

A Blueprint for a 21st Century Legislature

Public Commission on the
Oregon Legislature

November 2006



Article IV Legislative Department

Section N^o 3.
The Senators, and Representatives
by the electors of the respective
into which the State may
divided by law. —

Section
The Senators shall
years, and Representatives
years from the date of
tion: Provided,
at the first session
under this constitution
two equal classes
of Senators
the expiring
class at
one ha
bienn

Section N^o 1.
The Legislative authority of the State shall be
vested in the Legislative Assembly, which
shall consist of a Senate, and House of
Representatives. — The style of every bill shall
be — "Be it enacted by the Legislative Assembly
of the State of Oregon," and no law shall
be enacted except by bill. —

Section N^o 2.
The Senate shall consist of sixteen, and the
House of Representatives of thirty-four members,
which number shall not be increased until
the year Eighteen Hundred and Sixty, after
which time the Legislative Assembly may
increase the number of Senators and Rep-
resentatives, always keeping as near as may be
the same ratio as to the number of Senators, and
Representatives: Provided that the Senate shall
consist of not less than one-third, and the House of Represen-

A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE

**REPORT OF THE
PUBLIC COMMISSION ON THE
OREGON LEGISLATURE
TO
THE SEVENTY-FOURTH LEGISLATIVE ASSEMBLY**



**In Accordance with Senate Bill 1084 (2005)
November 2006**

ACKNOWLEDGEMENTS

One of the benefits of living in a democracy is the ability to personally engage in making changes to the structure and function of government, peacefully. Over the past 15 months 32 Oregonians had that opportunity as appointed members of the Public Commission on the Legislature. Over 100 other Oregonians appeared before this Commission and committees to discuss their ideas, opinions and make suggestions for change. Many others communicated with us by e-mail, letters and phone calls in order to make their thoughts known. This has truly been democracy at work.

Since 1859, when Oregon became a state, only two other commissions have been tasked with reviewing the operations and structure of the Oregon Legislature. The Blueprint for a 21st Century Legislature, as presented by this 2006 Commission, reflects the thinking and values of our time.

We are indebted to President of the Senate, Peter Courtney and Speaker of the House of Representatives, Karen Minnis for taking the bold step of creating the Commission and giving us direction to engage at any level necessary to bring the best thinking and ideas to this work. We are equally indebted to the members of this commission, citizens who spoke with our committees, citizens who followed our proceedings, and many legislative staff who provided counsel or support for their time, energy, thought and debate that contributed to Commission recommendations in this report. Future generations of Oregonians are the beneficiaries of your work.

A handwritten signature in black ink, appearing to read "Laura Pryor", written in a cursive style.

Judge Laura Pryor, Co-Chair

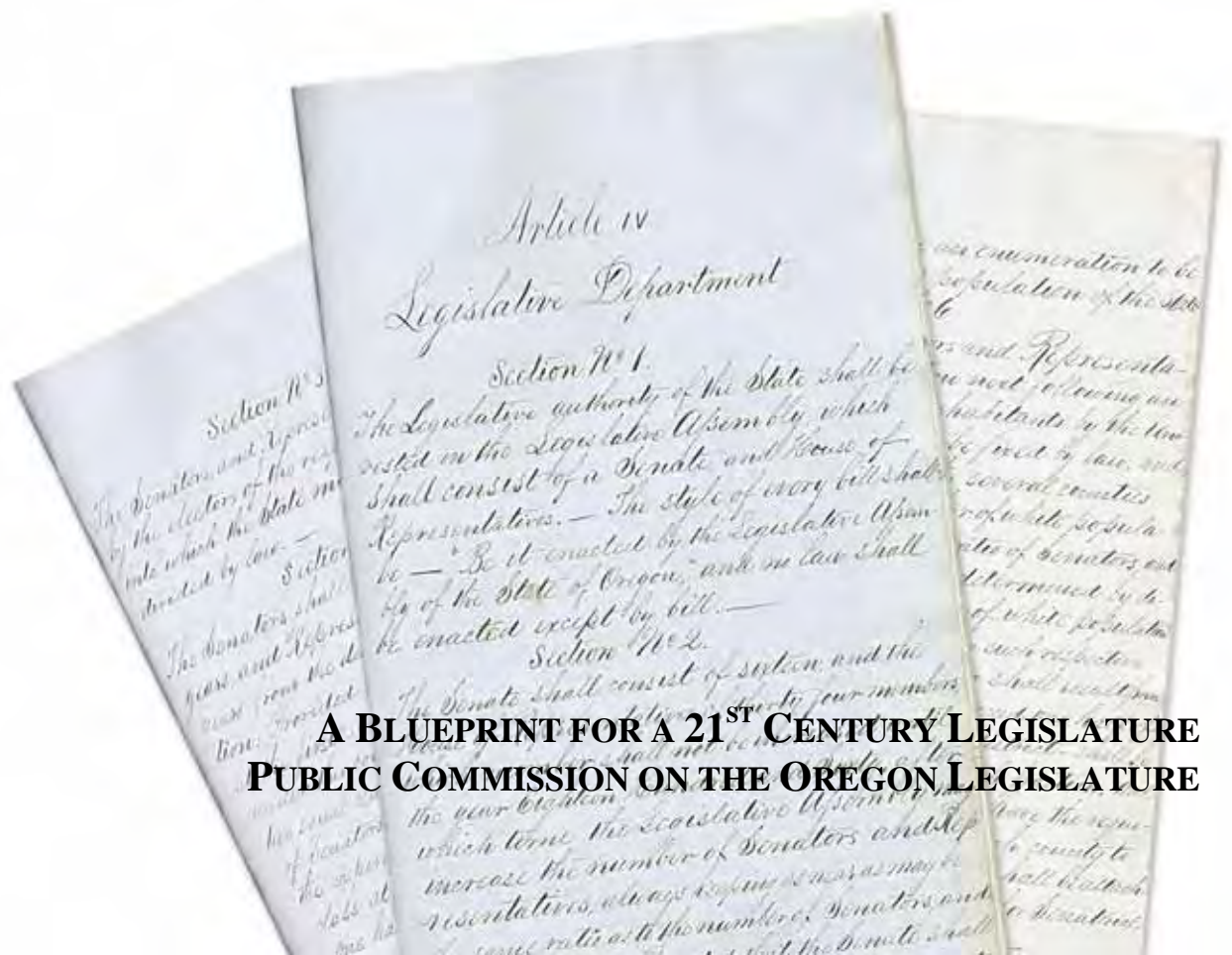
A handwritten signature in black ink, appearing to read "Gary Wilhelms", written in a cursive style.

Gary Wilhelms, Co-Chair

TABLE OF CONTENTS

BACKGROUND	1
EXECUTIVE SUMMARY	5
RECOMMENDATIONS	11
RECOMMENDATIONS FOR FUNDAMENTAL REFORM	
• Open Primary	15
• Nonpartisan Legislature	15
• Nonpartisan State Controller.....	16
• Redistricting Commission.....	17
• Funding Government Standards and Practices Commission	19
• Initiative Reform.....	19
• Campaign Finance	21
• Legislator Compensation	22
RECOMMENDATIONS FOR INSTITUTIONAL REFORM	
• Annual Sessions and Session Structure	25
• Partisanship.....	26
• Staffing Legislative Offices	27
• Hiring Family Members.....	29
• Alcohol Consumption	30
• Public Access.....	30
RECOMMENDATIONS FOR REFORMING LEGISLATIVE OPERATIONS	
• Committees	33
• Bills and Amendments.....	35
• Program Evaluation	36
• Budget Notes.....	36
RECOMMENDATIONS FOR IMPROVING FACILITIES AND TECHNOLOGY	
• Capitol Renovation and Comprehensive Facilities Plan.....	39
• Wireless Access	40
• Use of Technology.....	40
• Oregon Channel	41
• Audio and Video Hardware	41
• Security	42
CONCLUSION.....	43
SUPPLEMENTAL INFORMATION	
COMMITTEE SUMMARIES	47
• Facilities Committee; Management and Human Resources Committee; Process Committee; and The Public Institution Committee	
SENATE BILL 1084 (2005).....	65
COMMISSION INFORMATION	71
• Commission Members; Committee Membership; Meeting Dates; and Witnesses	
PROPOSALS SUBMITTED FOR CONSIDERATION.....	75
PROPOSED LEGISLATION	91

BACKGROUND



BACKGROUND

Shortly before adjourning in August 2005, the Oregon State Senate and the Oregon House of Representatives passed Senate Bill 1084, which created the Public Commission on the Oregon Legislature. The bill, which was co-sponsored by Senate President Peter Courtney and House Speaker Karen Minnis, was subsequently signed into law by Governor Theodore Kulongoski.

Senate Bill 1084 specified that the commission “shall conduct a review of and make recommendations on all aspects of the legislative branch, including the timing, frequency and length of legislative sessions, legislative procedures and the adequacy of legislative facilities and staffing.” The legislation also charged the commission to prepare a report for submission to the Emergency Board and to members of the Seventy-Fourth Legislative Assembly. Previous comprehensive reviews of the legislative branch were conducted in 1968 and 1974 and their recommendations were considered and implemented by subsequent Legislative Assemblies.

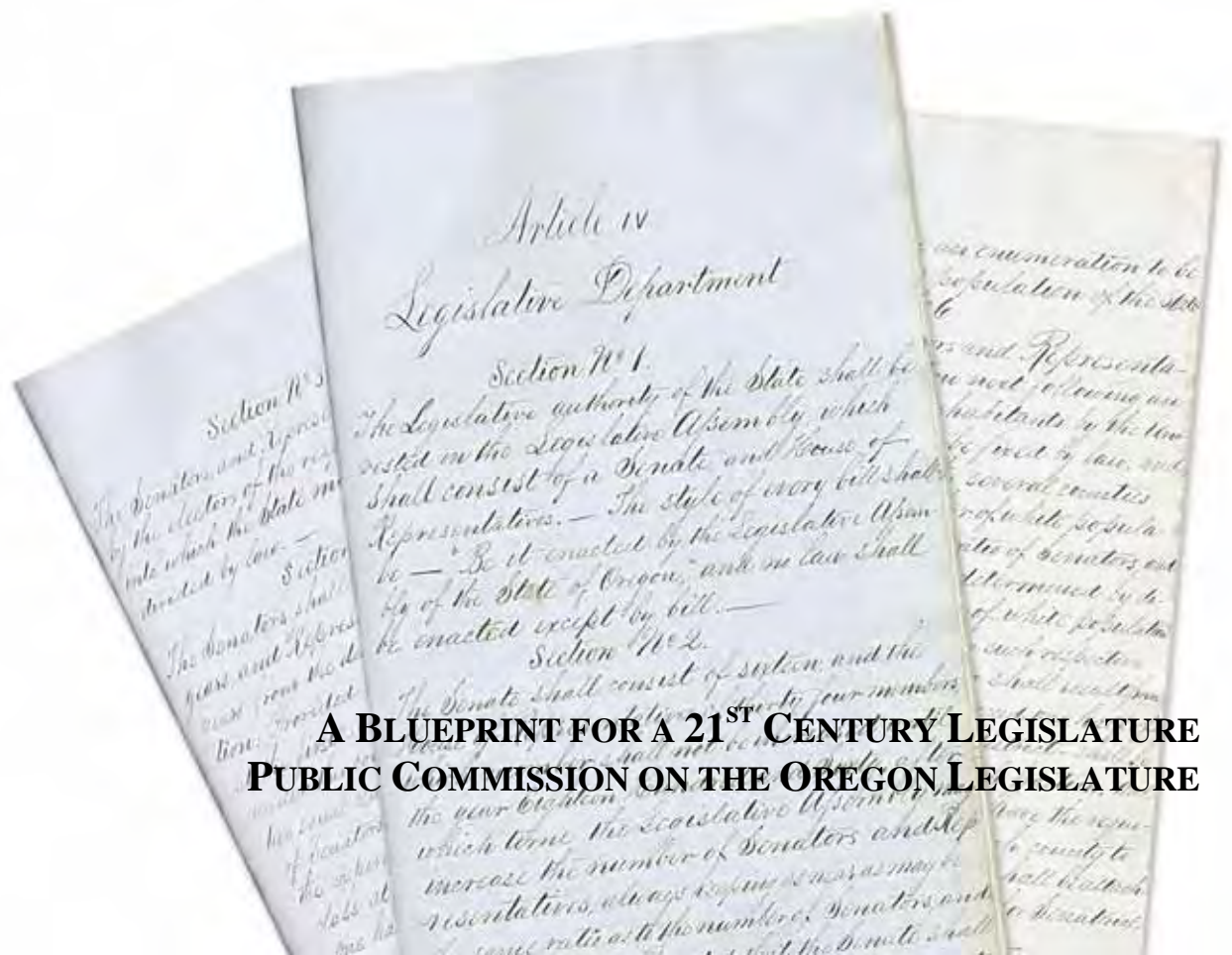
The legislation further specified that the commission be comprised of two members of the House of Representatives, two members of the Senate, and 26 members of the public, who would be jointly appointed by the President of the Senate and the Speaker of the House. Commission members represented diverse knowledge of and experience with the legislative process in all committee and commission discussions.

Under the leadership of Co-Chairs Judge Laura Pryor and Gary Wilhelms, the commission held its first meeting on September 6, 2005, and met on eight subsequent occasions, with its final meeting on November 13, 2006.

Each member of the commission was also assigned to serve on one of the following committees: Facilities; Human Resources; Management; Process; and The Public Institution. Each committee met on numerous occasions throughout 2005 and 2006 to hear testimony from experts on the legislative process, and to consider all proposals and ideas that had been received by the commission from members of the public, legislators, staff, agencies, local governments and commission members. All meetings of the full Public Commission and committee meetings were open to the public and to the media.

The Supplemental Information section of this report contains: summaries of committee work; Senate Bill 1084; lists of members of the Public Commission, meeting dates of commission and committees and witnesses; proposals considered by committees; and proposed legislation.

EXECUTIVE SUMMARY



**A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE**

EXECUTIVE SUMMARY

Oregon faces many difficult and complex challenges in the coming years. As the policy-making branch of state government, the Oregon Legislative Assembly must address these challenges and become a more efficient, effective institution.

The Public Commission on the Oregon Legislature (PCOL) concludes that many policies and practices prevent the legislature from being fully effective. Moreover, these policies and practices have diminished public respect and confidence in the legislative process; diminished the credibility of the legislature; and discouraged thoughtful and civic-minded individuals from running for and serving in the legislature.

During the course of its discussions and deliberations, the PCOL identified and agreed upon seven major problems facing the Oregon Legislative Assembly. These are:

- **Loss of public confidence** in the legislative process and in the legislature as an institution. For some, the legislature is no longer viewed as a place where an ordinary citizen can “make a difference” for Oregon.
- **Reduction of legislative independence and authority** due to an increase in the influence of state agencies and the lobby, significant consequences of the initiative process, and conditions imposed on states by the federal government.
- **Increasing complexity of the state’s funding obligations** and the attendant legislative tasks stemming from those obligations. Initiative measures and federal rules and laws frequently demand complicated legislative decisions to craft funding and policy solutions that are both difficult to create and to communicate. Measures 5 and 11 are but two examples.
- **Excessive partisanship** at the expense of collaboration and creative problem solving. The public perception is that non-constructive partisanship erodes public faith in the legislature and its ability to find reasonable compromise.
- **Escalating costs of election campaigns** tempt office seekers to put the need to raise money ahead of resolving issues and adds to the perception of undue influence by self interested groups.
- **Decline of the citizen legislature.** Oregon’s proud tradition of a citizen legislature does not coincide with today’s extensive time demands on legislators.
- **Adapting to 21st Century demands for institutional responsiveness.** Advances in technology, changing demographics, and increasing citizen expectations require a thorough understanding of these dramatic changes and an appropriate set of thoughtful responses.

The PCOL believes that the following key recommendations will, if enacted by the 74th Legislative Assembly, increase the credibility and effectiveness of the legislature in the 21st Century. They will address the seven problem policies and practices identified above, and begin rebuilding citizen confidence in the legislature.

FREQUENCY AND LENGTH OF LEGISLATIVE SESSIONS: The PCOL believes that an effective legislature addresses problems in a timely fashion. These recommendations provide innovative and meaningful solutions to the problems listed above, and will rebuild citizen confidence in the legislature.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Make substantial changes in the timing and operation of the 2007 session
- Determine how and whether it is desirable to have annual sessions beginning with the 2009 session

PARTISANSHIP: The PCOL recognizes that partisan campaigns, elections, and organizations play a critical and constructive role in the formation of public policy. However, the commission strongly believes that an effective legislature encourages partisanship to be set aside for the best interests of the state. The PCOL also believes that extreme partisanship discourages many qualified candidates from running for legislative office.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Adopt legislation creating an “open” primary election, where all registered voters in Oregon are allowed to vote for all candidates
- Consider legislation to make the office of State Representative and State Senator nonpartisan offices
- Enact legislation creating a State Controller to manage, administer and oversee state elections and election policy, campaign finance administration, investigations including elections and ethics issues, and legislative redistricting

The PCOL also concludes that some rules and practices of the legislature promote excessive partisanship and prevent problems from being addressed efficiently and effectively. Accordingly, the commission recommends that the 74th Legislative Assembly adopt rules to:

- Empower leadership of the minority party to select minority representatives on legislative committees
- Require that Vice-Chairs of legislative committees be from minority parties
- Allow measures with demonstrable evidence of a majority of members of the chamber in support, move to the floor for debate and vote

Further, the PCOL urges that the Rules of the House and Senate not be used to prevent consideration of significant policy issues. Presiding officers should represent the body as a whole and not use their authority to prevent debate on policy matters. Majority and minority leadership also should develop a more collaborative environment for discussing legislative priorities and establish collaborative processes that include the minority in session management.

INITIATIVE PETITION: The PCOL believes that an effective legislature is a full partner in Oregon’s lawmaking system, a system that includes the initiative, referendum and referral process.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Adopt legislation making a number of changes to the initiative process that the commission believes will better ensure its integrity

LEGISLATOR COMPENSATION: The PCOL believes that the current salary paid to legislators does not reflect the duties of the office and is not sufficient to attract citizens of the highest quality to public service.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Revive the Public Officials Compensation Commission, which will be charged with establishing salaries for the state’s elected officials
- Discuss legislator compensation in conjunction with the commission’s recommendations regarding ethics and integrity

ETHICS AND INTEGRITY: The PCOL believes that an effective legislature earns the trust and respect of the public through high ethical standards of legislators and the fairness and integrity of the legislative process. The commission notes that a number of widely reported incidents during the 73rd Legislative

Assembly reduced public trust in the legislature. The PCOL also believes that the increasing costs of campaigns and the reliance by legislators on campaign contributions from special interests fuels public cynicism about the legislative process and inhibits independent decision making by legislators.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Enact legislation creating a Commission on Campaign Finance Reform to examine the role of campaign finance in legislative decision making
- Enact legislation prohibiting candidates for political office and elected officials from using campaign contributions to pay for personal expenses
- Consider legislation that would reduce the length and cost of campaigns by moving the primary election from the current fourth Tuesday in May to a later date

The PCOL also notes an inherent conflict in the fact that the Legislative Assembly approves the budget of the Oregon Government Standards and Practices Commission (GSPC), which is charged with ethical oversight of the Legislative Assembly. The PCOL recommends that the 74th Legislative Assembly identify, develop and implement a dedicated and stable source of funding for the GSPC that is as independent of legislative approval as legally possible.

PUBLIC ACCESS: The PCOL believes that an effective legislature is open and accessible to the public.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Continue and expand policies and practices that have led the Oregon legislature to earn a reputation for accessibility and openness
- Authorize state funding for a pilot program that will provide comprehensive, unedited coverage of legislative sessions

IMPROVEMENTS TO THE OREGON STATE CAPITOL: The PCOL believes that an effective legislature operates in a safe, up-to-date facility.

Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Take steps to ensure the security of the Oregon State Capitol
- Develop a comprehensive plan addressing necessary renovations of the Oregon State Capitol
- Create a wireless network in the capitol

STAFFING OF LEGISLATIVE OFFICES: The PCOL believes that an effective legislature requires and has a professional, dedicated and well-qualified staff to facilitate the legislative process. This is especially true if the legislature moves to annual sessions, as the commission recommends.

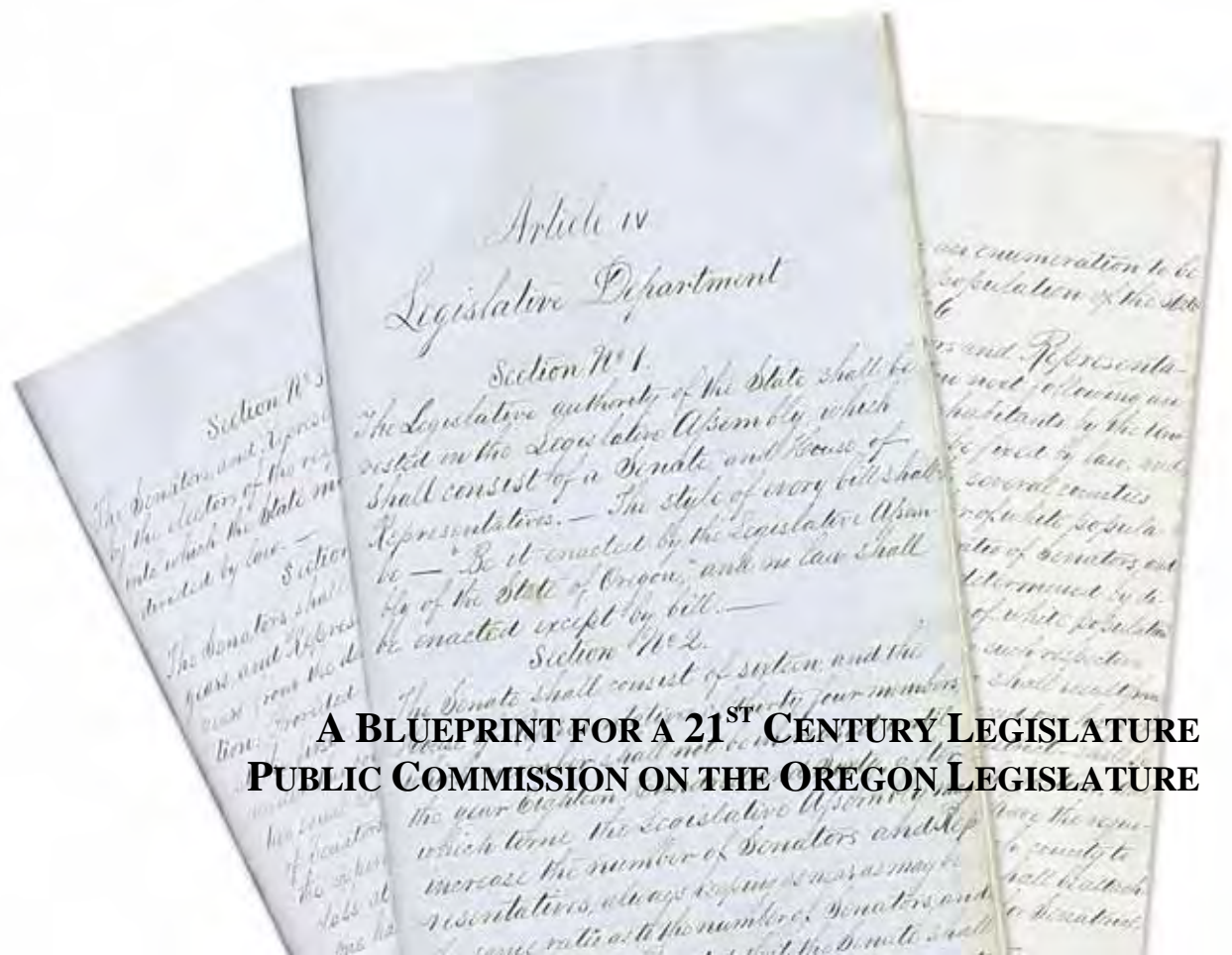
Therefore, the PCOL recommends that the 74th Legislative Assembly:

- Conduct a thorough review of the Legislative Counsel, Legislative Fiscal, and Legislative Revenue Offices to ensure that staffing levels are adequate to serve the needs of the legislature
- Insulate committee staff from partisanship
- Adopt rules requiring legislators who hire spouses or other relatives as employees in their legislative office to file with the Chief Clerk of the House or Secretary of the Senate a statement that he or she has hired a relative and specifying the salary of that individual
- Require the Chief Clerk of the House or Secretary of the Senate to certify that the salary, and any subsequent salary increases, are within the range acceptable for that position

LEGISLATIVE CONSIDERATION OF PCOL RECOMMENDATIONS: To ensure that the recommendations of the commission receive full and fair consideration by the 74th Legislative Assembly, the PCOL strongly recommends that the 74th Legislative Assembly:

- Consider this report as a package of recommendations and that each recommendation not stand alone. The recommendations are meant to be seen as a coherent whole even though they address different issues. The recommendations should be treated respectfully and with a burden of persuasion already adopted by virtue of approval by the commission.
- Create a Joint Committee to consider all bills introduced by the commission
- Instruct the joint committee to meet during the 2007-2008 interim to monitor implementation of commission recommendations as well as to continue work on other legislative improvements
- Create a new legislative improvement commission no later than 2016
- Report on implementation of commission recommendations, comparing recommendations vs. implementation, by July 1, 2007 or two weeks after Sine Die

RECOMMENDATIONS



**A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE**

RECOMMENDATIONS

Recommendations made by the commission are interconnected. Many can be implemented separately, but the outcome will be better if most are implemented together or in close succession. For example, the commission recommends that improvements to legislator compensation be made in conjunction with campaign finance reform. Also, some themes are repeated in several recommendations. For example, the need for strict session deadlines is highlighted in the Annual Sessions and Session Structure, Committees and Bills and Amendments recommendations.

Some recommendations require amendments or revisions to the Oregon Constitution or to Oregon Revised Statutes, while others require changes to Senate or House Rules or to committee rules. Drafts of bills needed for implementation have been prepared for legislators to consider.

Inherent in many commission recommendations is the need for a cultural shift in the Legislative Branch. This change can't be legislated because it comes from within. The decline in public confidence and respect for the legislative process should be reason enough to drive the legislature to make necessary improvements to become a more efficient and effective institution. It is essential to instill in the 90 members of the legislature its sense of place as the third and co-equal branch of Oregon government. Irrespective of the chamber in which they serve or party affiliation or rural or urban home district or whether they like one another on a personal level, the people's elected representative must function as a unit or risk creating a vacuum to be filled by the executive or judicial branches, or the initiative process.

Recommendations emerged in eight key areas. Those areas are: frequency and length of legislative sessions; consequences of excessive partisanship; integrity of the initiative process; adequacy of legislative compensation; legislative ethics and integrity; ease of public access to legislative information; need for capitol building renovations; and sufficiency of staffing resources to support the work of the legislature.

The commission believes the following four focus areas create a comprehensive context for its recommendations and provide a platform for supplemental ideas that will inevitably emerge during legislative review.

RECOMMENDATIONS FOR FUNDAMENTAL REFORM

- Open Primary
- Nonpartisan Legislature
- Nonpartisan State Controller
- Redistricting Commission
- Funding Government Standards and Practices Commission
- Initiative Reform
- Campaign Finance
- Legislator Compensation

RECOMMENDATIONS FOR INSTITUTIONAL REFORM

- Annual Sessions and Session Structure
- Partisanship
- Staffing Legislative Offices
- Hiring Family Members
- Alcohol Consumption
- Public Access

RECOMMENDATIONS FOR REFORMING LEGISLATIVE OPERATIONS

- Committees
- Bills and Amendments
- Program Evaluation
- Budget Notes

RECOMMENDATIONS FOR IMPROVING FACILITIES AND TECHNOLOGY

- Capitol Renovation and Comprehensive Facilities Plan
- Wireless Access
- Use of Technology
- Oregon Channel
- Audio and Video Hardware
- Security

RECOMMENDATIONS FOR FUNDAMENTAL REFORM

These recommendations focus on fundamental changes to the selection of legislators and rule of the legislature. They respond to concerns about who runs for office and how legislators are chosen, ethics, partisanship, the costs of campaigns, putting ideas for change on the ballot, and legislative compensation. They are intended to improve the transparency of decision-making; increase citizen participation; decrease institutional partisanship; and provide arm's length processes for elections and salary decisions. .

OPEN PRIMARY

Recommendation

- **Oregon should adopt an “open” primary, allowing all Oregon voters to nominate two candidates to appear on the general election ballot regardless of political party affiliation, or lack of party affiliation, of the elector or candidate.**

Currently, Oregon has “closed,” or party, primary elections. Candidates for the two major parties, Democrats and Republicans, compete for their parties’ nomination in the May primary. Registered Democrats and Republicans can only choose from among like-registered candidates. During a primary election, Independent voters, meaning those not registered with a major or minor party, can only vote in nonpartisan races and ballot measure contests.

Data from the Secretary of State, Elections Division show that about 22% of Oregon voters are Independents. Under Oregon’s closed primary, Independent voters have no influence during the primary election in determining which candidates will be considered in the general election.

In an open primary, office holders will be elected in a fundamentally different way – an open primary will give voters maximum choice, in every election, to vote for the candidates they believe are best suited to govern Oregon. Parties will still exist, and citizens can choose to register with them or not.

NONPARTISAN LEGISLATURE

Recommendation

- **Members of each house should determine whether they want to be elected with partisan labels. One house may choose to be nonpartisan and the other not. However, both houses and the Governor would need to approve legislation to modify the definition of “nonpartisan” office.**

Generally, Oregon’s Legislative Assembly is organized according to affiliation with a major political party. If party labels are removed, some other organizational principle would be required.

For constituents now represented by members of the minority party, a nonpartisan legislature might allow a better quality of democracy because legislators would be free to focus on district needs and concentrate on policy, without party influence. Moreover, legislators would build coalitions around policy development and constituent needs rather than along party lines.

The probable redistribution of power in a nonpartisan legislature also might moderate what has been characterized as an atmosphere of extreme partisanship in the Oregon legislature.

The idea of electing leaders on a nonpartisan basis is not new. Many county commissions, city councils, school boards and other legislative bodies are elected based on knowledge, skills and abilities, not party label.

NONPARTISAN STATE CONTROLLER

Recommendations

- **Create a nonpartisan statewide State Controller, to be selected in a manner determined by law, to manage, administer and oversee state elections and elections policy, campaign finance administration, investigations including elections and ethics issues, and legislative redistricting. State Controller was selected as a working title.**
- **The State Controller will conduct investigations for the Oregon Government Standards and Practices Commission and will need a sufficient budget to be effective.**
- **Redistricting will be managed by the State Controller consistent with the recommendations made in a separate proposal for a five-member redistricting commission.**
- **The inclusion of the state audit function is to be considered by the legislature as one of the duties of the Controller either initially or at a later date.**
- **The State Controller's term of office should be no fewer than six years. The office holder will be barred from seeking statewide elected office until two years after the expiration of the six-year term.**

Partisan campaigns, elections, and organizations play both a critical and constructive role in the formation of public policy. However, there are limits to the proper role of partisanship in the conduct of public business.

Partisan elections and partisan organization in principle are organizing vehicles for offices and functions that involve political choices among competing public policy goals. Partisan organizations form around broad goals and priorities. Party affiliation helps voters choose candidates whose goals and priorities they prefer.

Political partisanship, however, has no proper role in functions that do not involve choices among competing policy goals, but which depend on accurate determinations and reporting of facts. These functions need to be administered by someone whose professional interest is solely in carrying out these duties and who is above any reasonable suspicion of pursuing a political agenda.

Chief among these is the conduct of elections including compliance with campaign regulations. Others are investigation of violations of government ethics laws or other claims of maladministration of public programs. The legislature needs a nonpartisan investigatory officer to perform investigatory services essential to any oversight function. These functions therefore should be headed by a nonpartisan elected official who will not use this office as a platform for pursuing a political career.

A model for such an office is found in the nonpartisan federal Government Accountability Office, headed by the Comptroller General of the United States, which investigates and issues reports on requests from

both major parties in Congress, as well as on its own initiative. The term State Controller was selected for this office, but the title is not critical. Additional information on each recommendation is provided below.

- **Create a nonpartisan statewide State Controller, to be selected in a manner determined by law, to manage, administer and oversee state elections and elections policy, campaign finance administration, investigations including elections and ethics issues, and legislative redistricting. State Controller was selected as a working title.** There are several means to providing nonpartisan administration of the elections, campaign finance, related investigations, and redistricting functions. Making the existing Secretary of State a nonpartisan office was discussed, but the recommendation is for a controller function responsible for all duties of the existing Elections Division while leaving the balance of the current Secretary of State's functions in place.
- **The State Controller will conduct investigations for the Oregon Government Standards and Practices Commission and will need a sufficient budget to be effective.** Investigatory functions currently exist in the state Elections Division. This recommendation enhances those functions to include the needs of the Government Standards and Practices Commission. Investigatory and subpoena power are essential to effective administration of these functions. Providing services both to the Elections Division and the GSPC leverages expertise and resources for both organizations. Success requires adequate and sufficient funding, which has not always been forthcoming in budget processes; consequently, the committee has stressed the need for sufficient funding.
- **Redistricting will be managed by the State Controller consistent with the recommendations made in a separate proposal for a five-member redistricting commission.** Redistricting and its related processes are one function whose purpose and credibility requires them to be undertaken on an arm's length nonpartisan basis. The responsibility for the redistricting commission and its work would rest in this new office.
- **The inclusion of the state audit function is to be considered by the legislature as one of the duties of the Controller either initially or at a later date.** Moving the audit function from the Secretary of State to the Controller requires additional discussion by the legislature. It fits appropriately into the duties of a Controller, but as a constitutionally mandated function, the transition would require a constitutional amendment to take effect.
- **The State Controller's term of office should be no fewer than six years. The office holder will be barred from seeking statewide elected office until two years after the expiration of the six-year term.** A longer term length and limitations on subsequent campaigns for office are intended to provide additional buffers from partisan pressure for the office and the office holder.

REDISTRICTING COMMISSION UNDER STATE CONTROLLER ADMINISTRATION

Recommendation

- **Establish a redistricting commission responsible for drafting legislative and congressional district plans under administration of the State Controller, a new position.**

The process of redistricting blends politics, geography and technology, leading to apportionment of districts that allows citizens equal representation in the state legislature and in Congress.

Article IV, section 6, of the Oregon Constitution, and ORS 188.010 outline deadlines, criteria, and responsibilities for redistricting. In years ending in “1,” the legislature prepares plans for legislative and congressional districts and submits them for approval like any other piece of legislation. As with legislative enactments, redistricting plans are subject to the Governor’s veto.

If the legislature either fails to enact a legislative redistricting plan by July 1, or if its plan or a portion of the plan is successfully challenged in court, then the responsibility for drawing legislative district lines, or for correcting a specific problem area, falls to the Secretary of State. There is no corresponding timeline for congressional redistricting. If the legislature and Governor do not agree to a new congressional plan, the existing plan is in effect until a case is filed in federal court to adopt a plan.

Only twice in the past six redistricting cycles (since 1951), have the legislature and governor agreed to the same legislative and congressional plans. But drafting new plans requires the legislature to expend a great deal of time and money, hire specialized staff, purchase new equipment and technology, and hold numerous field hearings around the state for public comment.

The recommendation is to establish a process that is staffed by skilled professionals, overseen by a state official with no political stake in the outcome, and may result in plans that are more fair and can be prepared more efficiently.

The redistricting commission should have five members; it should solicit testimony and recommendations from the public on any proposed plans; and it should submit plans to the legislature for consideration, approval or modification by June 1.

An example of how a commission could be structured follows:

1. Five members appointed by the State Controller, using specified qualifications, by December 1 of the '00 year. When considering appointments to the commission, the State Controller must consult with political parties and representatives of non-affiliated voters.
2. A person holding elected public office or political party office, or a person elected or appointed to public office or political party office, may not be a member of the commission. A commission member may not have held an elected public office or a political party office within two years of the date of the member’s appointment to the commission.
3. The commission will prepare legislative and congressional districting plans. The commission will use criteria outlined in ORS 188.010 to draw the legislative districting plan and criteria from ORS 188.010 (1)-(3) along with any federal criteria to draw the congressional district plan.
4. Staff will be provided by the State Controller.
5. The commission must submit its proposals to the Legislative Assembly no later than June 1.
6. No later than June 30 the Legislative Assembly may amend the commission proposals with approval of 3/5 vote of both chambers. Pending legal challenges, if the legislature does not amend the plans by June 30, the plans are effective January 1 of the following year.
7. Court challenges to the redistricting plans may be filed in federal court (congressional plan) and state Supreme Court (state plan) after June 30.
8. Legal challenges to the legislative plan are to be resolved by the Supreme Court no later than November 15 and the plan will be effective January 1 of the following year.

FUNDING OF THE GOVERNMENT STANDARDS AND PRACTICES COMMISSION (GSPC)

Recommendation

- **The Legislative Assembly should identify, develop and implement a dedicated and stable source of funding for the Government Standards and Practices Commission, that is as independent of legislative approval as legally possible.**

The Oregon Government Standards and Practices Commission (GSPC) educates public officials about ethics laws, investigates allegations that public officials have violated ethics laws, and enforces and imposes penalties for ethics law violations by public officials, including legislators and registered lobbyists. The GSPC has limited staff and a limited budget to cover a broad range of laws and officials.

Funding of the GSPC should be removed from legislative control because legislators should not determine the budget for the agency that investigates alleged legislative ethics violations.

INITIATIVE REFORM

Recommendations

- **Require citizen initiative or referendum chief petitioner(s) to be registered voters in Oregon.**
- **Require that for each measure, a statement appear in the Voters' Pamphlet that lists the number of signatures gathered in each of Oregon's 36 counties, what percentage of signatures gathered are from each county, and what percentage of eligible voters in each county signed the petition.**
- **Require a notarized statement indicating the identities and physical addresses of the top five contributors to a ballot measure signature-gathering effort to be disclosed in the Voters' Pamphlet.**
- **Direct the Secretary of State to publicize and explain the process for filing complaints about the initiative process and then insist that existing penalties for Voters' Pamphlet or other violations be imposed.**
- **Establish a regular process for considering and possibly taking legislative action on initiative proposals.**
- **Establish a process for providing timely advisory opinions on whether initiative proposals meet eligibility requirements.**
- **Conduct a rigorous review of fraudulent or other irregular means to gather signatures submitted for a measure to qualify for the ballot, and clarify remedies for violations.**

The Oregon Legislative Assembly is responsible for the state's laws, however they are enacted. Oregon's initiative, referendum and referral process also makes every Oregon voter a crucial partner in the lawmaking process.

The legislature is involved in the review and analysis of proposed ballot measures. For example, a chief petitioner may submit 50 signatures to Legislative Counsel requesting assistance in drafting an initiative.

Also, the Legislative Revenue Office assists the Financial Impact Committee in preparing financial estimates for the ballot and Voters' Pamphlet.

Legislators and citizens must recognize that initiated statutes are just that: statutes. Recent legislatures have sometimes treated statutes passed by initiative as untouchable despite the law's costs or other needs for improvement. Lawmaking by elected representatives is the intended norm, and initiatives were meant to be exceptional measures.

These recommendations are intended to enhance the Legislative Assembly's ability to be an effective partner in Oregon's total lawmaking system. Additional information on each recommendation is provided below.

- **Require citizen initiative or referendum chief petitioner(s) to be registered voters in Oregon.** The initiative process is an opportunity for Oregonians to make decisions for and on behalf of Oregon; therefore those petitioning for change should be Oregonians.
- **Require that for each measure, a statement appear in the Voters' Pamphlet that lists the number of signatures gathered in each of Oregon's 36 counties, what percentage of signatures gathered are from each county, and what percentage of eligible voters in each county signed the petition.** All of Oregon should have a say in the initiative process and voters should have as much information about where ideas for ballot measures come from and who is promoting them. By disclosing the geographic distribution of signatures, Oregonians will be able to note if signatures were gathered statewide, showing some level of support.
- **Require a notarized statement indicating the identities and physical addresses of the top five contributors to a ballot measure signature-gathering effort to be disclosed in the Voters' Pamphlet.** Even if a measure has an Oregon resident as its chief petitioner, it is possible that the bulk of the financial backing for placing it on the ballot comes from people or organizations outside of Oregon. In an attempt to know as much as possible about the financial supporters and based on a formula to be developed by the Secretary of State, the identities and addresses of the top five donors (corporate or individual) to the signature-gathering effort should be publicized in the Voters' Pamphlet.
- **Direct the Secretary of State to publicize and explain the process for filing complaints about the initiative process and then insist that existing penalties for Voters' Pamphlet or other violations be imposed.** Although many rules and laws regulate the initiative process, many Oregonians do not know how to call attention to possible violations. The Secretary of State should provide more information on how to file a complaint and what penalties apply to those who violate the rules.
- **Establish a regular process for considering and possibly taking legislative action on initiative proposals.** The legislature should consider enacting legislation on topics raised by the initiative process by having appropriate committees study initiatives that appear to have support to qualify for the ballot. The committees would report to the legislature either a proposal for legislative action or a statement of why legislative action is not recommended. The initiative's chief petitioners would remain free to pursue their initiative campaign even if the legislature were to enact laws on the same subject. Moving to a second legislative session in even-numbered years will provide additional opportunity for analysis and action by the legislature on proposed ballot measures.
- **Establish a process for providing timely advisory opinions on whether initiative proposals meet eligibility requirements.** Courts must sometimes invalidate a successful ballot measure because it

was legally ineligible for approval through the initiative process. Currently, the initial determination of eligibility is left to the Secretary of State, on the legal advice of the Attorney General.

- **Conduct a rigorous review of fraudulent or other irregular means to gather signatures submitted for a measure to qualify for the ballot, and clarify remedies for violations.** The Secretary of State has recently hired a full-time investigator whose sole responsibility is to provide oversight and investigation of the signature gathering process. While hiring the investigator is important, more resources should be made available to enforce the laws and rules related to signature gathering. The signature gathering process must be clear and violations must be met with swift and just resolution and penalties.

CAMPAIGN FINANCE

Recommendations

- **Appoint a Commission on Campaign Finance Reform to examine the role of campaign finance in legislative decision-making.**
- **Reform the use of campaign funds by candidates and elected officials.**
- **Improve legislator compensation in conjunction with reforms related to use of campaign funds by candidates and elected officials.**
- **Consider moving the primary election date to the first Tuesday in June or August.**

Public confidence in the legislature is low. Part of the reason appears to be the role of money in elections and the high costs of elections. As costs go up, candidates rely more on special interest funding. Large campaign contributions may inhibit subsequent independent decision-making. Legislatures perceived to be dominated by special interests risk eroding public confidence. Additional information on each recommendation follows.

- **Appoint a Commission on Campaign Finance Reform.**
 1. The 2007 Legislative Assembly should appoint a Commission on Campaign Finance Reform to examine the role of campaign finance in legislative decision making with the goals of:
 - a. Separating legislative policy and budget decisions from the influence of campaign contributions;
 - b. Controlling escalating campaign costs and spending;
 - c. Shifting the balance of campaign activity away from fundraising towards increased issue discussion and voter engagement; and
 - d. Decreasing candidate and party dependence on donations from special interest groups.
 2. The Commission on Campaign Finance Reform should include current and former elected officials, lobbyists, professional legislative staff and others who understand the problems. The majority of the commission should not have immediate political or professional interests in the outcome.
 3. The Commission on Campaign Finance Reform should be staffed and funded by the legislature and present its findings and recommendations by a date set by the legislature.
- **Reform use of campaign funds by candidates and elected officials.** Candidates and legislators should be prohibited from using contributions personally, to defray office expenses, to pay criminal or civil penalties, or to make contributions to other candidates or political committees. Exceptions: a) A candidate should be permitted to distribute contributions to the principal campaign committee of the same candidate for nomination or election to a different public office; and b) If a candidate no

longer intends to receive contributions or make expenditures, and intends to discontinue the statement of organization of the candidate or committee, the unused contributions should be distributed to charitable organizations, political party political committees, legislative caucus political committees or to the Legislative Assembly.

- **Improve legislator compensation in conjunction with reforms related to use of campaign funds by candidates and elected officials.** Improvements to legislator compensation should be made in conjunction with legislative approval of reform of the use of campaign funds by candidates and legislators.
- **Consider moving the primary election date to the first Tuesday in June or August.** The Legislative Assembly and Secretary of State should consider moving the primary election date to a date later in the year, such as the first Tuesday in June or August. Doing so would shorten the campaign season, thereby, reducing the cost of campaigns.

