

SHEMIA FAGAN  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE



900 Court Street NE  
Salem, Oregon 97310  
Information 503-986-1523  
[oregon.sos@oregon.gov](mailto:oregon.sos@oregon.gov)  
[sos.oregon.gov](http://sos.oregon.gov)

April 17, 2023

Chair Lieber, Vice-Chair Knopp, and Members of the Senate Committee on Rules,

I am Jessica Ventura, Legislative Director for the Secretary of State (SoS) Office. With me is PK Runkles, Chief Legal and Risk Counsel for the SoS. One of the key functions of Secretary Fagan is as Chief Auditor. This is a great responsibility required by the Oregon Constitution (Article VI, Section 2,) which grants the Secretary the authority to audit public accounts as State Auditor. This authority, further outlined in [ORS 297.210](#), allows the Secretary to review and thoroughly investigate state accounts and financial affairs, state-aided institutions, require access to witnesses, reports and more to conduct an audit. In these ways, Secretary Fagan's Audits Division provides accountability and transparency, which are essential to building trust between the people of Oregon and their government. State audits provide transparency and show how public monies are making an impact on people's lives and how they might be falling short of their goals. Transparency makes it possible to create a better Oregon moving forward.

As an independent auditor, the Secretary sets a yearly audit plan spanning a wide variety of topics. Recent audits have highlighted critical challenges facing the child welfare system, strategies to respond to the COVID pandemic, to ways to address inequality, and opportunities for managing the [opioid crisis](#). The Secretary of State regularly briefs the Legislature on these and other important topics. We also perform numerous audits required by law and fulfil multiple legislative requests each year.

But Audits cannot be effectively and efficiently executed without broad and timely access to state records and personnel.

**Auditors face frequent challenges to access agency records, despite clear constitutional and statutory authority.** These include:

- Agencies often resist audit requests for information, resisting our constitutional duty. Agencies are often hesitant share information with SoS auditors as they cite concerns that sharing state agency data will result in violating their own statutory responsibilities.
- **Although auditors have constitutional responsibility and authority to access documents, state agencies often experience confusion about the auditors'**

**Point of Contact:**

Jessica Ventura, Legislative Director  
[Jessica.Ventura@sos.oregon.gov](mailto:Jessica.Ventura@sos.oregon.gov)

SHEMIA FAGAN  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE



900 Court Street NE  
Salem, Oregon 97310  
Information 503-986-1523  
[oregon.sos@oregon.gov](mailto:oregon.sos@oregon.gov)  
[sos.oregon.gov](http://sos.oregon.gov)

**unique role and seek to withhold documents from auditors as they would from every day public records requests.**

- State agencies frequently turn to the Department of Justice (DOJ) for a legal opinion about these issues. Due to the current process, it takes time to get formal DOJ advice or recommendations when state agencies ask DOJ to analyze complicated statutes. This causes substantial delays, which put accountability and transparency at risk. Tax dollars are wasted each time this same issue is re-examined at the DOJ on a case-by-case basis. **In each case, the DOJ has upheld the State Auditor's broad constitutional authority to access state records and personnel in question. In fact, the DOJ has never determined that the Secretary of State does not have constitutional access to any state record or employee needed for fiscal accountability. But these delays, and pitting one state agency against another, are tremendously expensive.**
- In addition, delayed access to records jeopardizes appropriate audits. Records are at risk of manipulation once requested for a state audit. But even more importantly, an audit that is delayed and spans too long a timeframe may not be methodologically sound, because information gained early in the audit cannot always be matched to information acquired later.

Agencies, based on statutes or otherwise, have also raised data security and privacy concerns. The Secretary of State's Office has taken all measures possible to secure data accessed through constitutional authority. In most cases, any data shared with SoS has no personal information, unless necessary. In the situation we get personal information, SoS uses all the most to up-to-date encryptions to ensure the transfer of data.

**SB 177 clarifies that the Secretary of State, as State Auditor, has the authority to access data and records necessary to perform audits.** This benefits auditors, agencies, and the people of Oregon by eliminating the wasteful effects of time consumed between auditors and agencies over records. It not only strengthens audits by providing information in a timely manner; it also provides a clear statement to agencies about what they can and should do to assist auditors and explains how auditors should treat confidential information.

**Point of Contact:**

Jessica Ventura, Legislative Director  
[Jessica.Ventura@sos.oregon.gov](mailto:Jessica.Ventura@sos.oregon.gov)

SHEMIA FAGAN  
SECRETARY OF STATE

CHERYL MYERS  
DEPUTY SECRETARY OF STATE



900 Court Street NE  
Salem, Oregon 97310  
Information 503-986-1523  
[oregon.sos@oregon.gov](mailto:oregon.sos@oregon.gov)  
[sos.oregon.gov](http://sos.oregon.gov)

The Oregon Legislature will play an important role in setting policy priorities and in **building trust between state agencies and the people of Oregon** through [SB 177](#) by doing taking two important steps:

1. Aligning state law to the Secretary's constitutional authority to access data and other records necessary to perform audits. The proposed language is based on Oregon Attorney General Opinions.
2. Ensuring data privacy: Include a confidentiality section to reassure agencies that their data and information will remain confidential and protected by law.

These proposed statutory changes are consistent with the authority granted to state auditors across the nation, including our colleagues in states such as Colorado who also have constitutionally mandated audit authority, and including the federal [Government Accountability Office \(GAO\)](#), which is recognized as the gold standard in professional auditing.

We are currently working on updated language by using Colorado Revised Statutes, Sections 2-3-103 and 2-3-107 as a model for a system that is already working now. We are considering an amendment to conform to these statutes. We believe these statutes do a good job keeping material confidential, in that they keep it with auditors only and prevent auditors from incorporating confidential information in public reports. The amendment would also confirm that auditors can also receive any material that the public could receive through public records law.

This issue is important to Secretary Fagan, and I hope you take action to adopt [SB 177](#) into law.

Thank you,

Jessica Ventura  
Legislative Director

**Point of Contact:**

Jessica Ventura, Legislative Director  
[Jessica.Ventura@sos.oregon.gov](mailto:Jessica.Ventura@sos.oregon.gov)