

HOUSE COMMITTEE ON STATE AND FEDERAL AFFAIRS

February 18, 1991                      Hearing Room E 8:30 a.m.                      Tapes 41- 42  
MEMBERS PRESENT: Rep. Bill Markham, Chair Rep. Larry Sowa, Vice-Chair  
Rep. Marie Bell Rep. Mary Alice Ford Rep. Tom Novick Rep. Carolyn Oakley  
MEMBER EXCUSED: Rep. Lonnie Roberts VISITING MEMBER:        Rep. Randy  
Miller, District 24 Rep. Sam Dominy, District 44 STAFF  
PRESENT: Randall Jones, Committee Administrator Carolyn Cobb,  
Committee Assistant MEASURES CONSIDERED: HB 2484 - Prohibits  
Conflicts of Interest for Employees of State

Board of Higher Education, PH, WS HJR 8 - Establishes Four-Year Terms  
for Representatives and Six Year Terms for Senators, PH, WS HJR 10 -  
Limits Terms of State Senators, United States Senators, State  
Representatives, and United States Representatives, PH, WS

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 41, SIDE A

003 CHAIR MARKHAM: Calls the meeting to order at 8:39 a.m.

009 MOTION: REP. FORD moved to introduce LC 3097 dated 2/13/91 (EXHIBIT  
A) and LC 3098 dated 2/14/91 (EXHIBIT B) as committee bills.

011 CHAIR MARKHAM: Hearing no objections, it is so ordered. House  
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HB 2484 - PROHIBITS CONFLICTS OF INTEREST FOR EMPLOYEES OF STATE BOARD  
OF EDUCATION - PUBLIC HEARING Witnesses: Scott Bartlett, Administrative  
Assistant to Rep. Dwyer Robert Lofft, Citizen Larry Large, Vice  
Chancellor for Public Affairs, Oregon State System of Higher Education  
022 SCOTT BARTLETT, ADMINISTRATIVE ASSISTANT TO REP. DWYER:  
-Describes discussions with Larry Large, Oregon State System of Higher  
Education. -ORS 351 affords faculty members the opportunity to interact  
with the private sector, transfer technology and benefit society as a  
whole. -Trying to work with the Assistant Attorney General for Higher  
Education and Legislative Counsel to make bill dovetail with the  
legitimate intent of ORS 351 and ORS 244. 066 ROBERT LOFFT, CITIZEN:  
Describes career with the University of Oregon. -Became aware  
supervisors were competing with the University. -Supervisors more  
enthusiastic about their own business than their university work. -Saw  
staff members taking home university equipment. -Describes supervisors'  
reactions to confrontation about questionable activities. -Length of  
employment contract was reduced. -Was terminated at the end of contract.  
-Was told by administration "goes on all over the campus". -Filed  
lawsuit and was given a breach of contract award by the court (EXHIBIT  
C). -Statutes are open to wide interpretation. -Court has ruled  
questioned activity is legal. -There is a need for a law with more teeth  
that would prohibit conflict of interest and the private use of public  
resources. 157 BARTLETT: Conveys appreciation to Mr. Lofft. Discusses  
master set of internal management directives of the State Board of  
Higher Education. -We are in the process of seeing how HB 2484 can put  
teeth into oversight. -The use of school property for private gain  
should be stopped. -State System must approve each individual  
institutions' set of rules. -Describes intent of bill which became ORS

351. -Wants to prevent individuals from using their positions for unjust enrichment. 246 REP. BELL: What is the rationale for having each institution write its own guidelines rather than having a standard set of guidelines that all institutions could live by? 253 BARTLETT: Individual institutions may have their own internal ways to delegate authority for oversight. 266 REP. BELL: Did you find any situation where the University was compensated for the use of equipment or staff time for private purposes? 275 BARTLETT: Yes, I think they are compensated, probably frequently. There may be grey areas and lack of coordination. This measure endeavors to set the rules and House Committee on State and Fedd Affairs February 18, 1991 - Page 3

establish a tighter legislative oversight, and remove any uncertainty about what is appropriate.

291 REP. BELL: In your redrafting, have you looked at any other states which may provide a model act? 299 BARTLETT: No. We could ask the State Board about that. The problem seems to be in enforcement area.

324 REP. SOWA: What is the philosophy behind this bill, people who disagree with the system should not have to go to court.