LEGISLATOR COMPENSATION

Recommendations

- **The Public Officials Compensation Commission (POCC) should be given responsibility for establishing salaries for state elected officials, removing political consideration from that process.**
- **The commission will set salaries for: the Governor; Secretary of State; State Treasurer; Attorney General; Superintendent of Public Instruction; Commissioner of the Bureau of Labor and Industries; Judges of the Supreme Court; Judges of the Court of Appeals; Circuit Court Judges; Tax Court Judges; District Attorneys and Legislators.**
- **Salaries of elected officials should be based on the duties of the office and at a level that will attract citizens of the highest quality to public service.**

Service in the legislature requires personal and professional sacrifices. The Oregon Legislative Assembly meets part-time but has a nearly full-time workload. Attracting citizens with diverse backgrounds and experiences to represent Oregonians in the legislature is difficult. However, it is critical that legislators be of high quality, because the decisions they make affect the lives of every Oregonian.

Compensation should not be the reason for a person to run for legislative office. However, an increase in legislator compensation may help create an environment that attracts high quality citizens from a broad range of backgrounds to participate in the process.

Legislative service should not be perceived as a career, but a calling to public service, and it is important to provide adequate and appropriate compensation for these civic service positions. The public would rather be represented by a citizen legislature than a professional legislative body, and a citizen legislature includes members of diverse ages, employment and financial backgrounds.

Demographic data illustrate how the Legislative Assembly has changed over the past 40 years. In general, there is a decline in the number of early and mid-career (younger) legislators and an increase in the number of late-career or retired (older) legislators. There has been a decrease in the number of legislators involved in agriculture, law, banking and insurance, but an increase in the general category of small business owners and those who identify “legislator” as their primary employment.

The existing Public Officials Compensation Commission (POCC) should be revived with the purpose of establishing salaries for the state's elected officials and to remove political consideration from the process. The POCC should base salaries of elected officials on the duties of their office and to attract citizens of the highest quality to public service.

When establishing legislator compensation, the Public Officials Compensation Commission should take into account the effects of all other possible forms of compensation in recommending legislative salaries, including but not limited to: per diem payments during session and interim; mileage payments during session and interim; and hiring of family members as personal staff. The POCC should develop a salary differential, based on geography, after reviewing the impact on those legislators who must travel long distances or maintain two residences in order to participate in the legislative process in Salem.

Membership of the Public Officials Compensation Commission

It is important that citizens make decisions about the compensation of elected officials. The public should understand what public officials do, what their compensation is and how high quality candidates can be attracted to public service positions.

Following are criteria relating to the Commission:

- To demonstrate their own civic responsibility, all members must have voted in the two General Elections prior to appointment to the Commission.
- The majority of the Commission should be public members selected from voter registration rolls by lottery by the Secretary of State.
- The commission should have 11 or more members, depending on the number of Congressional Districts in Oregon, apportioned as follows:
 - Two members appointed by the Governor, confirmed by the Senate, with background in compensation management;
 - One member appointed by the Chief Justice of the Supreme Court;
 - One member appointed by the Speaker of the House of Representatives;
 - One member appointed by the President of the Senate;
 - One member from each Congressional District selected from voter registration rolls by lottery by the Secretary of State; and
 - One member selected from voter registration rolls by lottery by the Secretary of State from the state at-large.
- The Commission should be staffed by the Department of Administrative Services.

Salaries Set by the Public Officials Compensation Commission

The commission shall establish annual salaries for the following elected officers in the Executive, Judicial and Legislative branches of government:

- Governor
- Secretary of State
- State Treasurer
- Attorney General
- Superintendent of Public Instruction
- Commissioner of the Bureau of Labor and Industries
- Chief Judge of the Court of Appeals
- Court of Appeals Judges
- Chief Judge of the Supreme Court
- Supreme Court Judges
- Circuit Court Judges

- Tax Court Judges
- District Attorneys
- Legislative Assembly
 - Members of the Legislature
 - President of the Senate
 - Majority Leader of the Senate
 - Minority Leader of the Senate
 - Speaker of the House of Representatives
 - Majority Leader of the House of Representatives
 - Minority Leader of the House of Representatives

Legislative Action on Salary Recommendations from the Public Officials Compensation Commission

- The Commission should present the salaries to the Governor and Legislature by October 31 of each even-numbered year.
- Subject to appropriation, salary levels should take effect July 1 of odd-numbered years.
- Pursuant to section 1, Article VII (Amended) of the Oregon Constitution, the salaries of the Chief Justice and judges may not be diminished during the term for which they are elected.

RECOMMENDATIONS FOR INSTITUTIONAL REFORM

These recommendations address the culture of the legislature. They respond to concerns about how often and how long the legislature meets, the effects of excessive partisanship, the adequacy and selection of staff, ease of public access to the process, and behaviors on the job. They are intended to produce significant efficiencies; build legislator and staff professionalism; and expand public access to information.

ANNUAL SESSIONS AND SESSION STRUCTURE

Recommendation

- **The Legislative Assembly should establish a new meeting time for the 2007 legislative session and hold a legislative session in 2008. The legislature must determine how and whether it is desirable to have annual sessions beginning with the 2009 session.**

Oregon's biennial legislative sessions no longer meet the needs of the state. Policy making, budgeting and executive oversight are ongoing responsibilities that require annual legislative presence and leadership.

Although the Oregon Constitution requires that the legislature meet biennially, it also permits the legislature to convene at other times when the needs warrant. In the 21st Century, annual legislative sessions may be necessary for the legislature to improve its ability to make policy, adopt a budget and oversee state agencies. Oregon will benefit if the legislature experiments with annual sessions before voters are asked to incorporate specific requirements into the constitution.

This recommendation allows the next Legislative Assembly to experiment with session timing and structure. It relies on the leaders and members to try different ways of doing business, but does not prescribe a permanent change in structure. It also anticipates that presiding officers, caucus leaders and committee chairs will assume responsibility for managing the workloads for members and staff, meeting the self-imposed deadlines, and maintaining a process that is open and accessible to the public.

Annual sessions are not a new idea in Oregon, nor are the elements contained in this recommendation. This recommendation does not prescribe a specific course of action on annual sessions. However, the Legislative Assembly should rigorously examine annual sessions and take action on a proposal in a timely manner.

Budgeting

- State agency budgeting should continue on a biennial basis.
- The budget process should occur in a Joint Ways and Means Committee.

Retime the regular session for 2007-2009 biennium and recommend a session in 2008

- Governor's biennial budget is submitted by December 1 or February 1 under current law.
- Bills are drafted and pre-filed for interim committees, agencies and members under current practice.
- Organizational meeting in January of odd-year to elect leaders, adopt rules, appoint committees, address Governor's vetoes, and assign bills to committees.

- House and Senate approve a resolution establishing concurrent deadlines for bill introductions, committee and floor action in each house, and other significant internal activities, including committee closure.
- Between January organizational meeting and first Monday in April, substantive committees meet on a limited basis to do overviews and dispense with some house-keeping measures. Committees also draft bills, work on amendments and/or prioritize workload and issues to be addressed after the first Monday in April start.
- Joint Way and Means Committee meets regularly between January and first Monday in April.
- Begin floor sessions first Monday in April (April 2, 2007) and prepare for the May revenue forecast.
- Sine die adjournment up to 120 calendar days after the first Monday in April (no later than July 30, 2007).
- All bills and other measures die at end of 2007 session; no carryover to 2008.
- Plan for legislative session in 2008 – timing and subject matter to be determined by the Legislative Assembly.

The intent of the recommendation is to ensure that enough flexibility is built into the session retiming plan so that legislators have ample opportunity to find the best fit for the public and legislators. If the first Monday in April is not the best date to begin full-time session, or July 30 is too long to be in session, then legislators can work together to determine an optimum start date and time limits.

Annual sessions beginning in 2009 – Legislative Assembly to determine timing and how best to implement i.e. by referral or continue to modify session structure using its own authority

ODD YEAR:

- January organization meeting to elect leaders, adopt rules, appoint committees, assign pre-filed bills to committee
- Committees meet for orientation, overviews, and begin work
- Floor sessions start first Monday in April
- 120 days maximum (calendar days)
- Budget and policy measures
- All bills and other measures die at end of odd year session; no carryover to even year
- Time extensions allowed only with 3/5 vote of both houses

EVEN YEAR

- Convene in January and begin committee work and floor sessions immediately due to timing of May primary
- 60 days maximum (calendar days)
- Fiscal and compelling policy issues
- Time extensions allowed only with 3/5 vote of both houses

PARTISANSHIP

Recommendations

- **Presiding officers should, in practice, represent the body as a whole, and not use authority to prevent debate.**
- **Develop a more collaborative environment for discussions by majority and minority leadership regarding legislative priorities.**
- **Establish collaborative processes that include the minority in session management.**

- **Allow measures, with demonstrable evidence of a majority of members in support, to move to the floor for debate and vote.**
- **House and Senate Rules should not be used for the purpose of foreclosing access to significant policy issues.**
- **Require Vice-Chairs to be from minority parties.**

Many commission discussions have been partly centered in trying to resolve what is seen as excessive partisanship in the Legislative Assembly. It is hard to define what excessive partisanship is, but people generally know it when they see it. It is also difficult to make a single recommendation to resolve excessive partisanship, so many commission recommendations approach resolution from different angles. However, the following recommendations address specific behaviors of legislative leaders and their relationship to members of their respective chambers.

- **Presiding officers should, in practice represent the body as a whole, and not use authority to prevent debate.** The presiding officer should foster a collaborative decision-making environment involving majority and minority parties and acknowledge the diverse spectrum of opinion within each party.
- **Develop a more collaborative environment for discussions by majority and minority leadership regarding legislative priorities.** Whether this is a conversation between two leaders or occurs in a larger group, the goal is to identify the priorities most critical for Oregon's citizens, not just those topics that will play well during the next election cycle.
- **Establish collaborative processes that include the minority in session management.** The goal is to ensure that information is shared, suggestions and counsel are solicited, and that open discussion occurs on a routine basis about what members, staff and the public can expect.
- **Allow measures, with demonstrable evidence of a majority of members in support, to move to the floor for debate and vote.** Use of rules, including action on minority reports, should not be reduced to straight party votes on every occasion. There are times when alternative ideas merit consideration and members from all parties should have the freedom to vote based on their own convictions, without fear of reprisal or penalty.
- **House and Senate Rules should not be used for the purpose of foreclosing access to significant policy issues.** When parties use rules to achieve policy objectives, the stature of the legislature is diminished in the eyes of the public.
- **Vice-Chairs should be from minority parties.** Requiring Vice-Chairs to be from minority parties has the benefit of offering developmental opportunities for members, as well as creating some pressure for minority members to be actively engaged in resolving complex policy questions.

STAFFING LEGISLATIVE OFFICES

Recommendations

- **Legislative Counsel, Legislative Fiscal and Legislative Revenue Offices should review their staffing needs based on duties assigned to their offices, ability to perform those**

duties, and quality of service. The offices should present budget requests for additional staff to the next Legislative Assembly.

- **Separate issue-area staff and committee staff in an effort to professionalize issue-area staff, make them more accessible to all members, and acknowledge relationships between chairs and committee staff.**
- **Each legislator should have at least one full-time legislative assistant during session and interim.**

The Legislative Assembly has dedicated, well-qualified, nonpartisan staff who draft legislation, determine financial effects of measures, and facilitate the committee process. Staff take the focus off the mechanics of the legislative process and direct it towards legislation and members. Partnering with nonpartisan staff are legislative assistants and caucus staff who serve a more specialized role, working with individual members or groups of legislators.

Legislative Counsel, Legislative Fiscal and Legislative Revenue Offices

More staff are needed in the Legislative Counsel, Legislative Fiscal and Legislative Revenue Offices whether or not the Legislative Assembly chooses to transition to annual sessions. The exact number of additional staff needed in each office is difficult to predict because the length and nature of possible annual sessions are yet to be determined. Unresolved variables will influence staffing levels including: session length; budgeting; number of bills introduced; interim activities and additional duties assigned to each office. However, offices can review current staffing levels and submit requests for additional staff with the goal of continuing to provide timely and accurate service in order to facilitate the legislative process.

Issue Area and Committee Staffing

Substantive committees address non-budget policy decisions such as health care, education, business, transportation and natural resources. Issue-area staff are recognized experts in policy matters. Committee staff facilitate the committee process regardless of subject matter. Committee chairs have some influence in how committees are staffed, and at times staff are assigned to committees that might not be able to take full advantage of their skills.

There is a need for consistency in staffing substantive policy committees. Consistency in staff may help in the development of good public policy when members can rely on recognized experts in different issue areas.

Issue-area staff and committee staff should be separated. This effort will professionalize issue-area staff, allow them to focus on policy research, and make them more accessible to all members. This recommendation also acknowledges the important relationship of trust that chairs must have with committee staff. Legislative staff should be hired and organized focusing on the following five principles:

- Professional – maintain and enhance a professional staff which has recognized “experts” in major issue areas including but not limited to health care, education, business, transportation, natural resources, and other non-budget topics;
- Continuous – create a staffing system that is consistent from session to interim and supports the needs of both houses;
- Stable – create the ability to attract and retain professional staff with recognized expertise in specific issues areas;
- Nonpartisan – ensure that research staff is available to all members regardless of minority or majority status, seniority, or committee assignment; and

- Non-political – insulate staff personnel decisions from the political environment including hiring, firing and staffing assignments.

A new legislative agency should be created to house issue-area staff, insulating them from the political and partisan pulls of the legislature. Committee staff may be relocated to the Chief Clerk of the House and Secretary of the Senate, remain under Legislative Administration, or be housed under a new Committee Services Agency.

Legislator Staffing – Legislative Assistants

Generally, legislators represent more than 57,000 or 114,000 Oregonians per House or Senate District respectively. With improvements in technology over the last decade, the public has the ability to communicate with legislators more often and in more ways than ever before. With this communication comes an increase in constituent requests and concerns that require a legislator's response. Moreover, issues facing legislators are increasingly complex.

Legislators are now budgeted to have one legislative assistant and one secretary for six months during session. During the interim, members have staff allowances for one staff person for 18 months at a salary less than the session secretary.

Legislators should be budgeted for at least one full-time legislative assistant to assist with legislative work during both the session and the interim.

HIRING FAMILY MEMBERS

Recommendations

- **Legislative leadership should adopt rules in 2007 that require any legislator who hires a spouse, child, parent or relative as an employee in their legislative office to file with the Chief Clerk of the House or Secretary of the Senate, a statement that they have hired a relative and indicate that person's salary.**
- **The Chief Clerk of the House or Secretary of the Senate must certify that the salary is within the range acceptable for that position.**
- **The same process should be followed for salary increases.**

Oregon has no restrictions on the employment of family members as legislative staff. Legislators select and hire their own staff and set salaries within certain budgetary constraints. At least half of all states have rules relating to or prohibiting hiring family members.

Current law, ORS 243.305, establishes an expectation that there will be "fair and equal opportunities for employment and advancement" throughout all of state government. Hiring family members has the practical effect of denying a path to legislative employment and advancement for members of the public who might be interested in doing this work.

Many legislators trust family members to help them with their duties. Some legislators who live far from Salem bring family with them during session and want to employ them because family members are familiar with the unique qualities of the district, its people and issues. The practice of legislators hiring family members as assistants should be left to the discretion of individual members. However, legislators should acknowledge their own employment of family members.

ALCOHOL CONSUMPTION

Recommendation

- **House and Senate Rules should prohibit members and staff from being intoxicated while performing official legislative duties.**

Members of the public have witnessed some legislators performing official duties while under the influence of alcohol. This action showed a lapse in judgment on the part of those legislators and diminishes public confidence in the legislative decision-making process. All legislators are leaders and therefore must lead by example by exhibiting decorum and appropriate protocol especially when performing official legislative duties.

PUBLIC ACCESS

Recommendation

- **The Legislative Assembly should take steps to improve public access to the legislative process, including providing more notice about committee meetings and consideration of legislation.**

Oregon's legislative process has a well deserved reputation for being open and accessible to the public. The commission commends the Legislative Assembly for its dedication to keeping the process open. For example, committees are being encouraged to meet more often outside of Salem, which allows more citizens to attend legislative committee meetings. Also, the legislative website (www.leg.state.or.us), which receives more than one million hits per month during session, provides easy access to information about legislators; bills, laws and related documents from the past several sessions; and archived audio recordings of committee meetings and floor sessions.

To further openness and access, the Legislative Assembly should:

- Require at least 48-hours notice before committee meetings for as long as possible during session and during the interim.
- Give as much notice as possible for hearing amendments to bills and provide an explanation of the effect of amendments to the public.
- Indicate clearly on agendas when testimony from the general public will be heard, distinct from introductory, invited or organized testimony.
- During public testimony, first hear from people who have traveled the farthest distance from Salem.
- Educate chairs to be more attentive to the needs of the audio/video audience, including having all speakers state their names on the record and explaining procedures or describing visual aids.
- Hold more committee hearings outside Salem.
- Make greater use of teleconference or videoconference technology in committee meetings to include people who might not be able to travel to Salem.
- Consider additional methods to provide access to the legislative process for the public living outside Salem.
- Take final action on bills in the capitol, not on the road, so that professional staff are available to answer last minute questions.

- Ensure that consultative and work groups created to consider proposals reflect diverse perspectives.
- Hold public hearings on recommendations from work groups before approving them.
- Move to one-hour meeting notice as close to the end of session as possible.
- Establish a page on the legislative website where citizens may request legislative committee agendas, including those from the Legislative Fiscal Office and Legislative Revenue Offices.
- Make the legislative website more useable to the general public by limiting the use of legislative jargon.
- Display the Citizens' Guide more prominently on the legislative website.
- Provide summary or overview documents on complicated budget and policy issues to the press and public.
- Draft Oregon Revised Statutes, bills and amendments in simple, understandable English and in logical order. (See Article IV, section 21 of the Oregon Constitution: "Every act and joint resolution shall be plainly worded, avoiding as far as practicable the use of technical terms.")

RECOMMENDATIONS FOR LEGISLATIVE OPERATIONS REFORM

These recommendations address operational functions of the legislature. They respond to concerns about the role of committees, oversight and accountability, and the use of budget notes. They are intended to strengthen the knowledge base of legislators; assure multiple viewpoints during legislative debate; and increase transparency of the budget process.

COMMITTEES

Recommendations

- **Enhance legislator orientation curriculum to include more training in subject matter and procedural areas.**
- **Require comprehensive work plans for interim committees that prepare members for upcoming sessions.**
- **Increase continuity of both members and staff from session to interim committees.**
- **Maximize use of work groups and emphasize breadth of membership to reflect as many viewpoints in a policy discussion as possible.**
- **Require minority parties to select their committee members in proportion to membership of the body.**
- **Require presiding officers and members of each body to “institutionalize” the appointment of one or more members of a minority party to chair one or more significant committees or subcommittees.**
- **Keep the ability to open or reopen committees when needed during session to ensure that legislators experienced in particular subject areas are working on related bills.**
- **Establish and adhere to deadlines for committee actions including bill introductions, hearing deadlines, work session deadlines and chamber cross-over dates.**
- **Make investments in the above items.**

The Oregon Legislative Assembly is the most important decision-making body in the state. It requires an effective and rational decision-making process and a more structured and disciplined approach to addressing and resolving the problems confronting Oregon. Strengthening the knowledge base of legislators is essential and will result in a higher level of institutional competence and improved policy decisions.

A hallmark Oregon’s legislative process has been its strong committee system. The following recommendations focus on two parts of the committee process which, taken together, will enable policy decisions to be made in a thoughtful, deliberative way.

- Policy processes relate to the content of legislation. The goal of improving the policy process is to strengthen and support the knowledge base of legislators and staff.
- Administrative processes relate to the management of legislation. A timely, efficient administrative process with sufficient checks and balances to limit unforeseen problems is the goal.

Some of these recommendations were previously addressed in the Session Structure recommendation, but because they are also integral to the discussion of the role and function of legislative committees, they are repeated here. Additional information on each recommendation follows.

- **Enhance legislator orientation curriculum to include more training in subject matter and procedural areas.** It is important for legislators to have a basic understanding of the major issues that might be addressed during session. Formal instruction by experts or field trips to affected areas of the state may be required. In addition to subject area training, legislators should spend time learning how to be effective committee members or chairs, which includes knowing the process by which a bill becomes law and rules that govern floor discussions.
- **Require comprehensive work plans for interim committees that prepare members for upcoming sessions.** Legislators have limited time during session to study and debate all major policy issues, particularly those of a complex, technical nature. The importance of interim committee work must be recognized. Committee work plans must be agreed to before adjournment and must include specific goals and timelines for bill draft requests and introduction. Committees must be authorized to meet as needed to discuss and develop policy proposals.
- **Increase continuity of both members and staff from session to interim committees.** Committees are the principle vehicles for organizing information and policy discussions. Members can develop and build on a base of knowledge and expertise in a subject area when committee assignments are made that assure continuity of membership from session to interim to session. It is important to match a member's educational, occupational or life experience with the committee, but it is equally important to assign members with varied backgrounds who can bring a different perspective to issues. Similarly, staff should be assigned to subject matter in order to follow bills and policy discussions through the process from one house to the other and from session committee to interim committee.
- **Maximize use of work groups and emphasize breadth of membership to reflect as many viewpoints in a policy discussion as possible.** Committee chairs and members should make use of broad-based discussion groups to increase the participation of stakeholders in policy development and to solicit high-quality, in-depth information on complex topics, especially during the interim. Public comment should also be solicited when appropriate. Work groups will not always be able to resolve differences or present a consensus to legislators, but they can provide more complete information on which to make decisions.
- **Require minority parties to select their committee members in proportion to membership of the body.** In a representative democracy, it is important that views are represented proportionally in all discussions. As the leader of the whole house, a presiding officer must ensure that committees reflect the balance between parties, unless there is sufficient reason to make an exception regarding committee appointments. Presiding officers must engage all members by assigning them to committees that make use of their strengths and interests.
- **Require presiding officers and members of each body to "institutionalize" the appointment of one or more members of a minority party to chair one or more significant committees or subcommittees.** Presiding officers should routinely appoint members of minority parties to key leadership positions on committees. Doing so would provide balance and a voice for alternative ideas; develop leadership abilities and expertise that will benefit the effectiveness of the legislative branch; offer opportunities for more effective working relationships; and decrease extreme partisanship.

- **Keep the ability to open or reopen committees when needed during session to ensure that legislators experienced in particular subject areas are working on related bills.** As the end of session approaches, the trend has been to funnel all substantive committee work to one or two committees because other committees stopped considering bills. Legislators who are generally unfamiliar with the session history of measures, or who might want to move in a different direction from the standing committee, take up complex policy bills under time constraints and other pressures. In order to improve the development of public policy in the waning hours of session, more substantive committees should remain open to consider associated legislation.
- **Establish and adhere to deadlines for committee actions including bill introductions, hearing deadlines, work session deadlines and chamber cross-over dates.** For committees and legislators to plan and manage workloads, they need a series of coordinated action deadlines. Deadlines are also useful in limiting requests for drafting and introducing measures, and requests for hearings and work sessions. All legislators, staff and the public should know what the deadlines are so that they can interact with committees in a timely manner. Deadlines should not be adjusted as the session progresses.
- **Make investments in the above items.** An effective committee process is crucial to the success of the Oregon Legislative Assembly. Therefore, legislators should invest time and financial resources needed to strengthen the committee process.

BILLS AND AMENDMENTS

Recommendations

- **Establish deadlines and time limits for bill introduction for members.**
- **Change House/Senate rules to allow members to sign onto bills before session so that bills can be filed before the session starts.**
- **Approve a concurrent resolution establishing dates including final introduction of measures, final committee hearings and the end of session.**
- **Use the early part of the session to consider bills filed by agencies before the start of session, committee and member bills, and prepare bills for floor debate in chamber in which bills originated.**

Recommendations related to bills and amendments focus on administrative processes related to drafting, introduction, and amendments for bills and other measures. Two factors affect the recommendations. First, a new bill drafting computer system will be installed and implemented for Legislative Counsel early in 2008. Second, these recommendations are connected to the recommendation calling for a joint resolution establishing dates for final introduction of measures, final committee hearings and the end of session.

This more structured approach for pre-session filing and the agreed upon deadlines for action throughout the session provide the necessary framework for the timely development of legislation and responsible deliberation by members and committees.

PROGRAM EVALUATION

Recommendation

- **Create an Office of Program Policy Analysis and Government Accountability, within the Legislative Fiscal Office, to assist the legislature with policy analysis, performance measurement, cost-benefit analysis, and oversight of state agencies.**

Oversight of state agencies is one of the most important functions of the Legislative Assembly, especially because the Oregon Constitution places so much authority in the executive branch. Combined with the constitutional authority to establish the state's budget, a well-staffed legislative program of government accountability would enhance the state's capability in a performance-based, program budgeting and accountability system. Many state legislatures and Congress have established Government Performance and Accountability Acts initiating performance-based budgeting reform. The staff agencies in those states provide program oversight focused on performance and concerned with performance measures, results, and cost-benefit analysis.

A professional staff required to apply professional standards could create performance reports that forge links among several activities:

- Planning, to achieve goals and objectives;
- Budgeting, to ensure that resources are available to carry out plans;
- Measuring, to assess progress and link resources actually used to results achieved; and
- Reporting, to present progress achieved and impacts on future efforts.

The commission suggests shifting the focus of government decision-making and accountability away from a preoccupation with activities – such as grants dispensed or inspections made – to a focus on the results of those activities, such as real gains in employability, safety, responsiveness, or program quality.

The creation of the Office of Program Policy Analysis and Government Accountability within the Legislative Fiscal Office (LFO) represents a restructuring and renaming of the Joint Legislative Audit Committee. This new division within LFO would permit a nonpartisan, professional staff to assist the legislature in holding state agencies accountable for using resources wisely and achieving program results. The staff should use nationally recognized program evaluation standards. The staff could also review agencies' plans, measure how well they are doing, and make recommendations to the legislature based on the information they have gathered.

BUDGET NOTES

Recommendations

- **Minimize the use of budget notes.**
- **Process budget notes through the respective subcommittees of Ways and Means, and restrict content to fiscal issues, as opposed to policy direction.**
- **Require that sponsors of budget notes submit drafts to subcommittees to vote on before they are included in a budget report.**
- **Make budget notes more accessible to legislators and the public and provide an opportunity for comment on the inclusion of budget notes before approval of a bill by Ways and Means.**

Budget notes cannot and do not set policy for an agency. However, such notes generally impose requirements on agencies regarding particular programs in their budgets, including making reports to the Emergency Board, or other action, during the interim. Budget notes presently are approved by the Co-Chairs of the Ways and Means Committee. When budget bills with budget notes are considered by the legislature, the notes are not approved by a majority of the House and Senate, nor by the Governor. Moreover, the public generally does not have the opportunity to comment on budget notes. All committee members should have the opportunity to review budget notes and approve the agency directives they contain. Additional information on each about the recommendation follows.

- **Minimize the use of budget notes.** Although not all matters related to an agency budget or the management or implementation of programs are suitable for inclusion in a bill, the use of budget notes should be kept to a minimum.
- **Process budget notes through the respective subcommittees of Ways and Means, and restrict content to fiscal issues, as opposed to policy direction.** There is a fine line between policy and fiscal decisions, but budget notes should address fiscal issues only.
- **Require that sponsors of budget notes submit drafts to subcommittees to vote on before they are included in a budget report.** The person proposing a budget note should communicate with the Ways and Means subcommittees about their request before it is approved by members. The author of a budget note also should be identified in the note.
- **Make budget notes more accessible to legislators and the public and provide an opportunity for comment on the inclusion of budget notes before approval of a bill by Ways and Means.** The current process of approving budget notes denies legislators the opportunity to vote on the direction given by a note and may deprive the public from knowing in a timely manner that a budget note has been attached to an agency's budget report.

RECOMMENDATIONS FOR IMPROVING FACILITIES AND TECHNOLOGY

These recommendations address critical need for capital improvements to the Oregon State Capitol, and the technology infrastructure demands important to public access to the legislative process. They are intended to provide for contemporary information technology and sustained building maintenance.

CAPITOL RENOVATION AND COMPREHENSIVE FACILITIES PLAN

Recommendations

- **Legislative Administration should spend funds within its existing budget to update the renovation plan for the capitol “wings”; urge the 2007 Legislative Assembly to seek funding to implement the renovation plan so that the plan can be included in the March 2007 Certificate of Participation (COP) sale; and that the project begin as soon as possible.**
- **The Legislative Administration Committee should establish an advisory committee consistent with ORS 173.760 to develop a comprehensive plan for capitol renovation that outlines projects, estimates costs, and identifies funding sources and timelines.**

The present capitol building was completed in 1938. The House and Senate “wings” were built during the 1975-1976 interim to create office space for legislators and their staff, add hearing rooms, and add office space for the Legislative Counsel, Legislative Fiscal and Legislative Revenue Offices. Since then, improvements in technology have changed the legislative process and the way that constituents communicate with legislators. Moreover, the public is coming to the capitol more than ever, whether as tourists, school groups, or citizens participating in the legislative process.

The capitol is the peoples’ building and its physical condition calls for repairs. As the peoples’ building, it should be cared for not on behalf of the people who work in it, but as a symbol of Oregon government. The price of renovation, no matter how extensive, will only increase over time. Therefore, the Legislative Assembly should consider funding a renovation of the capitol a priority.

Wings Renovation

A Capitol Wings Renovation Project has been under discussion since the late 1990’s. It addresses infrastructure problems including corroding water pipes in the House and Senate wings, overloaded electrical systems, overloaded computer network cable trays, bad air quality and circulation, a fire sprinkler system that is not up to code, and other fire hazards.

Renovations have yet to occur in the wings. The previous renovation plan should be updated and renovation should begin as soon as possible because costs will only increase.

Comprehensive Facilities Plan

The original capitol building has similar problems to the wings, but the infrastructure is even older. The “Spring Break Quake” in March of 1993 damaged the building and illustrated the need for significant seismic upgrades. Also, annual legislative sessions, which the commission recommends the legislature

consider, would place additional demands for space for legislators, staff and the public, and on water, electrical and HVAC systems.

The Legislative Administration Committee, according to ORS 173.760, should establish an advisory committee to develop a comprehensive plan for renovation projects for the wings, the original building, seismic upgrades and the possibility of moving some capitol occupants to other locations on the mall. The initial goal of the advisory committee is to develop the comprehensive plan for capitol renovation including project outlines, approximate costs, funding sources and timelines. Subsequently, the advisory committee will review the plan and progress on an ongoing basis and revise the plan as necessary.

The advisory committee appointed to recommend a comprehensive renovation plan must include seismic rehabilitation of the building as well as:

- Safety (both the ability to work in a safe environment (OSHA) or be safe from crimes)
- Electrical wiring and plumbing
- Lighting in offices and hallways
- Technology cabling
- Space allocation
- Need for at least four large caucus rooms
- Need for committee meeting rooms that allow for roundtable discussions
- Video and audio upgrades for committee rooms, and chamber floors
- Public meeting and display space (capitol history center)
- Review ADA accessibility to the House and Senate chambers and to the wings
- Safety of the capitol grounds including the ability to get to entrances easily or being safe from crime

WIRELESS ACCESS

Recommendation

- **The legislature should fund creation of a secure wireless network and develop rules regulating the use of wireless technology by the public, legislators and legislative staff.**

Technological change is everywhere. Legislators now use computers, e-mail, the Internet, voicemail, cell phones, and other forms of electronic communication to do business. Recent advancements in technology allow for virtually instant communication between the public and the legislative branch.

The Wireless Analysis Project, conducted by Legislative Information Systems, studied the feasibility of making the capitol wireless. It is now possible to have a wireless network in the capitol, which will allow legislators and the public to access the network and Internet without begin tethered to a desk.

USE OF TECHNOLOGY

Recommendations

- **Use technology to the greatest extent possible to expedite the legislative process.**
- **Use consoles or laptops in the House and Senate chambers or in hearing rooms when appropriate.**

- **Investigate the feasibility of using “electronic bill book” software to guide legislators to electronic documents during committee discussion and floor debate.**
- **Approve rules governing the appropriate use of electronic devices during committee meetings and floor sessions.**

When legislators attend committee meetings and deliberations in the chambers, they usually take bill files stuffed with copies of bills, amendments, testimony, constituent communication and other material. When the pace of discussion is moving rapidly, it can be difficult to locate just the right piece of paper. As technology improvements are made in the capitol, legislators should incorporate new tools into the process to help them organize and gain quick access to information.

OREGON CHANNEL

Recommendation

- **The legislature should assist in funding the Oregon Channel Pilot Program during the 2007 legislative session to determine the utility of unedited coverage of legislative meetings and other public affairs events, such as agency meetings or Supreme Court arguments on a dedicated Public Broadcasting television channel.**

The public has many ways to learn about legislative activities and the legislative process, including newspapers, radio programs, Internet web logs, and television coverage. Portions of some legislative meetings and floor sessions are broadcast on local cable access channels. However, there is no comprehensive, unedited television coverage of Oregon government.

Legislative Media, Oregon Public Broadcasting, Southern Oregon Public Television, and the Oregon Public Access Network have proposed a partnership to create the “Oregon Channel,” a public affairs channel that televises government proceedings fulltime. The pilot project, to begin on the first day of session in January 2007, will televise select legislative committee meetings, floor sessions, news conferences, Supreme Court oral arguments, state agency meetings, board and commission meetings, debates, lectures, and public affairs programming.

AUDIO AND VIDEO HARDWARE

Recommendation

- **The legislature should fund upgrade of audio and video broadcast equipment in each hearing room and in the House and Senate chambers to ensure consistent coverage of legislative meetings and floor sessions.**
- **Approve budget packages to procure recording and archiving equipment that will allow legislative meetings to be indexed, searched, archived and stored electronically.**
- **Approve an adequate maintenance and replacement budget for audio and video systems so equipment is kept up to date.**

Audio recordings of committee meetings and floor sessions are the official record of legislative action. Therefore, it is important that they be recorded and archived in the most permanent manner possible.

Currently, audio recordings don't allow for section breaks that can be indexed electronically because they're on tape. Also, tapes are hard for people to use and they're physically deteriorating faster than new electronic recordings. Video and audio systems differ between hearing rooms and the chambers. Although meetings can be broadcast from all committee rooms and the chambers, some sound systems are better than others.

SECURITY

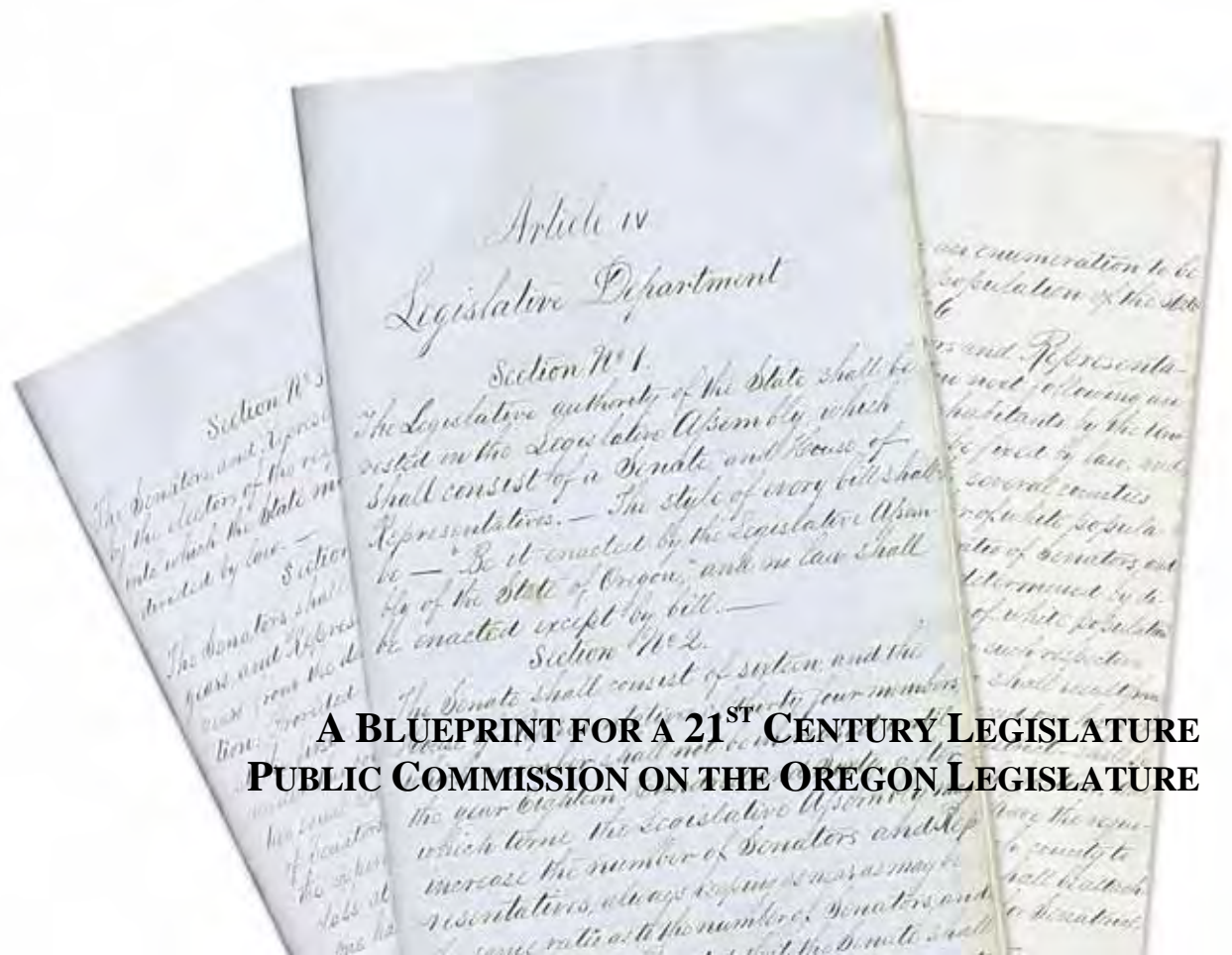
Recommendations

- **Legislative Administration should work with the Legislative Assembly to implement and fund the following:**
 - **Establish a process for performing background checks on employees;**
 - **Take appropriate measures to increase security in the parking garage;**
 - **Increase uniformed officer presence in the capitol;**
 - **Improve member and staff training about security;**
 - **Address secure access to the building including security equipment and personnel.**
- **An appropriate balance between security and public access must be maintained.**

The capitol houses the legislative branch, the Governor, the Secretary of State, the State Treasurer and many staff. The public needs access to all of these people for many reasons on any given day. The capitol is also a local tourist attraction. For these reasons, the capitol can be a target for disruptions. The capitol is very accessible to the public. Accessibility and security must be balanced in future discussions about security.

The number of people who work in the capitol fluctuates significantly between legislative session and the interim. Presently, background checks are not completed on legislative branch employees. Background checks are desirable as a means of reducing security risks.

CONCLUSION



CONCLUSION

The Public Commission on the Oregon Legislature has made more than twenty recommendations for reform and improvements to the Oregon Legislature after reviewing more than 140 ideas and proposals. Commission recommendations are those that can most strongly advance the functioning and performance of the Legislative Assembly. Each recommendation was reviewed and discussed intensively by the originating committee and again by the full commission.

As noted in the report, the recommendations are interrelated. Consequently, the commission recommends the package be considered in total by the 74th Legislative Assembly rather than as disconnected items. Achieving fundamental reform, institutional reform, operational reform and upgrading facilities and technology cannot be done piecemeal. Separation of recommendations decreases the impact.

There are two critical areas recommended for additional analysis that the commission urges the legislature to pursue immediately. The first is campaign finance reform. Campaign finance reform is of paramount importance to the state, but its complexity requires more time for review than this commission had available. It is essential, therefore, for the legislature to create a commission devoted to a comprehensive review.

The second area needing additional analysis is legislative compensation, and the commission urges a professional study and recommendations for change. The demands of legislative service are significantly different in the 21st Century and the commission believes that compensation has some effect on who will seek to serve in the legislature. Private business and public bureaucracies evaluate their compensation scales regularly and legislative compensation needs similar review.

The commission further encourages the legislature to schedule reviews of the legislative process on an intermittent, but regular basis. Not unlike strategic reviews of businesses or public agencies, a review of legislative practices can provide insight, accountability and stimulate ideas for better serving the public in changing times.

Finally, the commission acknowledges that the changes recommended in this report provide a structure for a constructive, effective and efficient working environment, but cannot guarantee it. Nor can it guarantee that implementation of the recommendations will result in sustained public respect for the institution of the legislature.

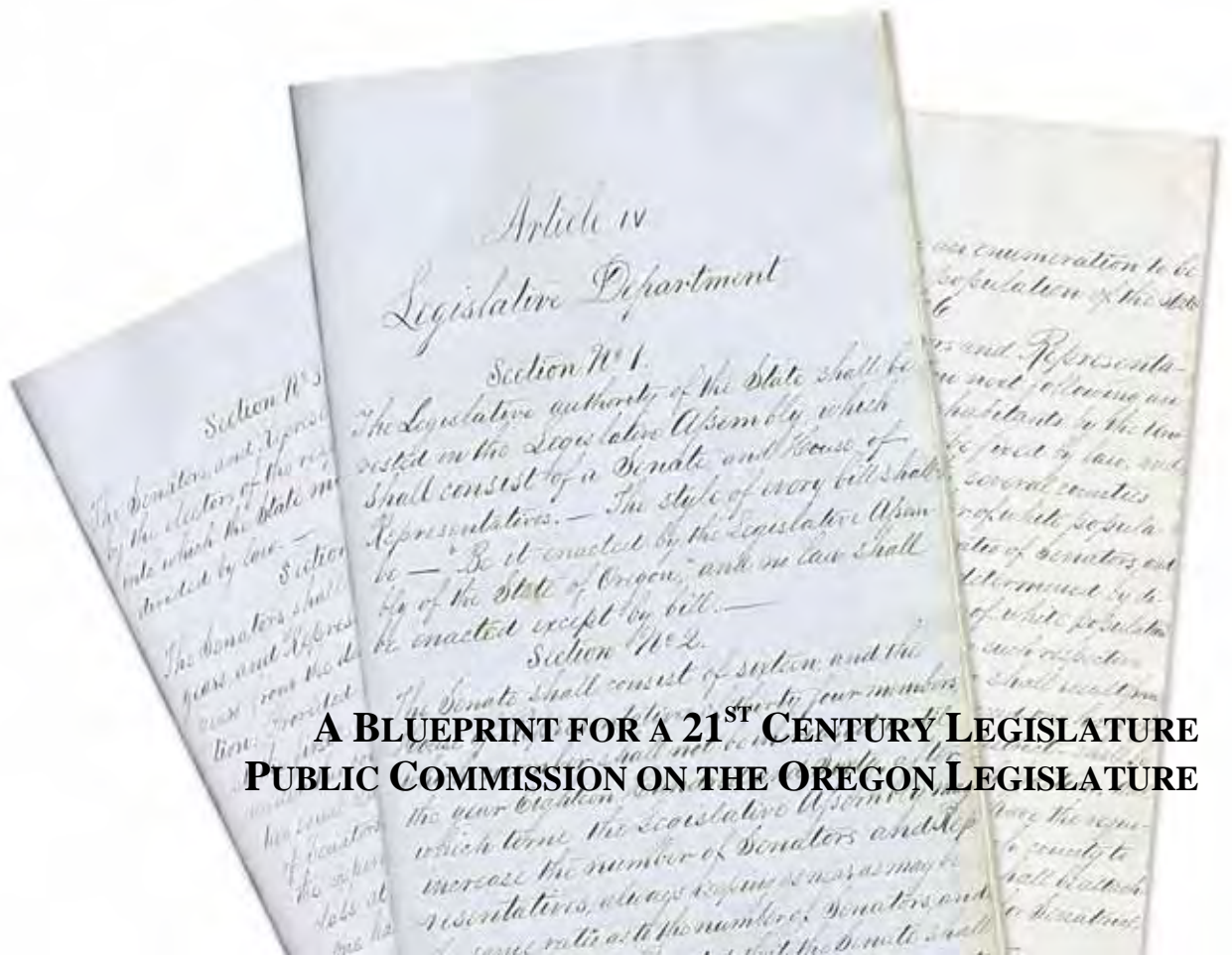
Creative, focused work in the legislature requires the goodwill, professionalism, high ethical standards and mutual respect among individuals who are elected and the individuals they choose to lead each house.

The Legislative Assembly, above all, is a human institution. It represents the differences among Oregon citizens and simultaneously addresses the common needs of the state. While institutional effectiveness and efficiency depend on institutional structures, as recommended in this report, they also depend on the wisdom, creativity, compassion and maturity of those who are elected by Oregon's citizens. Those attributes can be encouraged and nurtured, but cannot be mandated by a commission or by statute. What we can do is deliberately and intentionally develop and manage a legislative institution that attracts such individuals to serve and earns the trust of those who are served.

The commission respectfully submits this report and looks forward to its evaluation and implementation. The commission anticipates that the Legislative Assembly will carefully consider modifications to recommendations in order to implement the package to the greatest and best extent possible.

