

Senate Bill 57

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates Office of Program Policy Analysis and Government Accountability within Legislative Fiscal Office. Directs office to conduct performance, program and management evaluations or reviews of state agencies and programs and other state-funded programs.

Creates Joint Program Policy Analysis and Government Accountability Committee in lieu of Joint Legislative Audit Committee. Directs committee to oversee evaluations or reviews conducted by Office of Program Policy Analysis and Government Accountability.

Repeals statutory authority of Secretary of State to conduct performance and program audits.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to the Joint Program Policy Analysis and Government Accountability Committee; creating
3 new provisions; amending ORS 171.580, 171.585, 182.472, 184.360, 184.649, 283.343, 291.100,
4 291.272, 297.050, 297.230 and 419C.001; repealing ORS 171.590, 297.065 and 297.070; and declaring
5 an emergency.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. (1) The Office of Program Policy Analysis and Government Accountability**
8 **is created as a unit within the Legislative Fiscal Office. The Legislative Fiscal Officer shall**
9 **select the Director of the Office of Program Policy Analysis and Government Accountability**
10 **who shall serve at the pleasure and under the direction of the Legislative Fiscal Officer.**

11 **(2) Pursuant to the policies and directions of the Legislative Fiscal Officer and the Joint**
12 **Program Policy Analysis and Government Accountability Committee created under ORS**
13 **171.580, the Office of Program Policy Analysis and Government Accountability shall conduct**
14 **performance, program and management evaluations or reviews of any state agency, as de-**
15 **finied in ORS 291.272, or any state program and any other state-funded program.**

16 **(3) The Legislative Fiscal Officer may enter into contracts to carry out the functions of**
17 **the Office of Program Policy Analysis and Government Accountability.**

18 **SECTION 2. (1) In conducting an evaluation or review under section 1 of this 2007 Act:**

19 **(a) The Director of the Office of Program Policy Analysis and Government Accountability**
20 **may examine and inspect all accounts, books, records, files, papers and documents and all**
21 **financial affairs of any public body as defined in ORS 174.109.**

22 **(b) The director may cause a search to be made of and extracts to be taken from any**
23 **account, book, record, file, paper or document in the custody of any public officer without**
24 **paying any fee for the search or extract. Any public officer having the custody of the ac-**
25 **count, book, record, file, paper or document shall make any search requested by the director**
26 **and furnish the extracts as requested.**

27 **(c) The director may issue:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Subpoenas compelling at a specified time and place the appearance and sworn testi-
 2 mony of any person whom the director reasonably believes may be able to provide informa-
 3 tion relating to any evaluation, review or other investigation being undertaken under this
 4 section; and

5 (B) Subpoenas duces tecum compelling the production of any account, book, record, file,
 6 paper, document or other evidence that the director reasonably believes may relate to an
 7 evaluation, review or other investigation being undertaken under this section.

8 (2) If a person fails to comply with any subpoena issued under subsection (1) of this
 9 section, a judge of the circuit court of any county, on application of the director, shall
 10 compel obedience by proceedings for contempt as in the case of disobedience of the require-
 11 ments of a subpoena issued from the circuit court.

12 **SECTION 3.** (1) As used in this section, “working papers” means the notes, internal
 13 memoranda and records of work performed by the Director of the Office of Program Policy
 14 Analysis and Government Accountability on evaluations, reviews and other investigations
 15 undertaken under section 1 or 2 of this 2007 Act, including any project evidence collected and
 16 developed by the director.

17 (2) The director and any employees of the Legislative Fiscal Office are not required to
 18 disclose any working papers.