345 BARTLETT: We have discussed the matter with the Assistant Attorney General and they have no problem with allowing people who have been terminated to file a grievance.

378 LARRY LARGE, VICE CHANCELLOR FOR PUBLIC AFFAIRS, STATE SYSTEM OF HIGHER EDUCATION: Describes the State System of Education rule making process subsequent to the passage of legislation -Rule making process produces a tightening up of restrictions. -Members and employees of the Board of Higher Education are subject to ORS 244 , the general ethics statutes. -Submits follow-up report on the foreign study case (EXHIBIT D). -In the Lofft case, the judgement stated there was no wrong-doing, but the matter predated the present more restrictive rules.

TAPE 42, SIDE A

030 REP. BELL: Do the rules at the University of Oregon now include a grievance procedure?

035 LARGE: There are grievance procedures on each one of the campuses. There are appeal procedures, but they may not speak to an employee complaining about the acts of another employee.

041 REP. BELL: Do these new rules tighten things up?

045 LARGE: Yes. There are other rules and regulations pertaining to technology transfer. There has been a long standing set of rules which allows faculty one day a week of outside activities.

076 CHAIR MARKHAM: How does Higher Education look at this measure?

078 LARGE: We agree with the intent of the bill. It is not clear to us that the legislation is needed, but we will cooperate. -The campuses take very seriously their responsibilities to account to the public for any perceived or actual conflicts of interest.

088 CHAIR MARKHAM: Do they tend to write tougher rules? House Committee on State and Federal Affairs February 18, 1991- Page 4

090 LARGE: Yes, they cannot write any that are not as tough as what we administer. 094 REP. SOWA: Is the State Board of Higher Education elected? 097 LARGE: No, they are appointed by the governor and confirmed by the senate. 100 REP. SOWA: What you are telling us about these rules is that some mysterious body in each college rewrites the rules to conform to their individual institution? 106 LARGE: Each institution writes its own rules which have to be approved by the Chancellor and the Board of Higher Education. 114 REP. SOWA: Who is writing the rules? 116 LARGE: The president of each institution is ultimately responsible. Describes the rule making process. 168 REP. BELL: Is there ever a time when the public knows the official salaries of university professors? Do we know what they earn beyond their state salaries? 177 LARGE: It is public, although I do not know of any place where it is published routinely. 181 REP. BELL: I feel how much they earn above their official state salaries is a valid question as we face budget cuts. 187 LARGE: It is the exception rather than the rule where faculty members are engage in outside activity. 193 CHAIR MARKHAM: Is there a requirement they disclose to their supervisors how much they make outside their state salary? 198 LARGE: I believe it is not in the board rules.

HJR 8 - ESTABLISHES FOUR-YEAR TERMS FOR REPRESENTATIVES AND SIX-YEAR TERMS FOR SENATORS - PUBLIC HEARING Witnesses: Steve Lanning, Political Education Coordinator, Oregon AFL-CIO 225 STEVE LANNING, POLITICAL EDUCATION COORDINATOR, OREGON AFLCIO: Submits and summarizes written testimony (EXHIBIT E). 271 REP. SOWA: Do you hold the same position on provisions in the state constitution that limits state-wide officials to two successive terms and no more than eight years in any twelve year period? 278 LANNING: Yes we do. Primarily we are concerned about legislative and congressional offices. House Committee on State and Federal Affairs Februar, 18, 1991 - Page 5

294 REP. SOWA: If the language was exactly like that pertaining to the state-wide offices, you would not support that for legislators?

295 LANNING: I would have to go back to my organization and ask them if they would wish to reconsider.

303 REP. FORD: Do you see a difference between state-wide elected officials who hold full time positions versus the legislators who are part time?

313 LANNING: Partly, but the other thing is there is a lot of power in the state-wide offices.

HJR 10 - LIMITS TERMS OF STATE SENATORS, UNITED STATES SENATORS. STATE REPRESENTATIVES AND UNITED STATES REPRESENTATIVES - PUBLIC HEARING Witnesses: James Hale, Citizen Darrell Maby, Oregonians for Cost Effective Government Randy Miller, State Representative, District 24 Sam Dominy, State Representative, District 44

366 JAMES HALE, CITIZEN: Worked as a campaign aide in Utah and learned what can go wrong when an incumbent remains in office too long. -There should be a term limitation, but HJR 10 is not the proper vehicle. -Twelve years is not a limitation, and is not close to the initiative petitions that have been filed. -Term limitation should apply not only to legislators and congressmen, but to all statewide and local officials who are compensated for their services. -Submits a substitute bill (EXHIBIT F).