SUPPLEMENTAL INFORMATION

COMMITTEE SUMMARIES



FACILITIES COMMITTEE

The Facilities Committee was responsible for studying technology issues, media coverage, the infrastructure of the capitol, office spaces, and safety and security of employees and the public accessing the building. The public is visiting the capitol more than ever, whether as tourists, school groups, or citizens participating in the legislative process. As the committee stressed during several discussions, the capitol is the peoples' house and it should be cared for not for benefit of the people who work in it, but as a symbol of democracy in Oregon.

Construction of the present capitol was completed in 1938. The House and Senate wings were added in 1977 to create office space for legislators and their staff, add hearing rooms and add office space for the Legislative Counsel, Fiscal and Revenue Offices. Since construction, improvements in technology have changed the legislative process and the way that constituents communicate with legislators.

TECHNOLOGY AND MEDIA

The committee focused much of their discussion on current and future technology and media needs allowing better communication between the public and the legislature. It was noted that the legislature is doing a good job of using technology and in-house media resources to make information available to the public and legislators, and they should be encouraged to continue and expand use where possible. However, specific improvements were recommended by the committee.

Although the legislature uses technology to expedite the legislative process and communicate with the public, the committee endorsed installation of a wireless network in the capitol. The wireless network will allow legislators, staff and the public to access the Internet almost anywhere in the capitol to retrieve or send information to legislators and staff that is pertinent to legislative discussions. The committee did not specifically endorse then concept of paperless chambers and committee rooms that some states have, but members acknowledged that the wireless network may move Oregon's legislative process in a more paperless direction.

Many resources are available to the public on the legislative website including individual member pages, search engines for current and previous legislation, and committee agendas. The public is also able to listen to live or archived audio files of committee meetings and floor sessions, and may also view live streaming video coverage. The public would like the ability to search indexed audio and video recordings on the internet, but the legislature must first invest in upgrades to media equipment to allow for improved recording and archiving capability. Committee members recommended that the legislature make the investment to improve and standardize media equipment in the capitol.

For several years, Legislative Media has partnered with the Oregon Public Access Network to deliver legislative programming to cable subscribers. This programming in the cable market has exposed the public to portions of committee meetings and floor sessions. There is need to provide more comprehensive legislative programming for the public, not the small sound-bites broadcast by conventional media; therefore the committee expressed support for a new project, the Oregon Channel, which will allow for coverage of legislative and public affairs programming 24 hours a day through public broadcasting channels.

CAPITOL INFRASTRUCTURE

Committee members toured the capitol to see first-hand how the electrical and plumbing infrastructure is in need of significant repair. In portions of the old building, members also saw how construction has limited configuration of staff offices and location of electronic equipment. Committee members also

heard that there is concern for the safety of building occupants during and after an earthquake. Members heard that although the cost of capitol renovation will be high, the price will only increase over time and therefore; the sooner renovations can be completed the less expensive the projects will be.

A wing renovation plan was developed in the late 1990's, but the project was put on hold. The wings have overloaded network cable trays, bad air quality and circulation, fire 'chimneys', furniture that does not meet ergonomic standards, and a fire sprinkler system that is not up-to-code. The committee recommended that Legislative Administration work with the Legislative Assembly to update wing renovation plans, secure funding and move forward with the wing renovation project as soon as possible.

The committee also noted that similar renovations must occur to the old building. It is important to plan for a seismic upgrade to the capitol as well. Committee members also heard that there is a possibility that a new state office building may be built on the capitol mall, which could allow for some capitol occupants to be relocated to different buildings. Also, if the legislature transitions to annual sessions, a different load will be placed on the capitol in terms of office space, technology needs and public access. With all of these different projects and possibilities, the public and legislators need to understand and take ownership of the planning and projected cost of upcoming projects. The committee recommended that Legislative Administration develop a comprehensive plan that would include project details, timelines, approximate costs and funding mechanisms for all capitol infrastructure projects.

SECURITY

The capitol is open for the public to visit and participate in the legislative process. However, after September 11th and incidents that compromised safety of legislators and staff, there is concern that the capitol is too open to the public. Committee members heard of ways to improve safety and security in the building including background checks on employees, more uniformed officers and securing the parking garage. Members stressed the importance of keeping the building open and accessible to the public but that the safety of legislators, staff and the public is critical.

The Facilities Committee considered the following proposals.

TECHNOLOGY		
Number	Proposal	Commission Response
147	Add wireless access to the capitol	The <u>commission recommended</u> that wireless technology be added to the whole capitol and that the House and Senate develop rules regulating use of the technology. The recommendation will be discussed in depth later in the report.
008	Paperless floor sessions	The <u>commission recommended</u> that the Legislative Assembly use technology to the best of their ability to expedite the legislative process including: the possibility of using consoles or laptops on the floor on in committee; electronic bill book technology; and on-demand printing. The commission encourages the legislature to approve rules to govern the use of technology in committee meetings and on the floor.
114	Utilize internet communications more in the legislative process	The commission took <u>no further action</u> on the proposal since the Legislative Assembly is currently doing a good job distributing legislative information on the website and readily using electronic communication.

MEDIA/OREGON CHANNEL		
Number	Proposal	Commission Response
027	Review of technology including TV coverage and websites	The <u>commission recommended</u> that the Legislative Assembly contribute funds as needed for the 24/7 Oregon Channel Pilot Program during the 2007 session. The recommendation will be discussed in depth later in the report.
040	Review distribution of video coverage of legislative activities	The <u>commission recommended</u> that the Legislative Assembly contribute funds as needed for the 24/7 Oregon Channel Pilot Program during the 2007 session.
074	Create a live log of on the internet or TV of floor session activity	The commission took <u>no further action</u> on the proposal since the concept is inherent in the Oregon Channel recommendation.
AUDIO/VIDEO HARDWARE AND ARCHIVES		
Number	Proposal	Commission Response
014	Determine if hearing rooms are adequately equipped for video and audio coverage	The <u>commission recommended</u> that the legislature fund audio and video upgrades in each hearing room and chambers to ensure consistent coverage; fund the “Recording and Archiving” budget option package so that legislative meetings can be indexed, easily searchable and archived with current technologies that are better suited for long-term storage; and to provide an adequate maintenance and replacement budget of the legislature’s audio and video systems to ensure that equipment is kept up-to-date with current technology.
117	Create searchable electronic files of ALL legislative meetings and discussions to be posted online the day of the event.	The commission took <u>no further action</u> on the proposal since the concept is inherent in the recommendation related to the “Recording and Archiving” budget option package.
118	Make available on the internet, video recordings of legislative meetings with a written index as to where the main breaks are between subjects and bills under consideration.	The commission took <u>no further action</u> on the proposal since the concept is inherent in the recommendation related to the “Recording and Archiving” budget option package.
119	Make available on the internet, audio recordings (.mp3 files) of legislative meetings with a written index as to where the main breaks are between subjects and bills under consideration.	The commission took <u>no further action</u> on the proposal since the concept is inherent in the recommendation related to the “Recording and Archiving” budget option package.
FACILITIES AND INFRASTRUCTURE		
Number	Proposal	Commission Response
n/a	Comprehensive Facilities Plan	The <u>commission approved</u> that a committee be formed under Legislative Administration to develop a comprehensive plan for renovation of the capitol. The recommendation will be discussed in depth later in the report.
144	Build a new office building for legislative offices	The commission took <u>no further action</u> on the proposal since the previously mentioned Comprehensive Facilities

		Plan should include reference to any long-term construction plans for the capitol mall.
146	Improve cell phone coverage in the basement and other locations in the building	The commission took <u>no further action</u> on the proposal since the previously mentioned Comprehensive Facilities Plan should include reference to improving communication systems in the capitol.
033	Facilities evaluation	The <u>commission recommended</u> that Legislative Administration spend funds within their existing budget to update the renovation plan for the wing and, upon legislative approval, move forward with the project. The recommendation will be discussed in depth later in the report.
012	Safety of electrical and water systems	The commission took <u>no further action</u> on the proposal since the concept is inherent in renovation plans for the capitol.
013	Preventative maintenance on the capitol	The commission took <u>no further action</u> on the proposal since the concept is inherent in renovation plans for the capitol.
SECURITY		
Number	Proposal	Commission Response
026	Security of the capitol	The <u>commission recommended</u> that the Legislative Administration work with the Legislative Assembly on improving security for capitol employees and the public but balance security with public access to the building and legislative process. The recommendation will be discussed in depth later in the report.
MISCELLANEOUS - NO FURTHER ACTION		
Number	Proposal	Commission Response
044	Electronic voting in the Senate	The commission took <u>no further action</u> on the proposal citing that for the 2007 session, the Senate vote board will list votes and member names. At some point in the future, the Senate may also install vote buttons at members' desks.
134	Review of the use and necessity of House and Senate Lounges	The commission took <u>no further action</u> on the proposal citing that legislators use the House and Senate Lounges for meals and camaraderie. The lounges are due for remodeling though.
136	Ensure that a wheelchair is available for people with acute health problems	The commission took <u>no further action</u> on the proposal citing that a wheelchair is available, and procedures are in place for responders to access the chair.
120	Require people to state their name each time they speak on the record	The commission took <u>no further action</u> on the proposal citing that chairs should be trained and reminded to direct committee discussion and acknowledge speakers on the record.

MANAGEMENT AND HUMAN RESOURCES COMMITTEE

The Management and Human Resources Committee, originally two committees, studied in depth the staffing structure of the legislative branch, legislator compensation, and legislative auditing and performance evaluation. Staffing is a unique and complex challenge in that the workload currently rises and falls between session and interim. Committee members determined that compensating legislators is also a unique challenge because legislators typically have a full-time, year-round workload but are in session on a part-time basis. As for program evaluation, constitutional limitations prevent the Legislative Assembly from performing financial audits, however the committee acknowledged a need for legislative oversight and performance evaluation related to their budget decisions.

PROGRAM EVALUATION

The Oregon Constitution states that the Secretary of State is the auditor of public accounts, and committee members acknowledged that role is not easy to define. As the Legislative Assembly moves toward performance based budgeting, there is greater call for an enhanced program evaluation function in the legislative branch.

The committee had extensive discussions about the authority and ability of the Legislative Assembly to conduct audits with staff from Legislative Counsel and Legislative Fiscal staff and the Director of the Audits Division of the Secretary of State. Instead of redefining the role of the Secretary of State in the auditing process, the committee ultimately recommended restructuring the existing Joint Legislative Audit Committee within the Legislative Fiscal Office.

A new Office of Program Policy Analysis and Government Accountability will have the authority to conduct in-depth policy analysis and program evaluations and reviews, using commonly accepted professional standards, of state agencies, programs and all other state-funded programs.

STAFFING

It takes many dedicated staff to facilitate the legislative process. A pressing question for the committee was whether or not legislative offices have enough staff to do the job. Committee members met multiple times with staff from the Legislative Counsel, Legislative Fiscal, Legislative Revenue, and Legislative Administration Offices to talk about how staff are hired, personnel rules and the possible effect of annual sessions on staffing needs. Members also heard about the role and staffing for the President and Speaker's offices, caucus offices, the Secretary of the Senate and Chief Clerk of the House. After hearing committee and commission discussions about the nature of session and interim and workload of members, the committee determined that legislators should have at least one full-time, year-round staff person to assist them.

Committee members agreed that legislative offices are understaffed. The committee heard that if the Legislative Assembly transitions to annual sessions, then legislative offices will certainly need more staff on a continuing year-round basis, rather than temporary session-length hires. It is hard to determine how many additional staff each office needs to perform their assigned duties, therefore committee recommended that each legislative office should make that determination on their own and submit their request during session for appropriate funding levels.

The committee also heard there is a need for consistency in staffing of policy committees. Continuity of staff and members on substantive policy committees may breed better policy decisions as continuity will increase knowledge and experience in issue areas.

LEGISLATOR COMPENSATION

People elected to public offices often times make some sort of sacrifice to serve and it can be challenging to attract a group of citizens with diverse backgrounds and experiences to represent Oregonians in the legislature. The committee indicated that legislative service should not be perceived as a career and that salary and compensation should not be the reason a person might run for office. However, an increase in total compensation may help create an environment that attracts more citizens to serve.

Committee members recommended reviving the existing Public Officials Compensation Commission with the purpose of establishing salaries for the state's elected officials and to remove political consideration from the process. With specific regard to legislators, the Compensation Commission should take into account the impacts of all other possible forms of legislator compensation including but not limited to: per diem payments during session and interim, mileage payments during session and interim, and hiring of family members as personal staff. To acknowledge the vast geography of the state, the commission should develop a geographic differential in salary after reviewing the impact on legislators who must maintain at least two residences in order to participate in the legislative process.

The Management and Human Resources Committee considered the following proposals.

PROGRAM EVALUATION		
Number	Proposal	Commission Response
043	Establish a Legislative Audit Office	The <u>commission recommended</u> that the legislature replace the Joint Legislative Audit Committee with the Office of Program Policy Analysis and Government Accountability in the Legislative Fiscal Office.
STAFFING		
Number	Proposal	Commission Response
004	Legislator staffing	The <u>commission recommended</u> that legislators be budgeted so that they have at least one full-time, year-round legislative assistant.
009	Review staffing and staff resources – Primarily Legislative Fiscal Office, Legislative Revenue Office and Legislative Counsel	The <u>commission recommended</u> that additional staff are needed in the Legislative Fiscal, Legislative Revenue and Legislative Counsel Offices and that the directors of each office submit policy option packages to the legislature requesting more staff.
052	Explore performance evaluation and feedback for legislative agency heads	The commission took <u>no further action</u> on the proposal after conversations about professionalization staff.
022	Personnel regulations	The commission took <u>no further action</u> on the proposal after conversations about professionalization staff.
058	Establish a “superchief” giving more administrative duties to the Legislative Administrator	The commission took <u>no further action</u> on the proposal.
024	Role and function of caucuses, caucus offices and staff	The commission took <u>no further action</u> on the proposal after discussions about staffing committees.
029	Non-partisan staff and the ability to provide unbiased information needed to make informed decisions	The <u>commission recommended</u> that policy/research staff be separated from committee staff in order to build professionalism, provide continuity and stability, and remove partisan and political influence from issue area staffing and acknowledge the relationship chairs have with committee staff.

050	Assessment of Committee Services Office by NCSL	The commission took <u>no further action</u> on the proposal, but considered the content of the NCSL report as recommendations were made about committee staff.
042	Legislative policy and issue area research function	The <u>commission recommended</u> that policy/research staff be separated from committee staff in order to build professionalism, provide continuity and stability, and remove partisan and political influence from issue area staffing and acknowledge the relationship chairs have with committee staff.
060	Role of committee staff in the committee process	The commission took <u>no further action</u> on the proposal, but comments were taken into account as recommendations were made about committee staff.
062	Shift management of Committee Staff by the Chief Clerk of the House and Secretary of the Senate	The <u>commission recommended</u> that policy/research staff be separated from committee staff in order to build professionalism, provide continuity and stability, and remove partisan and political influence from issue area staffing and acknowledge the relationship chairs have with committee staff.
063	Committee Services as an independent statutory office similar to LFO, LRO and LC	The <u>commission recommended</u> that policy/research staff be separated from committee staff in order to build professionalism, provide continuity and stability, and remove partisan and political influence from issue area staffing and acknowledge the relationship chairs have with committee staff.
LEGISLATOR COMPENSATION		
Number	Proposal	Commission Response
007	Legislator compensation	The <u>commission recommended</u> that the existing Public Officials Compensation Commission be revived and that the commission set salaries for legislators and other elected officials.
MISCELLANEOUS - NO FURTHER ACTION		
Number	Proposal	Commission Response
036	Review the legislative branch budgeting process	The commission took <u>no further action</u> on the proposal with the understanding that new staff in the Legislative Fiscal Office will be looking at options for budgeting in the legislative branch.
038	Remove Commission on Indian Services from the Legislative Branch	The commission took <u>no further action</u> on the proposal after hearing that there was no interest in removing the commission from the Legislative Branch.
049	Legislative records retention	The commission took <u>no further action</u> on the proposal after discussing records retention and agreeing that Legislative Counsel should work with office directors to refine a records retention policy.
051	Access to the state “datamart” at DAS	The commission took <u>no further action</u> on the proposal after hearing that legislators have access to the “datamart” through the Legislative Fiscal Office.
070	Committee chair meetings with caucus leaders and/or presiding officers	The commission took <u>no further action</u> on the proposal indicating that the issue might be best addressed during member and chair training.
145	Review per diem payments for	The commission took <u>no further action</u> on the proposal

	citizens on task forces, boards and commissions	after acknowledging that citizen per diem has not changed in decades but the issue is out of the commission scope.
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PROCESS COMMITTEE

The Process Committee took responsibility for major discussions on structure of the legislative process and on reforming, at a fundamental level, the influence of money and politics on the legislature. Although specific proposals were assigned to the committee, members had more thorough discussions on broad topics addressed in the proposals. Consequently, the committee forwarded comprehensive recommendations to the commission for consideration rather than responses to proposals. Details of committee recommendations were outlined earlier in this report. What follows is a brief review of committee discussion about significant recommendations.

OPEN PRIMARY

The committee spoke with proponents and opponents of an open primary initiative that was proposed, but did not qualify, for the 2006 General Election. Data from the Secretary of State, Elections Division show that about 22% of registered voters are Independent. Committee members stated that an open primary election, as recommended by the commission, will allow disenfranchised voters to participate more broadly in the selection of candidates running for legislative office.

NONPARTISAN LEGISLATURE

During the 2005 legislative session, the Senate approved a minority report to Senate Bill 161 which would have designated the offices of Governor, Secretary of State, State Treasurer, Attorney General, state Senator and state Representative as nonpartisan. The committee discussed the concept of a nonpartisan legislature as a way to reduce partisan rancor in the legislative process. The committee decided that each legislative house should have the opportunity to decide whether or not members will be elected on a nonpartisan basis.

NONPARTISAN CONTROLLER

Committee members stated that partisanship should not play a role in the conduct of elections, compliance with campaign regulations, investigation of government ethics laws, or in the initial preparation of redistricting plans. Therefore, it was recommended that a new executive position, State Controller, be established to take on those roles, primarily from the Secretary of State.

INITIATIVE AND REFERENDUM

Citizens use the Initiative and Referendum process to allow voters to consider policy options that the legislature won't consider or doesn't act on satisfactorily. Committee members discussed the perceived negative impact of the initiative on the legislative process, but acknowledged that Oregonians will never relinquish their authority to initiate measures. The committee made recommendations that may allow voters to be more aware of the genesis and backing of initiatives and allow the legislature to review and possibly present alternative policy alternatives to initiated measures.

CAMPAIGN FINANCE

Committee members suggested that the cost of campaigns and legislators' reliance on special interest money significantly contribute to increasing partisanship in the legislative process. Issues related to campaign finance reform are deep, broad and attract many interested parties to the discussion; therefore the committee recommended that the legislature appoint a commission to examine the role of campaign finance in legislative decision-making. In order to remove a conflict in legislator compensation, the committee also recommended that as improvements are made to legislator compensation, legislators should be prohibited from using campaign contributions for personal use.

SESSION FREQUENCY, LENGTH AND TIMING

For at least the past three decades there has been a constant call for Oregon to transition to annual legislative sessions. The committee studied the concept in depth by conferring with many legislative staff about how annual sessions could be structured to accommodate the existing budget process, use interim committees to prepare for shorter sessions, use session time more efficiently, and accommodate the bill and amendment drafting and introduction process. The committee ultimately recommended that the Legislative Assembly use their existing authority to experiment with annual sessions before asking the voters for a constitutional amendment to establish annual sessions.

COMMITTEES AND BILLS

Central to the legislative process are bills considered by committees. After discussing the committee process and bill drafting with former legislators and Legislative Counsel staff, the committee emphasized a need for the legislature to establish deadlines and time limits during session for requests, drafting and introduction of measures and subsequent consideration by committees. With regard to legislative committees, members focused on the need for thoughtful, balanced and efficient deliberation of bills during session and recommended the need for continuity of members on committee and more meaningful representation from minority party members.

PUBLIC INSTITUTION COMMITTEE

This commission was formed, in part, to find ways to improve the public perception of the legislature. The Public Institution Committee was charged with the responsibility of reviewing issues including public relations, ethics and the relationship between branches of government.

PUBLIC ACCESS

Oregon's legislative process includes many opportunities for the public to comment on legislation being considered including meetings with individual legislators, testimony in committee or sending letters to members. It is critical that the public know when bills will be heard and whether amendments will be considered so they can plan to participate and know what they'll be speaking to. Some people can't get to Salem to testify because of distance or hearings held during work hours, so committees are starting to hold more field hearings in different parts of the state, provide teleconference or videoconference ability, or hold hearings later into the evening.

The legislative website is also a good tool the public uses to learn about legislative activities. The Internet and email have increased the speed of communication with the public, but technology is useful only when the public accesses the information in a timely manner.

The legislature should continue to keep the process open to the public, but strive to make it more accessible by providing more timely notice of meetings, more accurate notice of issues to be discussed, and more accessible geographically.

TRAINING

When the legislature meets every two years, many new members and staff cycle into the process. It is important for people to understand the legislative process, how to make it work, and the issues that will be discussed during session. Training opportunities are organized and made available to new and returning legislators and staff by each chamber and caucus. Legislative Administration also provides general overview training for all building staff and members.

Although training has generally been successful, comments throughout the work of this commission indicate that chairs and legislators need more training on issues that will be discussed during session. Trainers and those being trained can give the best input about how to improve all training opportunities and should do so.

INTERGOVERNMENTAL RELATIONSHIPS

State government works in partnership with city and county governments, special districts and other elected bodies. Delivery of services to citizens is interconnected between all governments and the complex systems and relationships can be challenging to understand. As partners in delivery, local governments want to be more involved in the decision making process on the front-end to provide as much information to legislators about their ability to deliver services and cost of delivery. The committee decided that House and Senate committees, or a Joint committee established to consider intergovernmental affairs might help increase legislative awareness about interconnected government systems.

ETHICS

The committee acknowledged that the Government Ethics Work Group of the Oregon Law Commission has the task of completing a comprehensive review of government ethics laws that cover all state and local government elected and unelected officials, employees, officers and volunteers. However, three

ethics issues were addressed by the committee. First, that there is a conflict in the legislature setting the budget for the Government Standards and Practices Commission which oversees ethics complaints for the legislature, other public officials and the lobby. Therefore, the legislature should identify, develop and implement a dedicated and stable source of funding which is not dependent on legislative approval. Second, legislators' practice of hiring family members as staff can be perceived as if it is a benefit for the family member. The committee recommended the need for oversight of setting salaries for family members. Third, the committee recommended that legislators and staff be prohibited from being intoxicated while performing official legislative duties.

INSTITUTIONAL ISSUES

The committee was assigned a number of proposals that highlight the negative public perception of the legislature or the lack of collegial relationships among legislators. Although it is easy to say that members should be nice to one another and work out their differences, a substantive recommendation to improve relationships can't be made. The Legislative Assembly must determine how and when to improve themselves.

The Public Institution Committee considered the following proposals.

PUBLIC ACCESS		
Number	Proposal	Commission Response
006	Improving public access including issues such as: <ul style="list-style-type: none"> Meeting notice Meeting times and locations Public access to a variety of information about legislative activities 	The <u>commission recommended</u> that the Legislative Assembly continue to make the legislative process accessible to the public and outlined a number of steps that, if implemented, will keep it open.
065	Public notice for committee meetings and work sessions	The <u>commission recommended</u> that the Legislative Assembly continue to make the legislative process accessible to the public and outlined a number of steps that, if implemented, will keep it open.
066	Availability of amendments	The <u>commission recommended</u> that the Legislative Assembly continue to make the legislative process accessible to the public and outlined a number of steps that, if implemented, will keep it open.
071	Legislative website	The <u>commission recommended</u> that the Legislative Assembly continue to make the legislative process accessible to the public and outlined a number of steps that, if implemented, will keep it open.
129	Use of videoconferences	The <u>commission recommended</u> that the Legislative Assembly continue to make the legislative process accessible to the public and outlined a number of steps that, if implemented, will keep it open.
	Readability of Oregon Revised Statutes and legislation	The <u>commission recommended</u> that bills, amendments and statutes be drafted in language that is easy to read and follows in a logical order.
010	In-district office	The commission took <u>no further action</u> on the proposal. Legislators must be able to choose how they use funds allocated for office expenses.

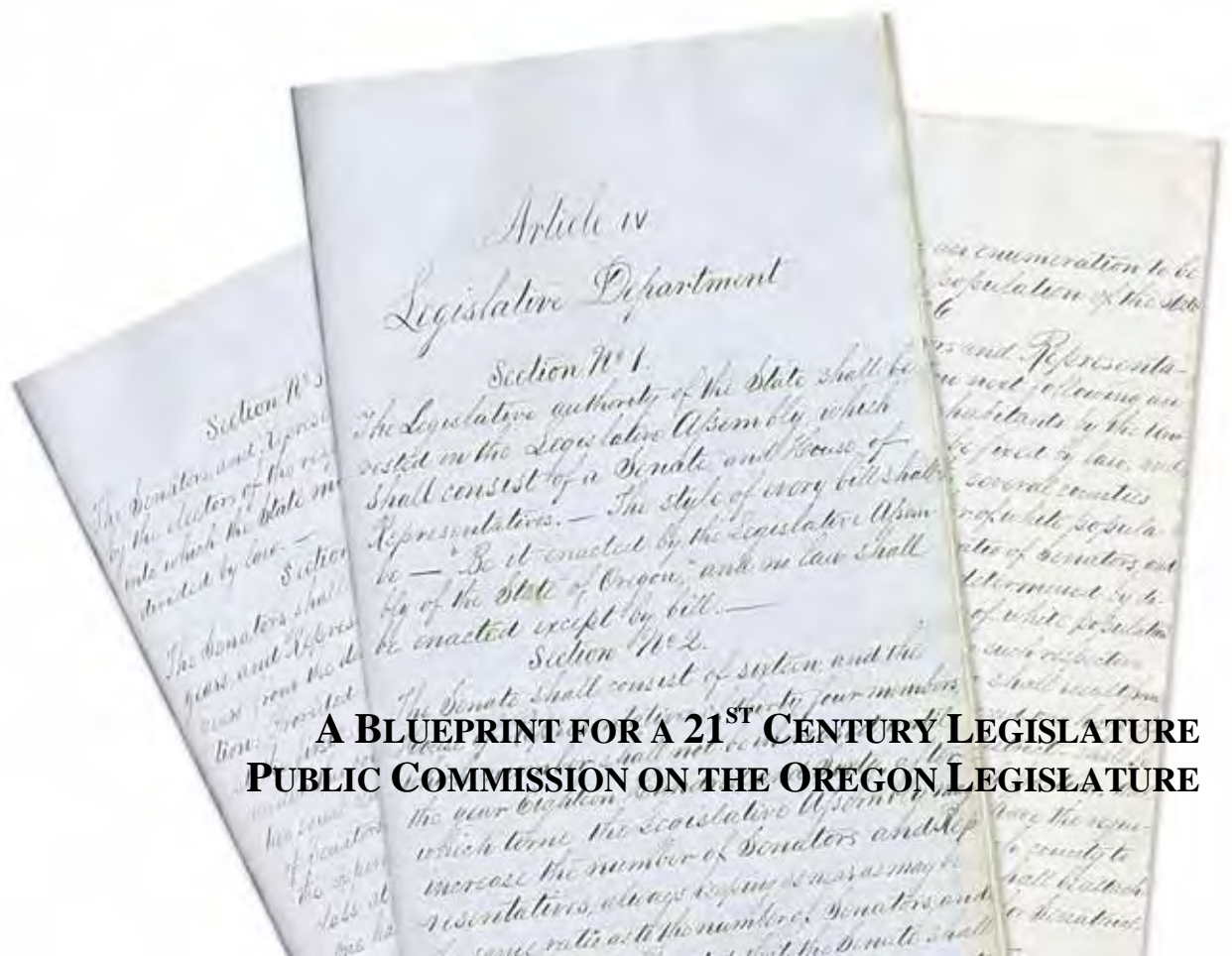
061	Open caucus meetings	The commission took <u>no further action</u> on the proposal after discussing Open Meetings law and human nature of wanting some discussions to remain private.
067	Electronic distribution of paperwork	The commission took <u>no further action</u> on the proposal. The legislature distributes as much paperwork as possible electronically, and as technology and systems change, so will methods of distribution.
TRAINING		
Number	Proposal	Commission Response
011	Training for legislative assistants and caucus staff	The commission took <u>no further action</u> on the proposal. Members acknowledged that training is going well, but that training should be reviewed and improved by those doing the training and taking the training.
015	Training for legislators	The commission took <u>no further action</u> on the proposal. Members acknowledged that training is going well, but that training should be reviewed and improved by those doing the training and taking the training.
064	Training for lobbyists and agency staff	The commission took <u>no further action</u> on the proposal. Members acknowledged that training is going well, but that training should be reviewed and improved by those doing the training and taking the training.
INTERGOVERNMENTAL RELATIONSHIPS		
Number	Proposal	Commission Response
116	Establish a Governance Council including members from local governments and the legislature	The <u>commission recommended</u> that House and Senate committees or a joint committee on Intergovernmental Affairs be established next session.
115	One-size-fits-all solutions for a diverse state	The commission took <u>no further action</u> on the proposal. Commission members indicated that diverse interest groups and local governments need to communicate more with legislators about the specific impacts of proposed legislation on their communities.
034	Relationship between the legislature and executive branch	The commission took <u>no further action</u> on the proposal. Commission members suggested that better or more organized communication can't be legislated.
ETHICS		
Number	Proposal	Commission Response
005	Ethical standards for legislators	The <u>commission recommended</u> that due to a perceived conflict of interest, the legislature should not establish the funding level for the Government Standards and Practices Commission.
078	Prohibiting intoxication while performing legislative duties	The <u>commission recommended</u> that House and Senate rules be developed that prohibit members and staff from being intoxicated while performing official legislative duties.
	Nepotism	The <u>commission recommended</u> that House and Senate Rules be developed requiring members to submit a statement to the Chief Clerk of the House or Secretary of the Senate indicating that they've hired a family member and that the family member's salary be acknowledged to fall within a stated range.

“THE INSTITUTION”		
Number	Proposal	Commission Response
001	Collegial member relationships	The commission took <u>no further action</u> on the proposal. Members acknowledged that collegial relationships are important to the legislative process, but they can’t be legislated.
017	Preservation of citizen legislature	The commission took <u>no further action</u> on the proposal. Members suggested that discussion on this topic is inherent in all commission work.
018	Professional legislature	The commission took <u>no further action</u> on the proposal. Members suggested that discussion on this topic is inherent in all commission work.
023	“The Institution”	The commission took <u>no further action</u> on the proposal. Members suggested that discussion on this topic is inherent in all commission work.
035	Review public relations of the legislature	The commission took <u>no further action</u> on the proposal. There has been a decline in media coverage of legislative activities in recent years, but the commission did not make a specific recommendation on whether or not that should be addressed.
092	No closed door sessions in the budget process	The commission took <u>no further action</u> on the proposal. Commission members acknowledged the need for an open legislative process, but noted that some discussions between members will continue to happen behind closed doors.
104	Legislators being accountable to constituents	The commission took <u>no further action</u> on the proposal. Voters have the opportunity every two or four years to select legislators who they feel will best represent their interests.
106	Increasing the power of citizen advocates	The commission took <u>no further action</u> on the proposal. The commission heard that the public has access to the legislative process and recommended more ways to make it more accessible.
135	Establish a Public Lobbyist Corps	The commission took <u>no further action</u> on the proposal. The public has access to the legislative process and may organize their interaction with the legislature in whatever way they choose to.
047	Integrity between members	The commission took <u>no further action</u> on the proposal. Commission members determined that this proposal can’t be legislated.
072	Dress code or uniforms for members and staff	The commission took <u>no further action</u> on the proposal. House rules establish a dress code but this is also a proposal that can’t be legislated.
073	Keeping members on the floor during session	The commission took <u>no further action</u> on the proposal. Members heard that legislators may leave floor discussion to do business in the lobby, but ultimately the presiding officer must maintain the quorum and decorum.
076	Shift legislative focus to important issues, not minor ones	The commission took <u>no further action</u> on the proposal. Legislators and leadership determine the focus of each session.

039	Review legislative publications	The commission took <u>no further action</u> on the proposal. Members heard no complaints about legislative publications in general.
053	Limit notes to members on the floor	The commission took <u>no further action</u> on the proposal. Commission members heard that legislators have the option to accept notes or not and that notes help legislators conduct business.
054	Limit press access to members on the floor	The commission took <u>no further action</u> on the proposal. Members acknowledged that the proposal might be counter productive to improving the image of the legislature.
057	Eliminate Senate confirmation of Executive Appointments	The commission took <u>no further action</u> on the proposal. Commission members did not venture into removing this authority from the Senate.

SUPPLEMENTAL INFORMATION

SENATE BILL 1084 (2005)



**A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE**

Enrolled Senate Bill 1084

Sponsored by COMMITTEE ON RULES (at the request of Senate President Peter Courtney and
Speaker of the House of Representatives Karen Minnis)

CHAPTER

AN ACT

Relating to Public Commission on the Oregon Legislature; and declaring an emergency.

Whereas more than 30 years have passed since the last comprehensive review of the legislative branch; and

Whereas the legislative branch is the basic policy-making branch for state government and the most responsive of the three branches to issues of importance to the citizens of the state; and

Whereas the Legislative Assembly of the State of Oregon is responsible for enacting sufficient and proper laws of the state for governing the conduct and activities of the citizens of Oregon; and

Whereas the Legislative Assembly is responsible for enacting laws for the management of the governmental affairs of the state; and

Whereas the increasing complexity of our society has meant that a multitude of issues come before the Legislative Assembly for consideration and determination, with an increasingly heavy workload for the Legislative Assembly, legislative committees and legislators; and

Whereas the Legislative Assembly recognizes the need for study and evaluation of the body's administration, procedures, facilities, staffing and overall capacity, and the need for study and evaluation of ways of improving the body's administration, procedures, facilities, staffing and overall capacity; and

Whereas the Legislative Assembly finds that a major review and study of the legislative branch of government of this state, and of all of the Legislative Assembly's functions and activities, should be undertaken for the purpose of ensuring that the Legislative Assembly can meet the increasing demands of legislative work and perform its functions as an equal and coordinate branch of state government; now, therefore,

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

SECTION 1. (1) There is created the Public Commission on the Oregon Legislature consisting of 30 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate;

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives; and

(c) The President and Speaker shall jointly appoint 26 public members who have broad experience with, interest in and perspective on the legislative branch.

(2) The commission shall conduct a review of and make recommendations on all aspects of the legislative branch, including the timing, frequency and length of legislative sessions, legislative procedures and the adequacy of legislative facilities and staffing.

(3) The commission may send members to study facilities and services provided in other state capitols.

(4) A majority of the members of the commission constitutes a quorum for the transaction of business. A majority of the members of a subcommittee of the commission constitutes a quorum for the transaction of business of the subcommittee.

(5) Official action by the commission requires the approval of a majority of the members of the commission. Official action by a subcommittee requires the approval of a majority of the members appointed to the subcommittee.

(6) The President and Speaker shall designate two members of the commission to serve as cochairpersons of the commission.

(7) The cochairpersons of the commission shall determine the number and nature of subcommittees and appoint commission members to subcommittees to carry out the work of the commission.

(8) If there is a vacancy on the commission for any cause, the appointing authority shall make an appointment to become immediately effective. The cochairpersons of the commission will fill vacancies on subcommittees.

(9) The commission shall meet at times and places specified by the call of the cochairpersons. Subcommittees of the commission shall meet at times and places specified by the chairpersons of the subcommittees.

(10) The commission may adopt rules necessary for the operation of the commission.

(11) No later than January 5, 2007, the commission shall prepare a report of its study for submission to the Emergency Board and to members of the Seventy-fourth Legislative Assembly.

(12) The commission may draft and pre-session file legislation to be considered by the Seventy-fourth Legislative Assembly.

(13) The Legislative Administration Committee and the Legislative Assembly shall provide staff to support the commission and subcommittees of the commission.

(14) Members of the commission who are not members of the Legislative Assembly are entitled to compensation and may be reimbursed for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions of the commission shall be paid out of funds appropriated to the Legislative Assembly for that purpose.

(15) All agencies of state government, as defined in ORS 174.111, are directed to assist the commission in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the commission consider necessary to perform their duties.

SECTION 2. Section 1 of this 2005 Act is repealed January 8, 2007.

SECTION 3. This 2005 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect on its passage.

Passed by Senate July 1, 2005

.....
Secretary of Senate

.....
President of Senate

Passed by House July 19, 2005

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Speaker of House

Received by Governor:

.....M.,....., 2005

Approved:

.....M.,....., 2005

.....
Governor

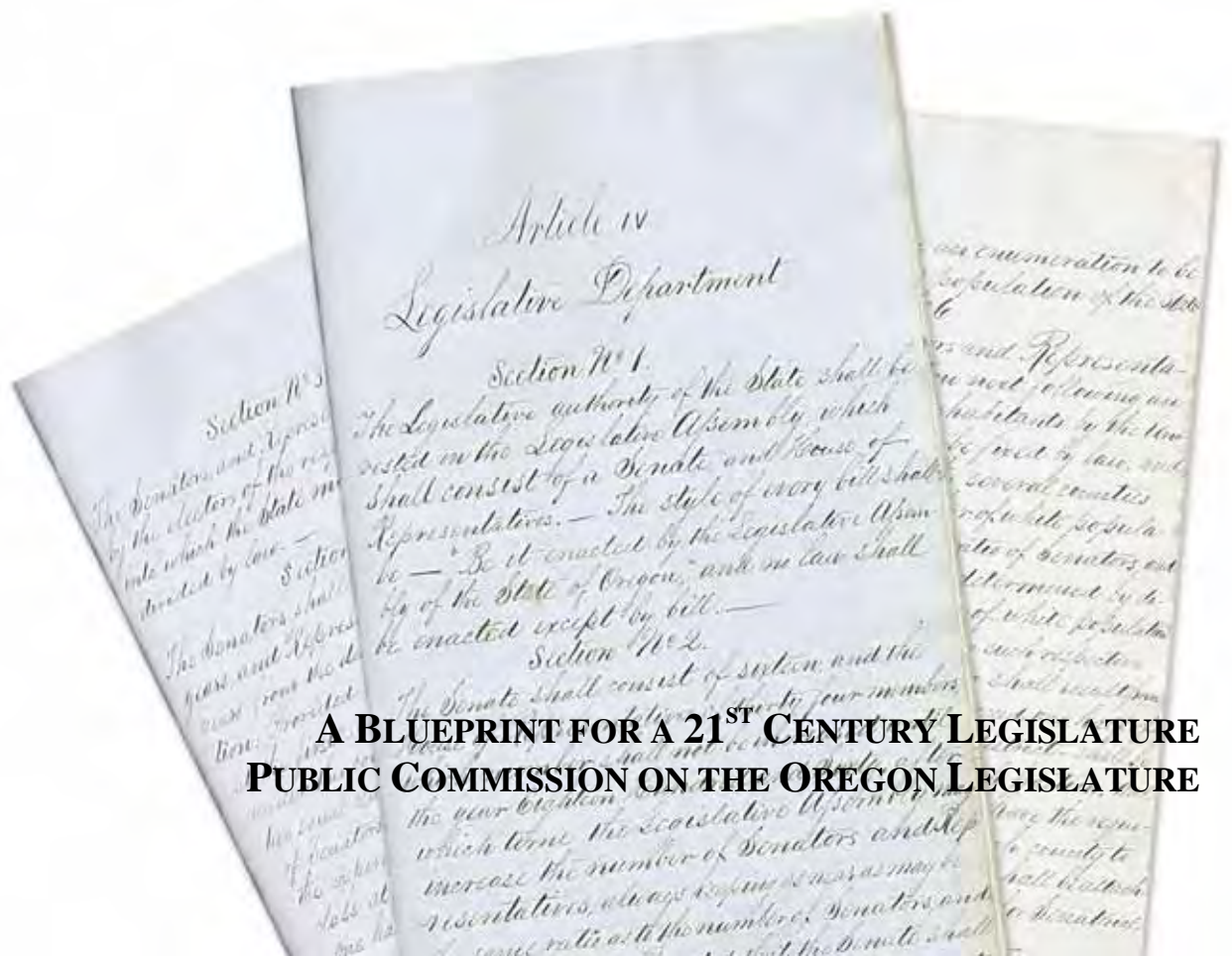
Filed in Office of Secretary of State:

.....M.,....., 2005

.....
Secretary of State

SUPPLEMENTAL INFORMATION

COMMISSION INFORMATION



**A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE**

COMMISSION INFORMATION

MEMBERS

Judge Laura Pryor, Co-Chair	David Frohnmayer	Hans Linde
Gary Wilhelms, Co-Chair	Mark Garber	Greg Merten
Dave Barrows	Senator Avel Gordly	Senator Frank Morse
Representative Deborah Boone	Hasso Hering	Delores Pigsley
Daniel Bernstine	Tim Hibbitts*	Sheriff Raul Ramirez
Frank Brawner	Jim Hill	Gretchen Schuette
Bridget Burns	Barbara Karmel	Connie Seeley
Jane Cease	Representative Wayne Krieger	Kerry Tymchuk
Carolyn Chambers*	Ginny Lang	Carl Wilson
Sonja Sorensen Craig*	John Lattimer	Junki Yoshida
Kim Skerriitt Duncan	Susan Leeson	*Resigned

STAFF

Marjorie Taylor, Commission Administrator
Kellie Whiting, Commission Assistant
Patsy Wood, Commission Assistant

COMMITTEES

Facilities

Carl Wilson, Chair
Bridget Burns
Mark Garber
Representative Wayne Krieger
Sheriff Raul Ramirez
Gary Wilhelms

Management and Human Resources

John Lattimer, Co-Chair
Connie Seeley, Co-Chair
Dave Barrows
Daniel Bernstine
Frank Brawner
Jane Cease
Carolyn Chambers*
Sonja Sorensen Craig*
Jim Hill
Susan Leeson
Greg Merten
Senator Frank Morse
Delores Pigsley

Process

Ginny Lang, Chair
Frank Brawner
Kim Skerriitt Duncan
David Frohnmayer
Senator Avel Gordly
Tim Hibbitts*
Barbara Karmel
Hans Linde

Public Institution

Kerry Tymchuk, Chair
Representative Deborah Boone
Hasso Hering
Judge Laura Pryor
Gretchen Schuette
Junki Yoshida

MEETING DATES

Full Commission

September 6, 2005
November 7, 2005
February 13, 2006
April 12, 2006
May 22, 2006
August 14, 2006
October 24, 2006
November 6, 2006
November 13, 2006

Facilities Committee

October 12, 2005
December 15, 2005
March 2, 2006
April 14, 2006
July 24, 2006

Human Resources Committee

October 3, 2005
December 12, 2005
January 23, 2006

Management Committee

October 3, 2005
December 12, 2005
January 25, 2006

Man. and H.R. Committee

June 19, 2006
July 19, 2006
August 7, 2006

Process Committee

October 18, 2005
December 6, 2005
January 13, 2006
February 10, 2006
March 6, 2006
March 24, 2006
April 11, 2006
May 9, 2006
June 13, 2006
July 11, 2006
August 8, 2006
September 19, 2006
October 10, 2006

Public Institution Committee

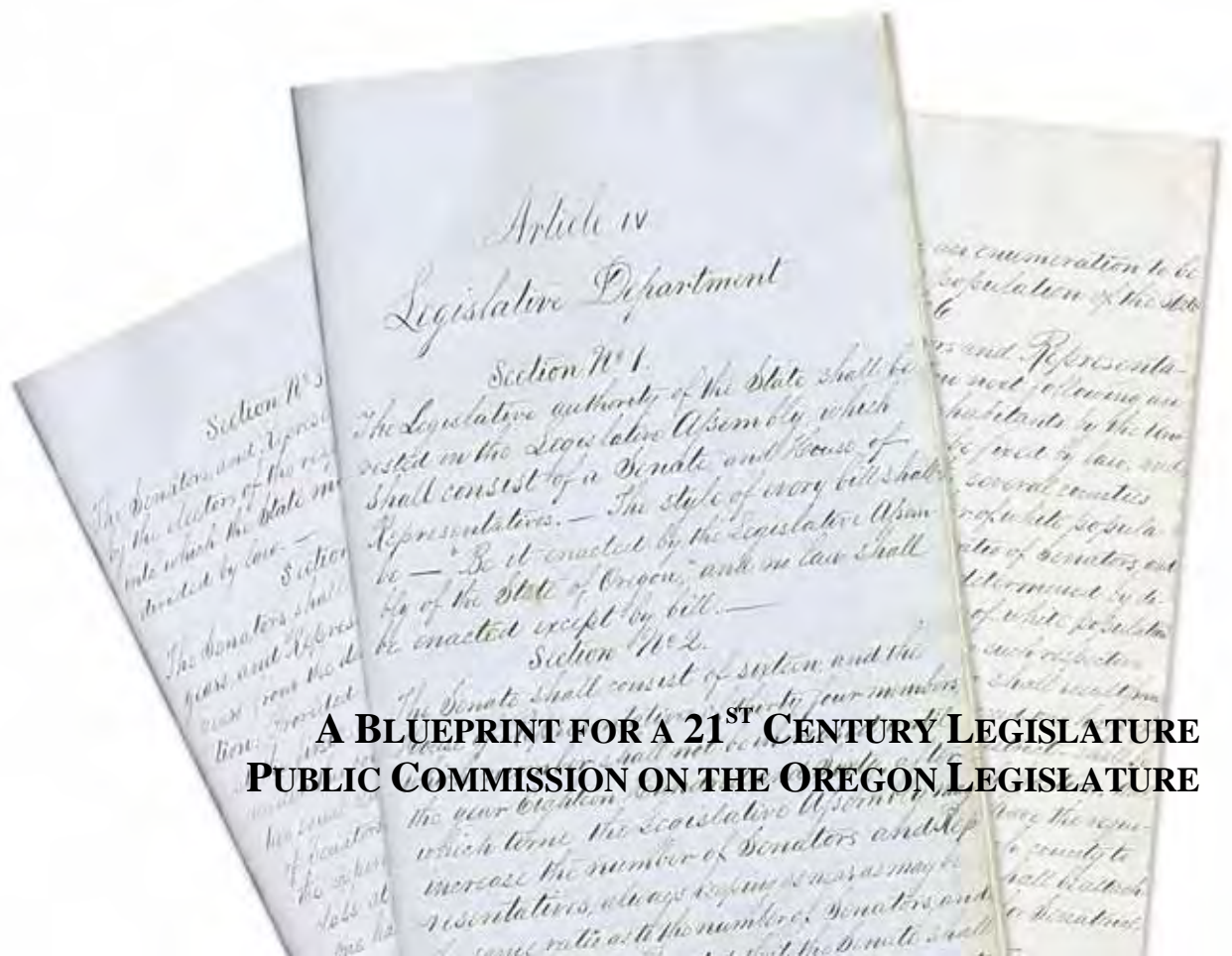
October 3, 2005
January 13, 2006
March 13, 2006
May 16, 2006
July 26, 2006

WITNESSES

Chuck Adams, Janet Adkins, Jeanne Atkins, Steve Bass, Chuck Bennett, Rick Berkobien, Sen. Roger Beyer, Bruce Bishop, Ann Boss, Don Bourne, Ben Boswell, Vicki Brammeier, Sen. Kate Brown, Neil Bryant, Steve Bryant, David Buchanan, Lore Christopher, Herb Colomb, Tony Corcoran, Paul Cosgrove, Sen. Peter Courtney, Sen. Richard Devlin, Steve Doell, Kappy Eaton, Randall Edwards, Rich Englis, Colin Fogarty, Bill Foster, Liz Frankle, Elaine Franklin, David Heynderickx, Chuck Hibner, Tom Gallagher, Steve Green, Mike Greenfield, Chane Griggs, Bill Gross, Judy Hall, Patrick Hearn, Andrea Henderson, Dave Henderson, Lucy Hilburn, John Houser, Betsy Imholt, Jon Isaacs, Sen. Betsy Johnson, Susan Keen, Ramona Kenady, Grattan Kerans, Phil Kiesling, Paula Krane, Amy Langdon, Leslie Lewis, John Lindback, Bill Linden, Ellen Lowe, Peggy Lynch, Jim Markee, Tim Markwell, Roger Martin, Mike McArthur, Paddy McGuire, Theresa McHugh, Doug McKean, Rep. Jeff Merkley, Rep. Karen Minnis, Hardy Myers, Kevin Neeley, Mark Nelson, Troy Nichols, Margaret Noel, Norma Paulus, Neel Pender, Dawn Phillips, Joan Plank, Anne Pratt, Bob Repine, Ted Reutlinger, Sen. Charlie Ringo, Barbara Roberts, Joan Robinson, Ken Rocco, Daniel Russell, Tracy Rutten, Jim Scherzinger, Rep. Wayne Scott, Ruth Shepherd, Lane Shetterly, Brian Shipley, Mark Stanislawski, Geoff Sugerman, Carol Suzuki, Bill Sweeney, Adrienne Sexton, Bill Taylor, Sandy Thiele-Cirka, Rick Thomas, Ken Tollenaar, Paul Warner, Dallas Weyand, Mark Wiener, Max Williams, Steve Wolf, Peter Wong, Duncan Wyse

SUPPLEMENTAL INFORMATION

PROPOSALS SUBMITTED FOR CONSIDERATION



A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE

PROPOSALS SUBMITTED TO THE PUBLIC COMMISSION ON THE OREGON LEGISLATURE

At the beginning of commission work, the Co-Chairs asked legislators, legislative staff, state agencies, state elected officials, local government officials, and the public to submit proposals or recommendations to the commission for consideration. The Co-Chairs stated that proposals and recommendations could address anything related to the legislative branch. Proposals were assigned to committees for consideration: Facilities; Management and Human Resources; Process; The Public Institution. What follows is the comprehensive list of proposals after duplicate proposals were combined.