19 **SECTION 4.** ORS 171.580 is amended to read:

20 171.580. [(1) *There is created a Joint Legislative Audit Committee consisting of the chair of the*
 21 *House Ways and Means Committee, the chair of the Senate Ways and Means Committee, four members*
 22 *of the House of Representatives appointed by the Speaker and four members of the Senate appointed*
 23 *by the President.*]

24 (1) There is created a Joint Program Policy Analysis and Government Accountability
 25 Committee consisting of:

26 (a) Five members of the House of Representatives appointed by the Speaker of the House
 27 of Representatives, one of whom must be a member of the Joint Legislative Committee on
 28 Ways and Means or, if there is no joint committee, a member of the committee in the House
 29 of Representatives that has jurisdiction over appropriations; and

30 (b) Five members of the Senate appointed by the President of the Senate, one of whom
 31 must be a member of the Joint Legislative Committee on Ways and Means or, if there is no
 32 joint committee, a member of the committee in the Senate that has jurisdiction over appro-
 33 priations.

34 (2) No more than five members of the committee may be members of the same political
 35 party.

36 [(2)] (3) The Joint Program Policy Analysis and Government Accountability Committee has
 37 a continuing existence and [may] shall meet, act and conduct [its] the committee’s business during
 38 sessions of the Legislative Assembly or any recess [thereof] in a session and in the interim between
 39 sessions.

40 [(3)] (4) The term of a member [shall expire] expires upon the convening of the Legislative As-
 41 sembly in regular session next following the commencement of the member’s term. When a vacancy
 42 occurs in the membership of the committee in the interim between sessions, until [such] the vacancy
 43 is filled, the membership of the committee [shall be considered not to] does not include the vacant
 44 position for the purpose of determining whether a quorum is present, and a quorum is a majority
 45 of the remaining members.

1 [(4)] **(5)(a)** Members of the committee shall receive an amount equal to that authorized under
 2 ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent in the per-
 3 formance of their duties as members of the committee or any subcommittee *[thereof]* **of the com-**
 4 **mittee**, in lieu of reimbursement for in-state travel expenses. *[However,]*

5 **(b)** When engaged in out-of-state travel, members shall *[be entitled to receive their actual and*
 6 *necessary expenses therefor]* **receive the expenses actually and necessarily incurred** in lieu of the
 7 amount authorized by **paragraph (a)** of this subsection.

8 **(c)** Payment **under this subsection** shall be made from funds appropriated to the Legislative
 9 Assembly.

10 [(5)] **(6)** Action of the committee shall be taken only upon the affirmative vote of the majority
 11 of members of the committee.

12 [(6)] **(7)** The Legislative Fiscal Office **or the Office of Program Policy Analysis and Gov-**
 13 **ernment Accountability** shall furnish to the committee *[such]* **the** services of personnel and *[such*
 14 *other]* **the** facilities *[as]* **that** are necessary to enable the committee to carry out its functions as
 15 directed by law, with such assistance as the Division of Audits and Oregon Department of Admin-
 16 istrative Services can provide.

17 **SECTION 5.** ORS 171.585 is amended to read:

18 171.585. The Joint *[Legislative Audit]* **Program Policy Analysis and Government Account-**
 19 **ability** Committee shall:

20 (1) Review all audits **conducted by the Secretary of State and all evaluations or reviews**
 21 **conducted under section 1 of this 2007 Act** and make recommendations for change or remediation
 22 by the agency or other organization under review to the Emergency Board, the Joint **Legislative**
 23 **Committee on Ways and Means** *[Committee]* and other persons receiving *[the]* **an** audit report under
 24 ORS 192.245.

25 (2) Accept requests for performance, **program or management evaluations or reviews** *[and*
 26 *program audits]* from individual legislators[,] **and** legislative committees, the Division of Audits, the
 27 Budget and Management Division and the Legislative Fiscal Office.

28 *[(3) In conjunction with the Director of the Division of Audits, set priorities on the basis of risk*
 29 *assessment for performance and program audits and program evaluations.]*

30 [(4)] **(3)** With the advice and assistance of the Legislative Fiscal Officer[, *the Administrator of*
 31 *the Budget and Management Division and the Director of the Division of Audits]* **or the Director**
 32 **of the Office of Program Policy Analysis and Government Accountability**, determine the type
 33 of *[audit,]* **performance, program or management** evaluation or review utilizing criteria to in-
 34 clude but not be limited to the nature and scope of the task, the time frame involved, necessary
 35 professional guidelines, economy, efficiency, cost and cost responsibility.