TAPE 41, SIDE B

029 HALE: Discusses the possibility some of the people involved in the Measure 5 initiative may file a term limitation initiative. -Initiative petitions are for a very short term limitation and include local officials.

044 HALE: Describes the major provisions of his proposal.

051 REP. SOWA: Your proposal appears to have a limit of eight years as a representative and then you could serve in the senate for twelve years.

056 HALE: At the federal level that would be correct. At the state level it would be sixteen years total.

061 REP. SOWA: I notice in line 8 there is some campaign finance reform.

063 HALE: There is some language that addresses some other subjects. The campaign finance proposals would have the same intention of limiting the power of incumbency. -It is very difficult to get anyone to challenge an incumbent particularly at the federal

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level. -It is especially hard to get members of the house to run against members of the senate.

087 REP. FORD: Do you have experience with corruption among legislators?

092 HALE: I don't know any member of the legislature that I believe is corrupt. -The state legislature is not a citizens legislature any more. -There is a great benefit in requiring a politician to acquire a new mandate. -Term limitation will create more healthy competition for offices.

109 REP. FORD: Have you thought the kind of person who runs for the legislature may not be the same as the kind who runs for a congressional seat? 118 HALE: I do not believe there is a significant difference in personality between those who run for national office and those who enter state and local races. -Putting HJR 10 on the ballot will damage the legislature's credibility.

141 CHAIR MARKHAM: We have been advised by Legislative Counsel that Article 2 of your proposal would not meet the germaneness test.

146 HALE: I am aware of that. If it was phrased as a limitation on the power of incumbency it might meet the test.

154 REP. FORD: Have you decided that congressional terms need to be limited, or is the problem not tenure, but the seniority system?

164 HALE: People are not excited about going to congress and having to stay there fifteen years in order to obtain any measure of authority.

174 REP. NOVICK: Would it surprise you to learn that the average term of state legislators is six years for house members and eight years for senate?

180 HALE: The seats of power in this assembly have remained with those who have long tenure.

192 REP. NOVICK: Voters have opportunity every two years to limit the terms of their representatives. Are you familiar with how many incumbents were not re-elected last time?

196 HALE: I am familiar with who is not here and how much it cost those new members to get here. -Discusses contributions of special interest groups to legislative candidates.

244 REP. NOVICK: You would suggest the voters be denied the opportunity send the person they want to the legislature?

251 HALE: I do not believe HJR 10 is the right answer for that. -There comes a point where there is a diminishing return from the incumbent's ~- House Committee on SB te and Federal Affaus February 18, 1991 - Page 7

experience. -There is strong sentiment that congress is a failed institution and something has to be done about term limitation.

265 REP. OAKLEY: If I served as a representative for eight years, would I need to lay out for two years before running for the senate?

276 HALE: Not under the language of my proposal.

289 REP. OAKLEY: Have you thought about the impact on the Ways and Means Committee where people with experience are needed to carry through from session to session?

296 HALE: Ways and Means has far too much power in this body.

302 REP. BELL: There are leadership positions that are being filled by second term legislators. At the congressional level, if we are among the first to limit terms, there may be a long period when no Oregon member would have seniority. Can you weigh the balance between the social good you are trying to do and the possible economic consequences to the state. 326 HALE: The seniority system enhances "pork barrel" politics. Junior members of congress are quite able to bring home federal funds which is not always to the benefit of their own constituency.

383 REP. FORD: How do we equalize the opportunity for elective office between candidates representing poor constituencies and those financed by wealthy interests?

393 HALE: I do not favor public financing for campaigns. That poor person is in a much less advantageous position than they were ten years ago.

TAPE 42, SIDE B

010 REP. OAKLEY: What would you consider a fair ratio with regard to PACs and private money?

013 HALE: I am not sure I know the answer to that, but the Lane County PAC ratio was far too high. -One element of my proposal is a prohibition against a tax credit for PAC contributions. -Proposal prohibits campaign contributions except during the last fourteen months prior to the final election. -Proposal makes a more level playing field for all candidates.