Number	Proposal	Committee
001	<p>Member relationships</p> <ul style="list-style-type: none"> • Recommend that there be a 4 or 5-day leadership retreat prior to the beginning of session to build or strengthen interpersonal relationships. • Encourage inter-caucus interaction and informal collegiality • Encourage members to seek audience with the other party's caucus to propose legislative ideas • Create a common lounge or break area where House and Senate members can encounter each other on a face-to-face basis socially everyday without the formality of committee or floor session 	Pub. Inst.
002	<p>Length of session</p> <ul style="list-style-type: none"> • Send a referral to voters for constitutional amendment for an ending date for sessions. • Include language for extending the length of session • Consider beginning session after Labor Day – legislature would have four months before holiday pressure to complete work and adjourn • Time the legislative session to March-August or something similar, but retain biennial sessions. • Limit length of sessions – force legislators to get to business and decrease the number of turkey bills • Fix the length of session • Fix the length of biennial session to no more than six months (July 1 deadline) • Legislative time management • If we stick with biennial sessions, retime session to January of even-numbered years so members can prepare for session. • Re-time biennial sessions: Convene in January of odd years to organize leadership and committees; Committees meeting during odd year; Convene session in January of even year with same committees and membership. • Appoint interim committees in January following the election and complete studies before convening session 	Process
003	<p>Annual sessions</p> <ul style="list-style-type: none"> • Evaluation of the legislative cycle – annual vs. biennial • Set limit of 60 and 120 days (or similar) • Require interim committees to approve introduction of measures rather than session committees • Allow bills to roll from one session to another in a two-year period • Create two sessions: one for budget and the other for policy issues - the legislature could meet in budget session each year after the May forecast to decide and build the budget for the following year. Every other year, the legislature could meet before May or after Labor Day to address policy issues. • Annual sessions. 1. Odd-numbered years, meet for a 45-day budget session to focus on Phase III budgets. Legislator per diem should cease on the 46th day. 2. 	Process

	<p>Even-numbered years meet for 120 days to debate policy issues and Phase I and II budget process. Spending issues to be resolved by E-Board.</p> <ul style="list-style-type: none"> • Annual sessions. Start the second Monday of January and conclude no later than April 30th. Odd years devoted to budget and even years to policy. • Annual sessions with strict control on the length. • Annual plenary session. Maximum of two months, but salaries discontinued at four months and reinstated at sine die. • Annual sessions – more citizen involvement on more issues • Have a trial run at annual sessions by agreeing to convene a special session: Set deadlines, goals, and purpose of the trial run; If it works, refer and measure for annual sessions • No annual session. Biennial only. • Budget in even years • Design a budget process that can be accomplished in three months • Under current process, important issues are overlooked due to the pressure on approving a budget • Improve the ability to respond to budget issues • Annual sessions to do away with the Emergency Board • Annual sessions. Budget annually. • Annual sessions for more accurate budgets • Stabilize the budget (impact on the state's credit rating) – one short and one long session with hard deadlines – biennial budget to be reviewed at short session • Limited budget session in odd-numbered year with a deadline for adopting the budget then House and Senate convene no more than three days per month until the end of session – Dec 31 of even-numbered years. • Annual sessions – budget annually and policy issues annually • Annual sessions limited to 90-120 days with biennial budgeting 	
004	<p>Legislator staffing</p> <ul style="list-style-type: none"> • Need for full time personal staff and professional wages • Family wage job • Staff salaries and benefits • Staffing levels for members • Review need for full-time staff during the interim • Increase legislative budget to enhance constituent services and conduct better research • Provide staff to legislators that will allow them to have independent research rather than research from lobby or trade representatives. • Provide legislators with adequate year-round professional staff • Two people per member plus benefits. Need for continuity of year-round staff 	Man/HR
005	<p>Accountability and ethical standards</p> <ul style="list-style-type: none"> • Ethics for legislators and staff • Encourage legislators to be respectful of hearing room audiences • Show up on time, pay attention and stay in the room • Report on member attendance to committee meetings • Is a member attending to vote only or participate in discussion • Discourage fraud • Need for sharper tools, steeper penalties, jail time and vulnerability of public officials • Subject those who cheat the public to double penalties, double jail time and forfeit all elected offices or appointed positions in the future • Strengthen ethics committees to help improve public image. • Review ethics as related to influence of lobby on legislators and legislative process (including campaign finance.) 	Pub. Inst.

006	<p>Improving public access</p> <ul style="list-style-type: none"> • Adequate notice for meetings • People from farthest away testify first • Kiosks to explain the process to the public • More opportunities for public involvement • Explore ways to open the process to more citizens • Public respect for and effective, appropriate access to the legislature • Oregon's shared belief in a representative government • What changes in structure of the process and in expectations for legislators, aides, lobbyists, and others would increase public support for the work of the legislature • Citizen participation as contribution and impediment • Make information more accessible to the public • Vote explanations online or something similar • Clear agendas that identify bills and subjects to be discussed • Salary information for members and staff • All budget meetings should be public and well advertised • Require all meetings, including caucus meetings to be public • Strengthen Public Meetings Law as it relates to the Legislature and caucus meetings. • Encourage evening and weekend meetings that allow working people to participate in the legislative process. • Provide opportunity for greater public involvement and scrutiny of legislative decisions • Receiving testimony from remote locations via video conferencing • Holding public hearings around Oregon • Importance of taking budget hearings on the road • Limit the number of meetings in Salem to decrease grandstanding. • In chamber rules, focus on facilitating citizen participation in hearings and other meetings of legislators 	Pub. Inst.
007	<p>Increase legislator compensation</p> <ul style="list-style-type: none"> • Increase in legislator pay and maybe per diem • Independent commission which would make recommendations about compensation for all state-elected officials from the governor on down. • Professional salaries for legislators • Adequate salary • Should legislators be paid more • Family wage job • Establish performance measures or build in accountability for the increase in pay (attend committee meetings, don't miss floor votes, hold town hall meetings, better communication with constituents) • Low wages: people who accept the job are either independently wealthy or retired. Higher wages encourage diversity in the body. • Increase legislator pay – focus on whether applicants are qualified rather than whether taxpayers are getting their moneys worth • Review compensation in effort to retain citizen legislature • Increase the pay of Legislative Leaders including the Speaker of the House, House Majority Leader, House Minority Leader, Senate President, Senate Majority Leader, and Senate Minority Leader • Don't pay per diem for unexcused absences • Review equity of session per diem • Compare those who continue to live in-district vs. those who must rent during session • Increase legislator salaries to allow them to sustain their lives and resist other financial temptations. 	Man/HR

008	<p>Paperless floor sessions</p> <ul style="list-style-type: none"> • Laptops for members on the floor • Upgrade technology for members • More computers and laptops and better printers are needed 	Facilities
009	<ul style="list-style-type: none"> • Review staffing and staff resources <p>Review organizational structure and staffing of legislative service organizations to ensure they serving the process to the best of their ability</p> <ul style="list-style-type: none"> • Secretary of the Senate • Chief Clerk of the House • Legislative Administration (Committee Services) • Legislative Counsel • Legislative Fiscal • Legislative Revenue • Role of staff in the process – are they doing too much rather than legislators? • Personal staff • Chief Clerk and Secretary • LC, LFO, LRO and LAC staff • Committee staff • Caucus office staff • Evaluate staffing and make recommendations for interim work that will accelerate the time to complete budgets • More staff needed in Legislative Fiscal to become more independent and less reliant on DAS and to handle the workload if Way and Means is divided • Need more staff in LFO to address complex issues and big budgets • Have as a goal, and develop the means, to retain an adequately-staffed, core of professional staff to provide institutional and policy-area expertise. • Develop a way to reduce extended overtime working hours of some legislative offices such as LFO and LC. 	Man/HR
010	<ul style="list-style-type: none"> • In-district offices • For districts more that 120 miles away, allow for additional half-time, year-round staff • Members can't attend meetings in district while in session 	Pub. Inst.
011	<p>Training for legislative assistants and caucus staff</p> <ul style="list-style-type: none"> • History of Oregon/Legislature • Process • Mandatory training for ALL staff – how a bill becomes a law, understanding the committee process and timelines, connections to other branches and local governments, administrative rules • Same training as legislators, but separate • Take tests before and after to gauge progress • Training in small groups 	Pub. Inst.
012	Safety of electrical and water systems	Facilities
013	Preventative maintenance on the building	Facilities
014	Determine if hearing rooms are adequately equipped for video and audio coverage	Facilities
015	<p>Training and education for all legislators</p> <ul style="list-style-type: none"> • How the process works • Mason's Manual and parliamentary procedures • Dispute resolution training • Training to respect differences with other members and the public • Take anonymous tests before and after to gauge performance and improvement • Training in small groups for more opportunity for discussion • Mandatory training for ALL legislators – how a bill becomes a law, understanding the committee process and timelines, connections to other branches and local 	Pub. Inst.

	<p>governments, administrative rules</p> <ul style="list-style-type: none"> • Delegate planning for member training to new resource • Focus on early planning • Prepare and coordinate materials • Promote training to all members and staff • Offer a “potential legislator” training or workshop to give a realistic and optimistic picture of what it means to be a legislator • Establish a legislator exchange program between urban and rural areas and urban/urban and rural/rural areas • Create a pool of mentors for legislators • Help members focus on a long term view • County presentation on interconnected systems of government and shared revenue issues • Provide a training course to prospective candidates – make the course available to high school civics teachers too. 	
016	<p>Partisanship</p> <ul style="list-style-type: none"> • Causes of partisanship • Non-partisan legislature • Decreasing partisanship • Discontinue all partisan staffing – add to political clamor • Require legislators to do their own political work • Are there advantages to a non-partisan legislature and how would that be structures in terms of leadership and chairs • Reduction of unnecessary conflict • Non-partisan legislature 	Process
017	Preservation of the citizen legislature	Pub. Inst.
018	<p>Professional legislature</p> <p>Full-time, full compensation, fully accountable members</p>	Pub. Inst.
019	<p>Reduce lobby influence on legislature</p> <ul style="list-style-type: none"> • Decrease the power of the lobby • Reduce the amount of time that legislators can be contacted by special interest lobbyists. • Restrict access of special interest groups – perhaps every other year, special interests can participate. • Outlaw lobbying – make receiving compensation for the purpose of influencing a legislator illegal. • Require all lobbyists to submit a weekly log of every legislator or legislative aide they speak or interact with. Include the length and nature of the conversation. (Similar to lawyer logs). Make logs available for viewing on the internet. • Limit the influence of the lobby on legislators and the process • Diminish the role of big money from outside the state to influence legislation in Oregon • Reduce the ability special interest groups to lobby 	Process
020	<p>Unicameral legislature</p> <p>Unicameral legislature – cheaper and non-partisan</p> <p>Unicameral body with 50 or fewer representatives</p> <p>Unicameral legislature with staggered 4-year terms</p> <p>Unicameral legislature with two or three representatives from each senate district.</p>	Process
021	<p>Legislative process</p> <ul style="list-style-type: none"> • How they make laws and fix problems • Caucus policy • Session scheduling • Efficiency of the legislative process • Review interim structure and function 	Process

	<ul style="list-style-type: none"> • Function of interim committees • Re-time legislative session so that interim comes first, then a time limited session. • Increase productivity of interim and allow for organization and direction in each house • Use the first several months to review critical issues facing Oregon • Meet later in the year to debate bills that have support and have an informed basis for enactment • Review of Sine Die process • Examine the Sine Die process and whether the toll on staff is worth the risk of mistakes and stress on staff • Continue to use the 2005 Sine Die resolution with no date/time specific adjournment time • Simplify the complicated legislative process so citizens can serve effectively in their first term. 	
022	<p>Personnel regulations</p> <ul style="list-style-type: none"> • Fringe benefit and benefit/salary balance • Civil service/ union protection vs. performance • Review of salaries of members and staff. Don't compare to DAS positions but other state legislatures. 	Man/HR
023	<p>"The Institution" of the legislature</p> <ul style="list-style-type: none"> • Heritage • Demeanor • Formal and informal codes of conduct • Interaction between members and houses • Role of staff • Working with lobbyists, advocates, constituents, agency staff, governor's office, statewide officials and media 	Pub. Inst.
024	<p>Role and function of caucuses, caucus offices and staff</p> <ul style="list-style-type: none"> • What is the impact of fundraising and the hand-to-hand politics of the election cycle on their ability to make decisions on policy • Issue of their credibility with new and returning legislators and staff • Organizational structure and staffing of leadership offices • Office of the Senate President • Senate Majority Office • Senate Minority Office • Office of the Speaker of the House • House Majority Office • House Minority Office 	Man/HR
025	<p>Limit the number of bills introduced</p> <ul style="list-style-type: none"> • By member only • Limit number of bills introduced each session by total number, members and committees • Limit number of legislator bills introduced after the pre-filing deadline. Don't limit introduction of committee bills • Limit the number of bills introduced by legislators. Restrict to seven bills each session with a deadline of March 7th. • Allow each legislator two priority bills during session. 	Process
026	<p>Security issues</p> <ul style="list-style-type: none"> • Background checks and badges for members, staff and lobbyists • Secure the underground garage – one car at a time to enter and exit the garage • Uniformed offices at entrances • Security review of the capitol (OSP, Office of Homeland Security) • Examine whether locked doors make sense from a security and public access 	Facilities

	standpoint <ul style="list-style-type: none"> Public access to the building Staff and member training on security issues 	
027	Review technology <ul style="list-style-type: none"> TV coverage Websites Computer and other hardware/software needs of legislators and staff Technology available to legislature and citizens interested in the legislative process 	Facilities
028	Allow amendments on second reading of a bill <ul style="list-style-type: none"> Opportunity for minority to get ideas heard in bill form Allow for amending bills on the floor – consider rule changes, public notice, deliberation, counsel on the floor, printing and publishing 	Process
029	Non-partisan staff <ul style="list-style-type: none"> Protect staff from partisan exuberance Ability to provide unbiased information needed to make informed decisions 	Man/HR
030	<ul style="list-style-type: none"> Restructure the initiative process Reform of the initiative and referendum system Changes made through the initiative system impact state finances – establish checks and balances between the legislative branch and initiative process 	Process
031	Conform Oregon to effective practices in other states	Process
032	<ul style="list-style-type: none"> Review efficiency of the state budgeting process Review connection to and timing of Oregon fiscal year and federal fiscal year (Oct.-Oct.) 	Process
033	Facilities evaluation <ul style="list-style-type: none"> Review office space Consider complete renovation and updating Renovation of capitol wings Renovation of the Governor’s office New drapes for House and Senate chambers Safety review of the capitol (OSHA) Add windows to chamber galleries and side aisles Add windows to the member/staff doors to HR A-F Make windows bigger in the front doors of HR A-F Add handrails to outside staircases (east, west, north and front) Use brighter light bulbs in the old building – third floor, stairwells, down the hall to west door Hire an architect as an advisor for building changes and artwork issues Sterilize or bleach the AC/heating system to prevent illnesses and add rubber gaskets to heating grates to quiet the circulation system During session, move external gift shop items to decrease the logjam Sell more Oregon related or capitol products – see Or Historical Society gift shop Inventory and rotate artwork in the capitol Acquire historical photos for artwork in the capitol 	Facilities
034	Relationship of the legislative branch to the executive branch <ul style="list-style-type: none"> More or different exchanges that would move key issues and budget work more smoothly forward Draw the Governor and legislature into a closer relationship that isn’t as adversarial What changes need to be made to improve the state’s ability to get traction on the priorities of the state through the legislature How do to measure improvements Establish new or make known the current processes and clarify how following them serves the will of the people and guards the interests of the state Encourage the legislature to work with the Governor to determine Oregon’s long- 	

	term goals and progress – Use tools from the Oregon Progress Board <ul style="list-style-type: none"> • Determine whether problems are long-term or short-term • Review the relationship between the Legislature, Governor and boards/commissions 	
035	<ul style="list-style-type: none"> • Increasing public confidence in the legislature • Review public relations and image 	Pub. Inst.
036	Review the legislative branch budgeting process <ul style="list-style-type: none"> • Carry over from session to interim or interim to session • Biennium doesn't match the election cycle • Member expenses • Combining session and interim expense allowances • When funds revert, do they revert at the same time as everyone else? 	Man/HR
037	Review redistricting process <ul style="list-style-type: none"> • Possible commission process • Implement proportional representation or go to multi-seat districts • Redistricting commission/panel made up of retired judges. Draw districts to ensure competition between both parties. • One elected senator from each county (similar to congress). 	Process
038	Remove Commission on Indian Services from the Legislative Branch	Man/HR
039	Review legislative publications	Pub. Inst.
040	Review distribution of video coverage of the legislature <ul style="list-style-type: none"> • Distribute video coverage of committee meetings and sessions to more cable access stations. • Meetings don't usually fit neat timeframes • Develop segments that fit neat timeframes • During floor sessions, ask media to caption what bill is on the floor 	Facilities
041	<ul style="list-style-type: none"> • Review House and Senate rules • House and Senate rules should reflect an open legislative process requiring public participation • Examine rules for the following issues: how committee appointments are made and whether the minority should have a role in appointments; should committees have proportional representation for all committees; is there independence of the Parliamentarian; is the minority report process sufficient to assure deliberation of solutions to problems; are minority rights protected through use of targeted requirements of a "supermajority" 	Process
042	Legislative research function <ul style="list-style-type: none"> • Reestablish the Legislative Research Office • Need for a good archivist or legislative historian • Establish a non-partisan, non-corporate "scientific advisory board" to review legislation that requires scientific input. • Discuss with the State Library how they can be of greater service to the legislature. Review "best practices" in California, Kansas and Oklahoma where the executive branch library and information services are used by the legislative branch. 	Man/HR
043	Establish a Legislative Audit Office	Man/HR
044	Electronic voting in the Senate	Facilities
045	Review the relevance and function of the Emergency Board	Process
046	Review and revise all ORS pertaining to the Legislative Branch <ul style="list-style-type: none"> • Remove two old, bad laws when a new one is passed • Establish a finite number statutes/laws and that introduction of a new law requires deleting an old law. • Require a sunset provision on all laws, so that all laws will be revisited periodically (maybe 10-20 years). 	Process
047	Integrity as it relates to agreements made between members <ul style="list-style-type: none"> • Involve binding contracts 	Pub. Inst.

048	Increase number of legislators	Process
049	Legislative records retention <ul style="list-style-type: none"> • Emails – building and district computers and emails • Paperwork – bill files • Who maintains files and where are they stored 	Man/HR
050	Assessment of Committee Services Office in the NCSL report	Man/HR
051	Access to the state “datamart” at DAS(?) <ul style="list-style-type: none"> • What kind of access should the legislature have • Separation of powers issues 	Man/HR
052	Explore performance evaluation and feedback for legislative agency heads <ul style="list-style-type: none"> • Who can hire and fire • Review applicable statutes 	Man/HR
053	Limit passing of notes to legislators on the floor	Pub. Inst.
054	Limit press access to members on the floor	Pub. Inst.
055	Review possibility of statewide elected Lt. Governor to serve as Senate President	Process
056	Consider introduction of revenue raising bills in both houses	Process
057	Eliminate Senate confirmation of Executive Appointments	Pub. Inst.
058	Establish a “superchief” <ul style="list-style-type: none"> • Reconfigure the Legislative Administrator job • Include administrative duties of the presiding officers • “Civilian King” of the legislature 	Man/HR
059	<ul style="list-style-type: none"> • Disallow committee chairs from not hearing a bill or not meeting with a sponsor • If a chair doesn’t hear a bill have an easier process for pulling the bill to the floor for discussion or assigning to another committee • Committees should have co-chairs and they shouldn’t be able to block legislation from reaching the floor • Chairs can stop bills to the floor by 2/3 vote 	Process
060	Acknowledge the role of committee staff in the committee process <ul style="list-style-type: none"> • Facilitate paperwork process between LC, LFO, LRO and the desks • Take direction from chair with input from caucus, members, lobby, agencies, public • Provide support and advice on procedural options • Don’t take positions or advocate for policies or measures • Assign committee staff based on issue area experience if possible 	Man/HR
061	Examine the role of caucuses and whether their meetings should be open to the public	Pub. Inst.
062	Shift management of Committee Services to the Chief Clerk of the House and Secretary of the Senate	Man/HR
063	Make Committee Services and independent statutory office similar to LFO, LRO and LC <ul style="list-style-type: none"> • Improve visibility and credibility of the office 	Man/HR
064	Establish a training program for lobbyists and agency staff <ul style="list-style-type: none"> • Improve on DAS training • Similar to legislator and LA training 	Pub. Inst.
065	<ul style="list-style-type: none"> • Retain 48 hour notice on committee agendas during session • Encourage more than 24-hour notice on agendas for as long as possible during session. • Require 48-hours notice for all hearings. Clearly state on the agenda what time public comment opportunities will be. Allow people from farthest distance to speak first. • More public notice for hearings • Hear public testimony before invited testimony • Provide public notice for work group meetings • Address notification of hearings and work sessions given to lobby or other stakeholders before official public notice is given for hearings and work sessions. • Try to give a day between public hearings and work sessions. 	Pub. Inst.

066	<ul style="list-style-type: none"> • Make amendments available on the web with permission of the requestor • Require that amendments considered by a committee be made available before a committee meeting and make them available online. • Ask Legislative Counsel to publish amendments in a manner that will make it easier to see how additions and deletions will affect the bill. • Make amendments available in the morning bill stack • Require public hearings on amendments before they are adopted by committees 	Pub. Inst.
067	<ul style="list-style-type: none"> • Encourage all offices (LC, LFO, LRO) to more effectively distribute paperwork electronically • Reduce paperwork by electronically distributing information from the Chief Clerk and Secretary. • Post documents on the web in an obvious location 	Pub. Inst.
068	<p>Refocus the committee process.</p> <ul style="list-style-type: none"> • Appoint chairs who are knowledgeable, interested or experienced in a particular topic • Make chair aware of caucus goals and priorities communicated by leaders 	Process
069	<p>Establish firm committee deadlines within the first month of session</p> <ul style="list-style-type: none"> • Consider bill loads and communication with the chair • Clearly state extension of deadlines 	Process
070	<p>Committee chairs should have regular meetings during session and interim with caucus leaders and/or presiding officers to check in on progress.</p> <ul style="list-style-type: none"> • Include committee staff in on progress meetings • Political agenda setting meetings are separate from progress meetings 	Man/HR
071	<ul style="list-style-type: none"> • Revamp the legislative website • Organize it to allow for better public access and use • Use language of laypeople not legislative insiders • Legislature should be more prominent on Oregon.gov 	Pub. Inst.
072	Establish and enforce a dress code or provide uniforms for members and staff	Pub. Inst.
073	<p>Don't allow members to leave the floor during session except for restroom or caucus</p> <ul style="list-style-type: none"> • Not respectful to other members and the audience • They don't participate in debate • Delays the end of floor session 	Pub. Inst.
074	<p>Set up an electronic live log, on the internet or TV, of what is happening on each floor</p> <ul style="list-style-type: none"> • Reflect propositions and motions to move a bill to a different day or the bottom of the calendar 	Facilities
075	<p>All bills should have one subject only</p> <ul style="list-style-type: none"> • Deter "log rolling" • Force the question of "Is this a good or bad idea for Oregon?" • Limit unrelated amendments to bills by requiring the most restrictive "relating to" clauses on bills 	Process
076	Shift legislator focus to bigger more important issues than goose liver pate	Pub. Inst.
077	<p>Don't separate the Ways and Means committee</p> <ul style="list-style-type: none"> • Separation causes two trips to Salem and extra expenses on agency staff • Make a joint budget committee mandatory 	Process
078	Prohibit alcohol consumption in the capitol	Pub. Inst.
079	<p>Consider campaign finance reform</p> <ul style="list-style-type: none"> • Review campaign contributions and their influence on the political process • Campaign finance reform to get lobbyists out of the legislature • Campaign finance reform – go to public financing with additional financing limited and strictly controlled. • Campaign finance reform – publicly funded campaigns. See Portland, Massachusetts and Arizona • Restrict campaign contributions to no more than \$1000 per election cycle for 	Process

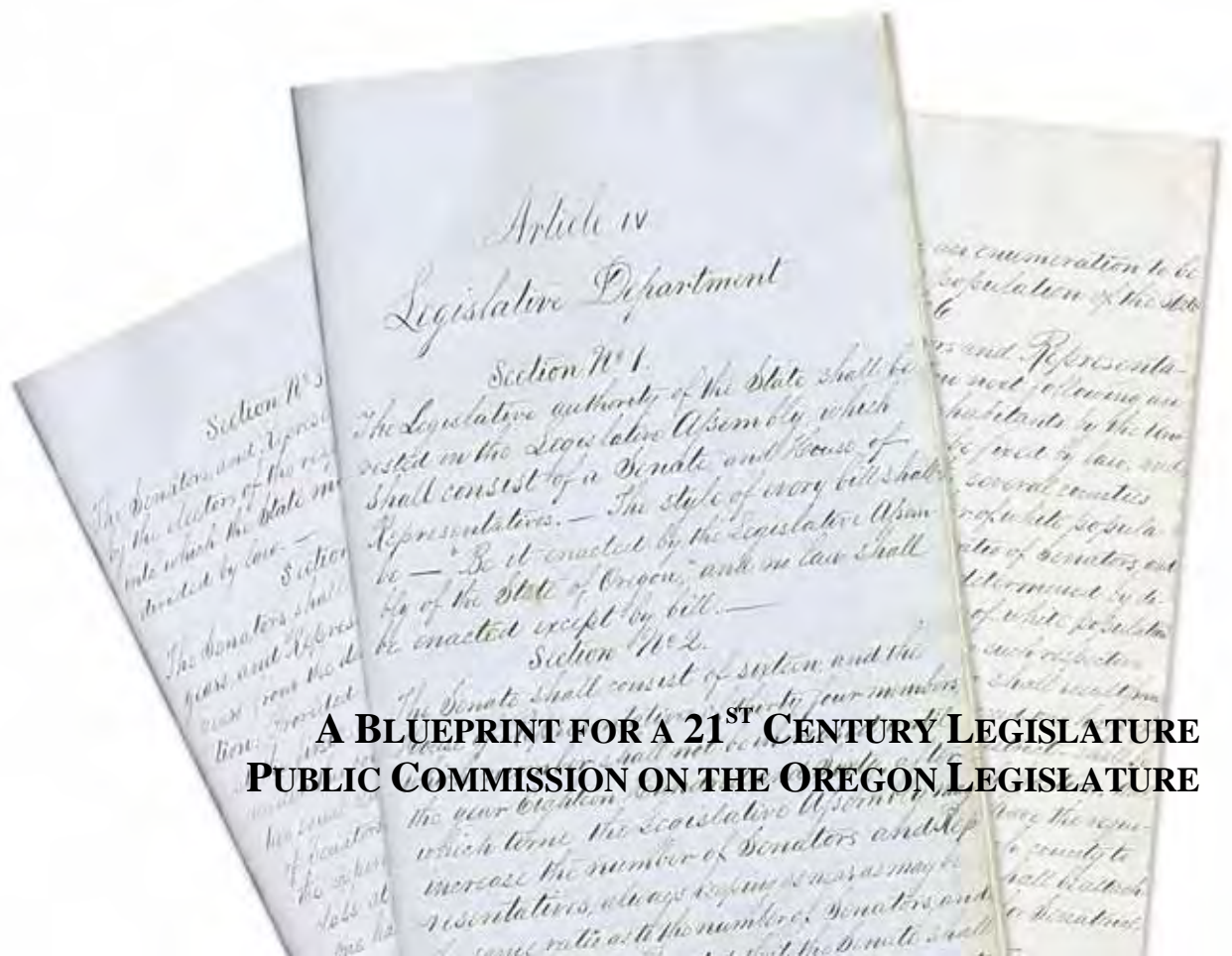
	<p>organized lobby and organized labor. Allow individual citizens of those organizations to continue to make donations.</p> <ul style="list-style-type: none"> • Campaign finance reform and inform the public about sources of financial support for candidates • Publicly funded elections to help end domination by special interests • Public campaign finance • Limit campaign contributions from the private sector during legislative session. Public entities are not allowed to contribute to campaign funds and are often not allowed the same access to members of the legislature. 	
080	<ul style="list-style-type: none"> • Don't allow gutting and stuffing of bills – especially from the other chamber. Amending is ok, but don't replace the bill • End the process of “gut and stuff” • Have a hard deadline for bill introductions and don't allow “gut and stuffs” • Require approval of bill sponsors for “gut and stuffs” 	Process
081	Don't send bills to committee to kill them. Make it easier to pull bills to the floor for consideration	Process
082	All testimony should be sworn or affirmed to be truth or identified as opinion. Establish sanctions for those whose statements cannot be verified.	Process
083	All testimony from lobbyists, agencies, public officials, legislators and staff should be submitted written format at least 48 hours prior to initial hearings on a measure	Process
084	Only allow suspension of rules on the floor for individual bills and only after debate of the suspension motion	Process
085	Close policy committees only when policy issues have moved off the floor. Unresolved policy issues of closed policy committees should not be transferred to remaining open committees.	Process
086	Budget committees should focus on budget issues only not policy issues. Return policy bills to policy committees if an issue is unclear.	Process
087	<ul style="list-style-type: none"> • Require legislators to submit a one-page brief describing the bill to Legislative Counsel before drafting. • Include the sponsor/requestor's explanation of a bill as part of the original bill file – to be used by presiding officers when assigning to a committee, and staff when gathering information. 	Process
088	Establish a spending cap, agreed to by both chambers February 15 th of a budget session.	Process
089	Determine the K-12 budget first, by April 1 st of budget sessions.	Process
090	Restrict the length of campaigns, maybe to one month	Process
091	<ul style="list-style-type: none"> • Continuous legislative sessions by allowing legislators to work out of their homes – communicate, vote, hold hearings remotely – allows members to be citizen members and stay constantly up-to-date on issues • Have the legislature meet “virtually” to allow legislators to stay in district more • Use technology to cut down on travel time and increase scheduling opportunities. Have longer or continuous sessions with the use of technology. 	Process
092	Open the budget process – no closed door sessions	Pub. Inst.
093	Don't spend time sending resolutions to Congress. Maybe spend time to approve memorials to commend.	Process
094	Open access to individuals and fine people who claim individual status but are a member of a special interest	Process
095	Create a publicly funded credit system for paying lobbyists in effect, only individuals can pay lobbyists, not special interest groups or corporations.	Process
096	<ul style="list-style-type: none"> • Reduce the power of the Speaker and President to control the agenda, funnel bills and choose chairs and committee members. • Reduce the power of the presiding officer to hold a bill • Limit the ability of the presiding officer from blocking legislation to be considered on the floor • All bills should go to the floor for final action and not be bottled up 	Process

097	Continue to allow some secret ballots in the legislative process	Process
098	Open primaries/Non-partisan elections	Process
099	All bills should have at least five votes from each party	Process
100	Prepare and make available, committee reports that outline reasons for committee votes. Encourage more debate on the floor about particular issues.	Process
101	Run the legislature like a business. Come together for the good of the stakeholders.	Process
102	Draw legislators by lot (like jurors) Stagger terms, but don't allow a second term of service.	Process
103	Limit the ability of the legislature to overturn the will of voters as expressed in initiative results	Process
104	Make legislators more accountable and accessible to the people they serve.	Pub. Inst.
105	Co-chairs can't serve consecutive terms in the co-chair position	Process
106	Increase the power of the "citizen" advocate	Pub. Inst.
107	Reinstate term limits so no more than two terms served.	Process
108	<ul style="list-style-type: none"> Extend house terms from 2 years to 4 years to allow member to work on legislation. Extend House terms from 2 years to 4 years and Senate terms from 4 years to 6 years. 	Process
109	E-board membership should reflect proportional or equal representation of political parties in their chambers	Process
110	Do not include legislator names on bills – only committee names if that.	Process
111	Consider using more joint committees.	Process
112	Spread bills out more evenly among committees to avoid workload issues on extreme ends.	Process
113	Avoid extended period at the end of session with just one substantive committee working bills. Maybe keep two or three open until the end.	Process
114	Utilize internet communications for the legislative process. Focus on effective electronic communication.	Facilities
115	Address the issue of creating a one-size-fits-all solution for a state diverse in geographic distribution of the population.	Pub. Inst.
116	<ul style="list-style-type: none"> Establish a forum for state, local and county governments to come together to discuss whole systems governments affect such as education, transportation, social programs, etc. Establish a Governance Council of the legislature and counties (local governments) to address interconnected governance system issues Establish an orientation session and regular forums for new and returning legislators to meet with local governments and learn about interrelationships and systems 	Pub. Inst.
117	Create searchable electronic files of ALL legislative meetings and discussions to be posted online the day of the event.	Facilities
118	Make available on the internet, video recordings of every legislative body with a written index as to where the main breaks are in subjects and bills under consideration.	Facilities
119	<ul style="list-style-type: none"> Require audio recordings to have indexes for bills and subjects. (Divide like songs on a record) Switch from RealAudio to .mp3 files 	Facilities
120	When speaking on the record, require people to state their name each time they speak, so people listening on-line or after the fact will know who is speaking.	Facilities
121	<ul style="list-style-type: none"> Require that budgets be adopted by May 1 in consideration of budgeting and impacts on county, city and special district budgeting. Include counties in the preparation of the biennial budget using their knowledge of delivery systems etc. Legislation should be developed in a way to integrate cities and counties into the solution 	Process
122	<ul style="list-style-type: none"> Every bill that passes one house should be voted on by the full chamber of the second house. Bills could be modified with consent of a conference committee 	Process
123	Require public hearings on budget notes	Process

124	Presiding officers can't send their house into recess if there are critical outstanding bills	Process
125	With regard to testimony: an expert should be a credentialed expert in the field or be considered a layman	Process
126	Allow committee chairs to hold a witness in contempt and issue warnings if a witness makes a statement that is false or misleading.	Process
127	Testimony from "think-tanks" or industry funded testimony should not be allowed.	Process
128	Provide more detailed analysis of budget bills, sufficient enough to identify whether particular sections are fully funded before voting.	Process
129	Provide more and better communication from the legislature to the counties including public video conference opportunities.	Pub. Inst.
130	Allow legislators to pre-session file and sign on to bills before session begins.	Process
131	One-day organization session before January to elect leaders etc	Process
132	One-day veto session after the Governor's signature deadline	Process
133	Standardization of task forces and interim committees	Process
134	Review of the use and necessity of House and Senate Lounges	Facilities
135	Establish a Public Lobbyist Corps – public people available in the building monitoring hearings and other meetings. They would be accessed by the public to make presentations on their behalf or facilitate the public access process.	Pub. Inst.
136	Ensure that a wheelchair is available for people with acute health problems not requiring ambulance transport and notify all offices of its location.	Facilities
137	Create a "local government impact statement" similar to fiscal and revenue statements.	Process
138	<ul style="list-style-type: none"> Legislature and Governor should work together to articulate essential functions of state government and coordinate budget, policy and oversight operations on those lines. Legislative policy should be geared to results coming from expenditure of funds – focus on long-term economic viability 	Process
139	Reorganize legislative committees to focus on real life priorities to ensure long-term economic survival of the state	Process
140	Spend time and resources to find out what the public is willing to pay for	Process
141	Legislative budget should be projected out 10 years in advance to identify trends and problems for further analysis.	Process
142	Employ and enforce a rigorous "code of ethics" to lobbyists to effectively support the general public.	Process
143	Periodic review of councils or commissions that Oregon pays to belong to (NCSL, CSG, Pac NW Fisheries, etc.)	Process
144	Build a new office building for legislators	Facilities
145	Review per diem payments for citizen participants on task forces, boards and commissions	Man/HR
146	Improve cell phone coverage in the basement and other locations in the building	Facilities
147	Switch to wireless technology in the entire capitol	Facilities
148	<ul style="list-style-type: none"> Hold meetings prior to session between the majority and minority of each chamber to identify and discuss legislative priorities Identify legislative priorities of the minority party that will be fully discussed – endorsement of majority not necessary but commit to not using procedural authority to prevent debate Consult with minority on management issues including committee schedule, hearing locations and notice 	Process

SUPPLEMENTAL INFORMATION

PROPOSED LEGISLATION



A BLUEPRINT FOR A 21ST CENTURY LEGISLATURE
PUBLIC COMMISSION ON THE OREGON LEGISLATURE

PROPOSED LEGISLATION

LC 1595 – Establishes deadlines for completion of consideration of legislative measures.

From the Annual Session and Session Structure, Committees, and Bills and Amendments recommendations. This resolution will set dates for deadlines to complete specified legislative action.

LC 1569 – Establishes open primary elections.

From the Open Primary recommendation. This measure will establish open primary elections and make associated changes to statute. A letter from Legislative Counsel outlines issues that need additional discussion.

LC 1568 – Designates state Senator and state Representative as nonpartisan offices.

From the Nonpartisan Legislature recommendation. This measure allows each house to determine whether their members should be elected without partisan labels.

LC 1583 – Revises the Oregon Constitution to create the office of State Controller.

From the Nonpartisan State Controller and Redistricting Commission recommendations. This legislative referral to the voters will establish the office of State Controller and revise constitutional provisions related to redistricting. A letter from Legislative Counsel states that the referral will be sent to voters at the 2008 primary election upon approval of two-thirds of each house of the Legislative Assembly.

LC 1585 – Makes changes to the initiative petition process.

From the Initiative Reform recommendation. This measure requires initiative and referendum chief petitioners to be registered to vote in Oregon. It requires information about the number of signatures gathered to be included in the voters' pamphlet. The measure also requires information about contributions to signature gathering to be included in the voters' pamphlet. A letter from Legislative Counsel outlines issues that need additional discussion.

LC 1584 – Creates a Commission on Legislative Campaign Finance Reform.

From the Campaign Finance recommendation. This measure establishes a commission to conduct a comprehensive review of legislative campaign finance issues.

LC 1586 – Allows a candidate for public office to use political contributions to support nomination or election. Prohibits a candidate from using contributions for personal use.

From the Campaign Finance recommendation. This measure will reform the use of campaign funds by candidates. A letter from Legislative Counsel outlines issues that need additional discussion.

LC 1566 – Modifies the existing Public Officials Compensation Commission.

From the Legislator Compensation recommendation. This measure defines members and duties of the revived Public Officials Compensation Commission. The measure takes effect on passage of the legislative referral to voters revising the Oregon Constitution to allow commission activities to proceed.

LC 1566-1 – Amends the Oregon Constitution to allow the Public Officials Compensation Commission to establish salaries for specified elected officials.

From the Legislator Compensation recommendation. This legislative referral will be sent to the voters for approval at the 2008 primary election. According to a letter from Legislative Counsel, this referral may be considered a constitutional revision requiring approval of two-thirds of each house of the Legislative Assembly.

LC 1570 – Creates the Office of Program Policy Analysis and Government Accountability.

From the Program Evaluation recommendation. This measure replaces the Joint Legislative Audit Committee with the Office Program Policy Analysis and Government Accountability to conduct performance, program and management evaluations or reviews of state agencies and state-funded programs.

LC 1693 – Creates the Legislative Research Office.

From the Staffing recommendation. This measure establishes the Legislative Research Office to prepare studies and reports and provide information and research assistance on proposed legislation and other matters to the Legislative Assembly.

DRAFT

SUMMARY

Establishes deadlines for completion of consideration of legislative measures.

CONCURRENT RESOLUTION

Whereas it is of paramount importance to establish deadlines for the consideration of measures during the regular session of the Seventy-fourth Legislative Assembly; now, therefore,

Be It Resolved by the Legislative Assembly of the State of Oregon:

(1) The Senate and the House of Representatives shall adhere to the following schedule and deadlines for the regular session of the Seventy-fourth Legislative Assembly:

(a) The Senate and the House of Representatives shall convene in regular session on January 8, 2007.

(b) The Senate and the House of Representatives shall convene their respective floor sessions one day each week from _____, 2007, through _____, 2007.

(c) Members and committees shall submit requests for drafts of measures to the Office of the Legislative Counsel on or before _____, 2007.

(d) Members and committees shall submit drafts of measures for introduction to the Senate and House Desks no later than _____, 2007.