36 [(5)] **(4)** Not later than 12 months after the issuance of an audit **or evaluation or review** report,
 37 review the actions of an agency or other *[government]* organization for compliance with the recom-
 38 mendations of the *[audit]* report.

39 [(6)] **(5)** Assign tasks to the Legislative Fiscal Office[, *the Budget and Management Division, the*
 40 *Division of Audits or a special task force]* **or the Director of the Office of Program Policy Anal-**
 41 **ysis and Government Accountability.**

42 [(7)] **(6)** Review state agency performance measures and make recommendations for change.

43 **SECTION 6.** ORS 297.050 is amended to read:

44 297.050. The Division of Audits of the office of the Secretary of State shall supply the Joint
 45 *[Legislative Audit]* **Program Policy Analysis and Government Accountability** Committee and the

1 Legislative Fiscal Officer with a copy of each audit report made by or for the Division of Audits.

2 **SECTION 7.** ORS 297.230 is amended to read:

3 297.230. (1) The Division of Audits shall estimate in advance the expenses that *[it]* **the division**
 4 will incur during the biennium in carrying out the provisions of ORS 297.030, 297.120 and 297.210[,]
 5 and shall charge officers, departments, boards and commissions of state government and other public
 6 bodies for their share of such expenses for periods within the biennium and in sufficient amounts
 7 to provide reasonable cash operating requirements for the division *[of Audits]* within the biennial
 8 period. Each officer, department, board or commission or other public body shall pay to the credit
 9 of the Division of Audits Account such charge as an administrative expense from funds or appro-
 10 priations available to it in the same manner as other claims against the state or public body are
 11 paid.

12 (2) *[Payments authorized under this section shall be consistent with ORS 171.580 and 171.585.]*
 13 The Division of Audits shall report to the Joint *[Legislative Audit]* **Program Policy Analysis and**
 14 **Government Accountability** Committee *[established]* **created** under ORS 171.580 when estimated
 15 expenses for an audit authorized under subsection (1) of this section exceed the estimated expenses
 16 for a biennium.

17 (3) All moneys received from the various state departments, boards, commissions, institutions
 18 and state-aided institutions and agencies of the state in the payment of the costs of audits and re-
 19 views under this section and ORS 297.210 shall be credited to the Division of Audits Account.

20 **SECTION 8.** ORS 182.472 is amended to read:

21 182.472. Not later than January 1 of each even-numbered year, each board subject to ORS
 22 182.456 to 182.472 shall submit a report to the Governor, the President of the Senate, the Speaker
 23 of the House of Representatives and the Legislative Fiscal Officer. The Legislative Fiscal Officer
 24 shall review the reports and shall prepare and submit a statement of findings and conclusions to the
 25 Joint *[Legislative Audit]* **Program Policy Analysis and Government Accountability** Committee.
 26 The report must include the following:

27 (1) A copy of the most recent audit of the board.

28 (2) A copy of the actual budget for the prior biennium and a copy of the board's adopted budget
 29 for the biennium in which the report is made. The budget documents must show:

30 (a) The beginning balance and ending balance for each of the two biennia;

31 (b) A description of material changes between the two biennia;

32 (c) A description of the public hearing process used to establish the budget adopted for the
 33 current biennium; and

34 (d) A description of current fees and proposed changes to fees, along with information support-
 35 ing the amounts of the current fees and any proposed changes to the fees.

36 (3) A description of all temporary and permanent rules adopted by the board since the last re-
 37 port was submitted.

38 (4) A description of board actions promoting consumer protection that were taken since the last
 39 report was submitted.

40 (5) If the board issues licenses, a description of the board's licensing activities performed since
 41 the last report that is adequate to allow evaluation of the board's performance of its licensing re-
 42 sponsibilities, including:

43 (a) The number of license applications;

44 (b) The number of licenses issued;

45 (c) The number of examinations conducted;

- 1 (d) The average time between application for and issuance of licenses;
- 2 (e) The number and types of complaints received about persons holding licenses;
- 3 (f) The number and types of investigations conducted;
- 4 (g) The number and types of resolutions of complaints;
- 5 (h) The number and type of sanctions imposed; and
- 6 (i) The number of days between beginning an investigation and reaching a resolution.

