need for nor do they want to pay us for marking their portfolio to market." Explains that they would not have those estimates.

340 TALBOTT: "For purposes of section 2 and the reports is that what you're referencing?"

341 BRUEBAKER: "Yes."

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344 CHAIR KERANS: "What that means is that you're not going to tell me about that because you don't have that information."

352 TALBOTT: Comments that the language needs to reflect that. Discusses suggestions for language.

365 BRUEBAKER: "Market evaluation. If the market evaluation is determined for the funds."

367 CHAIR KERANS: Comments that that would work. "Do we have any problem with the remainder of it. We are going to tape the meetings?"

BRUEBAKER: "Mr. Chairman we agree with that portion of the bill."

372 TALBOTT: Asks what they do with the tapes. 377 BRUEBAKER: Explains that the recent ones are kept in the office and then sent to the archives. 362 CHAIR KERANS: Asks a question in regard to page 3 "we have record that relate to concluded or abandoned transactions that are not subject to the exemption stated in this subsection. What are we talking about here?" 386 TALBOTT: Explains that the section was added by Legislative Counsel and explains why. Explains that it was not meant to be a substantive change. 401 CHAIR KERANS: "We'll let this be consistent with the decision we made earlier about SB 500."

403 BRUEBAKER: Discusses inserting "permanently" in front of abandoned.

418 CHAIR KERANS: Asks what is wrong with section 5.

419 TALBOTT: Explains the reasons for section 5, due to the possibility of separate staff for the OIC.

432 MUIR: Comments that if there is going to be a separate counsel then section 5 should be placed into the bill dealing with that.

437 CHAIR KERANS: Comments that they have a bill which includes section 1, 2 and 3. Asks if there is any objection to the amendments discussed conceptually. Hearing no objection Chair Kerans states "we'll order those." 451 CHAIR KERANS: Adjourns the meeting at 8:01 p.m.

Submitted by: Reviewed by:

Tamara Brickman Annette Talbott Assistant Counsel

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proceedings, pleas refer to the tapes. Senate Ethics, Elections, and Campaign Finance Committee April 22, 1993 - Page 24 EXHIBIT LOG

A - Preliminary Staff Measure Summary on SB 321 - Committee Staff- 1 page  
B - Testimony in support of SB 321 - Attorney General' Office - 2 pages  
C - SB 322-1 amendments dated 3/23/93 - Committee Staff- 8 pages  
D - Preliminary Staff Measure Summary on SB 322-1 - Committee Staff - 2 pages  
E - Testimony in support of SB 322-1 - Elise J. Fulsang - 10 pages  
F - Testimony in support of SB 322 - Timothy Wood - 5 pages  
G - Preliminary Staff Measure Summary on SB 318 - Committee Staff - 1 page  
H - Amendments to SB 319 - Committee Staff- 2 pages  
I - Explanation to amendments on SB 319 - Treasury Staff, Gary Combs - 5 pages  
J - Proposed Amendments to SB 319 - Treasury Staff, Gary Combs - 1 page  
K - Amendments to SB 323 - Committee Staff- 2 pages  
L - Computer Engrossed SB 324-1, with Treasury amendments dated 4/22/93 - Committee Staff- 4 pages  
M - R.J. Reynolds Report article - Committee Staff- 2 pages

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