(e) The Senate and the House of Representatives shall convene daily floor sessions beginning on _____, 2007.

(f) Committee chairpersons shall request fiscal and revenue impact statements for measures in the chamber of origin no later than _____, 2007.

This paragraph does not apply to the Joint Legislative Committee on Ways

1 and Means.

2 (g) Committees shall consider measures in the chamber of origin no later
3 than _____, 2007. This paragraph does not apply to the Joint Legislative
4 Committee on Ways and Means.

5 (h) Standing committees of the Senate and the House of Representatives
6 shall close no later than _____, 2007. This paragraph does not apply to the
7 Joint Legislative Committee on Ways and Means.

8 (i) _____, 2007, shall be the last day for consideration of any measure
9 by the Senate or the House of Representatives except for measures from
10 conference committees and the Joint Legislative Committee on Ways and
11 Means, and measures relating to the closing of the business of the 2007 reg-
12 ular legislative session.

13 (j) The Seventy-fourth Legislative Assembly shall adjourn no later than
14 _____, 2007.

15 (2) The rules of the Senate and the House of Representatives shall apply
16 to matters not specified in this resolution. The rules of the Senate and the
17 House of Representatives may establish timelines for priority measures that
18 are different from the timelines established in subsection (1) of this resol-
19 ution.

20 (3) The Seventy-fourth Legislative Assembly declares that an emergency
21 exists and will continue through January 2008, and the members agree as
22 follows:

23 (a) In _____ 2008, the presiding officers shall provide notice to the
24 Legislative Administrator of the intent to invoke ORS 171.015 (1).

25 (b) The Legislative Administrator shall follow the special session protocol
26 set forth in ORS 171.015.

27 (c) Upon receipt of the notice described in ORS 171.015 (1), the presiding
28 officers shall invoke the provisions of section 10a, Article IV of the Oregon
29 Constitution.

30 (d) Upon convening the 2008 special session, the presiding officers shall
31 ensure that the 2008 special session adjourns sine die not more than 40 cal-

1 endar days after the special session convenes and that the special session is
2 limited to consideration of the most pressing fiscal and policy issues.


3



STATE OF OREGON
Legislative Counsel Committee

November 10, 2006

To: Marjorie Taylor, Administrator, Public Commission on the Oregon Legislature

From: Ted W. Reutlinger, Senior Deputy Legislative Counsel 

Subject: LC 1569—Open Primary

You asked for a draft establishing an open primary election and suggested that the draft be based on Initiative Petition 86, which nearly qualified for the 2006 general election ballot. In addition, you asked that section 10 (3) of the initiative petition not be included in the draft.

LC 1569 designates all public offices besides President and Vice President of the United States and nonpartisan offices as voter choice offices. At the primary election, an elector may vote for any candidate for a voter choice office, without regard to the party affiliation, or lack of party affiliation, of the elector or candidate.

LC 1569 directs county clerks to print on the primary election ballot, following the name of the candidate for voter choice office, the candidate's political party affiliation. An individual affiliates with a political party by registering to vote as a member of the party.

Please note that if LC 1569 does not include language similar to that contained in section 10 (3) of Initiative Petition 86, LC 1569 may be more vulnerable to challenge under the First Amendment to the United States Constitution. A similar primary election system was invalidated by a Washington State federal district court decision in *Washington State Republican Party, et al., v. Logan*, 377 F. Supp. 2d 907 (D. Wash. 2005).

In that case, the Washington law allowed candidates to list their party affiliation on the ballot, even though the primary election law allowed each voter to vote for any candidate for each office, without any limitation based on party preference or affiliation of either the voter or the candidate. The federal district court ruled this approach unconstitutional under the First Amendment because: (1) the law forced political parties to have their nominees chosen by voters who had refused to affiliate with a party or who might have affiliated with a rival party; and (2) the law forced political parties to associate with any candidate who expressed a party preference.

LC 1569 is potentially vulnerable to the same challenge because it requires the political party affiliation of voter choice candidates to be printed on the ballot. Section 10 (3) of Initiative Petition 86 was apparently an attempt by the chief petitioners to address, in part, the *Washington State Republican Party* decision by allowing political parties to determine the eligibility of candidates for voter choice office to be listed on the ballot as members of particular parties. The apparent goal was to eliminate the argument that the law forces parties to associate with any candidate who registers as a member of the party.

Please note that LC 1569 may also be challenged under the theory that it forces political parties to have their nominees chosen by voters who are not members of the party. This challenge might be countered by the argument that LC 1569 is not designed to nominate candidates of political parties. Instead, it is designed to nominate voter choice candidates. The party membership information printed on the ballot is designed only to provide information to the voters and does not imply support by any political party.

Finally, the requirement that party affiliation be listed on the ballot could be eliminated. This change would effectively convert the voter choice offices to nonpartisan offices.

Encl.

DRAFT

SUMMARY

Designates United States Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator, state Representative and any state, county, city or district office as voter choice offices. Excludes nonpartisan offices.

Allows voters at primary election to vote for any candidate for voter choice office, without regard to political party affiliation, or lack of affiliation, of voter or candidate. Specifies that two candidates for voter choice office receiving highest number of votes at primary election are nominated for office at general election.

A BILL FOR AN ACT

Relating to elections; creating new provisions; amending ORS 171.051, 171.060, 171.068, 188.120, 246.560, 248.006, 248.007, 248.008, 249.002, 249.016, 249.020, 249.031, 249.042, 249.046, 249.064, 249.072, 249.076, 249.088, 249.180, 249.205, 249.722, 249.735, 249.737, 249.740, 249.830, 249.850, 251.022, 253.030, 253.540, 253.565, 254.005, 254.056, 254.076, 254.115, 254.135, 254.195, 254.205, 254.235, 254.365, 254.370, 254.470, 254.480, 254.575, 254.650 and 260.112; and repealing ORS 249.068, 249.200, 254.025 and 254.069.

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

SECTION 1. ORS 254.056 is amended to read:

254.056. (1) The general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year. Except as provided in ORS 254.650, at the general election officers of the state and subdivisions of the state, members of Congress and electors of President and Vice President of the United States as are to be elected in that year shall be elected.

(2) The primary election shall be held on the third Tuesday in May of

1 each even-numbered year. At the primary election [*precinct committeepersons*
 2 *shall be elected and major political party candidates shall be nominated for*
 3 *offices to be filled at the general election held in that year*]:

4 (a) Precinct committeepersons shall be elected by members of major
 5 political parties;

6 (b) Nonpartisan candidates shall be nominated for offices to be
 7 filled at the general election held in that year or elected by all electors,
 8 as provided in ORS 249.088;

9 (c) Voter choice office candidates shall be nominated by all electors,
 10 as described in ORS chapter 249, for offices to be filled at the general
 11 election held in that year;

12 (d) In a year in which a President and Vice President of the United
 13 States are to be elected, major political party candidates for the offices
 14 of President and Vice President of the United States shall be nomi-
 15 nated to the general election ballot by members of their respective
 16 political parties; and

17 (e) An elector may vote for any candidate for a voter choice office,
 18 without regard to the political party affiliation, or lack of political
 19 party affiliation, of the elector or the candidate.

20 **SECTION 2.** ORS 249.088 is amended to read:

21 249.088. (1) [*Unless otherwise provided by a home rule charter, at the*
 22 *nominating election held on the date of the primary election, two candidates*
 23 *shall be nominated for the nonpartisan office.*] **Subject to subsections (3)**
 24 **and (4) of this section and the provisions of a home rule charter, for**
 25 **nonpartisan offices, the two candidates receiving the highest number**
 26 **of votes at the primary election shall be nominated to the general**
 27 **election.**

28 (2) **Except as provided by a home rule charter, for voter choice of-**
 29 **fices, the two candidates receiving the highest number of votes at the**
 30 **primary election shall be nominated to the general election.**

31 (3) [*However,*] **Except as provided in subsection (4) of this section,**

1 when a candidate[*other than a candidate for the office of sheriff, a candidate*
2 *for the office of county clerk, a candidate for the office of county treasurer or*
3 *a candidate to fill a vacancy,*] **for nonpartisan office** receives a majority of
4 the votes cast for the office at the [nominating] **primary** election, that can-
5 didate is elected.

6 [(2)] (4) When a candidate for the office of sheriff, [*the office of*] county
7 clerk[*the office of*] **or** county treasurer or a candidate to fill a vacancy re-
8 ceives a majority of votes cast for the office at the nominating election, that
9 candidate alone is nominated.

10 **SECTION 3.** ORS 249.002 is amended to read:

11 249.002. As used in this chapter:

12 (1) "Candidate" means an individual whose name is or is expected to be
13 printed on the official ballot.

14 (2) "County clerk" means the county clerk or the county official in charge
15 of elections.

16 (3) "Elector" means an individual qualified to vote under section 2, Arti-
17 cle II, Oregon Constitution.

18 (4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit
19 court or the Oregon Tax Court, or any county judge who exercises judicial
20 functions.

21 (5) "Member" means an individual who is registered as being affiliated
22 with the political party.

23 (6) "Minor political party" means a political party that has qualified as
24 a minor political party under ORS 248.008.

25 (7) "Nonpartisan office" means the office of judge, Superintendent of
26 Public Instruction, Commissioner of the Bureau of Labor and Industries, any
27 elected office of a metropolitan service district under ORS chapter 268, jus-
28 tice of the peace, county clerk, county assessor, county surveyor, county
29 treasurer, sheriff, district attorney or any office designated nonpartisan by
30 a home rule charter.

31 (8) "Prospective petition" means the information, except signatures and

1 other identification of petition signers, required to be contained in a com-
2 pleted petition.

3 (9) "Public office" means any national, state, county, city or district office
4 or position, except a political party office, filled by the electors.

5 (10) "State office" means Governor, Secretary of State, State Treasurer,
6 Attorney General, Commissioner of the Bureau of Labor and Industries, Su-
7 perintendent of Public Instruction, judge, state Senator, state Representative
8 or district attorney.

9 (11) "Voter choice office" means the office of United States Senator,
10 Representative in Congress, Governor, Secretary of State, State
11 Treasurer, Attorney General, state Senator or state Representative or
12 any state, county, city or district office that is not:

13 (a) A nonpartisan office; or

14 (b) An office for which nominations to the general election by pol-
15 itical parties are otherwise authorized by law.

16 **SECTION 4.** ORS 254.005 is amended to read:

17 254.005. As used in this chapter:

18 (1) "Ballot" means any material on which votes may be cast for candi-
19 dates or measures. In the case of a recall election, "ballot" includes material
20 posted in a voting compartment or delivered to an elector by mail.

21 (2) "Ballot label" means the material containing the names of candidates
22 or the measures to be voted on.

23 (3) "Chief elections officer" means the:

24 (a) Secretary of State, regarding a candidate for a state office or an office
25 to be voted on in the state at large or in a congressional district, or a
26 measure to be voted on in the state at large.

27 (b) County clerk, regarding a candidate for a county office, or a measure
28 to be voted on in a county only.

29 (c) City clerk, auditor or recorder, regarding a candidate for a city office,
30 or a measure to be voted on in a city only.

31 (4) "County clerk" means the county clerk or the county official in charge

1 of elections.

2 (5) "Elector" means an individual qualified to vote under section 2, Arti-
3 cle II, Oregon Constitution.

4 (6) "Major political party" means a political party that has qualified as
5 a major political party under ORS 248.006.

6 (7) "Measure" includes any of the following submitted to the people for
7 their approval or rejection at an election:

8 (a) A proposed law.

9 (b) An Act or part of an Act of the Legislative Assembly.

10 (c) A revision of or amendment to the Oregon Constitution.

11 (d) Local, special or municipal legislation.

12 (e) A proposition or question.

13 (8) "Minor political party" means a political party that has qualified as
14 a minor political party under ORS 248.008.

15 (9) "Nonpartisan office" means the office of judge of the Supreme Court,
16 Court of Appeals, circuit court or the Oregon Tax Court, Superintendent of
17 Public Instruction, Commissioner of the Bureau of Labor and Industries, any
18 elected office of a metropolitan service district under ORS chapter 268, jus-
19 tice of the peace, county clerk, county assessor, county surveyor, county
20 treasurer, county judge who exercises judicial functions, sheriff, district at-
21 torney or any office designated nonpartisan by a home rule charter.

22 (10) "Prospective petition" means the information, except signatures and
23 other identification of petition signers, required to be contained in a com-
24 pleted petition.

25 (11) "Regular district election" means the election held each year for the
26 purpose of electing members of a district board as defined in ORS 255.005 (2).

27 (12) "Vote tally system" means one or more pieces of equipment necessary
28 to examine and tally automatically the marked ballots.

29 (13) "Voter choice office" means the office of United States Senator,
30 Representative in Congress, Governor, Secretary of State, State
31 Treasurer, Attorney General, state Senator or state Representative or

1 any state, county, city or district office that is not:

2 (a) A nonpartisan office; or

3 (b) An office for which nominations to the general election by pol-
4 itical parties are otherwise authorized by law.

5 [(13)] (14) "Voting machine" means any device that will record every vote
6 cast on candidates and measures and that will either internally or externally
7 total all votes cast on that device.

8 **SECTION 5.** ORS 248.006 is amended to read:

9 248.006. (1) An affiliation of electors becomes a major political party in
10 this state *[and is qualified to make nominations at a primary election]* when
11 a number of electors equal to at least five percent of the number of electors
12 registered in this state are registered as members of the party not later than
13 the 275th day before the date of a primary election. An affiliation of electors
14 satisfying the requirements of this subsection shall be subject to the pro-
15 visions of ORS 248.007 on the date the Secretary of State determines the
16 registration requirements are satisfied.

17 (2) The number of electors described in subsection (1) of this section shall
18 be calculated based on the number of electors registered in this state and
19 eligible to vote, as reported on the official abstracts of the election, at the
20 general election immediately preceding the deadline specified in subsection
21 (1) of this section.

22 (3) After an affiliation of electors becomes a major political party under
23 subsection (1) of this section, in order to maintain status as a major political
24 party subject to ORS 248.007, the party must satisfy the registration re-
25 quirement of subsection (1) of this section not later than the 275th day before
26 each primary election.

27 (4) An affiliation of electors ceases to be a major political party if the
28 registration requirements of subsection (1) of this section are not satisfied
29 by the 275th day before each primary election. The affiliation of electors
30 ceases to be a major political party on the date the Secretary of State de-
31 termines that the registration requirement is not satisfied.

(5) When an affiliation of electors has not satisfied the registration requirement of subsection (1) of this section for the first time, at the request of a representative of the affiliation of electors, the Secretary of State shall determine not less than once each month whether at least five percent of the number of eligible electors registered in this state are registered as members of the party. After an affiliation of electors has qualified as a major political party, the Secretary of State shall determine on the 274th day before each primary election whether the major political party has satisfied the registration requirements described in subsection (3) of this section.

SECTION 6. ORS 248.007 is amended to read:

248.007. (1) Subject to ORS 248.005, a major political party may organize and select delegates to national party conventions in any manner.

(2) The provisions of ORS 248.012 to 248.315 do not apply to a major political party if the party has notified the Secretary of State as provided in subsection (5) of this section that the party does not intend to be subject to the provisions of ORS 248.012 to 248.315. References to precinct committeepersons in any provisions of ORS chapters 246 to 260 do not apply to a party described in this subsection.

(3) ORS 248.012 to 248.315 apply only to a major political party that has notified the Secretary of State as provided in subsection (5) of this section that the political party intends to be subject to the provisions of ORS 248.012 to 248.315. References to precinct committeepersons in any provisions of ORS chapters 246 to 260 shall apply to a party described in this subsection. If a major political party fails to notify the Secretary of State under this subsection, the party shall be considered subject to the provisions of ORS 248.012 to 248.315.

(4) A major political party shall notify the Secretary of State as provided in subsection (5) of this section if the party does not intend to be subject to the provisions of ORS 248.012 to 248.315 except that the party intends to elect precinct committeepersons. If a party notifies the Secretary of State under this subsection, the party shall elect precinct committeepersons only as pro-

1 vided in ORS 248.015 and shall elect precinct committeepersons in the same
2 manner in all precincts in this state.

3 (5) Not later than the 274th day before the date of the primary election,
4 a major political party shall notify the Secretary of State in writing whether
5 or not the party intends to be subject to the provisions of ORS 248.012 to
6 248.315 or whether the party intends to elect precinct committeepersons un-
7 der subsection (4) of this section. If the major political party does not intend
8 to be subject to the provisions of ORS 248.012 to 248.315 or intends to elect
9 precinct committeepersons under subsection (4) of this section, the party
10 shall file with the Secretary of State, at the same time notice is given under
11 this subsection, a copy of its organizational documents setting forth the
12 manner in which its officers and managing committees are selected or any
13 other manner in which it conducts its affairs.

14 (6) In each even-numbered year, a major political party shall file with the
15 Secretary of State a statement indicating that the party is operating subject
16 to ORS 248.012 to 248.315 or a copy of current organizational documents
17 setting forth the manner in which its officers and managing committees are
18 selected or any other manner in which it conducts its affairs. Material de-
19 scribed in this subsection shall be filed on the 274th day before the third
20 Tuesday in May of each odd-numbered year.

21 [(7) A major political party subject to the provisions of this section shall
22 nominate candidates of the major political party, for other than political party
23 office, at the primary election.]

24 **SECTION 7.** ORS 248.008 is amended to read:

25 248.008. (1) An affiliation of electors becomes a minor political party in
26 [the state, a county or other electoral district,] **this state**, qualified to make
27 nominations for public office in [that electoral district and in any other elec-
28 toral district wholly contained within the electoral district] **this state in**
29 **years in which a President and Vice President of the United States are**
30 **to be elected**, when either of the following events occurs:

31 (a) When the affiliation of electors has filed with the Secretary of State

1 a petition with the signatures of at least a number of electors equal to one
2 and one-half percent of the total votes cast in the [electoral district] **state**
3 for all candidates for Governor at the most recent election at which a can-
4 didate for Governor was elected to a full term. The petition also shall state
5 the intention to form a new political party and give the designation of it.
6 The filed petition shall contain only original signatures. The petition shall
7 be filed not later than two years following the date the prospective petition
8 is filed. The circulator shall certify on each signature sheet that the indi-
9 viduals signed the sheet in the presence of the circulator and that the
10 circulator believes each individual is an elector registered in the [electoral
11 district] **state**. The Secretary of State shall verify whether the petition con-
12 tains the required number of signatures of electors. The petition shall not
13 be accepted for filing if it contains less than 100 percent of the required
14 number of signatures. The Secretary of State by rule shall designate a sta-
15 tistical sampling technique to verify whether a petition contains the required
16 number of signatures of electors. A petition shall not be rejected for the
17 reason that it contains less than the required number of signatures unless
18 two separate sampling processes both establish that the petition lacks the
19 required number of signatures. The second sampling must contain a larger
20 number of signatures than the first sampling. The Secretary of State may
21 employ professional assistance to determine the sampling technique. The
22 statistical sampling technique may be the same as that adopted under ORS
23 250.105. Before circulating the petition, the chief sponsor of the petition shall
24 file with the Secretary of State a signed copy of the prospective petition. The
25 chief sponsor shall include with the prospective petition a statement declar-
26 ing whether one or more persons will be paid money or other valuable con-
27 sideration for obtaining signatures of electors on the petition. After the
28 prospective petition is filed, the chief sponsor shall notify the filing officer
29 not later than the 10th day after the chief sponsor first has knowledge or
30 should have had knowledge that:

31 (A) Any person is being paid for obtaining signatures, when the statement

1 included with the prospective petition declared that no such person would
2 be paid.

3 (B) No person is being paid for obtaining signatures, when the statement
4 included with the prospective petition declared that one or more such per-
5 sons would be paid.

6 (b) When the affiliation of electors has polled for *[any one of its candi-*
7 *dates for any public office in the electoral district]* **its candidate for Presi-**
8 **dent of the United States** at least one percent of the total votes cast in the
9 *[electoral district]* **state** for all candidates for[:]

10 [(A)] presidential elector at the last general election at which candidates
11 for President and Vice President of the United States were listed on the
12 ballot[: or].

13 [(B) *Any single state office to be voted upon in the state at large for which*
14 *nominations by political parties are permitted by law at the most recent*
15 *election at which a candidate for the office was elected to a full term.*]

16 (2) After satisfying either requirement of subsection (1) of this section,
17 the minor political party may nominate candidates at the next general
18 election **at which a President and Vice President of the United States**
19 **are to be elected** if at any time during the period beginning on the date of
20 the next primary election **held in a year when a President and Vice**
21 **President of the United States are to be elected** and ending on the 90th
22 day before the next general election, a number of electors equal to at least
23 one-tenth of one percent of the total votes cast in the state *[or electoral*
24 *district]* for all candidates for Governor at the most recent election at which
25 a candidate for Governor was elected to a full term are registered as mem-
26 bers of the party.

27 (3) A filing officer *[shall]* **may** not accept a certificate of nomination of
28 a candidate nominated by a minor political party unless the minor political
29 party has satisfied the registration requirement of subsection (2) of this
30 section.

31 (4) After a minor political party qualifies to nominate candidates, in order

1 to maintain status as a minor political party:

2 (a) A candidate or candidates of the party must poll a number of votes
3 described in subsection (1)(b) of this section at each subsequent general
4 election **held in a year when a President and Vice President of the**
5 **United States are to be elected** and, following each general election, the
6 registration requirement of subsection (2) of this section must be satisfied;
7 or

8 (b) Following each general election **held in a year when a President**
9 **and Vice President of the United States are to be elected**, at any time
10 during the period beginning on the date of the next primary election **held**
11 **in a year when a President and Vice President of the United States**
12 **are to be elected** and ending on the 90th day before the next general
13 election, a number of electors equal to at least one-half of one percent of the
14 total number of registered electors in this state must be registered as mem-
15 bers of the party.

16 (5) An affiliation of electors ceases to be a minor political party in the
17 state [*or electoral district*] if:

18 (a) The registration requirement of subsection (2) or (4)(b) of this section
19 is not satisfied. The affiliation of electors ceases to be a minor political party
20 on the date of the deadline for satisfying the registration requirement; or

21 (b) Except as provided in subsection (4)(b) of this section, in the case of
22 a minor political party qualified to nominate candidates, a candidate or
23 candidates of the minor political party do not satisfy the one percent re-
24 quirement specified in subsection (1)(b) of this section at the next general
25 election **held in a year when a President and Vice President of the**
26 **United States are to be elected**. The affiliation of electors ceases to be a
27 minor political party on the date of the election.

28 (6) During the period beginning on the date of the primary election **held**
29 **in a year when a President and Vice President of the United States**
30 **are to be elected** and ending on the 90th day before the date of the general
31 election, the Secretary of State shall determine not less than once each

month whether the registration requirement of subsection (2) or (4)(b) of this section has been satisfied. If the party changes its name, only those electors who register on or after the effective date of the name change as members of the party under the new party name shall be counted as members of the party under this subsection.

(7) An affiliation of electors or a minor political party may not satisfy the one percent requirement referred to in subsection (1)(b) of this section by nominating a candidate who is the nominee of another political party at the same election.

SECTION 8. ORS 249.016 is amended to read:

249.016. A candidate *[of a major political party for public]* **for voter choice** office or a candidate for nonpartisan office shall be nominated only in the manner provided in ORS 249.016 to 249.205.

SECTION 9. ORS 249.020 is amended to read:

249.020. (1) An eligible elector may become a candidate for nonpartisan office, or for *[the nomination to an office by the major political party of which the elector is a member]* **voter choice office**, by filing a nominating petition or a declaration of candidacy.

(2) At the time of filing, a declaration of candidacy shall be accompanied by the filing fee specified in ORS 249.056.

(3) At the time of filing, a nominating petition shall contain the signature sheets described under ORS 249.064.

SECTION 10. ORS 249.031 is amended to read:

249.031. (1) Except as provided in subsection (2) of this section, a nominating petition or declaration of candidacy shall contain:

(a) The name by which the candidate is commonly known. A candidate may use a nickname in parentheses in connection with the candidate's full name.

(b) Address information as required by the Secretary of State by rule.

(c) The office and department or position number, if any, for which the candidate seeks nomination.

(d) If the candidate is seeking *[the nomination of a major political party]* nomination to a voter choice office, and the candidate is a member of a major or minor political party, the name of the major or minor political party of which the candidate *[will have been a member, subject to the exceptions stated in ORS 249.046, during at least 180 days before the deadline for filing a nominating petition or declaration of candidacy]* is a member.

(e) If the candidate is seeking nomination to a voter choice office and the candidate is not a member of a political party, a statement that the candidate is nonaffiliated.

[(e)] (f) A statement that the candidate is willing to accept the nomination or election or, regarding a candidate for precinct committeeperson, that the candidate accepts the office if elected.

[(f)] (g) A statement that the candidate will qualify if elected.

[(g)] If the candidate is seeking the nomination of a major political party, a statement that the candidate, if not nominated, will not accept the nomination or indorsement of any political party other than the one of which the candidate is a member on the date the petition or declaration is filed.]

(h) The signature of the candidate.

(i) A statement of the candidate's occupation, educational and occupational background and prior governmental experience.

(2) Subsection (1)(i) of this section does not apply to a candidate for election as a precinct committeeperson.

(3) A declaration of candidacy shall include a statement that the required fee is included with the declaration.

(4) If required by the national rules of the major political party, the declaration of a candidate for election as a precinct committeeperson shall include the name of the individual the candidate supports for President of the United States or "uncommitted" or "no preference."

SECTION 11. ORS 249.042 is amended to read:

249.042. When an elector files with the appropriate filing officer a signed copy of the elector's prospective petition for nomination under ORS 249.061,

1 or a declaration of candidacy, *[it shall be]* **the signed copy is** conclusive
 2 evidence that the elector is a candidate for nomination or election *[by the*
 3 *elector's political party or]* to the **voter choice office or** nonpartisan office
 4 stated in the petition or declaration.

5 **SECTION 12.** ORS 249.046 is amended to read:

6 249.046. (1) If a candidate has not been a member of the major political
 7 party for at least 180 days before the deadline for filing a nominating peti-
 8 tion or declaration of candidacy, the candidate shall not be entitled to re-
 9 ceive the nomination of that major political party.

10 (2) If a *[candidate's]* **candidate is registered as a member of a political**
 11 **party and the registration of the candidate** becomes inactive, the inactive
 12 status *[shall]* **does** not constitute a lapse of membership in the party if, im-
 13 mediately before the registration became inactive, the candidate was a
 14 member of the party and was not a member of any other political party
 15 within the 180 days preceding the deadline for filing a nominating petition
 16 or declaration of candidacy.

17 (3) The requirement that the candidate be qualified by length of mem-
 18 bership does not apply to any candidate whose 18th birthday falls within the
 19 period of 180 days or to a write-in candidate.

20 (4) **This section does not apply to a candidate for a voter choice**
 21 **office.**

22 **SECTION 13.** ORS 249.064 is amended to read:

23 249.064. *[(1) A nominating petition of a candidate seeking the nomination*
 24 *of a major political party shall contain a statement that each elector whose*
 25 *signature appears on the petition is a member of the same major political party*
 26 *as is the candidate.]*

27 *[(2)]* (1) A nominating petition of any candidate shall contain the number
 28 of signatures of electors required by ORS *[249.068 or]* 249.072 and the resi-
 29 dence address and name or number of the precinct, if known, of each elector
 30 whose signature appears.

31 *[(3)]* (2) The signatures contained in the nominating petition shall be

1 certified for genuineness by the county clerks under ORS 249.008.

2 **SECTION 14.** ORS 249.072 is amended to read:

3 249.072. (1) [*If the nonpartisan office is to be voted for in the state at large,*
 4 *the*] **A nominating petition for an office to be voted for in the state at**
 5 **large or for a candidate for Representative in Congress** shall contain at
 6 least 1,000 signatures of electors, or a number of signatures [*of electors*] equal
 7 to at least one percent of the vote cast in the state **or congressional dis-**
 8 **trict, as the case may be,** for all candidates for Governor at the most re-
 9 cent election at which a candidate for Governor was elected to a full term,
 10 whichever is less. **If the office is to be voted for in the state at large,**
 11 the signatures shall include those of electors registered in each of at least
 12 five percent of the precincts in each of at least seven counties. **If the office**
 13 **is to be voted for in a congressional district, the signatures shall in-**
 14 **clude those of electors registered in at least five percent of the pre-**
 15 **incts in each of at least one-fourth of the counties in the**
 16 **congressional district.**

17 (2) In the case of a candidate for Representative in Congress, for
 18 an election next following any change in the boundaries of a congres-
 19 sional district, there shall be at least 1,000 signatures of electors, or
 20 the number of signatures equal to at least one percent of the average
 21 number of votes cast in all congressional districts in this state for all
 22 candidates for Governor at the most recent election at which a can-
 23 didate for Governor was elected to a full term, whichever is less.

24 [(2)] (3)(a) The nominating petition for [*a nonpartisan office*] **an office**
 25 not provided for in subsection (1) or (2) of this section shall contain at least
 26 500 signatures of electors in the electoral district, or a number of signatures
 27 of electors equal to at least one percent of the vote cast in the electoral
 28 district for all candidates for Governor at the most recent election at which
 29 a candidate for Governor was elected to a full term, whichever is less. [*In*
 30 *addition:*]

31 (b) In the case of a candidate for state Senator or state Represen-

tative, for an election next following any change in the boundaries of the districts of state Senators or state Representatives under section 6, Article IV of the Oregon Constitution, the nominating petition shall contain at least 500 signatures.

[(a)] (c) If an office under this subsection is to be voted for in more than one county, the signatures shall include those of electors registered in each of at least six percent of the precincts in the electoral district that are located in each of two or more of the counties, or portions of the counties, within which the electoral district is located. If six percent of the precincts of the electoral district in one of the counties or portion thereof does not constitute a whole precinct, the nominating petition shall contain signatures from at least one precinct in that county.

[(b)] (d) If the office is to be voted for in only one county or in a city, the signatures shall include those of electors registered in each of at least 10 percent of the precincts in the electoral district.

SECTION 15. ORS 249.076 is amended to read:

249.076. [(1) A person who is not a member of the same major political party as the candidate for nomination by the major political party may not sign the nominating petition of the candidate.]

[(2) Any elector may sign:]

[(a) A nominating petition or certificate of nomination of any candidate for nonpartisan office;]

[(b) A nominating petition or certificate of nomination of any nonaffiliated candidate; and]

[(c) Nominating petitions or certificates of nomination for more than one candidate for the same office.] Any elector may sign a nominating petition or certificate of nomination of any candidate for nonpartisan office or voter choice office and may sign petitions or certificates for more than one candidate for the same office.

SECTION 16. ORS 249.180 is amended to read:

249.180. (1) Any person who has been nominated at a primary election,

1 or any person who has been nominated to fill a vacancy as provided in ORS
 2 188.120 or 249.190 [*and 249.200*], may withdraw from nomination by filing a
 3 written statement declining the nomination and stating the reason for with-
 4 drawal.

5 (2) The statement shall be signed by the candidate and filed not later than
 6 the 67th day before the general election with the officer with whom the
 7 candidate's declaration of candidacy or nominating petition was filed.

8 **SECTION 17.** ORS 249.205 is amended to read:

9 249.205. (1) If the only candidate nominated to a nonpartisan office **or**
 10 **voter choice office** dies, withdraws or becomes ineligible, or if a vacancy
 11 occurs in the nonpartisan office **or voter choice office** after the 70th day
 12 before the [*nominating*] **primary** election and [*on or*] before the [*62nd*] **61st**
 13 day before the general election, a candidate for the office may file a decla-
 14 ration of candidacy in the manner provided for nonpartisan office **or voter**
 15 **choice office** or shall be nominated by nominating petition in the manner
 16 provided for nonpartisan office **or voter choice office**.

17 (2) The Secretary of State by rule may adopt a schedule for filing nomi-
 18 nating petitions or declarations of candidacy under **subsection (1) of this**
 19 section. The schedule may specify the period within which nominating pe-
 20 titions or declarations of candidacy must be filed after a vacancy occurs.

21 (3) **Notwithstanding ORS 254.065, if a vacancy in a nomination to a**
 22 **voter choice office occurs before the 61st day before the general**
 23 **election, the qualified candidate, if any, who received the next highest**
 24 **number of votes at the primary election shall be the replacement**
 25 **nominee. The filing officer shall file the name of the replacement**
 26 **nominee with each appropriate county clerk.**

27 **SECTION 18.** ORS 188.120 is amended to read:

28 188.120. (1) If a vacancy in election or office of Representative in Congress
 29 or United States Senator occurs before the 61st day before the general
 30 election, the Governor shall call a special election to fill that vacancy. If a
 31 vacancy in election or office of United States Senator occurs after the 62nd

1 day before the general election but on or before the general election, and if
 2 the term of that office is not regularly filled at that election, the Governor
 3 shall call a special election to fill the vacancy as soon as practicable after
 4 the general election.

5 (2) If a special election to fill the vacancy in election or office of Repre-
 6 sentative in Congress or United States Senator is called before the 80th day
 7 after the vacancy occurs, *[each major political party shall select its nominee*
 8 *for the office and certify the name of the nominee to the Secretary of State.*
 9 *The Secretary of State shall place the name of the nominee on the ballot]* **the**
 10 **candidate who receives the highest number of votes is elected. A dec-**
 11 **laration of candidacy or nominating petition may be filed not later**
 12 **than the 10th day following the issuance of the writ of election. The**
 13 **Secretary of State shall place on the ballot the names of qualified**
 14 **electors who have filed otherwise sufficient declarations or petitions.**

15 (3) If a special election to fill the vacancy in election or office of Repre-
 16 sentative in Congress or United States Senator is called after the 79th day
 17 after the vacancy occurs, a special primary election shall be conducted by
 18 the Secretary of State for the purpose of nominating *[a candidate of each*
 19 *major political party]* **candidates.** A declaration of candidacy or nominating
 20 petition may be filed not later than the 10th day following the issuance of
 21 the writ of election.

22 (4) **The nomination of candidates for special elections conducted**
 23 **under this section shall be as provided in ORS chapter 249, except that**
 24 **the Secretary of State may accept nominating petitions and declara-**
 25 **tions of candidacy according to a schedule for filing set by the Secre-**
 26 **tary of State by rule.**

27 **SECTION 19.** ORS 171.051 is amended to read:

28 171.051. (1) When any vacancy occurs in the Legislative Assembly due to
 29 death or recall or by reason of resignation filed in writing with the Secretary
 30 of State, or if a person is declared disqualified by the house to which the
 31 person was elected, the vacancy shall be filled by appointment if:

(a) The vacancy occurs during any session of the Legislative Assembly;

(b) The vacancy occurs in the office of a state Representative before the 61st day before the general election to be held during that term of office;

(c) The vacancy occurs in the office of a state Senator before the 61st day before the first general election to be held during that term of office;

(d) The vacancy occurs in the office of a state Senator at any time after the 62nd day before the first general election and before the 61st day before the second general election to be held during that term of office; or

(e) A special session of the Legislative Assembly will be convened before a successor to the office can be elected and qualified.

(2) The person appointed under the provisions of subsection (1) of this section shall be a citizen qualified to hold the office[,] **and** an elector of the affected legislative district [*and a member of the same political party for at least 180 days before the date on which the vacancy occurred. The political affiliation of a person appointed under subsection (1) of this section shall be determined under ORS 236.100*]. The appointment shall be made by the county courts or boards of county commissioners of the affected counties pursuant to ORS 171.060 to 171.064. [*When the provisions of ORS 171.060 (1) are applicable, the appointment shall be made from a list of not fewer than three nor more than five nominees who have signed written statements indicating that they are willing to serve furnished by the Secretary of State. If fewer than three names of nominees are furnished, a list shall not be considered to have been submitted and the county courts or boards of county commissioners shall fill the vacancy.*] The vacancy must be filled by appointment within 30 days after its occurrence or not later than the time set for the convening of the special session described in subsection (1)(e) of this section when that is the basis for filling the vacancy.

(3) If the appointing authority required by this section to fill the vacancy does not do so within the time allowed, the Governor shall fill the vacancy by appointment within 10 days.

(4) Notwithstanding any appointment under the provisions of subsection

(1)(c) of this section, when a vacancy occurs in the office of a state Senator before the 61st day before the first general election to be held during that term of office, the remaining two years of the term of office shall be filled by the electors of the affected legislative district at the first general election.

(5) Candidates for the remaining two years of the term of office of a state Senator under subsection (4) of this section shall be nominated as provided in ORS chapter 249, *[except as follows:]*

[(a) A major political party, minor political party, assembly of electors or individual electors may select a nominee for any vacancy occurring before the 61st day before the first general election; and]

[(b) The Secretary of State shall accept certificates of nomination and notifications of nominees selected by party rule and filed with the secretary] except that the Secretary of State shall accept nominating petitions and declarations of candidacy pursuant to a schedule for filing set by the Secretary of State but in any case not later than the 62nd day before the first general election.

(6) The remaining two years of the term of office of a state Senator under subsection (4) of this section will commence on the second Monday in January following the general election. Any appointment under the provisions of subsection (1)(c) of this section shall expire when a successor to the office is elected and qualified.

SECTION 20. ORS 171.060 is amended to read:

171.060. *[(1) When any vacancy as is mentioned in ORS 171.051 exists in the office of Senator or Representative affiliated with a major political party and that vacancy is to be filled by an appointing authority as provided in ORS 171.051, the Secretary of State forthwith shall notify the person designated by the party to receive such notice. The party shall pursuant to party rule nominate not fewer than three nor more than five qualified persons to fill the vacancy. The nominating procedure shall reflect the principle of one-person, one-vote to accord voting weight in proportion to the number of party members represented. At the request of a party making a nomination, the county clerks*

1 of each county constituting the district in which the vacancy exists shall assist
2 the party in determining the number of electors registered as members of the
3 party in the district. A person shall not be nominated to fill the vacancy unless
4 the person signs a written statement indicating that the person is willing to
5 serve in the office of Senator or Representative. As soon as the nominees have
6 been appointed, but no later than 20 days after the vacancy occurs, the party
7 shall notify the Secretary of State of the persons nominated. The notification
8 shall be accompanied by the signed written statement of each nominee indi-
9 cating that the nominee is willing to serve in the office of Senator or Repre-
10 sentative. The Secretary of State shall notify the county courts or boards of
11 county commissioners of the counties constituting the district in which the
12 vacancy exists of the nominees and of the number of votes apportioned to each
13 member of the county courts or boards of county commissioners under ORS
14 171.062 and 171.064. The Secretary of State shall set a time for the meeting of
15 the county courts or boards of county commissioners in order to fill the vacancy
16 and by rule shall establish procedures for the conduct of the meeting. If the
17 district is composed of more than one county, the Secretary of State shall name
18 a temporary chairperson and designate a meeting place within the district
19 where the county courts or boards of county commissioners shall convene for
20 the purpose of filling the vacancy, pursuant to ORS 171.051 (2).]

21 [(2)] (1) When any vacancy **described** [as is mentioned] in ORS 171.051
22 exists in the office of **state** Senator or **state** Representative [not affiliated
23 with a major political party] and that vacancy is to be filled by an appointing
24 authority as provided in ORS 171.051, the Secretary of State forthwith shall
25 notify the county courts or boards of county commissioners of the counties
26 constituting the district in which the vacancy occurs of the vacancy and of
27 the number of votes apportioned to each member of the county courts or
28 boards of county commissioners under ORS 171.062 and 171.064. The Secre-
29 tary of State shall set a time for a meeting of the county courts or boards
30 of county commissioners and by rule shall establish procedures for the con-
31 duct of the meeting. If the district is composed of more than one county, the

Secretary of State shall name a temporary chairperson and designate a meeting place within the district where the county courts or boards of county commissioners shall convene for the purpose of appointing a person to fill the vacancy.

[(3)] (2) A written statement signed by a majority of those qualified to vote upon the filling of any vacancy naming the person selected to fill the vacancy and directed to the Secretary of State is conclusive evidence of the filling of the vacancy by the appointing authority named therein.

SECTION 21. ORS 171.068 is amended to read:

171.068. (1) For purposes of ORS 171.060, 171.062 and 171.064, the county court or the board of county commissioners *[which shall]* **that must** fill the vacancy in the Legislative Assembly in a district created by reapportionment shall be the county court or board of county commissioners of each county any part of which is in the district that is created by the reapportionment and includes the residence from which the former **state** Senator or **state** Representative was elected.

(2) *[Each person nominated by a major political party to fill a vacancy in the Legislative Assembly occurring as described by ORS 171.051]* **A person appointed to fill a vacancy in the Legislative Assembly** in a district created by reapportionment must be registered to vote in the district from which the former **state** Senator or **state** Representative was elected *[and must have been a member of the same major political party at least 180 days before the date the vacancy to be filled occurred]*.

(3) This section *[shall apply]* **applies** only to a vacancy in the Legislative Assembly occurring after the primary election next following reapportionment and before a person has been elected and qualified to fill the vacancy.

SECTION 22. ORS 249.722 is amended to read:

249.722. (1) Except as provided in subsection (3) of this section, a certificate of nomination of a candidate for public office shall be filed not sooner than the 15th day after the date of the primary election and not later than the 70th day before the date of the general election.

1 [(2) *A certificate of nomination of a candidate for:*]

2 [(a) *State office, United States Senator or Representative in Congress shall*
3 *be filed with the Secretary of State.*]

4 [(b) *County office shall be filed with the county clerk.*]

5 [(c) *City office shall be filed with the chief city elections officer.*]

6 **(2) Certificates of nomination of candidates for electors of President**
7 **and Vice President of the United States shall be filed with the Secre-**
8 **tary of State.**

9 (3) For a special election, including an election to fill a vacancy that
10 occurs after the 70th day before the general election, the Secretary of State
11 by rule may adopt a schedule specifying the period within which a certificate
12 of nomination must be filed. If the Secretary of State does not adopt a rule
13 under this subsection, a certificate of nomination must be filed before the
14 61st day preceding the election.

15 **SECTION 23.** ORS 249.735 is amended to read:

16 249.735. (1) An assembly of electors is an organized body[:]

17 [(a)] of not fewer than 1,000 electors of the state for a statewide nomi-
18 nation.

19 [(b) *Of not fewer than 500 electors of the congressional district for which*
20 *the nomination for Representative in Congress is made.*]

21 [(c) *Of not fewer than 250 electors of the county or any other district for*
22 *which the nomination is made.*]

23 (2) An assembly of electors may nominate candidates at a nominating
24 convention. The convention shall be held in one day and [*last not*] **may not**
25 **last** longer than 12 hours. The signature, printed name and residence or
26 mailing address of each member of the assembly shall be recorded at the
27 convention and entered of record in the minutes by the secretary of the as-
28 sembly. Not less than the minimum number of electors required to constitute
29 an assembly of electors must have recorded their signatures in the minutes
30 of the assembly and must be present when the assembly nominates a candi-
31 date. The candidate receiving the highest number of votes of the assembly

1 for the office *[shall be]* is the nominee of the assembly.

2 (3) Not later than the 10th day before the meeting of an assembly of
3 electors, notice shall be published at least once in not less than three
4 newspapers of general circulation within the electoral district for which the
5 nomination will be made. The notice shall contain the time and place the
6 assembly will meet, the office or offices for which nominations will be made,
7 and the names and addresses of not fewer than 25 electors qualified to vote
8 in the assembly who desire that it be held.

9 (4) Proof of publication of notice in subsection (3) of this section shall
10 be made by affidavit of the owner, editor, publisher, manager, advertising
11 manager, principal clerk of any of them, or the printer or printer's foreman
12 of the newspaper in which the notice is published. The affidavit shall show
13 publication and shall be filed with the filing officer with the certificate of
14 nomination.

15 (5) Not later than the 10th day before the meeting of an assembly of
16 electors, a copy of the notice under subsection (3) of this section shall be
17 delivered to the filing officer who will supervise the conduct of the nomi-
18 nating convention.

19 (6) The presiding officer of an assembly of electors shall deliver the sig-
20 natures of assembly members entered in the minutes to the appropriate
21 county clerks of the counties in which the assembly members live. The sig-
22 natures shall be certified by the appropriate county clerk under ORS 249.008.
23 A copy of the minutes, certified by the secretary of the assembly, and the
24 certificate of the county clerk shall be filed with the filing officer with the
25 certificate of nomination.

26 (7) If the assembly of electors designates a committee to whom the as-
27 sembly delegated the authority to fill vacancies as provided in ORS 249.842,
28 a notice containing the names of the members of the committee shall be de-
29 livered to the filing officer with the certificate of nomination.

30 **SECTION 24.** ORS 249.737 is amended to read:

31 249.737. *[(1)]* The *[filing officer for the office for which nominations will*

be considered by an assembly of electors] **Secretary of State** shall supervise the conduct of the nominating convention. The *[filing officer]* **secretary** shall *[insure]* **ensure** that when the assembly of electors makes a nomination, the number of electors required to be present at the nominating convention for the purpose of constituting an assembly is at least equal to each of the following:

[(a)] **(1)** The number of signatures of assembly members in the minutes of the assembly.