7 (6) A description of all other actions taken since the last report in the performance of the
 8 board’s statutory responsibilities that is adequate to allow evaluation of the board’s performance.

9 **SECTION 9.** ORS 184.360 is amended to read:

10 184.360. (1) As used in this section, “state government” has the meaning given that term in ORS
 11 174.111.

12 (2) It is the policy of this state that internal audit activities within state government be coor-
 13 dinated to promote effectiveness.

14 (3) The Oregon Department of Administrative Services shall adopt rules setting standards and
 15 policies for internal audit functions within state government. The rules shall include, but are not
 16 limited to:

17 (a) Standards for internal audits that are consistent with and incorporate commonly recognized
 18 industry standards and practices; and

19 (b) Policies and procedures that ensure the integrity of the internal audit process.

20 (4) Not later than December 31 of each calendar year, the department shall prepare and submit
 21 a report to the Joint [*Legislative Audit*] **Program Policy Analysis and Government Account-**
 22 **ability** Committee. In the absence of the Joint [*Legislative Audit*] **Program Policy Analysis and**
 23 **Government Accountability** Committee, the department shall submit the report to the Joint Com-
 24 mittee on Ways and Means or the Emergency Board. The report shall describe internal audit ac-
 25 tivities that have occurred in state government during the calendar year in which the report is
 26 prepared.

27 **SECTION 10.** ORS 184.649 is amended to read:

28 184.649. The Department of Transportation shall appear before the Joint [*Legislative Audit*]
 29 **Program Policy Analysis and Government Accountability** Committee [*established by*] **created**
 30 **under** ORS 171.580 at least once each biennium to report on internal audits and federal audits of
 31 the department.

32 **SECTION 11.** ORS 283.343 is amended to read:

33 283.343. At least biennially, the Oregon Department of Administrative Services shall examine
 34 compliance with rules adopted pursuant to ORS 283.340 by state agencies owning vehicles. The
 35 department shall submit biennially to the Joint [*Legislative Audit*] **Program Policy Analysis and**
 36 **Government Accountability** Committee a management report on state-owned motor vehicles that
 37 includes:

- 38 (1) Summaries of agency compliance examinations, with specific emphasis on noncomplying state
 39 agency fleets;
- 40 (2) Numbers of motor vehicles, listed by model and by state agency;
- 41 (3) Mileage utilization of motor vehicles, listed by state agency;
- 42 (4) Operating cost per mile of motor vehicles, listed by state agency; and
- 43 (5) Recommendations for increasing motor vehicle utilization, for decreasing the overall motor
 44 vehicle population and for absorbing noncomplying state agency fleets into the motor pool.

45 **SECTION 12.** ORS 291.100 is amended to read:

1 291.100. (1) It is the intent of the Legislative Assembly, in funding the development and imple-
 2 mentation of a new statewide financial management system, that statewide financial management
 3 systems and policies support program-driven budget planning and execution, based on timely and
 4 accurate statewide managerial cost accounting information and that such systems support legislative
 5 program, **performance and management evaluation or review** [*evaluation and performance au-*
 6 *diting*] of statewide programs and services.

7 (2) The Oregon Department of Administrative Services shall devise and supervise statewide fi-
 8 nancial management systems for all state agencies by preparing policies and procedures for imple-
 9 menting and operating financial management systems for all agencies in state government and
 10 measuring implementation. In order to [*assure*] **ensure** that the state's investment in a modern and
 11 complete statewide financial management system is fully implemented, every agency and unit of
 12 state government shall:

13 (a) Cooperate and comply fully with policies and procedures and deadlines prepared by the
 14 Oregon Department of Administrative Services for establishing a database for the financial man-
 15 agement system.

16 (b) Comply fully with policies and procedures prepared by the Oregon Department of Adminis-
 17 trative Services for operation of the financial management system.