045 REP. NOVICK: In section 7 of your proposed amendments, do you intend to include judges?

050 HALE: The portion of the constitution I have attempted to change deals with local officials but does not deal with the judiciary. As it is written, this may apply to county

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judges.

055 REP. NOVICK: Since your proposal appears to include any office holder who receives a per diem, would you be concerned that in some communities it would be difficult to get people to give up their time? Would this place small communities or rural areas at a disadvantage in finding qualified candidates for office?

062 HALE: They might go to an out-of-pocket expense reimbursement system rather than a per diem and then they would not fall into this category.

076 REP. NOVICK: Constitutionally, does the state have the ability to limit congressional terms?

081 HALE: An article from Wall Street Journal argues very strongly that the U. S. Constitution allows legislatures to regulate election of members of congress. Some groups working on term limitation see this as an opportunity to influence congress to adopt a nationwide measure.

149 REP. NOVICK: Do you know why the people who are contemplating a term limitation initiative have chosen not to appear at this hearing?

156 HALE: I think you have to take very seriously that there will be a term limitation ballot measure.

185 DARRELL MABY, OREGONIANS FOR COST EFFECTIVE GOVERNMENT: Ours is the only statewide organization that is looking out for the taxpayer. We have approved the concept of term limitations. -We did determine that judges should be exempt. -Representatives from more or less isolated areas should be exempt. -We think the President of the United States is doing a good job and perhaps we do not want to turn him out after four more years. -I am not prepared to debate whether it should be an eight year limitation or some other limitation. -We are going to be issuing a policy statement and will address it to the committee. 227 CHAIR MARKHAM: Is your organization working on an initiative? 229 MABY: We have discussed it, but have not been a party to one to date. 230 REP. NOVICK: How large is your organization? 234 MABY: We have backers and contributors numbering 3,500. We are in the process of expanding into southern and eastern Oregon. 236 REP. SOWA: The proposals that have been presented to us take effect as of the date they pass. Does your

group have a position on when the limitation should start? 252 MABY: We are making an assumption it would apply to those presently serving so they . House Committee on Stab and Federal Affairs February 18, 1991 - Page 9

would be deprived of the opportunity to serve further.

256 REP. NOVICK: Under that assumption, potentially half or two-thirds of the legislature would be gone at once. Do you think that would be beneficial to the State of Oregon? 264 MABY: We could live with it, I hesitate to say beneficial in all cases.

273 RANDY MILLER, STATE REPRESENTATIVE, DISTRICT 24: Advises the committee another bill is coming that will allow the division of the limitation between federal office holders and state office holders.

290 SAM DOMINY, STATE REPRESENTATIVE, DISTRICT 44: I think in my lifetime we will see term limitations in Oregon. -Expresses concern about the increased power and influence of lobbyists and bureaucrats under term limitation.

HJR 10 - LIMITS TERMS OF STATE SENATORS. UNITED STATES SENATORS, STATE REPRESENTATIVES AND UNITED STATES REPRESENTATIVES - WORK SESSION

322 RANDALL JONES, COMMITTEE ADMINISTRATOR: Reports after interviewing each committee member, found little support for HJR 8 and HJR 10 individually. Received suggestions to amend the measures to satisfy their concerns.

339 REP. SOWA: I am in favor of term limitations and campaign finance reform. I don't know how many of the other bills relating to this will come to this committee. I would like to see one of these measures move out of the committee.

363 REP. BELL: Knowing there are other bills coming, I would like to put these on hold until we see the other bills.

374 REP. OAKLEY: I think we have some good parts of legislation here, but I agree we should wait to see the others.

Submitted by:      Reviewed by: Carolyn Cobb              Randall Jones  
Assistant              Administrator

EXHIBIT LOG:

A - Draft LC 3097 - Rep. Ford - 4 pages B - Draft LC 3098 - Rep. Ford - 3 pages C - Testimony on HB 2484 - Robert Lofft - 12 pages - These mlnuter contain materiale which paraphrare and/or wmmarQe rtate~nen~ made during this ~uan Only text enclored in quolation marl~ report a speakertr exact words Fot complete contentr of the procedingc, plea-refer to the taper House Commiltee on SB te and Federal Affairs February 18, 1991 - Page 10 D - Testimony on HB 2484 - Larry Large - 9 pages E - Testimony on HJR 8 - Steve Lanning - 2 pages F - Amendments to HJR 10 - James Hale - 2 pages