[(b)] **(2)** The number of electors present at the nominating convention.

[(2) If an assembly of electors will consider nominations for an office for which the Secretary of State is the filing officer and an office for which the county clerk or chief city elections officer is the filing officer, the Secretary of State shall be the supervising officer under subsection (1) of this section.]

[(3) If an assembly of electors will consider nominations for an office for which the county clerk is the filing officer and an office for which the chief city elections officer is the filing officer, the county clerk shall be the supervising officer under subsection (1) of this section.]

SECTION 25. ORS 249.740 is amended to read:

249.740. (1) A certificate of nomination made by individual electors shall contain a number of signatures of electors in the electoral district equal to not less than one percent of the total votes cast in the electoral district for which the nomination is intended to be made, for all candidates for presidential electors at the last general election.

(2) Each elector signing a certificate of nomination made by individual electors shall include the residence or mailing address of the elector. *[Except for]* A certificate of nomination of candidates for electors of President and Vice President of the United States~~], a certificate of nomination]~~ made by individual electors *[shall]* **may** contain the name of *[only]* **more than one** candidate.

(3) Before beginning to circulate the certificate of nomination, the chief sponsor of the certificate shall file a signed copy of the prospective certifi-

icate with the *[filing officer referred to in ORS 249.722]* **Secretary of State**. The chief sponsor of the certificate shall include with the prospective certificate a statement declaring whether one or more persons will be paid money or other valuable consideration for obtaining signatures of electors on the certificate. After the prospective certificate is filed, the chief sponsor shall notify the *[filing officer]* **secretary** not later than the 10th day after the chief sponsor first has knowledge or should have had knowledge that:

(a) Any person is being paid for obtaining signatures, when the statement included with the prospective certificate declared that no such person would be paid.

(b) No person is being paid for obtaining signatures, when the statement included with the prospective certificate declared that one or more such persons would be paid.

(4) The circulator shall certify on each signature sheet that the individuals signed the sheet in the presence of the circulator and that the circulator believes each individual is an elector registered in the electoral district.

(5) The signatures contained in each certificate of nomination made by individual electors shall be certified for genuineness by the county clerk under ORS 249.008.

(6) As used in this section, "prospective certificate" means the information, except signatures and other identification of certificate signers, required to be contained in a completed certificate of nomination.

SECTION 26. ORS 249.830 is amended to read:

249.830. Any person who has been nominated and has accepted the nomination under ORS 249.712 may withdraw from nomination not later than the 67th day before the general election by filing with the *[officer with whom the certificate of nomination was filed]* **Secretary of State** a written statement declining the nomination and stating the reason for withdrawal. The statement shall be signed and acknowledged by the candidate before a notary public. *[The withdrawal may be sent to the Secretary of State through a county clerk, as provided by ORS 249.850.]*

SECTION 27. ORS 249.850 is amended to read:

249.850. (1) The certificate of nomination to fill the vacancy under ORS 249.842[*may be filed directly with the officer with whom the certificate of nomination of the original candidate was filed, or it may be presented in duplicate to any county clerk who shall file one of the certificates in the clerk's office, immediately notify the appropriate filing officer of the nomination and send the duplicate certificate to the officer by the most expeditious method practicable*] **shall be filed with the Secretary of State.**

(2) Upon receipt of notification that a vacancy has been filled, the [*filing officer*] **secretary** shall certify the name of the person selected to fill the vacancy to be included on the ballot. [*If the certification of candidates has already been sent to the county clerk, the Secretary of State or city filing officer*] **The secretary** immediately shall give written certification of the new candidate to each county clerk responsible for preparing ballots on which the office will appear.

(3) The certification shall state:

(a) The name and residence **address** of the candidate nominated to fill the vacancy[.];

(b) The office for which the nomination was made[.];

(c) The name of the minor political party the candidate represents or the name of the chairperson of the assembly nominating the candidate[.]; and

(d) The name of the person for whom the candidate is substituted.

(4) Upon receipt of the certification, the county clerk shall place the new candidate's name on the ballot.

SECTION 28. ORS 251.022 is amended to read:

251.022. (1) If a special election or special primary election is held under ORS 188.120 for the purpose of filling a vacancy in election or office of United States Senator or Representative in Congress, or for nominating [*a candidate of each major political party*] **candidates** to fill the vacancy, the Secretary of State shall prepare a voters' pamphlet for each election.

(2) A voters' pamphlet prepared under subsection (1) of this section shall

1 contain information about the candidates for nomination or election to the
2 office of United States Senator or Representative in Congress at the special
3 election or special primary election.

4 **SECTION 29.** ORS 253.030 is amended to read:

5 253.030. (1) Before an election any elector may apply to the clerk for the
6 absentee ballot of the election.

7 (2) An application for an absentee ballot must:

8 (a) Be in writing and signed by the applicant; and

9 (b) Be received by the clerk not later than 8 p.m. the day of the election.

10 (3) If an applicant not affiliated with any political party desires to vote
11 in any major political party primary election **held in a year when a Pres-**
12 **ident and Vice President of the United States are to be elected**, the
13 applicant may request and shall be sent a ballot for a major political party
14 if that political party has provided under ORS 254.365 for a primary election
15 that admits electors not affiliated with any political party.

16 (4) Application for an absentee ballot may be made by using a facsimile
17 machine. As used in this subsection, "facsimile machine" means a machine
18 that electronically transmits or receives facsimiles of documents through
19 connection with a telephone network.

20 (5) If an elector desires, the elector's application shall be valid for every
21 subsequent election until the elector otherwise notifies the clerk or is no
22 longer an elector of the county.

23 **SECTION 30.** ORS 253.540 is amended to read:

24 253.540. (1) Any long term absent elector may secure an absentee ballot
25 by submitting an application as specified in subsection (2) of this section to
26 the clerk of the county of the long term absent elector's residence, or to the
27 Secretary of State. If the application is addressed to the Secretary of State,
28 the secretary shall forward it to the appropriate county clerk.

29 (2) An application for an absentee ballot by a long term absent elector
30 shall be made in the form of a written request. The application shall be valid
31 for every subsequent election until the elector otherwise notifies the clerk

1 or is no longer an elector of the county. The application shall be signed by
2 the applicant and contain:

3 (a) The name and current mailing address of the applicant;

4 (b) A statement that the applicant is a citizen of the United States;

5 (c) A statement that the applicant will be 18 years of age or older on the
6 date of the election;

7 (d) A statement that for more than 20 days preceding the election the
8 applicant's home residence has been in this state, and giving the address of
9 the last home residence;

10 (e) A statement of the facts that qualify the applicant as a long term ab-
11 sent elector or as the spouse or a dependent of a long term absent elector;

12 (f) A statement that the applicant is not requesting a ballot from any
13 other state and is not voting in any other manner in the election except by
14 the requested absentee ballot; and

15 (g) If the applicant desires to vote in a primary election **held in a year**
16 **when a President and Vice President of the United States are to be**
17 **elected**, a designation of the applicant's political party affiliation or a
18 statement that the applicant is not affiliated with any political party. An
19 applicant not affiliated with any political party may request a ballot for a
20 major political party. The applicant shall be sent the ballot for the political
21 party that the applicant requested if that political party has provided under
22 ORS 254.365 for a primary election that admits electors not affiliated with
23 any political party.

24 **SECTION 31.** ORS 253.565 is amended to read:

25 253.565. (1) Any long term absent elector may secure a special absentee
26 ballot for a primary election or general election by making an application
27 under this section if the elector believes that:

28 (a) The elector will be residing, stationed or working outside the territo-
29 rial limits of the United States and the District of Columbia; and

30 (b) The elector will be unable to vote and return a regular absentee ballot
31 by normal mail delivery within the period provided for regular absentee

1 ballots.

2 (2) A long term absent elector shall make the application for a special
3 absentee ballot in the form of a written request. The elector shall submit the
4 application before the date of the applicable election to the clerk of the
5 county of the long term absent elector's residence or to the Secretary of
6 State. If the application is addressed to the Secretary of State, the secretary
7 shall forward it to the appropriate county clerk. The application shall be
8 signed by the applicant and contain:

9 (a) The name and current mailing address of the applicant;

10 (b) A designation of the election for which the applicant requests a spe-
11 cial absentee ballot;

12 (c) A statement that the applicant is a citizen of the United States;

13 (d) A statement that the applicant will be 18 years of age or older on the
14 date of the election;

15 (e) A statement that for more than 20 days preceding the election the
16 applicant's home residence has been in this state, and giving the address of
17 the last home residence;

18 (f) A statement of the facts that qualify the applicant as a long term ab-
19 sent elector or as the spouse or a dependent of a long term absent elector;

20 (g) A statement of the facts that qualify the applicant to vote by means
21 of a special absentee ballot;

22 (h) A statement that the applicant is not requesting a ballot from any
23 other state and is not voting in any other manner in the election except by
24 the requested special absentee ballot; and

25 (i) If the applicant requests a ballot for a primary election **held in a year**
26 **when a President and Vice President of the United States are to be**
27 **elected**, a designation of the applicant's political party affiliation or a
28 statement that the applicant is not affiliated with any political party. An
29 applicant not affiliated with any political party may request a ballot for a
30 major political party. The applicant shall be sent the ballot for the political
31 party that the applicant requested if that political party has provided under

1 ORS 254.365 for a primary election that admits electors not affiliated with
2 any political party.

3 (3) An application for a special absentee ballot shall be valid only for the
4 election specified in the application.

5 (4) The county clerk shall list on the special absentee ballot the offices
6 and measures scheduled to appear on the regular ballot, if known when the
7 ballot is prepared, and provide space in which the elector may write in the
8 elector's preference.

9 (5) The elector may write in the name of any eligible candidate for each
10 office to be filled or for which nominations will be made at the election, and
11 may vote on any measure submitted at the election.

12 **SECTION 32.** ORS 254.076 is amended to read:

13 254.076. The chief elections officer shall keep a register of candidates for
14 nomination at the primary election. The register, if applicable, shall contain
15 *[for each major political party]:*

16 (1) The title of each office for which *[the major political party will nomi-*
17 *nate]* candidates **will be nominated** at the primary election.

18 (2) The name and mailing address of each candidate for nomination at the
19 primary election.

20 (3) The name of the *[major]* political party, **if any**, with which the can-
21 didate is registered as affiliated.

22 (4) The date of filing of the prospective petition for nomination of the
23 candidate.

24 (5) The date of filing of the completed petition for nomination of the
25 candidate, the number of valid signatures contained and the number of sig-
26 natures required.

27 (6) The date of filing of the declaration of candidacy of the candidate.

28 (7) Such other information as may aid the chief elections officer in ar-
29 ranging the official ballot or ballot label for the primary election.

30 **SECTION 33.** ORS 254.115 is amended to read:

31 254.115. (1) The official primary election ballot or ballot label shall be

1 styled "Official Primary Nominating Ballot [*for the _____ Party.*]" and shall
2 state:

3 (a) The name of the county for which it is intended.

4 (b) The date of the primary election.

5 (c) The names of all candidates for nomination **or election** at the primary
6 election to **nonpartisan office or voter choice office** whose nominating
7 petitions or declarations of candidacy have been made and filed, and who
8 have not died, withdrawn or become disqualified.

9 *[(d) The names of candidates for election as precinct committeeperson.]*

10 *[(e) The names of candidates for the party nomination for President of the
11 United States who qualified for the ballot under ORS 249.078.]*

12 (d) The number, ballot title and financial estimates under ORS
13 250.125 of any measure.

14 (e) The names of candidates for election as precinct committeeper-
15 son and, in a year when a President and Vice President of the United
16 States are to be elected, the names of candidates for the political party
17 nomination for President of the United States who qualified for the
18 ballot under ORS 249.078, all listed separately on a ballot page labeled
19 "Official Primary Ballot for the _____ Party" and made available only
20 to members of the applicable political party.

21 (2) For a voter choice office, the county clerk shall print on the
22 ballot, following the name of the candidate:

23 (a) If the candidate is registered as a member of a political party
24 not later than the 70th day before the date of the primary election, the
25 statement "Member of _____" (official party name); or

26 (b) If the candidate is registered as not affiliated with any political
27 party not later than the 70th day before the date of the primary
28 election, the statement "Not affiliated with any political party."

29 (3) At least once on each ballot that contains a voter choice office,
30 the county clerk shall print the statement "The listing of the political
31 party membership status of a candidate for voter choice office is pro-

1 **vided for elector information purposes only and does not in itself imply**
 2 **formal support or endorsement by the political party listed."**

3 [(2)] (4) If the election is conducted at polling places as provided in this
 4 chapter, any ballot to be issued at a polling place shall also state the number
 5 or name of the precinct for which it is intended.

6 [(3) *The primary election ballot may include any city, county or nonpartisan*
 7 *office or the number, ballot title and financial estimates under ORS 250.125*
 8 *of any measure.*]

9 [(4)] (5) The ballot [shall] **may** not contain the name of any person other
 10 than those referred to in [subsections (1) and (3)] **subsection (1)** of this
 11 section. The name of each candidate for whom a nominating petition or
 12 declaration of candidacy has been filed shall be printed on the ballot in but
 13 one place. In the event that two or more candidates for the same nomination
 14 or office have the same or similar surnames, the location of their places of
 15 residence shall be printed opposite their names to distinguish one from an-
 16 other.

17 **SECTION 34.** ORS 254.135 is amended to read:

18 254.135. (1) The official general or special election ballot or ballot label
 19 shall be styled "Official Ballot" and shall state:

20 (a) The name of the county for which it is intended.

21 (b) The date of the election.

22 (c) The names of all candidates for offices to be filled at the election
 23 whose nominations have been made and accepted and who have not died,
 24 withdrawn or become disqualified. The ballot or ballot label may not contain
 25 the name of any other person.

26 (d) The number, ballot title and financial estimates under ORS 250.125 of
 27 any measure to be voted on at the election.

28 (2) If the election is conducted at polling places as provided in this
 29 chapter, any ballot to be issued at a polling place shall also state the number
 30 or name of the precinct for which it is intended.

31 (3) The names of candidates for President and Vice President of the

1 United States shall be printed in groups together, under their political party
2 designations. The names of the electors may not be printed on the general
3 election ballot. A vote for the candidates for President and Vice President
4 shall be a vote for the group of presidential electors supporting those can-
5 didates and selected as provided by law. The general election ballot shall
6 state that electors of President and Vice President are being elected and that
7 a vote for the candidates for President and Vice President shall be a vote for
8 the electors supporting those candidates.

9 (4)(a) The name of each candidate nominated shall be printed upon the
10 ballot or ballot label in but one place, without regard to how many times the
11 candidate may have been nominated. *[The name of a political party shall be*
12 *added opposite the name of a candidate for other than nonpartisan office ac-*
13 *cording to the following rules:]*

14 *[(A) For a candidate not affiliated with a political party who is nominated*
15 *by a minor political party, the name of the minor political party shall be added*
16 *opposite the name of the candidate;]*

17 *[(B) For a candidate not affiliated with a political party who is nominated*
18 *by more than one minor political party, the name of the minor political party*
19 *selected by the candidate shall be added opposite the name of the candidate;]*

20 *[(C) For a candidate who is a member of a political party who is nominated*
21 *by a political party of which the candidate is not a member, the name of the*
22 *political party that nominated the candidate shall be added opposite the name*
23 *of the candidate;]*

24 *[(D) For a candidate who is a member of a political party who is nominated*
25 *by more than one political party of which the candidate is not a member, the*
26 *name of the political party selected by the candidate shall be added opposite*
27 *the name of the candidate; and]*

28 *[(E) For a candidate who is nominated by a political party of which the*
29 *candidate is a member, the name of the political party of which the candidate*
30 *is a member shall be added opposite the name of the candidate.]*

31 *[(b) If a candidate is required to select the name of a political party to be*

1 *added on the ballot under paragraph (a) of this subsection, the candidate shall*
 2 *notify the filing officer of the selection not later than the 61st day before the*
 3 *day of the election.]*

4 [(c)] (b) The word "incumbent" shall follow the name of each candidate
 5 for the Supreme Court, Court of Appeals, Oregon Tax Court or circuit court
 6 who is designated the incumbent by the Secretary of State under ORS
 7 254.085.

8 [(d)] (c) The word "nonaffiliated" shall follow the name of each candidate
 9 who is not affiliated with a political party and who is nominated by an as-
 10 sembly of electors or individual electors.

11 [(e)] (d) If two or more candidates for the same office have the same or
 12 similar surnames, the location of their places of residence shall be printed
 13 opposite their names to distinguish one from another.

14 (5) For a voter choice office, the county clerk shall print on the
 15 ballot, following the name of the candidate:

16 (a) If the candidate is registered as a member of a political party
 17 not later than the 70th day before the date of the general or special
 18 election, the statement "Member of _____" (official party name); or

19 (b) If the candidate is registered as not affiliated with any political
 20 party not later than the 70th day before the date of the general or
 21 special election, the statement "Not affiliated with any political
 22 party."

23 (6) At least once on each ballot that contains a voter choice office,
 24 the county clerk shall print the statement "The listing of the political
 25 party membership status of a candidate for voter choice office is pro-
 26 vided for elector information purposes only and does not in itself imply
 27 formal support or endorsement by the political party listed."

28 **SECTION 35.** ORS 254.195 is amended to read:

29 254.195. (1) Official ballots and ballot labels shall be printed in black ink
 30 upon good quality material. In a year when a President and Vice Presi-
 31 dent of the United States are to be elected, the primary election ballots

1 or ballot labels shall be of different colors for the major political parties.

2 (2) If the election is conducted at polling places, sample ballots shall be
3 prepared for the information of the elector. The sample ballot shall contain
4 the offices, candidates, measures and other information on the ballots or
5 ballot labels of the precincts for which the sample ballot is issued. The
6 sample ballot need not contain the office of, or candidates for, precinct
7 committeeperson. The sample ballots shall be identified as such, and printed
8 on cheaper, colored paper to distinguish them from official ballots. A sample
9 ballot shall not be voted or counted.

10 (3) The governing body of a city, county or district may mail sample
11 ballots to all electors within the city, county or district to assist the elec-
12 tors' preparation for voting.

13 **SECTION 36.** ORS 254.205 is amended to read:

14 254.205. (1) For any election conducted at polling places, the county clerk
15 shall produce a facsimile, except as to size, of the ballot in a manner de-
16 scribed in this section. For any primary election **held in a year when a**
17 **President and Vice President of the United States are to be elected**, a
18 facsimile of the ballot shall include the ballot of each major political party.

19 (2) The facsimile shall be:

20 (a) Published or inserted in one or more newspapers as described in sub-
21 section (3) of this section; or

22 (b) Distributed to each residential postal mailing address within the
23 electoral district for which the election is being held.

24 (3) If the facsimile is published or inserted in a newspaper:

25 (a) The facsimile shall be published or inserted not later than the fourth
26 day nor earlier than the 15th day before the election.

27 (b) The facsimile shall be published or inserted in at least one issue of
28 one newspaper in each county with a population of less than 10,000, or in
29 each county in which no more than one newspaper is published. The fac-
30 simile shall be published or inserted in at least one issue of two newspapers
31 in each county with a population of 10,000 or more in which more than one

1 newspaper is published. The county governing body, at the first regular
2 meeting each year, shall select the newspaper or newspapers of general cir-
3 culation in the county in which the facsimile shall be published or inserted
4 and shall notify the county clerk of the selection.

5 (c) The county governing body may require publication or insertion of the
6 facsimile in additional newspapers and shall select the newspapers at the
7 same time as provided in paragraph (b) of this subsection. The county gov-
8 erning body shall notify the county clerk of any additional selections.

9 (d) The facsimile shall not be published in any newspaper unless the
10 newspaper agrees that no paid political advertisement shall be placed on the
11 same page as the facsimile or on the page facing the facsimile. If a newspa-
12 per selected under paragraph (b) or (c) of this subsection does not so agree,
13 the county governing body shall select another newspaper in the county with
14 as nearly as possible the same qualifications for the publication of the fac-
15 simile.

16 (4) A facsimile distributed to each residential post office mailing address
17 within the electoral district for which the election is being held shall have
18 postage prepaid and shall be considered to give notice when mailed. Fac-
19 simile ballots mailed under this subsection shall be mailed not sooner than
20 the 15th day nor later than the 10th day before the election. Proof of mailing
21 shall be by affidavit of the county clerk.

22 (5) A facsimile printed in a county voters' pamphlet prepared and dis-
23 tributed in accordance with ORS chapter 251 shall be considered to satisfy
24 the requirements of this section.

25 (6) As used in this section, "electoral district" means a county, city or
26 district.

27 **SECTION 37.** ORS 254.235 is amended to read:

28 254.235. (1) Not later than five business days before an election in which
29 voting machines or vote tally systems are used, the county clerk shall:

30 (a) Conduct a preparatory test of the machine and system for logic and
31 accuracy to ensure that each ballot format, where appropriate, correctly

1 tallies ballots in each electoral contest by precinct; and

2 (b) Conduct a public certification test for the vote tally system using a
3 selection of precincts, ballot formats and electoral districts from the prepar-
4 atory test conducted under this subsection.

5 (2) Prior to the public certification test under subsection (1)(b) of this
6 section[.]:

7 (a) **At a primary election held in a year when a President and Vice**
8 **President of the United States are to be elected**, the county clerk shall
9 mail to each affiliate of a major or minor political party within the county
10 that has notified the clerk that notice is desired[,] a notice of the time and
11 place where the vote tally system will be publicly tested. One representative
12 of each party is entitled to be present to ensure that the testing is done
13 properly[.]; and

14 (b) *[In nonpartisan elections]* Each candidate **for nonpartisan office or**
15 **voter choice office** may designate one representative who *[has the same*
16 *powers as the political party representatives]* **is entitled to be present to**
17 **ensure that the testing is done properly.**

18 (3) The party and candidate representatives **described in subsection (2)**
19 **of this section** shall certify that they have witnessed the testing. The cer-
20 tificates shall be filed with the county clerk.

21 [(3)] (4) In an election where voting machines are used, the county clerk
22 shall prepare a certificate that the ballot labels have been properly placed
23 in the machine.

24 **SECTION 38.** ORS 254.365 is amended to read:

25 254.365. (1) **At a primary election held in a year when a President**
26 **and Vice President of the United States are to be elected**, an elector
27 *[shall not be]* **is not** qualified or permitted to vote at *[any]* **the** primary
28 election for any candidate of a major political party, and it shall be unlawful
29 for the elector to offer to do so, unless:

30 (a) The elector is registered as being affiliated with one of the major
31 political parties nominating or electing its candidates for public office at the

1 primary election; or

2 (b) The elector is registered as not being affiliated with any political
3 party and wishes to vote in the primary election of a major political party
4 that has provided under subsection (3) of this section for a primary election
5 that admits electors not affiliated with any political party.

6 (2) Except as provided in ORS 254.470 (4), **at a primary election held**
7 **in a year when a President and Vice President of the United States**
8 **are to be elected**, any elector offering to vote at the primary election shall
9 be given a ballot of the major political party with which the elector is reg-
10 istered as being affiliated. The elector *[shall]* **may** not be given a ballot of
11 any other political party at that primary election. An elector not affiliated
12 with any political party and offering to vote at the primary election shall
13 be given the ballot of the major political party in whose primary election the
14 elector wishes to vote if that party has provided under subsection (3) of this
15 section for a primary election that admits electors not affiliated with any
16 political party. An elector not affiliated with any political party who is given
17 a ballot of the major political party associates with the party for the purpose
18 of voting in that primary election.

19 (3) Not later than the 90th day before the date of the primary election
20 **held in a year when a President and Vice President of the United**
21 **States are to be elected**, a major political party may file with the Secretary
22 of State a certified copy of the current party rule allowing an elector not
23 affiliated with any political party to vote in the party's primary election.
24 The party *[shall]* **may** not repeal the rule as filed during the 90 days before
25 the primary election. The rule shall continue to be effective after the date
26 of the primary election until the party gives written notice to the Secretary
27 of State that the rule has been repealed. *[A party rule under this subsection*
28 *may limit the candidates for whom an elector who is not affiliated with any*
29 *political party may vote. The party rule shall, however, allow any elector who*
30 *is permitted to vote for the most numerous branch of the Legislative Assembly*
31 *to also vote in federal legislative elections, consistent with section 2, Article*

1 *I, and the Seventeenth Amendment to the United States Constitution.]*

2 *[(4) If the primary election ballot includes city, county or nonpartisan of-*
3 *fices or measures, and it is given to an elector who is not eligible to vote for*
4 *party candidates, the ballot shall be marked "limited."]*

5 **SECTION 39.** ORS 254.370 is amended to read:

6 254.370. The county clerk shall maintain:

7 (1) A monthly registration record of all electors registered as not being
8 affiliated with any political party;

9 (2) At each primary election[,] **held in a year when a President and**
10 **Vice President of the United States are to be elected:**

11 (a) A record of the number of electors who voted from each major poli-
12 tical party; **and**

13 [(3)] (b) A record of all electors registered as not being affiliated with any
14 political party who vote in a primary election of a major political party that
15 has provided under ORS 254.365 for a primary election that admits electors
16 not affiliated with any political party; and

17 [(4)] (3) A record of all electors registered as not being affiliated with any
18 political party who vote in the general election.

19 **SECTION 40.** ORS 254.470 is amended to read:

20 254.470. (1) An election by mail shall be conducted as provided in this
21 section. The Secretary of State may adopt rules governing the procedures for
22 conducting an election by mail.

23 (2) The Secretary of State by rule shall establish requirements and crite-
24 ria for the designation of places of deposit for the ballots cast in the
25 election. The rules shall also specify the dates and times the places of deposit
26 must be open and the security requirements for the places of deposit. At a
27 minimum, the places designated under this section shall be open on the date
28 of the election for a period of eight or more hours, but must be open until
29 at least 8 p.m. At each place of deposit designated under this section, the
30 county clerk shall prominently display a sign stating that the location is an
31 official ballot drop site.

1 (3)(a) Except as provided in paragraphs (b), (c) and (d) of this subsection,
2 the county clerk shall mail by nonforwardable mail an official ballot with
3 a return identification envelope and a secrecy envelope not sooner than the
4 18th day before the date of an election conducted by mail and not later than
5 the 14th day before the date of the election, to each active elector of the
6 electoral district as of the 21st day before the date of the election.

7 (b) Notwithstanding paragraph (a) of this subsection, if the county clerk
8 determines that an active elector of the electoral district as of the 21st day
9 before the date of the election does not receive daily mail service from the
10 United States Postal Service, the county clerk shall mail by nonforwardable
11 mail an official ballot with a return identification envelope and a secrecy
12 envelope to the elector not sooner than the 20th day before the date of an
13 election conducted by mail and not later than the 18th day before the date
14 of the election.

15 (c) Notwithstanding paragraph (a) of this subsection, the Secretary of
16 State by rule shall specify the date on which all ballots shall be mailed for
17 any state election conducted by mail under ORS 254.465 (2).

18 (d) Notwithstanding paragraph (a) of this subsection, in the case of bal-
19 lots to be mailed to addresses outside this state to electors who are not
20 long-term absent electors, the county clerk may mail the ballots not sooner
21 than the 29th day before the date of the election.

22 (4) For *[an election held on the date of]* a primary election **held in a year**
23 **when a President and Vice President of the United States are to be**
24 **elected:**

25 (a) The county clerk shall mail the official ballot of a major political
26 party to each elector who is registered as being affiliated with the major
27 political party as of the 21st day before the date of the election.

28 (b) The county clerk shall mail the official ballot of a major political
29 party to an elector not affiliated with any political party if the elector has
30 applied for the ballot as provided in this subsection and that party has pro-
31 vided under ORS 254.365 for a primary election that admits electors not af-

1 filiated with any political party.

2 (c) An elector not affiliated with any political party who wishes to vote
3 in the primary election of a major political party shall apply to the county
4 clerk in writing. The application shall indicate which major political party
5 ballot the elector wishes to receive. Except for electors described in sub-
6 section [(5)] (6) of this section, and subject to ORS 247.203, the application
7 must be received by the county clerk not later than 5 p.m. of the 21st day
8 before the date of the election.

9 (d) If the primary election ballot includes city, county or nonpartisan of-
10 fices **or voter choice offices** or measures, an elector not eligible to vote for
11 party candidates shall be mailed a ballot limited to those offices and meas-
12 ures for which the elector is eligible to vote.

13 **(5) For a primary election not held in a year when a President and**
14 **Vice President of the United States are to be elected, the county clerk**
15 **shall mail the ballot containing nonpartisan offices, voter choice of-**
16 **fices and measures to every elector, without regard to the political**
17 **party affiliation or lack of political party affiliation of the elector.**

18 [(5)] (6) For each elector who updates a voter registration after the
19 deadline in ORS 247.025, the county clerk shall make the official ballot, the
20 return identification envelope and the secrecy envelope available either by
21 mail or at the county clerk's office or at another place designated by the
22 county clerk. An elector to whom this subsection applies must request a
23 ballot from the county clerk.

24 [(6)] (7) The ballot or ballot label shall contain the following warning:
25

26 Any person who, by use of force or other means, unduly influences an
27 elector to vote in any particular manner or to refrain from voting is subject
28 to a fine.

30 [(7)] (8) Upon receipt of any ballot described in this section, the elector
31 shall mark the ballot, sign the return identification envelope supplied with

1 the ballot and comply with the instructions provided with the ballot. The
2 elector may return the marked ballot to the county clerk by United States
3 mail or by depositing the ballot at the office of the county clerk, at any place
4 of deposit designated by the county clerk or at any location described in ORS
5 254.472 or 254.474. The ballot must be returned in the return identification
6 envelope. If the elector returns the ballot by mail, the elector must provide
7 the postage. A ballot must be received at the office of the county clerk, the
8 designated place of deposit or at any location described in ORS 254.472 or
9 254.474 not later than the end of the period determined under subsection (2)
10 of this section on the date of the election.

11 ~~[(8)]~~ (9) An elector may obtain a replacement ballot if the ballot is de-
12 stroyed, spoiled, lost or not received by the elector. Replacement ballots
13 shall be issued and processed as described in this section and ORS 254.480.
14 The county clerk shall keep a record of each replacement ballot provided
15 under this subsection. Notwithstanding any deadline for mailing ballots in
16 subsection (3) or (4) of this section, a replacement ballot may be mailed,
17 made available in the office of the county clerk or made available at one
18 central location in the electoral district in which the election is conducted.
19 The county clerk shall designate the central location. A replacement ballot
20 need not be mailed after the fifth day before the date of the election.

21 ~~[(9)]~~ (10) A ballot shall be counted only if:

- 22 (a) It is returned in the return identification envelope;
23 (b) The envelope is signed by the elector to whom the ballot is issued; and
24 (c) The signature is verified as provided in subsection ~~[(10)]~~ (11) of this
25 section.

26 ~~[(10)]~~ (11) The county clerk shall verify the signature of each elector on
27 the return identification envelope with the signature on the elector's regis-
28 tration card, according to the procedure provided by rules adopted by the
29 Secretary of State. If the county clerk determines that an elector to whom
30 a replacement ballot has been issued has voted more than once, the county
31 clerk shall count only one ballot cast by that elector.

1 ~~[(11)]~~ (12) At 8 p.m. on election day, electors who are at the county clerk's
2 office, a site designated under subsection (2) of this section or any location
3 described in ORS 254.472 or 254.474 and who are in line waiting to vote or
4 deposit a voted ballot shall be considered to have begun the act of voting.

5 **SECTION 41.** ORS 254.480 is amended to read:

6 254.480. (1) In an election conducted by mail, an elector may obtain a re-
7 placement ballot described in ORS 254.470 ~~[(8)]~~. To vote a replacement ballot,
8 the elector must complete and sign a replacement ballot request form. The
9 request for a replacement ballot may be made electronically, by telephone,
10 in writing, in person or by other means designated by the Secretary of State
11 by rule.

12 (2) The replacement ballot request form shall be mailed or made available
13 to the elector along with the replacement ballot.

14 (3) Upon receiving a request for a replacement ballot, the county clerk
15 shall:

16 (a) Verify the registration of the elector and ensure that another ballot
17 has not been returned by the elector;

18 (b) Note in the list of electors that the elector has requested a replace-
19 ment ballot;

20 (c) Mark the return identification envelope clearly so that it may be
21 readily identified as a replacement ballot; and

22 (d) Issue the replacement ballot by mail or other means.

23 (4) The completed and signed replacement ballot request form and the
24 voted replacement ballot must be received at the office of the county clerk,
25 a place of deposit designated by the county clerk or at any location described
26 in ORS 254.472 or 254.474 not later than the end of the period determined
27 under ORS 254.470 (2) on the date of the election.

28 (5) Upon receiving a voted replacement ballot, the county clerk shall
29 verify that a completed and signed replacement ballot request form has been
30 received by the county clerk or is included with the voted replacement bal-
31 lot. If a request form has been completed and signed by the elector and re-

1 ceived by the county clerk, the county clerk shall process the ballot. If the
2 request form is not completed or signed by the elector or received by the
3 county clerk, the county clerk may not process the ballot.

4 **SECTION 42.** ORS 254.575 is amended to read:

5 254.575. When two or more candidates for the same office, after a full
6 recount of votes, have an equal and the highest number of votes:

7 (1) For election to state Senator or **state** Representative, a party office,
8 or a public office for which the elections officer is other than the Secretary
9 of State, the elections officer shall have the candidates meet publicly to de-
10 cide by lot who is elected.

11 (2) For election to a public office other than Governor or those referred
12 to in subsection (1) of this section, the Secretary of State by proclamation
13 shall order a new election to fill the office.

14 (3) For election to Governor, the Legislative Assembly at the beginning
15 of the next regular session shall meet jointly and elect one of the candidates.

16 (4) For nomination **to a public office** by one major political party [*to an*
17 *office*] **at a primary election held in a year when a President and Vice**
18 **President of the United States are to be elected**, the [*elections officer who*
19 *receives filings for nomination to the office*] **Secretary of State** shall have
20 the candidates meet publicly to decide by lot who is nominated.

21 **SECTION 43.** ORS 246.560 is amended to read:

22 246.560. (1) A voting machine may not be approved by the Secretary of
23 State unless the voting machine is constructed so that it:

24 (a) Secures to the elector secrecy of voting.

25 (b) Provides facilities for voting for the candidates of as many political
26 parties or organizations as may make nominations and for or against as
27 many measures as may be submitted.

28 (c) Permits the elector to vote for any person and as many persons for
29 an office and upon any measure for which the elector has the right to vote.

30 (d) Permits the elector, except at a primary election **held in a year when**
31 **a President and Vice President of the United States are to be elected**,

1 to vote for all the candidates of one party or in part for the candidates of
2 one party and in part for the candidates of one or more other parties.

3 (e) Correctly records on a separate ballot the votes cast by each elector
4 for any person and for or against any measure.

5 (f) Provides that a vote for more than one candidate cannot be cast by
6 one single operation of the voting machine or vote tally system except for
7 President and Vice President and electors for those offices.

8 (g) Provides that straight party pointers shall be disconnected from all
9 candidate pointers.

10 (h) Contains a device that will duplicate the votes cast by each elector
11 onto a paper record copy.

12 (i) Contains a device that will allow each elector to view the elector's
13 paper record copy while preventing the elector from directly handling the
14 paper record copy.

15 (2) A vote tally system shall be:

16 (a) Capable of correctly counting votes on ballots on which the proper
17 number of votes have been marked for any office or measure that has been
18 voted.

19 (b) Capable of ignoring the votes marked for any office or measure if more
20 than the allowable number of votes have been marked, but shall correctly
21 count the properly voted portions of the ballot.

22 (c) Capable of accumulating a count of the specific number of ballots
23 tallied for a precinct, accumulating total votes by candidate for each office,
24 and accumulating total votes for and against each measure of the ballots
25 tallied for a precinct.

26 (d) Capable of tallying votes from ballots of different political parties,
27 from the same precinct, in a primary election **held in a year when a**
28 **President and Vice President of the United States are to be elected.**

29 (e) Capable of accommodating the procedure established under ORS
30 254.155.

31 (f) Capable of automatically producing precinct totals in either printed,

1 marked, or punched form, or combinations thereof.

2 **SECTION 44.** ORS 254.650 is amended to read:

3 254.650. (1) If the Secretary of State determines that a vacancy exists in
4 the nomination of a candidate [*of a major political party*] for state office, that
5 the vacancy is due to the death of the candidate and that the vacancy oc-
6 curred after the 30th day before the date of the general election:

7 (a) The election for that state office may not be held at the general
8 election;

9 (b) The county clerks may not count ballots cast for candidates for that
10 state office at the general election; and

11 (c) The Secretary of State shall order a special election as provided in
12 ORS 254.655.

13 (2) The candidates listed on the ballot at the special election shall be:

14 (a) The candidates who were listed on the general election ballot, other
15 than the candidate whose nomination became vacant; and

16 (b) The candidate selected to fill the vacancy in the nomination as pro-
17 vided in ORS [249.190 or] 249.205.

18 (3) As used in this section "state office" means the office of Governor,
19 Secretary of State, State Treasurer, Attorney General, state Senator or state
20 Representative.

21 **SECTION 45.** ORS 260.112, as amended by section 36a, chapter 809,
22 Oregon Laws 2005, is amended to read:

23 260.112. (1) A candidate or a treasurer of a political committee who ex-
24 pects neither the aggregate contributions to be received nor the aggregate
25 expenditures to be made by or on behalf of the candidate or political com-
26 mittee to exceed \$2,000 in total amount during the calendar year shall file
27 a certificate to that effect with the Secretary of State. The candidate or
28 treasurer shall make the certificate according to the best of the knowledge
29 or belief of the candidate or treasurer. A candidate or treasurer filing a
30 certificate under this section is not required to file statements under ORS
31 260.057. The certificate shall be filed:

(a) By a candidate, not sooner than the date on which the candidate files a declaration of candidacy or nominating petition, accepts a nomination or is nominated to fill a vacancy in a nomination [*or in a partisan elective office*], and not later than seven calendar days after the candidate receives a contribution or makes an expenditure.

(b) By a treasurer of a political committee, not sooner than the date that the political committee files a statement of organization under ORS 260.042, and not later than seven calendar days after the political committee receives a contribution or makes an expenditure.

(2) A candidate or political committee under this section must keep contribution and expenditure records during the calendar year.

(3) If at any time following the filing of a certificate under subsection (1) of this section and during the calendar year either the aggregate contributions or aggregate expenditures exceed \$2,000, the candidate or treasurer shall do all of the following:

(a) File a statement under ORS 260.057 within seven calendar days after either the aggregate contributions or aggregate expenditures exceed \$2,000. The statement shall reflect all contributions received and expenditures made by or on behalf of the candidate or political committee to that date, beginning January 1 of the calendar year.

(b) If necessary, file additional statements under ORS 260.057.

(4) This section does not apply to a candidate for federal office.

SECTION 46. ORS 249.068, 249.200, 254.025 and 254.069 are repealed.

SECTION 47. The amendments to ORS 171.051, 171.060, 171.068, 188.120, 246.560, 248.006, 248.007, 248.008, 249.002, 249.016, 249.020, 249.031, 249.042, 249.046, 249.064, 249.072, 249.076, 249.088, 249.180, 249.205, 249.722, 249.735, 249.737, 249.740, 249.830, 249.850, 251.022, 253.030, 253.540, 253.565, 254.005, 254.056, 254.076, 254.115, 254.135, 254.195, 254.205, 254.235, 254.365, 254.370, 254.470, 254.480, 254.575, 254.650 and 260.112 by sections 1 to 45 of this 2007 Act and the repeal of ORS 249.068, 249.200, 254.025 and 254.069 by section 46 of this 2007 Act:

1 (1) Apply only to nominations for, and appointments and elections
2 to, public office occurring on or after the effective date of this 2007
3 Act;

4 (2) Apply to a certificate of nomination, nominating petition or
5 declaration of candidacy filed before the effective date of this 2007 Act
6 for an election to a voter choice office to be conducted on or after the
7 effective date of this 2007 Act;

8 (3) Apply to political parties formed prior to, on or after the effec-
9 tive date of this 2007 Act; and

10 (4) Are not intended to require a change in the composition of any
11 committee or commission described in ORS 137.658, 244.250 or 442.035.
12

DRAFT

SUMMARY

Designates offices of state Senator and state Representative as nonpartisan.

A BILL FOR AN ACT

Relating to the Legislative Assembly; creating new provisions; and amending
ORS 137.658, 171.051, 171.060, 171.068, 244.250, 249.002, 249.068, 249.072,
249.088, 249.200, 254.005, 254.056, 254.365, 254.650 and 442.035.

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

SECTION 1. ORS 249.002 is amended to read:

249.002. As used in this chapter:

(1) "Candidate" means an individual whose name is or is expected to be printed on the official ballot.

(2) "County clerk" means the county clerk or the county official in charge of elections.

(3) "Elector" means an individual qualified to vote under section 2, Article II, Oregon Constitution.

(4) "Judge" means judge of the Supreme Court, Court of Appeals, circuit court or the Oregon Tax Court, or any county judge who exercises judicial functions.

(5) "Member" means an individual who is registered as being affiliated with the political party.

(6) "Minor political party" means a political party that has qualified as a minor political party under ORS 248.008.

(7) "Nonpartisan office" means the office of judge, Superintendent of Public Instruction, Commissioner of the Bureau of Labor and Industries,

1 **state Senator, state Representative**, any elected office of a metropolitan
2 service district under ORS chapter 268, justice of the peace, county clerk,
3 county assessor, county surveyor, county treasurer, sheriff, district attorney
4 or any office designated nonpartisan by a home rule charter.

5 (8) "Prospective petition" means the information, except signatures and
6 other identification of petition signers, required to be contained in a com-
7 pleted petition.

8 (9) "Public office" means any national, state, county, city or district office
9 or position, except a political party office, filled by the electors.

10 (10) "State office" means Governor, Secretary of State, State Treasurer,
11 Attorney General, Commissioner of the Bureau of Labor and Industries, Su-
12 perintendent of Public Instruction, judge, state Senator, state Representative
13 or district attorney.

14 **SECTION 2.** ORS 254.005 is amended to read:

15 254.005. As used in this chapter:

16 (1) "Ballot" means any material on which votes may be cast for candi-
17 dates or measures. In the case of a recall election, "ballot" includes material
18 posted in a voting compartment or delivered to an elector by mail.

19 (2) "Ballot label" means the material containing the names of candidates
20 or the measures to be voted on.

21 (3) "Chief elections officer" means the:

22 (a) Secretary of State, regarding a candidate for a state office or an office
23 to be voted on in the state at large or in a congressional district, or a
24 measure to be voted on in the state at large.

25 (b) County clerk, regarding a candidate for a county office, or a measure
26 to be voted on in a county only.

27 (c) City clerk, auditor or recorder, regarding a candidate for a city office,
28 or a measure to be voted on in a city only.

29 (4) "County clerk" means the county clerk or the county official in charge
30 of elections.

31 (5) "Elector" means an individual qualified to vote under section 2, Arti-

1 cle II, Oregon Constitution.

2 (6) "Major political party" means a political party that has qualified as
3 a major political party under ORS 248.006.

4 (7) "Measure" includes any of the following submitted to the people for
5 their approval or rejection at an election:

6 (a) A proposed law.

7 (b) An Act or part of an Act of the Legislative Assembly.

8 (c) A revision of or amendment to the Oregon Constitution.

9 (d) Local, special or municipal legislation.

10 (e) A proposition or question.

11 (8) "Minor political party" means a political party that has qualified as
12 a minor political party under ORS 248.008.

13 (9) "Nonpartisan office" means the office of judge of the Supreme Court,
14 Court of Appeals, circuit court or the Oregon Tax Court, Superintendent of
15 Public Instruction, Commissioner of the Bureau of Labor and Industries,
16 **state Senator, state Representative**, any elected office of a metropolitan
17 service district under ORS chapter 268, justice of the peace, county clerk,
18 county assessor, county surveyor, county treasurer, county judge who exer-
19 cises judicial functions, sheriff, district attorney or any office designated
20 nonpartisan by a home rule charter.

21 (10) "Prospective petition" means the information, except signatures and
22 other identification of petition signers, required to be contained in a com-
23 pleted petition.

24 (11) "Regular district election" means the election held each year for the
25 purpose of electing members of a district board as defined in ORS 255.005 (2).

26 (12) "Vote tally system" means one or more pieces of equipment necessary
27 to examine and tally automatically the marked ballots.

28 (13) "Voting machine" means any device that will record every vote cast
29 on candidates and measures and that will either internally or externally
30 total all votes cast on that device.

31 **SECTION 3.** ORS 254.056 is amended to read:

254.056. (1) The general election shall be held on the first Tuesday after the first Monday in November of each even-numbered year. Except as provided in ORS 254.650, at the general election officers of the state and subdivisions of the state, members of Congress and electors of President and Vice President of the United States as are to be elected in that year shall be elected.