18 (3) The Oregon Department of Administrative Services shall report to the Legislative Assembly
 19 no later than December 1 of even-numbered years:

20 (a) Progress in implementing the financial management system as to preparation of financial
 21 statements, nonfinancial management information and the ability of the system to support legislative
 22 program, **performance and management evaluation or review** [*evaluation and performance au-*
 23 *diting*].

24 (b) Compliance by each agency and unit of state government with policies and procedures of the
 25 Oregon Department of Administrative Services for implementation of the financial management
 26 system.

27 (4) After a review of the Oregon Department of Administrative Services report by the Legisla-
 28 tive Fiscal Officer, the Joint [*Legislative Audit*] **Program Policy Analysis and Government Ac-**
 29 **countability** Committee may schedule a hearing for any agency or unit of state government to
 30 review compliance with this section and policies and procedures of the Oregon Department of Ad-
 31 ministrative Services[, *prior to any appropriation approval by the Legislative Assembly, as provided*
 32 *in ORS 171.585 (1)*].

33 **SECTION 13.** ORS 291.272 is amended to read:

34 291.272. As used in ORS 291.272 to 291.280, unless the context requires otherwise:

35 (1) "Administrative expenses" has the meaning defined by ORS 291.305.

36 (2) "Department" means the Oregon Department of Administrative Services.

37 (3) "Governmental service expenses" means the expenses of state government that are attribut-
 38 able to the operation, maintenance, administration and support of state government generally, and
 39 includes the following:

40 (a) Administrative expenses of the Oregon Department of Administrative Services supported out
 41 of the General Fund.

42 (b) Sixty percent of the expenditures of the Legislative Assembly out of moneys appropriated
 43 from the General Fund, and all of the expenditures incurred in the administration of the duties of
 44 the Emergency Board.

45 (c) Sixty percent of the expenditures incurred in the administration of the duties of the Joint

1 **Legislative** Committee on Ways and Means and the Emergency Board.

2 (d) Sixty percent of the expenditures incurred out of moneys appropriated from the General
3 Fund in the administration of the duties of the Legislative Counsel Committee.

4 (e) **Sixty percent of the expenditures incurred out of moneys appropriated from the**
5 **General Fund in the administration of the duties of the Joint Program Policy Analysis and**
6 **Government Accountability Committee.**

7 [(e)] (f) Expenditures of the Secretary of State in the administration of the office of the State
8 Archivist, of historic properties programs, and of the administrative rules publication program.

9 [(f)] (g) Seventy-five percent of the administrative expenses of the Office of the Governor in-
10 curred out of moneys appropriated from the General Fund.

11 (4) "State agency" means every state officer, board, commission, department, institution, branch
12 or agency of the state government, whose costs are paid wholly or in part from funds held in the
13 State Treasury, and includes the Legislative Assembly, the courts and their officers and committees.

14 **SECTION 14.** ORS 419C.001 is amended to read:

15 419C.001. (1) The Legislative Assembly declares that in delinquency cases, the purposes of the
16 Oregon juvenile justice system from apprehension forward are to protect the public and reduce ju-
17 venile delinquency and to provide fair and impartial procedures for the initiation, adjudication and
18 disposition of allegations of delinquent conduct. The system is founded on the principles of personal
19 responsibility, accountability and reformation within the context of public safety and restitution to
20 the victims and to the community. The system shall provide a continuum of services that emphasize
21 prevention of further criminal activity by the use of early and certain sanctions, reformation and
22 rehabilitation programs and swift and decisive intervention in delinquent behavior. The system shall
23 be open and accountable to the people of Oregon and their elected representatives.

24 (2)(a) Programs, policies and services shall be regularly and independently audited as to their
25 effectiveness in providing public safety and preventing a youth's return to criminal behavior. The
26 Secretary of State shall select and oversee the auditors. Audits performed under this subsection
27 must include program audits and performance audits[, *as defined in ORS 297.070*]. Programs, policies
28 and services that were established before, on or after June 30, 1995, are subject to audit under this
29 subsection.

30 (b) The programs, policies and services of county juvenile departments shall be audited pursuant
31 to this subsection.