(2) The primary election shall be held on the third Tuesday in May of each even-numbered year. At the primary election:

(a) Precinct committeepersons shall be elected and major political party candidates shall be nominated for offices to be filled at the general election held in that year; and

(b) **Nonpartisan candidates shall be nominated or elected as provided in ORS 249.088.**

SECTION 4. ORS 254.650 is amended to read:

254.650. (1) If the Secretary of State determines that a vacancy exists in the nomination of a candidate of a major political party for state office **or in the nomination of a nonpartisan candidate for the office of state Senator or state Representative**, that the vacancy is due to the death of the candidate and that the vacancy occurred after the 30th day before the date of the general election:

(a) The election for that state office **or for that office of state Senator or state Representative** may not be held at the general election;

(b) The county clerks may not count ballots cast for candidates for that state office at the general election; and

(c) The Secretary of State shall order a special election as provided in ORS 254.655.

(2) The candidates listed on the ballot at the special election shall be:

(a) The candidates who were listed on the general election ballot, other than the candidate whose nomination became vacant; and

(b) The candidate selected to fill the vacancy in the nomination as provided in ORS 249.190 or 249.205.

(3) As used in this section "state office" means the office of Governor, Secretary of State, State Treasurer[,] or Attorney General[, *state Senator or state Representative*].

SECTION 5. ORS 249.088 is amended to read:

249.088. (1) [*Unless otherwise provided by*] **Subject to subsections (2) to (4) of this section and the provisions of** a home rule charter, at the [*nominating election held on the date of the*] primary election, **the** two candidates **receiving the highest number of votes** shall be nominated for the nonpartisan office.

(2) [*However,*] **Except as provided in subsections (3) and (4) of this section,** when a candidate[, *other than a candidate for the office of sheriff, a candidate for the office of county clerk, a candidate for the office of county treasurer or a candidate to fill a vacancy,*] **for nonpartisan office** receives a majority of the votes cast for the office at the nominating election, that candidate is elected.

(3) **Subsection (2) of this section does not apply to the office of state Senator or state Representative.**

[(2)] (4) When a candidate for the office of sheriff, [*the office of*] county clerk[, *the office of*] **or** county treasurer or a candidate to fill a vacancy receives a majority of votes cast for the office at the nominating election, that candidate alone is nominated.

SECTION 6. ORS 249.200 is amended to read:

249.200. (1) A major political party may nominate a candidate to fill a vacancy in a partisan elective office in the following manner:

(a) If the vacancy occurs on or before the 70th day before a primary election, by selecting a nominee at the next primary election; or

(b) If the vacancy occurs after the 70th day before the primary election but before the 61st day before the general election, by selecting a nominee as provided by party rule.

(2) The procedure under subsection (1) of this section [*shall*] **does not** apply in any case in which one of the following specific procedures for filling

1 a vacancy applies:

2 (a) The procedure specified in ORS 188.120 for the offices of Represen-
3 tative in Congress and United States Senator.

4 *[(b) The appointment procedure specified in ORS 171.051 to 171.064 for state*
5 *legislative office.]*

6 *[(c)] (b)* The procedure specified in ORS chapter 236 for county office.

7 *[(d)] (c)* The procedure specified in ORS chapter 221 for city office.

8 (3) A party that selects a nominee under subsection (1)(b) of this section,
9 immediately after the nomination, shall notify the filing officer with whom
10 a declaration of candidacy for the office is filed of the name of the nominee
11 by the most expeditious means practicable.

12 (4) The Secretary of State by rule may adopt a schedule specifying the
13 period following a vacancy within which a major political party that selects
14 a nominee under subsection (1)(b) of this section must notify the filing officer
15 of the name of the nominee under subsection (3) of this section.

16 **SECTION 7.** ORS 249.068 is amended to read:

17 249.068. (1) Except as otherwise provided for a candidate for nonpartisan
18 office in ORS 249.072:

19 (a) A nominating petition for an office to be voted for in the state at large
20 or for a candidate for Representative in Congress shall contain signatures
21 of members of the same major political party as the candidate. Except as
22 provided in this subsection, there shall be at least 1,000 signatures or the
23 number of signatures at least equal to two percent of the vote cast in the
24 state or congressional district, as the case may be, for the candidates of that
25 major political party for presidential electors at the last presidential
26 election, whichever is less;

27 (b) For an election next following any change in the boundaries of a
28 congressional district, there shall be at least 1,000 signatures or the number
29 of signatures at least equal to two percent of the average number of votes
30 cast in all congressional districts in this state, as the case may be, for the
31 candidates of that major political party for presidential electors at the last

1 presidential election, whichever is less;

2 (c) In the case of a candidate nominated by a major political party that
3 did not nominate presidential electors at the last presidential election, there
4 shall be at least 1,000 signatures; and

5 (d) If the office is one to be voted for in the state at large, the signatures
6 shall include those of electors registered in at least five percent of the pre-
7 cincts in each of at least seven counties. If the office is one to be voted for
8 in a congressional district the signatures shall include those of electors
9 registered in at least five percent of the precincts in each of at least one-
10 fourth of the counties in the congressional district.

11 (2) Except as otherwise provided in this section or for a candidate for
12 nonpartisan office in ORS 249.072:

13 (a) A nominating petition for an office not provided for in subsection (1)
14 of this section shall contain the signatures of electors who are members of
15 the same major political party as the candidate. There shall be at least 500
16 signatures or the number of signatures at least equal to two percent of the
17 vote in the electoral district for the candidates of that major political party
18 for presidential electors at the last presidential election, whichever is less;

19 [(b) In the case of major political party candidates for the office of state
20 Senator or state Representative, for an election next following any change in
21 the boundaries of the districts of state Senators or state Representatives under
22 section 6, Article IV of the Oregon Constitution, there shall be at least 500
23 signatures or the number of signatures at least equal to two percent of the
24 average number of votes cast in all state senatorial or state representative
25 districts in this state, as the case may be, for the candidates of that major
26 political party for presidential electors at the last presidential election,
27 whichever is less;]

28 [(c)] (b) In the case of a candidate nominated by a major political party
29 that did not nominate presidential electors at the last presidential election,
30 there shall be at least 500 signatures;

31 [(d)] (c) If the office under this subsection is to be voted for in more than

1 one county, the signatures shall include those of electors registered in at
2 least six percent of the precincts in the electoral district that are located in
3 each of two or more of the counties, or portions of the counties, within
4 which the electoral district is located. If six percent of the precincts of the
5 electoral district in one of the counties or portion thereof does not constitute
6 a whole precinct, the nominating petition shall contain signatures from at
7 least one precinct in that county; and

8 [(e)] (d) If the office is to be voted for in only one county or in a city,
9 the signatures shall include those of electors registered in at least 10 percent
10 of the precincts in the electoral district.

11 **SECTION 8.** ORS 249.072 is amended to read:

12 249.072. (1) If the nonpartisan office is to be voted for in the state at
13 large, the nominating petition shall contain at least 1,000 signatures of
14 electors, or a number of signatures of electors equal to at least one percent
15 of the vote cast in the state for all candidates for Governor at the most re-
16 cent election at which a candidate for Governor was elected to a full term,
17 whichever is less. The signatures shall include those of electors registered
18 in each of at least five percent of the precincts in each of at least seven
19 counties.

20 (2) The nominating petition for a nonpartisan office not provided for in
21 subsection (1) of this section shall contain at least 500 signatures of electors
22 in the electoral district, or a number of signatures of electors equal to at
23 least one percent of the vote cast in the electoral district for all candidates
24 for Governor at the most recent election at which a candidate for Governor
25 was elected to a full term, whichever is less. **In the case of candidates for**
26 **the office of state Senator or the office of state Representative, for an**
27 **election next following any change in the boundaries of the districts**
28 **of state Senators or state Representatives under section 6, Article IV**
29 **of the Oregon Constitution, the nominating petition shall contain at**
30 **least 500 signatures or the number of signatures at least equal to one**
31 **percent of the average number of votes cast in all state senatorial or**

1 state representative districts in this state, as the case may be, for all
2 candidates for presidential electors at the last presidential election,
3 whichever is less. In addition:

4 (a) If an office under this subsection is to be voted for in more than one
5 county, the signatures shall include those of electors registered in each of
6 at least six percent of the precincts in the electoral district that are located
7 in each of two or more of the counties, or portions of the counties, within
8 which the electoral district is located. If six percent of the precincts of the
9 electoral district in one of the counties or portion thereof does not constitute
10 a whole precinct, the nominating petition shall contain signatures from at
11 least one precinct in that county.

12 (b) If the office is to be voted for in only one county or in a city, the
13 signatures shall include those of electors registered in each of at least 10
14 percent of the precincts in the electoral district.

15 **SECTION 9.** ORS 254.365 is amended to read:

16 254.365. (1) An elector [*shall not be*] **is not** qualified or permitted to vote
17 at any primary election for any candidate of a major political party, and it
18 shall be unlawful for the elector to offer to do so, unless:

19 (a) The elector is registered as being affiliated with one of the major
20 political parties nominating or electing its candidates for public office at the
21 primary election; or

22 (b) The elector is registered as not being affiliated with any political
23 party and wishes to vote in the primary election of a major political party
24 that has provided under subsection (3) of this section for a primary election
25 that admits electors not affiliated with any political party.

26 (2) Except as provided in ORS 254.470 (4), any elector offering to vote at
27 the primary election shall be given a ballot of the major political party with
28 which the elector is registered as being affiliated. The elector [*shall*] **may**
29 not be given a ballot of any other political party at that primary election.
30 An elector not affiliated with any political party and offering to vote at the
31 primary election shall be given the ballot of the major political party in

1 whose primary election the elector wishes to vote if that party has provided
2 under subsection (3) of this section for a primary election that admits elec-
3 tors not affiliated with any political party. An elector not affiliated with any
4 political party who is given a ballot of the major political party associates
5 with the party for the purpose of voting in that primary election.

6 (3) Not later than the 90th day before the date of the primary election,
7 a major political party may file with the Secretary of State a certified copy
8 of the current party rule allowing an elector not affiliated with any political
9 party to vote in the party's primary election. The party *[shall]* **may** not re-
10 peal the rule as filed during the 90 days before the primary election. The rule
11 shall continue to be effective after the date of the primary election until the
12 party gives written notice to the Secretary of State that the rule has been
13 repealed. A party rule under this subsection may limit the candidates for
14 whom an elector who is not affiliated with any political party may vote.
15 *[The party rule shall, however, allow any elector who is permitted to vote for*
16 *the most numerous branch of the Legislative Assembly to also vote in federal*
17 *legislative elections, consistent with section 2, Article I, and the Seventeenth*
18 *Amendment to the United States Constitution.]*

19 (4) If the primary election ballot includes city, county or nonpartisan of-
20 fices or measures, and it is given to an elector who is not eligible to vote
21 for party candidates, the ballot shall be marked "limited."

22 **SECTION 10.** ORS 171.051 is amended to read:

23 171.051. (1) When any vacancy occurs in the Legislative Assembly due to
24 death or recall or by reason of resignation filed in writing with the Secretary
25 of State or a person is declared disqualified by the house to which the person
26 was elected, the vacancy shall be filled by appointment if:

27 (a) The vacancy occurs during any session of the Legislative Assembly;

28 (b) The vacancy occurs in the office of a state Representative before the
29 61st day before the general election to be held during that term of office;

30 (c) The vacancy occurs in the office of a state Senator before the 61st day
31 before the first general election to be held during that term of office;

(d) The vacancy occurs in the office of a state Senator at any time after the 62nd day before the first general election and before the 61st day before the second general election to be held during that term of office; or

(e) A special session of the Legislative Assembly will be convened before a successor to the office can be elected and qualified.

(2) The person appointed under the provisions of subsection (1) of this section shall be a citizen qualified to hold the office[,] **and** an elector of the affected legislative district [*and a member of the same political party for at least 180 days before the date on which the vacancy occurred. The political affiliation of a person appointed under subsection (1) of this section shall be determined under ORS 236.100*]. The appointment shall be made by the county courts or boards of county commissioners of the affected counties pursuant to ORS 171.060 to 171.064. [*When the provisions of ORS 171.060 (1) are applicable, the appointment shall be made from a list of not fewer than three nor more than five nominees who have signed written statements indicating that they are willing to serve furnished by the Secretary of State. If fewer than three names of nominees are furnished, a list shall not be considered to have been submitted and the county courts or boards of county commissioners shall fill the vacancy.*] The vacancy must be filled by appointment within 30 days after its occurrence or not later than the time set for the convening of the special session described in subsection (1)(e) of this section when that is the basis for filling the vacancy.

(3) If the appointing authority required by this section to fill the vacancy does not do so within the time allowed, the Governor shall fill the vacancy by appointment within 10 days.

(4) Notwithstanding any appointment under the provisions of subsection (1)(c) of this section, when a vacancy occurs in the office of a state Senator before the 61st day before the first general election to be held during that term of office, the remaining two years of the term of office shall be filled by the electors of the affected legislative district at the first general election.

(5) Candidates for the remaining two years of the term of office of a state

1 Senator under subsection (4) of this section shall be nominated as provided
2 in ORS chapter 249, *[except as follows:]*

3 *[(a) A major political party, minor political party, assembly of electors or*
4 *individual electors may select a nominee for any vacancy occurring before the*
5 *61st day before the first general election; and]*

6 *[(b) The Secretary of State shall accept certificates of nomination and no-*
7 *tifications of nominees selected by party rule and filed with the secretary] ex-*
8 **cept that the Secretary of State shall accept nominating petitions or**
9 **declarations of candidacy** pursuant to a schedule for filing set by the
10 Secretary of State but in any case not later than the 62nd day before the first
11 general election.

12 (6) The remaining two years of the term of office of a state Senator under
13 subsection (4) of this section will commence on the second Monday in Jan-
14 uary following the general election. Any appointment under the provisions
15 of subsection (1)(c) of this section shall expire when a successor to the office
16 is elected and qualified.

17 **SECTION 11.** ORS 171.060 is amended to read:

18 171.060. *[(1) When any vacancy as is mentioned in ORS 171.051 exists in*
19 *the office of Senator or Representative affiliated with a major political party*
20 *and that vacancy is to be filled by an appointing authority as provided in ORS*
21 *171.051, the Secretary of State forthwith shall notify the person designated by*
22 *the party to receive such notice. The party shall pursuant to party rule nomi-*
23 *nate not fewer than three nor more than five qualified persons to fill the va-*
24 *cancy. The nominating procedure shall reflect the principle of one-person,*
25 *one-vote to accord voting weight in proportion to the number of party members*
26 *represented. At the request of a party making a nomination, the county clerks*
27 *of each county constituting the district in which the vacancy exists shall assist*
28 *the party in determining the number of electors registered as members of the*
29 *party in the district. A person shall not be nominated to fill the vacancy unless*
30 *the person signs a written statement indicating that the person is willing to*
31 *serve in the office of Senator or Representative. As soon as the nominees have*

1 *been appointed, but no later than 20 days after the vacancy occurs, the party*
2 *shall notify the Secretary of State of the persons nominated. The notification*
3 *shall be accompanied by the signed written statement of each nominee indi-*
4 *cating that the nominee is willing to serve in the office of Senator or Repre-*
5 *sentative. The Secretary of State shall notify the county courts or boards of*
6 *county commissioners of the counties constituting the district in which the*
7 *vacancy exists of the nominees and of the number of votes apportioned to each*
8 *member of the county courts or boards of county commissioners under ORS*
9 *171.062 and 171.064. The Secretary of State shall set a time for the meeting of*
10 *the county courts or boards of county commissioners in order to fill the vacancy*
11 *and by rule shall establish procedures for the conduct of the meeting. If the*
12 *district is composed of more than one county, the Secretary of State shall name*
13 *a temporary chairperson and designate a meeting place within the district*
14 *where the county courts or boards of county commissioners shall convene for*
15 *the purpose of filling the vacancy, pursuant to ORS 171.051 (2).]*

16 [(2)] (1) When any vacancy **described** [*as is mentioned*] in ORS 171.051
17 exists in the office of **state** Senator or **state** Representative [*not affiliated*
18 *with a major political party*] and that vacancy is to be filled by an appointing
19 authority as provided in ORS 171.051, the Secretary of State forthwith shall
20 notify the county courts or boards of county commissioners of the counties
21 constituting the district in which the vacancy occurs of the vacancy and of
22 the number of votes apportioned to each member of the county courts or
23 boards of county commissioners under ORS 171.062 and 171.064. The Secre-
24 tary of State shall set a time for a meeting of the county courts or boards
25 of county commissioners and by rule shall establish procedures for the con-
26 duct of the meeting. If the district is composed of more than one county, the
27 Secretary of State shall name a temporary chairperson and designate a
28 meeting place within the district where the county courts or boards of
29 county commissioners shall convene for the purpose of appointing a person
30 to fill the vacancy.

31 [(3)] (2) A written statement signed by a majority of those qualified to

1 vote upon the filling of any vacancy naming the person selected to fill the
2 vacancy and directed to the Secretary of State is conclusive evidence of the
3 filling of the vacancy by the appointing authority named therein.

4 **SECTION 12.** ORS 171.068 is amended to read:

5 171.068. (1) For purposes of ORS 171.060, 171.062 and 171.064, the county
6 court or the board of county commissioners [*which shall*] **that must** fill the
7 vacancy in the Legislative Assembly in a district created by reapportionment
8 shall be the county court or board of county commissioners of each county
9 any part of which is in the district that is created by the reapportionment
10 and includes the residence from which the former **state** Senator or **state**
11 Representative was elected.

12 (2) [*Each person nominated by a major political party to fill a vacancy in*
13 *the Legislative Assembly occurring as described by ORS 171.051*] **A person**
14 **appointed to fill a vacancy in the Legislative Assembly** in a district
15 created by reapportionment must be registered to vote in the district from
16 which the former **state** Senator or **state** Representative was elected [*and*
17 *must have been a member of the same major political party at least 180 days*
18 *before the date the vacancy to be filled occurred*].

19 (3) This section [*shall apply*] **applies** only to a vacancy in the Legislative
20 Assembly occurring after the primary election next following reapportion-
21 ment and before a person has been elected and qualified to fill the vacancy.

22 **SECTION 13.** ORS 137.658 is amended to read:

23 137.658. (1) The chairperson of the Oregon Criminal Justice Commission
24 may create any committees within the commission as the chairperson may
25 think necessary. Persons who are not commission members may be appointed
26 as members to serve on the committees with the approval of the commission.

27 (2) The chairperson shall appoint members of committees created under
28 this section in such a manner as to ensure representation from all segments
29 of the criminal justice system that are affected by the work of the committee.
30 In selecting members for committee assignments, the chairperson shall con-
31 sider, but is not limited to, representatives from the following:

- 1 (a) The Attorney General;
- 2 (b) The Director of the Department of Corrections;
- 3 (c) The chairperson of the State Board of Parole and Post-Prison Super-
- 4 vision;
- 5 (d) The Superintendent of State Police;
- 6 (e) The chief administrative employee of the Psychiatric Security Review
- 7 Board;
- 8 (f) The Director of Human Services;
- 9 (g) The Director of the Oregon Youth Authority;
- 10 (h) Trial judges;
- 11 (i) Judges of the Oregon Supreme Court or Court of Appeals;
- 12 (j) *[Majority and minority parties of]* The House of Representatives and
- 13 the Senate;
- 14 (k) District attorneys;
- 15 (L) Criminal defense attorneys;
- 16 (m) County sheriffs;
- 17 (n) County commissioners;
- 18 (o) County community corrections directors;
- 19 (p) Chiefs of police;
- 20 (q) Victims of crime;
- 21 (r) The public at large;
- 22 (s) The director of a nonprofit entity created for the purpose of increasing
- 23 understanding of the adult and juvenile justice systems and promotion of
- 24 effective policies for prevention and control of crime; and
- 25 (t) Private contract providers.

26 **SECTION 14.** ORS 244.250 is amended to read:

27 244.250. (1) The Oregon Government Standards and Practices Commission
28 is established, consisting of seven members appointed in the following man-
29 ner to be confirmed by the Senate:

- 30 (a) Four members appointed by the Governor from among persons recom-
31 mended, [*one*] **two** each by the leadership of [*the Democratic and Republican*

1 *parties in*] each house of the Legislative Assembly. **The leadership of each**
2 **house of the Legislative Assembly shall recommend persons who are**
3 **not members of the same major political party.** If a person recommended
4 *[by the leadership of the Democratic or Republican party]* **under this para-**
5 **graph** is not approved by the Governor, another person shall be recom-
6 mended.

7 (b) Three members appointed by the Governor without leadership recom-
8 mendation, no more than two of whom shall be from the same major political
9 party.

10 (2) *[No]* A person who holds any public office listed in ORS 244.050 (1)
11 except as a member of the commission *[shall]* **may not** be appointed to the
12 commission. No more than four members shall be members of the same poli-
13 tical party.

14 (3) The term of office is four years. *[No]* A member *[shall be]* **is not** eli-
15 gible to be appointed to more than one full term but may serve out an un-
16 expired term. However, those members first appointed to the commission
17 serving less than a three-year term are eligible for a second appointment for
18 a full term. Vacancies shall be filled by the appointing authority for the
19 unexpired term.

20 (4) The commission shall elect a chairperson and vice chairperson for
21 such terms and duties as the commission may require.

22 (5) A quorum consists of four members but no final decision may be made
23 without an affirmative vote of the majority of the members appointed to the
24 commission.

25 (6) Members shall be entitled to compensation and expenses as provided
26 in ORS 292.495.

27 (7) The commission may retain or appoint qualified legal counsel who
28 shall be a member of the Oregon State Bar and who shall be responsible to
29 the commission. The appointment of legal counsel under this subsection shall
30 be made only when the commission finds it is inappropriate and contrary to
31 the public interest for the office of the Attorney General to represent con-

1 currently more than one public official or agency in any matter before the
2 commission because such representation would create or tend to create a
3 conflict of interest and is not subject to ORS 180.230 or 180.235.

4 (8) The Attorney General shall not represent before the commission any
5 state public official who is the subject of any complaint or action of the
6 commission at the commission's own instigation.

7 **SECTION 15.** ORS 442.035 is amended to read:

8 442.035. (1) The Oregon Health Policy Commission is established to serve
9 as the policy-making body responsible for health policy and planning for the
10 state.

11 (2) The members of the commission shall be residents of the State of
12 Oregon and shall be appointed by the Governor, subject to the following:

13 (a) The commission shall have 10 public members and shall include at
14 least one member from each congressional district of the state.

15 (b) The membership of the commission shall broadly represent the ge-
16 ographic, social, economic, occupational, linguistic and racial population of
17 the state and shall include individuals who represent Oregon's rural and
18 urban medically underserved populations.

19 (c) The commission shall have a majority of members who are not direct
20 providers of health care and shall include individuals who represent Oregon's
21 rural and urban medically underserved populations.

22 (d) The commission shall have at least one member who is a physician
23 licensed to practice in this state. For the purposes of this paragraph, "phy-
24 sician" has the meaning given that term in ORS 677.010.

25 (e) Members shall be appointed to three-year terms.

26 (f) A member may not serve more than two consecutive terms.

27 (3) Voting members of the commission shall serve at the Governor's
28 pleasure.

29 (4) Voting members shall select a chairperson and a vice chairperson from
30 among themselves.

31 (5) The commission shall meet at least quarterly.

(6) Members are entitled to compensation and expenses as provided in ORS 292.495.

(7) If a vacancy of a voting member is created on the commission for any reason, the Governor shall fill the vacancy by appointing a member to a three-year term.

(8) In addition to the members appointed to the commission under subsection (2) of this section:

(a) The President of the Senate[*in consultation with leadership from the minority party,*] shall appoint two members of the Senate to the commission[*one from the majority party and one from the minority party, who*]. **The Senate members of the commission may not be members of the same major political party and are [shall be] nonvoting, advisory members.[: and]**

(b) The Speaker of the House of Representatives[*in consultation with leadership from the minority party,*] shall appoint two members of the House of Representatives to the commission[*one from the majority party and one from the minority party, who*]. **The House members of the commission may not be members of the same major political party and are [shall be] nonvoting, advisory members.**

SECTION 16. (1) The amendments to ORS 137.658, 171.051, 171.060, 171.068, 244.250, 249.002, 249.068, 249.072, 249.088, 249.200, 254.005, 254.056, 254.365, 254.650 and 442.035 by sections 1 to 15 of this 2007 Act apply only to nominations for, and appointments and elections to, the offices of state Senator and state Representative occurring on or after the effective date of this 2007 Act. A certificate of nomination, nominating petition or declaration of candidacy for the office of state Senator or state Representative filed before the effective date of this 2007 Act for an election to be conducted on or after the effective date of this 2007 Act shall be considered to have been filed for a nonpartisan office.

(2) Nothing in the amendments to ORS 137.658, 171.051, 171.060, 171.068, 244.250, 249.002, 249.072, 249.088, 254.005, 254.365 and 442.035 by

1 sections 1, 2, 5 and 8 to 15 of this 2007 Act is intended to require a
2 change in the composition of any committee or commission described
3 in ORS 137.658, 244.250 or 442.035 as amended by sections 13 to 15 of this
4 2007 Act.

5



STATE OF OREGON
Legislative Counsel Committee

November 9, 2006

To: Marjorie Taylor, Administrator, Public Commission on the Oregon Legislature

From: Ted W. Reutlinger, Senior Deputy Legislative Counsel *TR*

Subject: LC 1583—State Controller / Redistricting Commission

You asked for a draft creating the new office of State Controller. Among other things, you asked that the State Controller be assigned the duty of appointing a commission to prepare redistricting plans for state legislative and congressional districts. You asked that the redistricting provisions be based on Senate Joint Resolution 22 (2003).

I have prepared the draft as a revision to the Oregon Constitution because the draft seems to contain more than a single amendment to the Constitution. Under section 2, Article XVII, a revision to the Constitution must be approved by two-thirds of the members of each house of the Legislative Assembly.

With respect to the redistricting provisions, please consider the following:

1. The State Controller is directed to appoint a commission to adopt both state legislative and congressional redistricting plans. LC 1583 treats state legislative and congressional redistricting plans as separate plans and not as a single plan. For example, the commission could present the Legislative Assembly with a state legislative redistricting plan and a congressional redistricting plan on different dates, or prepare one plan and fail to prepare the other.
2. The Legislative Assembly may amend either plan prepared by the commission on a three-fifths vote of the members of each house.
3. If the commission does not adopt a state legislative or congressional redistricting plan by June 1, the Oregon Supreme Court must adopt a plan by July 1. The court could be required to prepare a state legislative plan, a congressional plan, or both. This results in the Oregon Supreme Court preparing a plan for a federal office. Historically, congressional redistricting plans have been considered and adopted by federal courts.
4. LC 1583 allows the Legislative Assembly to enact laws providing for the reconvening of a commission for the purpose of modifying a redistricting plan adopted by the commission, the Legislative Assembly or the court. The Legislative Assembly must approve a law that provides for the reconvening of the commission by a three-fifths vote of the members of each house. I read LC 1583 to require a single three-fifths vote to adopt a law reconvening a commission. If the commission reconvenes, LC 1583 does not set any time limits for action by the commission.

5. LC 1583 sets rules for appeal of a state legislative redistricting plan to the Oregon Supreme Court. LC 1583 does not set rules for the appeal of a congressional redistricting plan. Presumably, a congressional redistricting plan would be appealed to federal court as has been the practice following previous censuses.

Encl.

DRAFT

SUMMARY

Proposes revision to Oregon Constitution to create office of State Controller. Provides that State Controller administers laws governing conduct of elections, including laws governing election campaign finance and state legislative and congressional redistricting. Directs State Controller to appoint commission to create legislative and congressional redistricting plans following each decennial census.

Directs State Controller to provide investigatory services to agency charged with administering government ethics laws.

Refers proposed revision to people for their approval or rejection at next primary election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon, two-thirds of all the members of each house concurring:

PARAGRAPH 1. The Constitution of the State of Oregon is revised by creating new sections 11 and 11a to be added to and made a part of Article VI, such sections to read:

SECTION 11. (1) A State Controller shall be selected in the manner provided by law. If the State Controller is elected, the office shall be nonpartisan. The term of the State Controller shall be established by law and may not be less than six years.

(2) A person who is serving as State Controller may not be a candidate for nomination or election to any other public office while serving and may not be elected or appointed to a statewide public office sooner than two years after the person ceases service as State Controller.

(3) The State Controller shall designate a deputy to act as controller

1 in case of absence or incapacity of the State Controller, or during a
2 vacancy in the office. Other personnel to assist the State Controller
3 in performance of the duties of the office may be provided for by law.

4 (4) The State Controller shall administer the laws governing the
5 conduct of elections, including all laws governing election campaign
6 finance and the redistricting of state legislative and congressional
7 districts, and shall perform such other duties as may be required by
8 law.

9 (5) The State Controller shall provide investigatory services to the
10 agency charged with administering government ethics laws.

11 (6) The State Controller may issue subpoenas and administer oaths
12 for the purpose of performing the functions of the office described in
13 this section.

14 (7) The State Controller shall administer the functions, personnel
15 and budget of the office independently of all other statewide elected
16 officers and other agencies of the executive department of state gov-
17 ernment.

18 **SECTION 11a. (1)** The revision proposed by this resolution becomes
19 operative on the first Monday in January, 2011, except that the re-
20 vision becomes operative on the effective date of the revision for the
21 purposes of:

22 (a) Selecting a State Controller to take office on the first Monday
23 in January, 2011; and

24 (b) Appointing the commission under section 6, Article IV of this
25 Constitution, to provide for the redistricting of state legislative and
26 congressional districts.

27 (2) This section is repealed on the second Monday in January, 2011.

28
29 **PARAGRAPH 2.** Section 1, Article IV of the Constitution of the State
30 of Oregon, is revised to read:

31 **Sec. 1. (1)** The legislative power of the state, except for the initiative and

1 referendum powers reserved to the people, is vested in a Legislative Assem-
2 bly, consisting of a Senate and a House of Representatives.

3 (2)(a) The people reserve to themselves the initiative power, which is to
4 propose laws and amendments to the Constitution and enact or reject them
5 at an election independently of the Legislative Assembly.

6 (b) An initiative law may be proposed only by a petition signed by a
7 number of qualified voters equal to six percent of the total number of votes
8 cast for all candidates for Governor at the election at which a Governor was
9 elected for a term of four years next preceding the filing of the petition.

10 (c) An initiative amendment to the Constitution may be proposed only by
11 a petition signed by a number of qualified voters equal to eight percent of
12 the total number of votes cast for all candidates for Governor at the election
13 at which a Governor was elected for a term of four years next preceding the
14 filing of the petition.

15 (d) An initiative petition shall include the full text of the proposed law
16 or amendment to the Constitution. A proposed law or amendment to the
17 Constitution shall embrace one subject only and matters properly connected
18 therewith.

19 (e) An initiative petition shall be filed not less than four months before
20 the election at which the proposed law or amendment to the Constitution is
21 to be voted upon.

22 (3)(a) The people reserve to themselves the referendum power, which is
23 to approve or reject at an election any Act, or part thereof, of the Legislative
24 Assembly that does not become effective earlier than 90 days after the end
25 of the session at which the Act is passed.

26 (b) A referendum on an Act or part thereof may be ordered by a petition
27 signed by a number of qualified voters equal to four percent of the total
28 number of votes cast for all candidates for Governor at the election at which
29 a Governor was elected for a term of four years next preceding the filing of
30 the petition. A referendum petition shall be filed not more than 90 days after
31 the end of the session at which the Act is passed.

1 (c) A referendum on an Act may be ordered by the Legislative Assembly
2 by law. Notwithstanding section 15b, Article V of this Constitution, bills
3 ordering a referendum and bills on which a referendum is ordered are not
4 subject to veto by the Governor.

5 (4)(a) Petitions or orders for the initiative or referendum shall be filed
6 with the [Secretary of] State **Controller**. The Legislative Assembly shall
7 provide by law for the manner in which the [Secretary of] State **Controller**
8 shall determine whether a petition contains the required number of signa-
9 tures of qualified voters. The [Secretary of] State **Controller** shall complete
10 the verification process within the 30-day period after the last day on which
11 the petition may be filed as provided in paragraph (e) of subsection (2) or
12 paragraph (b) of subsection (3) of this section.

13 (b) Initiative and referendum measures shall be submitted to the people
14 as provided in this section and by law not inconsistent therewith.

15 (c) All elections on initiative and referendum measures shall be held at
16 the regular general elections, unless otherwise ordered by the Legislative
17 Assembly.

18 (d) Notwithstanding section 1, Article XVII of this Constitution, an ini-
19 tiative or referendum measure becomes effective 30 days after the day on
20 which it is enacted or approved by a majority of the votes cast thereon. A
21 referendum ordered by petition on a part of an Act does not delay the re-
22 mainder of the Act from becoming effective.

23 (5) The initiative and referendum powers reserved to the people by sub-
24 sections (2) and (3) of this section are further reserved to the qualified voters
25 of each municipality and district as to all local, special and municipal leg-
26 islation of every character in or for their municipality or district. The man-
27 ner of exercising those powers shall be provided by general laws, but cities
28 may provide the manner of exercising those powers as to their municipal
29 legislation. In a city, not more than 15 percent of the qualified voters may
30 be required to propose legislation by the initiative, and not more than 10
31 percent of the qualified voters may be required to order a referendum on

1 legislation.

2

3 **PARAGRAPH 3.** Section 6, Article IV of the Constitution of the State
4 of Oregon, is revised to read:

5 **Sec. 6.** (1) *[At the regular session of the Legislative Assembly next fol-*
6 *lowing an enumeration of the inhabitants by the United States Government,*
7 *the number of Senators and Representatives shall be fixed by law]* **In each**
8 **year ending in the number one:**

9 **(a) Senators and Representatives shall be** *[and]* **apportioned among**
10 **legislative districts according to population and a redistricting plan**
11 **adopted in the manner provided in this section.** A senatorial district
12 shall consist of two representative districts. Any Senator whose term con-
13 tinues through the next regular legislative session after the *[effective]* **oper-**
14 **ative** date of the *[reapportionment]* **redistricting plan** shall be specifically
15 assigned to a senatorial district. The ratio of Senators and Representatives,
16 respectively, to population shall be determined by dividing the total popu-
17 lation of the state by the number of Senators and by the number of Repre-
18 sentatives. *[A reapportionment by the Legislative Assembly shall become*
19 *operative no sooner than September 1 of the year of reapportionment.]*

20 **(b) Representatives to Congress shall be apportioned among con-**
21 **gressional districts according to population and a redistricting plan**
22 **adopted in the manner provided in this section.**

23 **(2) Not later than December 1 of each year ending in the number**
24 **zero, the State Controller shall appoint a commission to provide for**
25 **the redistricting of state legislative and congressional districts.**

26 **(3) The commission shall be composed of five members. In making**
27 **appointments to the commission, the State Controller shall consult**
28 **with representatives of political parties and with individuals who are**
29 **not affiliated with a political party. The State Controller shall appoint**
30 **a chairperson of the commission. The State Controller shall provide**
31 **staff to the commission.**

1 (4) A person holding elected public office or political party office,
2 or a person elected or appointed to public office or political party of-
3 fice, may not be a member of the commission. A commission member
4 may not have held an elected public office or a political party office
5 within two years of the date of the member's appointment to the
6 commission.

7 (5) The commission shall complete a state legislative redistricting
8 plan and a congressional redistricting plan as soon as possible follow-
9 ing an enumeration of the inhabitants by the United States Govern-
10 ment, but not later than June 1 of each year ending in the number
11 one. At least three members of the commission must vote to adopt a
12 redistricting plan. The state legislative redistricting plan adopted by
13 the commission may not provide for a number of legislative districts
14 different from the number established by the Legislative Assembly.
15 On the next business day after completing a redistricting plan, the
16 commission shall submit the plan to the Legislative Assembly.

17 (6) After submission of a redistricting plan by the commission, the
18 Legislative Assembly shall have 30 calendar days to amend the plan
19 submitted by the commission. If the Legislative Assembly amends the
20 plan, the amendment must be adopted by an affirmative vote of
21 three-fifths of the members of each house.

22 (7) A redistricting plan adopted by the commission, with any
23 amendment adopted by the Legislative Assembly, shall be final upon
24 adoption of the amendment or after expiration of the time provided
25 for legislative amendment under subsection (6) of this section, which-
26 ever occurs first. A final plan constitutes the districting law applicable
27 to this state for legislative or congressional elections and becomes
28 operative January 1 of the next calendar year.

29 (8) If the commission fails to adopt and submit a state legislative
30 redistricting plan or a congressional redistricting plan within the time
31 limits provided in subsection (5) of this section, the Supreme Court

1 shall adopt a plan by July 1. The plan adopted by the court is final and
2 constitutes the districting law applicable to this state for legislative
3 or congressional elections, and becomes operative January 1 of the
4 next calendar year.

5 (9) The Legislative Assembly may enact laws providing for the re-
6 convening of a commission for the purpose of modifying a districting
7 law adopted under this section. A law providing for the reconvening
8 of the commission must be approved by an affirmative vote of three-
9 fifths of the members of each house. At least three members of the
10 commission must vote to adopt any modification of the districting law.
11 Any modification adopted by the commission may be amended by an
12 affirmative vote of three-fifths of the members of each house. The
13 modified districting law shall include the modifications, with any
14 amendment adopted by the Legislative Assembly, and becomes opera-
15 tive on the date specified by the commission or the Legislative As-
16 sembly.

17 (10) The Legislative Assembly shall enact laws implementing sub-
18 sections (2) to (9) of this section. The laws may set additional quali-
19 fications for members of the commission, additional standards to
20 govern the commission and the terms of office of members of the
21 commission. The Legislative Assembly shall appropriate moneys to
22 enable the commission to carry out its duties.

23 (11) Legislative and congressional districts may not be changed or
24 established except pursuant to this section. A redistricting plan
25 adopted in the manner provided in this section and any amendments
26 to the plan by the Legislative Assembly are not subject to veto by the
27 Governor.

28 [(2)] (12) This subsection governs judicial review and correction of a [re-
29 apportionment enacted by the Legislative Assembly] state legislative redis-
30 tricting plan adopted under this section.

31 (a) Original jurisdiction is vested in the Supreme Court, upon the petition

1 of any elector of the state filed with the Supreme Court on or before August
2 1 of the year in which the *[Legislative Assembly enacts a reapportionment]*
3 **redistricting plan is adopted**, to review any *[reapportionment so enacted]*
4 **redistricting plan so adopted**.

5 (b) If the Supreme Court determines that the *[reapportionment thus re-*
6 *viewed]* **redistricting plan** complies with *[subsection (1)]* **subsections (1) to**
7 **(11)** of this section and all law applicable thereto, it shall dismiss the peti-
8 tion by written opinion on or before September 1 of the same year and the
9 *[reapportionment shall become]* **redistricting plan becomes** operative on
10 *[September 1]* **January 1 of the next calendar year**.

11 (c) If the Supreme Court determines that the *[reapportionment]* **redis-**
12 **tricting plan** does not comply with *[subsection (1)]* **subsections (1) to (11)**
13 of this section and all law applicable thereto, the *[reapportionment]* **redis-**
14 **tricting plan** shall be void. **Not later than November 15, the Supreme**
15 **Court shall correct the redistricting plan as the court determines is**
16 **necessary. The corrected redistricting plan becomes operative January**
17 **1 of the next calendar year.** *[In its written opinion, the Supreme Court shall*
18 *specify with particularity wherein the reapportionment fails to comply. The*
19 *opinion shall further direct the Secretary of State to draft a reapportionment*
20 *of the Senators and Representatives in accordance with the provisions of sub-*
21 *section (1) of this section and all law applicable thereto. The Supreme Court*
22 *shall file its order with the Secretary of State on or before September 15. The*
23 *Secretary of State shall conduct a hearing on the reapportionment at which the*
24 *public may submit evidence, views and argument. The Secretary of State shall*
25 *cause a transcription of the hearing to be prepared which, with the evidence,*
26 *shall become part of the record. The Secretary of State shall file the corrected*
27 *reapportionment with the Supreme Court on or before November 1 of the same*
28 *year.]*

29 [(d) On or before November 15, the Supreme Court shall review the cor-
30 rected reapportionment to assure its compliance with subsection (1) of this
31 section and all law applicable thereto and may further correct the reappor-

1 *tionment if the court considers correction to be necessary.]*

2 *[(e) The corrected reapportionment shall become operative upon November*
3 *15.]*

4 *[(3) This subsection governs enactment, judicial review and correction of a*
5 *reapportionment if the Legislative Assembly fails to enact any reapportionment*
6 *by July 1 of the year of the regular session of the Legislative Assembly next*
7 *following an enumeration of the inhabitants by the United States*
8 *Government.]*

9 *[(a) The Secretary of State shall make a reapportionment of the Senators*
10 *and Representatives in accordance with the provisions of subsection (1) of this*
11 *section and all law applicable thereto. The Secretary of State shall conduct*
12 *a hearing on the reapportionment at which the public may submit evidence,*
13 *views and argument. The Secretary of State shall cause a transcription of the*
14 *hearing to be prepared which, with the evidence, shall become part of the re-*
15 *cord. The reapportionment so made shall be filed with the Supreme Court by*
16 *August 15 of the same year. It shall become operative on September 15.]*

17 *[(b) Original jurisdiction is vested in the Supreme Court upon the petition*
18 *of any elector of the state filed with the Supreme Court on or before September*
19 *15 of the same year to review any reapportionment and the record made by the*
20 *Secretary of State.]*

21 *[(c) If the Supreme Court determines that the reapportionment thus re-*
22 *viewed complies with subsection (1) of this section and all law applicable*
23 *thereto, it shall dismiss the petition by written opinion on or before October*
24 *15 of the same year and the reapportionment shall become operative on October*
25 *15.]*

26 *[(d) If the Supreme Court determines that the reapportionment does not*
27 *comply with subsection (1) of this section and all law applicable thereto, the*
28 *reapportionment shall be void. The Supreme Court shall return the reappor-*
29 *tionment by November 1 to the Secretary of State accompanied by a written*
30 *opinion specifying with particularity wherein the reapportionment fails to*
31 *comply. The opinion shall further direct the Secretary of State to correct the*

1 *reapportionment in those particulars, and in no others, and file the corrected*
 2 *reapportionment with the Supreme Court on or before December 1 of the same*
 3 *year.]*

4 [(e) *On or before December 15, the Supreme Court shall review the corrected*
 5 *reapportionment to assure its compliance with subsection (1) of this section and*
 6 *all law applicable thereto and may further correct the reapportionment if the*
 7 *court considers correction to be necessary.]*

8 [(f) *The reapportionment shall become operative on December 15.*]

9 [(4)] (13) Any [reapportionment] **redistricting plan** that becomes opera-
 10 tive as provided in this section is a law of the state except for purposes of
 11 initiative and referendum. A [reapportionment shall] **redistricting plan** may
 12 not be operative before the date on which an appeal may be taken therefrom
 13 or before the date specified in this section, whichever is later.

14 [(5)] (14) Notwithstanding section 18, Article II of this Constitution, after
 15 the convening of the next regular legislative session following the [reappor-
 16 tionment] **operative date of a redistricting plan**, a Senator whose term
 17 continues through that legislative session is subject to recall by the electors
 18 of the district to which the Senator is assigned and not by the electors of
 19 the district existing before the latest [reapportionment] **redistricting plan**.
 20 The number of signatures required on the recall petition is 15 percent of the
 21 total votes cast for all candidates for Governor at the most recent election
 22 at which a candidate for Governor was elected to a full term in the two
 23 representative districts comprising the senatorial district to which the Sen-
 24 ator was assigned.

25

26 **PARAGRAPH 4.** Section 3, Article IV of the Constitution of the State
 27 of Oregon, is revised to read:

28 **Sec. 3.** (1) The senators and representatives shall be chosen by the elec-
 29 tors of the respective counties or districts or subdistricts within a county
 30 or district into which the state may from time to time be divided by law.

31 (2) If a vacancy in the office of senator or representative from any county

1 or district or subdistrict shall occur, such vacancy shall be filled as may be
 2 provided by law. A person who is appointed to fill a vacancy in the office
 3 of senator or representative shall have been an inhabitant of the district the
 4 person is appointed to represent for at least one year next preceding the date
 5 of the appointment. However, for purposes of an appointment occurring
 6 during the period beginning on January 1 of the year [*next following the*
 7 *operative date of an apportionment*] **a redistricting plan becomes operative**
 8 under section 6 of this Article, the person must have been an inhabitant of
 9 the district for one year next preceding the date of the appointment or from
 10 January 1 of the year [*following the reapportionment*] **the redistricting plan**
 11 **becomes operative** to the date of the appointment, whichever is less.