32 (c) ORS 297.405 to 297.555 do not apply to an audit conducted pursuant to this subsection.

33 (3) To facilitate an audit under subsection (2) of this section:

34 (a) The Secretary of State may subpoena witnesses, require the production of books and papers
35 and the rendering of reports in such manner and form as the Secretary of State requires and may
36 do all things necessary to secure a full and thorough investigation.

37 (b) The custodian of information that the Secretary of State deems necessary to conduct the
38 audit shall provide the Secretary of State or the auditor selected by the Secretary of State access
39 to the information notwithstanding the fact that the information may be made confidential or access
40 to the information restricted by ORS 419A.255 or another law. Information obtained by the Secretary
41 of State or the auditor pursuant to this paragraph and made confidential by ORS 419A.255 or an-
42 other law may be used by the Secretary of State, the officers and employees of the Secretary of
43 State or the auditor solely for the purpose of performing the audit required by subsection (2) of this
44 section and may not be used or disclosed for any other purpose.

45 (4) **As used in this section:**

1 (a) "Performance audit" includes determining:

2 (A) Whether the programs, policies and services referred to in subsection (2) of this
 3 section that are the subject of the audit are acquiring, protecting and using resources eco-
 4 nomically and efficiently;

5 (B) The causes of uneconomical practices or inefficiencies; and

6 (C) Whether the programs, policies and services have complied with laws and regulations
 7 concerning matters of economy and efficiency.

8 (b) "Program audit" includes determining:

9 (A) The extent to which the desired results or benefits of the programs, policies and
 10 services referred to in subsection (2) of this section are being achieved;

11 (B) The extent to which the need for or objectives of the programs, policies and services
 12 referred to in subsection (2) of this section are necessary or relevant;

13 (C) Whether the programs, policies and services referred to in subsection (2) of this
 14 section complement, duplicate, overlap or conflict with other related programs;

15 (D) The effectiveness of the programs, policies and services referred to in subsection (2)
 16 of this section; and

17 (E) Whether the programs, policies and services referred to in subsection (2) of this
 18 section that are the subject of the audit have complied with applicable laws and regulations.

19 SECTION 15. ORS 171.590, 297.065 and 297.070 are repealed.

20 SECTION 16. Sections 1 to 3 of this 2007 Act, the amendments to ORS 171.580, 171.585,
 21 182.472, 184.360, 184.649, 283.343, 291.100, 291.272, 297.050, 297.230 and 419C.001 by sections 4 to
 22 14 of this 2007 Act and the repeal of ORS 171.590, 297.065 and 297.070 by section 15 of this 2007
 23 Act do not affect any audit, action, proceeding or prosecution begun before and pending on
 24 January 1, 2008.

25 SECTION 17. Sections 1 to 3 of this 2007 Act, the amendments to ORS 171.580, 171.585,
 26 182.472, 184.360, 184.649, 283.343, 291.100, 291.272, 297.050, 297.230 and 419C.001 by sections 4 to
 27 14 of this 2007 Act and the repeal of ORS 171.590, 297.065 and 297.070 by section 15 of this 2007
 28 Act become operative on January 1, 2008.

29 SECTION 18. The Secretary of State, the Joint Legislative Audit Committee and the
 30 Legislative Fiscal Officer may take any action before the operative date specified in section
 31 17 of this 2007 Act that is necessary to enable the secretary, committee and officer to exer-
 32 cise, on and after the operative date specified in section 17 of this 2007 Act, all the duties,
 33 functions and powers conferred upon the secretary, committee and officer by sections 1 to
 34 3 of this 2007 Act, the amendments to ORS 171.580, 171.585, 182.472, 184.360, 184.649, 283.343,
 35 291.100, 291.272, 297.230 and 419C.001 by sections 4 to 14 of this 2007 Act and the repeal of ORS
 36 171.590, 297.065 and 297.070 by section 15 of this 2007 Act.

37 SECTION 19. This 2007 Act being necessary for the immediate preservation of the public
 38 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
 39 on its passage.

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