12
 13 **PARAGRAPH 5.** Section 8, Article IV of the Constitution of the State
 14 of Oregon, is revised to read:

15 **Sec. 8.** (1) No person shall be a Senator or Representative who at the
 16 time of election is not a citizen of the United States; nor anyone who has
 17 not been for one year next preceding the election an inhabitant of the dis-
 18 trict from which the Senator or Representative may be chosen. However, for
 19 purposes of the general election next following the operative date of [*an ap-*
 20 *portionment*] **a redistricting plan** under section 6 of this Article, the person
 21 must have been an inhabitant of the district from January 1 of the year
 22 [*following the reapportionment*] **the redistricting plan becomes operative**
 23 to the date of the election.

24 (2) Senators and Representatives shall be at least twenty one years of age.

25 (3) No person shall be a Senator or Representative who has been con-
 26 victed of a felony during:

27 (a) The term of office of the person as a Senator or Representative; or

28 (b) The period beginning on the date of the election at which the person
 29 was elected to the office of Senator or Representative and ending on the first
 30 day of the term of office to which the person was elected.

31 (4) No person is eligible to be elected as a Senator or Representative if

1 that person has been convicted of a felony and has not completed the sen-
 2 tence received for the conviction prior to the date that person would take
 3 office if elected. As used in this subsection, "sentence received for the con-
 4 viction" includes a term of imprisonment, any period of probation or post-
 5 prison supervision and payment of a monetary obligation imposed as all or
 6 part of a sentence.

7 (5) Notwithstanding sections 11 and 15, Article IV of this Constitution:

8 (a) The office of a Senator or Representative convicted of a felony during
 9 the term to which the Senator or Representative was elected or appointed
 10 shall become vacant on the date the Senator or Representative is convicted.

11 (b) A person elected to the office of Senator or Representative and con-
 12 victed of a felony during the period beginning on the date of the election and
 13 ending on the first day of the term of office to which the person was elected
 14 shall be ineligible to take office and the office shall become vacant on the
 15 first day of the next term of office.

16 (6) Subject to subsection (4) of this section, a person who is ineligible to
 17 be a Senator or Representative under subsection (3) of this section may:

18 (a) Be a Senator or Representative after the expiration of the term of of-
 19 fice during which the person is ineligible; and

20 (b) Be a candidate for the office of Senator or Representative prior to the
 21 expiration of the term of office during which the person is ineligible.

22 (7) No person shall be a Senator or Representative who at all times dur-
 23 ing the term of office of the person as a Senator or Representative is not an
 24 inhabitant of the district from which the Senator or Representative may be
 25 chosen or has been appointed to represent. A person shall not lose status as
 26 an inhabitant of a district if the person is absent from the district for pur-
 27 poses of business of the Legislative Assembly. Following the operative date
 28 of *[an apportionment]* a **redistricting plan** under section 6 of this Article,
 29 until the expiration of the term of office of the person, a person may be an
 30 inhabitant of any district.

1 **PARAGRAPH 6.** Section 4, Article V of the Constitution of the State of
2 Oregon, is revised to read:

3 **Sec. 4.** The Governor shall be elected by the qualified Electors of the
4 State at the times, and places of choosing members of the Legislative As-
5 sembly; and the returns of every Election for Governor, shall be sealed up,
6 and transmitted to the [*Secretary of*] State **Controller**; directed to the
7 Speaker of the House of Representatives, who shall open, and publish them
8 in the presence of both houses of the Legislative Assembly.[—]
9

10 **PARAGRAPH 7.** Section 1, Article XVII of the Constitution of the State
11 of Oregon, is revised to read:

12 **Sec. 1.** Any amendment or amendments to this Constitution may be pro-
13 posed in either branch of the legislative assembly, and if the same shall be
14 agreed to by a majority of all the members elected to each of the two houses,
15 such proposed amendment or amendments shall, with the yeas and nays
16 thereon, be entered in their journals and referred by the [*secretary of state*]
17 **State Controller** to the people for their approval or rejection, at the next
18 regular general election, except when the legislative assembly shall order a
19 special election for that purpose. If a majority of the electors voting on any
20 such amendment shall vote in favor thereof, it shall thereby become a part
21 of this Constitution. The votes for and against such amendment, or amend-
22 ments, severally, whether proposed by the legislative assembly or by initi-
23 ative petition, shall be canvassed by the [*secretary of state*] **State Controller**
24 in the presence of the governor, and if it shall appear to the governor that
25 the majority of the votes cast at said election on said amendment, or
26 amendments, severally, are cast in favor thereof, it shall be his duty forth-
27 with after such canvass, by his proclamation, to declare the said amendment,
28 or amendments, severally, having received said majority of votes to have
29 been adopted by the people of Oregon as part of the Constitution thereof,
30 and the same shall be in effect as a part of the Constitution from the date
31 of such proclamation. When two or more amendments shall be submitted in

1 the manner aforesaid to the voters of this state at the same election, they
2 shall be so submitted that each amendment shall be voted on separately. No
3 convention shall be called to amend or propose amendments to this Consti-
4 tution, or to propose a new Constitution, unless the law providing for such
5 convention shall first be approved by the people on a referendum vote at a
6 regular general election. This article shall not be construed to impair the
7 right of the people to amend this Constitution by vote upon an initiative
8 petition therefor.

9

10 **PARAGRAPH 8.** Section 2, Article XVII of the Constitution of the State
11 of Oregon, is revised to read:

12 **Sec. 2.** (1) In addition to the power to amend this Constitution granted
13 by section 1, Article IV, and section 1 of this Article, a revision of all or part
14 of this Constitution may be proposed in either house of the Legislative As-
15 sembly and, if the proposed revision is agreed to by at least two-thirds of all
16 the members of each house, the proposed revision shall, with the yeas and
17 nays thereon, be entered in their journals and referred by the [*Secretary of*]
18 State **Controller** to the people for their approval or rejection, notwith-
19 standing section 1, Article IV of this Constitution, at the next regular
20 state-wide primary election, except when the Legislative Assembly orders a
21 special election for that purpose. A proposed revision may deal with more
22 than one subject and shall be voted upon as one question. The votes for and
23 against the proposed revision shall be canvassed by the [*Secretary of*] State
24 **Controller** in the presence of the Governor and, if it appears to the Gover-
25 nor that the majority of the votes cast in the election on the proposed re-
26 vision are in favor of the proposed revision, he shall, promptly following the
27 canvass, declare, by his proclamation, that the proposed revision has received
28 a majority of votes and has been adopted by the people as the Constitution
29 of the State of Oregon or as a part of the Constitution of the State of
30 Oregon, as the case may be. The revision shall be in effect as the Constitu-
31 tion or as a part of this Constitution from the date of such proclamation.

1 (2) Subject to subsection (3) of this section, an amendment proposed to the
2 Constitution under section 1, Article IV, or under section 1 of this Article
3 may be submitted to the people in the form of alternative provisions so that
4 one provision will become a part of the Constitution if a proposed revision
5 is adopted by the people and the other provision will become a part of the
6 Constitution if a proposed revision is rejected by the people. A proposed
7 amendment submitted in the form of alternative provisions as authorized by
8 this subsection shall be voted upon as one question.

9 (3) Subsection (2) of this section applies only when:

10 (a) The Legislative Assembly proposes and refers to the people a revision
11 under subsection (1) of this section; and

12 (b) An amendment is proposed under section 1, Article IV, or under sec-
13 tion 1 of this Article; and

14 (c) The proposed amendment will be submitted to the people at an election
15 held during the period between the adjournment of the legislative session at
16 which the proposed revision is referred to the people and the next regular
17 legislative session.


18
19 **PARAGRAPH 9.** The revision proposed by this resolution shall be
20 submitted to the people for their approval or rejection at the next
21 primary election.
22



STATE OF OREGON
Legislative Counsel Committee

November 8, 2006

To: Marjorie Taylor, Administrator, Public Commission on the Oregon Legislature

From: Ted W. Reutlinger, Senior Deputy Legislative Counsel 
Jennifer Squires, Law Clerk

Subject: LC 1585—Citizen Initiatives

You asked for a bill making several changes to the initiative petition process. LC 1585 incorporates these changes. Please consider the following:

1. Section 3 of the draft directs the Secretary of State to determine how many signatures on a petition were obtained in each county, the percentage of the total number of signatures on a petition that were obtained in each county and the percentage of electors in each county that signed the petition. The secretary is directed to include this information in the voters' pamphlet with the text of the measure. This section applies to both state initiative and referendum measures and to *all* signatures obtained on a petition. It does not apply only to *valid* signatures.
2. Section 3 also directs the Secretary of State to determine the names and addresses of the five persons or political committees that contributed the most to obtain signatures on the petition. The secretary is directed to include this information in the voters' pamphlet with the text of the measure. This section applies to both state initiative and referendum measures and to the persons or political committees whose contributions are reflected on statements filed by chief petitioners under ORS 260.118. Section 3 covers only contributions made during the signature gathering phase. It does not apply to contributions made in support of the petition after it qualifies for the ballot and becomes a measure.
3. Section 5 of the draft amends ORS 251.026 to require the Secretary of State to include information in the voters' pamphlet about filing complaints related to initiative and referendum petitions and the penalties that apply to the violations. This limited language does not cover all alleged election law violations.
4. Section 1 of the draft amends ORS 250.045 to require that chief petitioners of state initiative or referendum measures be registered to vote in Oregon. As we explain in our analysis below, this requirement may raise issues under the Oregon and United States Constitutions. These issues might be addressed by amending the Oregon Constitution instead of ORS 250.045, and by requiring chief petitioners to be Oregon residents instead of registered voters.

First, a statutory requirement that chief petitioners be registered voters might be challenged as being inconsistent with the initiative rights guaranteed under section 1, Article IV

of the Oregon Constitution, because it imposes a requirement on petitioners that is not contained in the Oregon Constitution. Section 1, Article IV, reserves the initiative and referendum powers to the people and provides that initiative and referendum measures shall be submitted to the people as provided in the Constitution and by law "not inconsistent therewith." A court might conclude that the voter registration requirement is inconsistent with section 1, Article IV, because it imposes too great a burden or has an impermissible chilling effect on the use of the initiative process. See *Salem Committee to Stop Food Irradiation v. Secretary of State*, 109 Or. App. 364, 819 P.2d 752 (1991), review denied, 313 Or. 210, 830 P.2d 596 (1992), citing *State of Oregon v. Campbell/Camp/Collins*, 265 Or. 82, 90, 506 P.2d 163, 166 (1973). This issue can be addressed by amending section 1, Article IV, to add the requirement that chief petitioners be registered to vote in Oregon or that chief petitioners be Oregon residents.

Second, a requirement that chief petitioners be registered to vote in Oregon may raise issues under the First Amendment to the United States Constitution. Again, less risky legal approach may be to require that chief petitioners be Oregon residents.

We did not find any cases that directly address voter registration or residency requirements for *chief petitioners* of state initiative or referendum measures. However, several cases described below have addressed voter registration and residency requirements for *initiative petition circulators*.

In *Myer v. Grant*, the United States Supreme Court held that petition circulation is "core political speech" because it involves "interactive communication concerning political change."¹

In *Buckley v. American Constitutional Law Foundation, Inc.*, the United States Supreme Court invalidated a Colorado law that required initiative petition circulators be registered to vote in Colorado.² The law at issue was enacted to prevent petition circulation fraud, inform voters and aid in administrative efficiency.³ The court determined the Colorado law drastically reduced the number of people available to circulate petitions because such a high number of eligible residents were not registered voters.⁴ This disproportion could effectively limit the petition proponents' opportunities to inform the public about their initiative. The court held the voter registration requirement was not narrowly tailored to fit the state's interest because the state already had alternative policing methods in place.⁵

In *Buckley*, the court referred to, but did not directly address, Colorado's law that required petition circulators be residents of Colorado.⁶ As a result, several courts have interpreted *Buckley* to allow residency requirements for petition circulators.⁷ In *Initiative and Referendum Institute v. Jaeger*, the United States Court of Appeals for the Eighth Circuit upheld a North Dakota law that prohibited out-of-state residents from collecting and verifying petition

¹ 486 U.S. 414, 421-422 (1988). In *Myer*, the court invalidated a Colorado law that criminalized the payment of initiative petition circulators.

² 525 U.S. 182 (1999).

³ *Id.* at 192.

⁴ *Id.* at 193.

⁵ *Id.* at 196.

⁶ *Id.* at 197.

⁷ Some decisions that predate *Buckley* but upheld local residency requirements include *Browne v. Russell*, 27 Cal. App. 4th 1116, 1125 (2d Dist. 1994) (holding that an ordinance requiring petition circulators be residents and registered voters of the city that would be affected by the petition initiative was not unconstitutional) and *Hart v. Secretary of State*, 715 A.2d 165, 168 (Super. Ct. ME 1998), cert. denied, *Hart v. Gwadosky*, 525 U.S. 1139 (1999) (holding that the portion of Maine's Constitution that required petition circulators be residents of Maine was narrowly tailored to serve the state's interest in protecting the integrity of the initiative process).

signatures.⁸ The court noted that the requirement did not unduly burden nonresidents' ability to engage in political speech because they could still speak with voters about the measure, train residents about the initiative issue and accompany circulators.⁹

Likewise, in *Kean v. Clark*, a United States District Court in Mississippi held that a proposed constitutional amendment that required petition circulators be state residents was narrowly tailored to prevent campaign fraud.¹⁰ The court conceded that the restriction limited the number of people who could circulate petitions, but it then noted that this restriction did not limit any individual's ability to convey the petition's message or exercise free speech rights.¹¹ The *Kean* court briefly addressed initiative sponsors, who were also subject to residency requirements. The court noted that initiative sponsors and circulators enjoy the right to petition because they are Mississippi citizens subject to the Mississippi Constitution.¹² Because the Mississippi Constitution does not apply to nonresidents, they never had a right to petition in Mississippi that could be violated by residency requirements.¹³

On the other hand, the United States Courts of Appeals for the Second, Seventh and Tenth Circuits have struck down residency requirements for petition circulators. In *Lerman v. Board of Elections in City of New York*, the Second Circuit Court of Appeals found a statute that imposed residency requirements on petition circulators for political candidates to be a severe burden on political speech and association rights.¹⁴

The Seventh Circuit Court of Appeals invalidated an Illinois law imposing a residency requirement on candidate petition circulators that was meant to prevent invalid signature collection and the influence of out-of-state residents on Illinois elections.¹⁵ The court stated, "Because circulating nomination petitions necessarily entails political speech, it follows that the First and Fourteenth Amendments compel States to allow their candidates to associate with non-residents for political purposes and to utilize non-residents to speak on their behalf in soliciting signatures for ballot access petitions."¹⁶

Similarly, in *Chandler v. City of Arvada*, the Tenth Circuit Court of Appeals applied strict scrutiny to an Arvada city ordinance that prohibited nonresidents of Arvada from circulating initiative, referendum or recall petitions.¹⁷ The city's interests included preventing fraud, malfeasance and corruption in municipal elections.¹⁸ The court determined the ordinance was similar to the voter registration requirement in *Buckley* and had the effect of limiting political conversation and association.¹⁹

We did not find any cases distinguishing between petition circulators and chief petitioners for purposes of voter registration or residency requirements. Presumably, courts that prohibit residency requirements for circulators would also prohibit them for chief petitioners on

⁸ 241 F.3d 614, 617 (8th Cir. 2001).

⁹ *Id.*

¹⁰ 56 F. Supp.2d 719, 733 (S.D. Miss. 1999).

¹¹ *Id.* at 731.

¹² *Id.* at 725.

¹³ *Id.*

¹⁴ 232 F.3d 135, 139 (2d Cir. 2000), *cert. denied*, *New York State Bd. of Elections v. Lerman*, 533 U.S. 915 (2001). The court noted that no distinction can be made between the regulation of petition circulators for candidates and those for ballot initiatives. *Id.* at 148.

¹⁵ *Krislov v. Redhour*, 226 F.3d 851, 866 (7th Cir. 2000), *cert. denied*, *McGuffage v. Krislov*, 531 U.S. 1147 (2001).

¹⁶ *Id.*

¹⁷ 292 F.3d 1236, 1241 (10th Cir. 2002).

¹⁸ *Id.* at 1242.

¹⁹ *Id.* at 1243.

the theory that without chief petitioners, there would be no need for circulators. Further, a court that has allowed a residency requirement for circulators might invalidate a similar requirement for chief petitioners because a voter registration or residency requirement might completely stifle a person's ability to *introduce* an idea and is more of a burden than preventing someone from supporting the idea by gathering signatures. That position might be countered by the argument that nonresidents interested in proposing an idea would not be precluded from sharing the idea with an Oregon resident who could propose the initiative. The nonresident could still hold and attend meetings about the initiative, inform the public about it and train circulators.

Finally, in *Swett v. Bradbury*, the Oregon Supreme Court invalidated, on procedural grounds, a proposed constitutional amendment that would have required persons gathering signatures on initiative and referendum petitions be registered voters.²⁰ In discussing the amendment's relation to another proposed amendment at issue, the court said:

Even if a residency requirement were related to the [amendment proponents' desire to limit out-of-state influence], voter registration is not synonymous with residency. [The proposed amendment] precludes Oregonians who are not registered to vote from gathering signatures, just as it precludes those who live in other states from doing so. Put differently, the scope of the measure exceeds even defendants' proffered rationale for it.²¹

This language indicates that the Oregon Supreme Court has already identified residency requirements as different from voter registration requirements as applied to persons gathering signatures on petitions.

In sum, a requirement that chief petitioners be Oregon residents seems more likely to survive judicial scrutiny than a requirement that chief petitioners be registered voters. The outcome of a First Amendment challenge would likely depend on: 1) whether residency requirements or voter registration requirements only indirectly affect political speech or whether they impose a severe burden on political speech; 2) whether residency requirements differ from voter registration requirements and whether they should receive different levels of scrutiny; and 3) whether chief petitioners are distinguishable from petition circulators.

Encl.

²⁰ *Swett v. Bradbury*, 333 Or. 597, 608 (2002).

²¹ *Id.* at 609.

D R A F T

SUMMARY

Requires chief petitioners of state initiative or referendum petitions to be registered to vote in Oregon.

Directs Secretary of State to determine and print in voters' pamphlet for each state initiative or referendum measure number of signatures obtained in each county, percentage of total number of signatures obtained that are obtained in each county and percentage of electors in each county who signed petition.

Directs Secretary of State to determine and print in voters' pamphlet for each state initiative or referendum measure names and addresses of five persons or political committees that made greatest amount of contributions in support of obtaining signatures on state initiative or referendum petition.

Directs Secretary of State to include in voters' pamphlet description of procedures for filing complaint involving alleged violation of laws governing initiative and referendum petitions and description of penalties applicable to violations.

A BILL FOR AN ACT

Relating to elections; creating new provisions; and amending ORS 250.045, 251.026 and 251.185.

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

SECTION 1. ORS 250.045 is amended to read:

250.045. (1) Before circulating a petition to initiate or refer a state measure under section 1, Article IV, Oregon Constitution, the petitioner shall file with the Secretary of State a prospective petition. **All chief petitioners of a petition to initiate or refer a state measure must be electors.** The prospective petition for a state measure to be initiated shall contain a statement of sponsorship signed by at least 25 electors. The statement of sponsorship shall be attached to a full and correct copy of the measure to be initiated. The signatures in the statement of sponsorship must

1 be accompanied by a certificate of the county clerk of each county in which
2 the electors who signed the statement reside, stating the number of signa-
3 tures believed to be genuine. The Secretary of State shall date and time
4 stamp the prospective petition and specify the form on which the petition
5 shall be printed for circulation. The secretary shall approve or disapprove
6 the form of any petition signature sheet within five business days after the
7 signature sheet is submitted for review by the secretary. The secretary shall
8 retain the prospective petition.

9 (2) The chief [*petitioner*] **petitioners** may amend the proposed initiated
10 measure filed with the Secretary of State without filing another prospective
11 petition, if:

12 (a) The Attorney General certifies to the Secretary of State that the pro-
13 posed amendment will not substantially change the substance of the measure;
14 and

15 (b) The deadline for submitting written comments on the draft title has
16 not passed.

17 (3) The cover of an initiative or referendum petition shall designate the
18 name and residence address of not more than three persons as chief
19 petitioners and shall contain instructions for persons obtaining signatures
20 of electors on the petition. The instructions shall be adopted by the Secretary
21 of State by rule. The cover of a referendum petition shall contain the final
22 measure summary described in ORS 250.065 (1). If a petition seeking a dif-
23 ferent ballot title is not filed with the Supreme Court by the deadline for
24 filing a petition under ORS 250.085, the cover of an initiative petition shall
25 contain the ballot title described in ORS 250.067 (2). However, if the Supreme
26 Court has reviewed the ballot title, the cover of the initiative petition shall
27 contain the title certified by the court.

28 (4) The chief petitioners shall include with the prospective petition a
29 statement declaring whether one or more persons will be paid money or other
30 valuable consideration for obtaining signatures of electors on the initiative
31 or referendum petition. After the prospective petition is filed, the chief

petitioners shall notify the filing officer not later than the 10th day after any of the chief petitioners first has knowledge or should have had knowledge that:

(a) Any person is being paid for obtaining signatures, when the statement included with the prospective petition declared that no such person would be paid.

(b) No person is being paid for obtaining signatures, when the statement included with the prospective petition declared that one or more such persons would be paid.

(5)(a) Each sheet of signatures on an initiative petition shall contain the caption of the ballot title. Each sheet of signatures on a referendum petition shall contain the subject expressed in the title of the Act to be referred.

(b) Each sheet of signatures on an initiative or referendum petition shall:

(A) Contain only the signatures of electors of one county; and

(B) If one or more persons will be paid for obtaining signatures of electors on the petition, contain a notice stating: "Some Circulators For This Petition Are Being Paid." The notice shall be in boldfaced type and shall be prominently displayed on the sheet.

(c) The Secretary of State by rule shall adopt a method of designation to distinguish signature sheets of referendum petitions containing the same subject reference and being circulated during the same period.

(6) The reverse side of the cover of an initiative or referendum petition shall be used for obtaining signatures on an initiative or referendum petition.

(7) Not more than 20 signatures on the signature sheet of the initiative or referendum petition shall be counted. The circulator shall certify on each signature sheet of the initiative or referendum petition that the individuals signed the sheet in the presence of the circulator and that the circulator believes each individual is an elector.

(8) The person obtaining signatures on the petition shall carry at least one full and correct copy of the measure to be initiated or referred and shall

1 allow any person to review a copy upon request of the person.

2 **SECTION 2.** Section 3 of this 2007 Act is added to and made a part
3 of ORS chapter 251.

4 **SECTION 3.** (1) For each state initiative or referendum measure,
5 the Secretary of State shall determine:

6 (a) The number of signatures obtained on the petition in each
7 county in this state;

8 (b) The percentage of the total number of signatures obtained on
9 the petition that were obtained in each county in this state; and

10 (c) The percentage of the total number of electors in each county
11 who signed the petition in that county.

12 (2) For each state initiative or referendum measure, the Secretary
13 of State shall determine the names and addresses of the five persons
14 or political committees that made the greatest amount of contribu-
15 tions in support of obtaining signatures on the state initiative or ref-
16 erendum petition. For purposes of this subsection, the accounting
17 period for making the determination begins on the date the name of
18 a treasurer for the petition is certified under ORS 260.118 and ends on
19 deadline for filing the petition with the secretary for verification of
20 signatures.

21 **SECTION 4.** ORS 251.185 is amended to read:

22 251.185. (1) The Secretary of State shall have printed in the voters' pam-
23 phlet for a general election or any special election a copy of the title and
24 text of each state measure to be submitted to the people at the election for
25 which the pamphlet was prepared. Each measure shall be printed in the
26 pamphlet with:

27 (a) The number and ballot title of the measure;

28 (b) The financial estimates and any statement prepared for the measure
29 under ORS 250.125;

30 (c) The explanatory statement prepared for the measure; [and]

31 (d) Arguments relating to the measure and filed with the Secretary of

State; and

(e) If applicable, the information described in section 3 of this 2007 Act.

(2) A county measure or measure of a metropolitan service district organized under ORS chapter 268, and ballot title, explanatory statement and arguments relating to the measure, filed by the county or metropolitan service district under ORS 251.285 shall be included in the voters' pamphlet described in subsection (1) of this section if required under ORS 251.067.

SECTION 5. ORS 251.026 is amended to read:

251.026. (1) The Secretary of State shall prepare and have printed in the voters' pamphlet for the state primary election, the general election and any special election described in ORS 251.022 a statement containing, if applicable:

(a) Requirements for a citizen to qualify as an elector.

(b) When an elector is required to register or update a registration.

(c) In the voters' pamphlet for the primary election, a statement of the duties and responsibilities of a precinct committeeperson to be elected at the primary election.

(d) A description of the procedures for filing a complaint alleging a violation of any provision of law governing the initiative and referendum petition process.

(e) A description of penalties applicable to violations of laws governing the initiative and referendum petition process.

[(d)] **(f)** Any other information the Secretary of State considers relevant to the conduct of the election.

(2) The Secretary of State shall include a statement on the cover of the voters' pamphlet that the pamphlet may be used to assist electors in voting.

(3) The Secretary of State may include in the voters' pamphlet the following information:

(a) Maps showing the boundaries of senatorial and representative districts.

(b) Voter registration forms.

(c) Elector instructions, including the right of an elector to request a second ballot if the first ballot is spoiled and the right of an elector to seek assistance in marking the ballot.

SECTION 6. (1) The amendments to ORS 250.045 by section 1 of this 2007 Act do not apply to a state initiative or referendum petition that, if filed with the required number of signatures of electors, will be submitted to the people at an election held prior to or on the first Tuesday after the first Monday in November 2008.

(2) The amendments to ORS 250.045 by section 1 of this 2007 Act apply to a state initiative or referendum petition for which a prospective petition is filed on or after the effective date of this 2007 Act and that, if filed with the required number of signatures of electors, will be submitted to the people at an election held after the first Tuesday after the first Monday in November 2008.

DRAFT

SUMMARY

Creates Commission on Legislative Campaign Finance Reform.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to Commission on Legislative Campaign Finance Reform; and declaring an emergency.

Whereas public confidence in the processes of the Oregon Legislative Assembly is low; and

Whereas the rising cost of legislative campaigns increases the reliance of legislative candidates and legislative caucuses on special interest funding; and

Whereas reliance on special interest funding inhibits independent legislative decision-making, intensifies partisanship and discourages problem solving; and

Whereas when partisanship dominates legislative decision-making, cooperation, creativity and compromise are neglected; and

Whereas a Legislative Assembly perceived to be dominated by partisanship further erodes public confidence in the decisions and effectiveness of the assembly; and

Whereas legislative effectiveness builds public confidence in legislative processes and outcomes; now, therefore,

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

SECTION 1. (1) There is created the Commission on Legislative Campaign Finance Reform consisting of 11 members appointed as follows:

(a) The President of the Senate shall appoint two members from among members of the Senate;

(b) The Speaker of the House of Representatives shall appoint two members from among members of the House of Representatives; and

(c) The President and Speaker shall jointly appoint seven public members who have broad experience with, interest in and perspective on campaign finance issues related to members of the Legislative Assembly and candidates for legislative office.

(2) The commission shall conduct a review of and make recommendations on all aspects of the role of campaign finance issues in legislative decision-making. The goals of the commission's recommendations shall include:

(a) Separating legislative policy and budget decisions from the influence of campaign contributions and expenditures;

(b) Restraining the escalation of legislative campaign costs and spending;

(c) Shifting the balance of legislative campaign activity away from fund-raising and toward discussion of policy issues and activities designed to engage voters in the legislative process;

(d) Decreasing the dependence of legislative candidates and legislative caucuses on contributions from and expenditures by special interest groups; and

(e) Preserving the Oregon legislative tradition of resolving issues in a bipartisan manner.

(3) A majority of the members of the commission constitutes a quorum for the transaction of business. A majority of the members of a subcommittee of the commission constitutes a quorum for the transaction of business of the subcommittee.

(4) Official action by the commission requires the approval of a majority of the members of the commission. Official action by a subcommittee requires the approval of a majority of the members of the

1 subcommittee.

2 (5) The President and Speaker shall jointly designate one member
3 of the commission to serve as chairperson of the commission.

4 (6) The chairperson of the commission may determine the number
5 and nature of subcommittees and appoint commission members to
6 subcommittees to carry out the work of the commission. The chair-
7 person of the commission shall select one member of each subcom-
8 mittee to serve as chairperson of the subcommittee.

9 (7) If there is a vacancy on the commission for any cause, the ap-
10 pointing authority shall make an appointment to become immediately
11 effective. The chairperson of the commission shall make appointments
12 to fill vacancies on subcommittees.

13 (8) The commission shall meet at times and places specified by the
14 call of the chairperson. Subcommittees of the commission shall meet
15 at times and places specified by the chairpersons of the subcommit-
16 tees.

17 (9) The commission may adopt rules necessary for the operation of
18 the commission.

19 (10) No later than January 9, 2009, the commission shall prepare a
20 report of its review for submission to the members of the Seventy-fifth
21 Legislative Assembly.

22 (11) The commission may draft and presession file legislation to be
23 considered by the Seventy-fifth Legislative Assembly.

24 (12) The Legislative Administration Committee and the Legislative
25 Assembly shall provide staff to support the commission and subcom-
26 mittees of the commission.

27 (13) Members of the commission who are not members of the Leg-
28 islative Assembly are entitled to compensation and may be reimbursed
29 for actual and necessary travel and other expenses incurred by them
30 in the performance of their official duties in the manner and amounts
31 provided for in ORS 292.495. Claims for expenses incurred in perform-

1 ing functions of the commission shall be paid out of funds appropri-
2 ated to the Legislative Assembly for that purpose.

3 (14) All agencies of state government, as defined in ORS 174.111, are
4 directed to assist the commission in the performance of its duties and,
5 to the extent permitted by laws relating to confidentiality, to furnish
6 such information and advice as the members of the commission con-
7 sider necessary to perform their duties.

8 SECTION 2. Section 1 of this 2007 Act is repealed January 12, 2009.

9 SECTION 3. This 2007 Act being necessary for the immediate pres-
10 ervation of the public peace, health and safety, an emergency is de-
11 clared to exist, and this 2007 Act takes effect on its passage.



STATE OF OREGON
Legislative Counsel Committee

November 9, 2006

To: Marjorie Taylor, Administrator, Public Commission on the Oregon Legislature
From: Ted W. Reutlinger, Senior Deputy Legislative Counsel *TR*
Subject: LC 1586—Prohibited Political Contributions

You asked for a bill draft similar to LC 186 prepared for the Oregon Law Commission Government Ethics Work Group. LC 1586 is based on LC 186.

LC 1586 prohibits a candidate or principal campaign committee of a candidate for public office from making contributions to any other candidate or political committee. As was discussed several times in meetings of the government ethics work group, I believe this prohibition raises constitutional issues under section 8, Article I of the Oregon Constitution.

In *VanNatta v. Keisling*, 324 Or. 514, 931 P.2d 770 (1997), the Oregon Supreme Court struck down statutory limits and prohibitions on political contributions. Among the provisions invalidated was a law that prohibited a candidate or the principal campaign committee of a candidate from making a contribution to another candidate or political committee. (See section 4, chapter 1, Oregon Laws 1995, codified as ORS 260.168 (repealed in 1999)).

In *VanNatta*, the court concluded that "many—probably most—" contributions to political campaigns and candidates are a form of expression under section 8, Article I. 324 Or. at 522. The court said that political contributions are:

protected as an expression by the contributor . . . the contribution, in and of itself, is the contributor's expression of support for the candidate or cause—an act of expression that is completed by the act of giving and that depends in no way on the ultimate use to which the contribution is put. 324 Or. at 522. (Emphasis in original.)

The court also concluded "that both campaign contributions and expenditures are forms of expression for the purposes of Article I, section 8." 324 Or. at 524.

A prohibition on contributions from one candidate or political committee to another candidate or other political committee may be unconstitutional because:

- It prohibits political contributions;
- Political contributions are expression protected by section 8, Article I;
- The contribution prohibition is focused on the content of speech per se and not on some forbidden effect that may be regulated; and

- The resulting restriction of expression is not saved by any historical exception or incompatibility exception.

The contribution prohibition might be defended by arguing that the prohibition is more focused than the law invalidated in 1997, that it is aimed at a specific harm that may be regulated, that it is not overbroad and that it is necessary to protect the integrity of the elections and legislative processes. Further, it might be argued that contributions made from candidate principal campaign committees to other candidates or political committees may be regulated differently from contributions made to individuals or other persons directly to candidates. A court might view amounts contributed to a candidate as not "belonging" to the candidate but instead as intended to support the nomination or election of the candidate. In fact, in *VanNatta*, the court said "the right to spend money to encourage some candidate or cause does not necessarily extend to spending other people's money on a political message without their consent. . . ." 324 Or. at 524.

Encl.

DRAFT

SUMMARY

Allows candidate for public office to use political contributions only to support nomination or election of candidate. Prohibits candidate from using contributions for personal use. Prohibits candidate from using contributions to make contributions to other candidates or political committees, to defray office expenses, to pay criminal or civil penalties or to pay certain membership dues.

Allows candidate to distribute contributions to principal campaign committee of same candidate for different office. Allows candidate who discontinues principal campaign committee to distribute excess contributions to charitable organization, political party, legislative caucus political committee or Legislative Assembly.

Limits uses of contributions received by political committee that is not principal campaign committee.

A BILL FOR AN ACT

Relating to elections; creating new provisions; and amending ORS 260.046 and 260.407.

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

SECTION 1. ORS 260.407 is amended to read:

260.407. *[(1) Except as provided in subsection (2) of this section, amounts received as contributions by a candidate or the principal campaign committee of a candidate for public office that are in excess of any amount necessary to defray campaign expenditures and any other funds donated to a holder of public office may be:]*

[(a) Used to defray any expenses incurred in connection with the recipient's duties as a holder of public office;]

[(b) Transferred to any national, state or local political committee of any political party;]

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 [(c) Contributed to any organization described in section 170(c) of Title 26
2 of the United States Code or to any charitable corporation defined in ORS
3 128.620; or]

4 [(d) Used for any other lawful purpose.]

5 [(2) Notwithstanding subsection (1) of this section, amounts received as
6 contributions by a candidate for public office that are in excess of any amount
7 necessary to defray campaign expenditures and other funds donated to a holder
8 of public office shall not be converted by any person to any personal use other
9 than to defray any expenses incurred in connection with the person's duties
10 as a holder of public office or to repay to a candidate any loan the proceeds
11 of which were used in connection with the candidate's campaign.]

12 [(3) As used in this section:]

13 [(a) "Funds donated" means all funds, including but not limited to gifts,
14 loans, advances, credits or deposits of money that are donated for the purpose
15 of supporting the activities of a holder of public office. "Funds donated" does
16 not mean funds appropriated by the Legislative Assembly or another similar
17 public appropriating body or personal funds of the office holder donated to an
18 account containing only those personal funds.]

19 [(b) "Public office" does not include national or political party office.]

20 **(1) Except as provided in subsections (3) and (4) of this section, a**
21 **candidate or principal campaign committee of a candidate for public**
22 **office may use contributions received by the candidate or committee**
23 **only for the purpose of making expenditures to support the nomi-**
24 **nation or election of the candidate.**

25 **(2) Except as provided in subsections (3) and (4) of this section,**
26 **contributions received by a candidate or principal campaign committee**
27 **of a candidate for public office may not be:**

28 **(a) Converted by any person to any personal use;**

29 **(b) Contributed to any other candidate or political committee;**

30 **(c) Used to defray any expenses incurred in connection with the**
31 **recipient's duties as a holder of public office;**

1 (d) Used to pay any money award as defined in ORS 18.005 included
2 as part of a judgment in a civil or criminal action or any civil penalty
3 imposed by an agency as defined in ORS 183.310 or by a local govern-
4 ment as defined in ORS 174.116; or

5 (e) Used to pay membership dues to a professional or civic organ-
6 ization if the membership is not integrally related to the candidate's
7 election or duties as a holder of public office.

8 (3) A candidate or principal campaign committee of a candidate for
9 public office may distribute contributions received by the candidate
10 or committee to the principal campaign committee of the same can-
11 didate for nomination or election to a different public office.

12 (4) If a candidate or principal campaign committee of a candidate
13 for public office does not intend to receive contributions or make ex-
14 penditures and intends to discontinue the statement of organization
15 of the candidate or committee under ORS 260.046, the candidate or
16 committee may distribute contributions received by the candidate or
17 committee to:

18 (a) Any organization qualified as a charitable organization under
19 26 U.S.C. 501(c)(3), or to any charitable corporation as defined in ORS
20 128.620, if the organization or corporation is not controlled by the
21 candidate or a member of the candidate's immediate family;

22 (b) Any national, state or local political committee of any political
23 party;

24 (c) Any political committee organized by a caucus of either house
25 of the Legislative Assembly; or

26 (d) In the case of a candidate for the office of state Senator or state
27 Representative, the Property and Supplies Stores Account established
28 under ORS 173.790.

29 (5) Contributions received by a political committee that is not a
30 principal campaign committee of a candidate for public office may not
31 be:

(a) Converted by any person to any personal use;

(b) Except as allowed under ORS chapter 244, used to defray any expenses incurred in connection with the duties of a holder of public office;

(c) Used to pay any money award as defined in ORS 18.005 included as part of a judgment in a civil or criminal action or any civil penalty imposed by an agency as defined in ORS 183.310 or by a local government as defined in ORS 174.116; or

(d) Used to pay membership dues of a candidate or holder of public office to a professional or civic organization if the membership is not integrally related to the candidate's election or the duties of the holder of public office.

(6) The Secretary of State by rule may specify expenditures that are allowed or prohibited under subsection (1), (2) or (5) of this section.

(7) As used in this section, "public office" does not include a national or political party office.

SECTION 2. ORS 260.046 is amended to read:

260.046. (1) A filing officer, in accordance with rules adopted by the Secretary of State, may discontinue the statement of organization of a candidate, principal campaign committee or political committee if the candidate, principal campaign committee or political committee has not filed a statement of contributions received or expenditures made under this chapter.

(2) The Secretary of State shall adopt rules prescribing conditions and procedures under which a filing officer may discontinue a statement of organization under this section.

(3) If a filing officer discontinues a statement of organization under this section, the filing officer shall provide written notice to the candidate, principal campaign committee or political committee that the statement has been discontinued.

(4) A candidate, principal campaign committee or political committee may discontinue a statement of organization in the manner

1 specified by the Secretary of State by rule.

2 **SECTION 3.** (1) The amendments to ORS 260.407 by section 1 of this
3 **2007 Act apply to expenditures or distributions of contributions made**
4 **on or after the effective date of this 2007 Act.**

5 (2) The amendments to ORS 260.046 by section 2 of this 2007 Act
6 apply to:

7 **(a) Individuals who are or who become candidates or treasurers on**
8 **or after the effective date of this 2007 Act;**

9 **(b) Principal campaign committees or political committees for**
10 **which a statement of organization was filed prior to the effective date**
11 **of this 2007 Act and has not been discontinued; and**

12 (c) Principal campaign committees or political committees for
13 which a statement of organization is filed on or after the effective date
14 of this 2007 Act.

DRAFT

SUMMARY

Changes membership of Public Officials Compensation Commission. Requires commission to establish salaries of specified elective officers and members of Legislative Assembly. Provides that, subject to appropriation, salaries established by commission take effect unless Legislative Assembly passes bill rejecting or amending salaries.

Takes effect only if constitutional amendment proposed by _____ Joint Resolution _____ (LC 1566-1) (2007) is approved by people at special election held on same date as next primary election. Takes effect on effective date of _____ Joint Resolution _____ (LC 1566-1) (2007).

A BILL FOR AN ACT

Relating to Public Officials Compensation Commission; creating new provisions; amending ORS 8.690, 8.790, 8.852, 171.072, 292.430, 292.907, 292.912, 292.917 and 292.930; repealing ORS 292.313, 292.405, 292.410, 292.415, 292.425 and 292.920; and prescribing an effective date.

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

SECTION 1. ORS 292.907 is amended to read:

292.907. (1) There is established a Public Officials Compensation Commission consisting of *[seven]* **11** members *[of whom two are appointed by the Governor, two by the Speaker of the House of Representatives, two by the President of the Senate and one by the Chief Justice of the Supreme Court of the State of Oregon.]* **appointed or selected as follows:**

(a) Two members who have a background in compensation management, appointed by the Governor, subject to confirmation by the Senate under ORS 171.562 and 171.565;

(b) One member appointed by the Chief Justice of the Supreme Court;

(c) One member appointed by the President of the Senate;

(d) One member appointed by the Speaker of the House of Representatives; and

(e) Six members selected by lot by the Secretary of State in the manner described in section 3 of this 2007 Act.

(2) The term of office of each member is four years. A member is eligible for reappointment **or** **reselection**. If there is a vacancy for any cause, the [appointing] authority having made the appointment **or** **selection** of the member representing the vacancy[,] shall make an appointment **or** **selection** to become immediately effective for the unexpired term.

(3)(a) [No person] **Neither an individual** who holds an office or position the salary of which is subject to ORS 292.907 to 292.930 [shall be] **nor an immediate family member of the individual** is eligible to serve on the commission.

(b) As used in this subsection, "immediate family member" means an individual related by blood, marriage or adoption to the individual who holds an office or position the salary of which is subject to ORS 292.907 to 292.930.

(4) To be eligible to serve on the commission, an individual must have voted in the two general elections held immediately before the individual's appointment, reappointment, selection or reselection.

SECTION 2. Section 3 of this 2007 Act is added to and made a part of ORS 292.907 to 292.930.

SECTION 3. (1) The Secretary of State shall select by lot from elector registration records six persons for membership on the Public Officials Compensation Commission. The Secretary of State shall select one elector from each congressional district and one elector from the state at large.

(2) The Secretary of State shall adopt rules concerning the method by which electors are selected by lot. The rules shall include but are not limited to:

1 (a) Procedures for notifying the electors selected;

2 (b) Procedures for making a new selection by lot if an elector who
3 is selected declines to serve on the commission; and

4 (c) Procedures for filling a vacancy on the commission if a selected
5 member does not complete the member's term.

6 **SECTION 4.** (1) Notwithstanding the term of office specified in ORS
7 292.907, the term of office of each member of the Public Officials
8 Compensation Commission on the effective date of this 2007 Act ex-
9 pires on the effective date of this 2007 Act.

10 (2) A member whose term of office expires as provided in subsection
11 (1) of this section is eligible for reappointment or selection to the
12 commission.

13 (3) New members shall be appointed or selected to serve on the
14 commission on or after the effective date of this 2007 Act.

15 (4) Notwithstanding the term of office specified in ORS 292.907, of
16 the members first appointed or selected to serve on the commission
17 after the effective date of this 2007 Act:

18 (a) Two shall serve for terms ending January 1, 2009;

19 (b) Three shall serve for terms ending January 1, 2010;

20 (c) Three shall serve for terms ending January 1, 2011; and

21 (d) Three shall serve for terms ending January 1, 2012.

22 **SECTION 5.** ORS 292.912 is amended to read:

23 292.912. (1) The Public Officials Compensation Commission shall review
24 and *[make recommendations to the Legislative Assembly regarding]* establish
25 the annual salary of each elective officer subject to ORS 292.907 to 292.930
26 and *[all compensation of members]* of each member of the Legislative As-
27 sembly for the succeeding biennium.

28 (2) *[Such recommendations shall be]* The commission shall establish the
29 salaries based upon the following criteria:

30 (a) Comparable positions in neighboring states.

31 (b) The qualifications and skills necessary for each office.

(c) The level of responsibility implicit in each office.

(d) The cost of living.

(e) The total compensation of the positions, including benefits other than salary.

(f) Budget limitations.

(g) Any other factors the commission may consider to be reasonable, appropriate and in the public interest.

[(3) The commission shall cause to have prepared legislative measures that would implement the commission's recommendations on salaries of officers subject to ORS 292.907 to 292.930 and all compensation of members of the Legislative Assembly for the succeeding biennium.]

(3) The commission shall meet on or before September 1 of each even-numbered year to review and establish the salaries. The commission may meet at other times as the commission determines necessary to carry out its duties. On or before October 31 of each even-numbered year, the commission shall complete a report that lists the salaries established by the commission and send the report to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Court.

(4) Subject to an appropriation made by law, the salaries established by the commission take effect on July 1 of the odd-numbered year following the completion of the report described in subsection (3) of this section unless, by May 1 of that odd-numbered year, the Legislative Assembly passes a bill rejecting or amending the salaries and the bill is enacted and takes effect on or before July 1 of that odd-numbered year. However, pursuant to section 1, Article VII (Amended) of the Oregon Constitution, the salaries of the Chief Justice of the Supreme Court and other judges may not be diminished during the term for which they are elected.

SECTION 6. ORS 292.917 is amended to read:

292.917. (1) The Public Officials Compensation Commission shall select

one of its members as chairperson and another as vice chairperson, for such terms and with **such** duties and powers necessary for the performance of the functions of *[such]* **the** offices as the commission determines.

(2) A majority of the members of the commission constitutes a quorum for the transaction of business.

(3) **If a quorum is present when a vote is taken, the affirmative vote of a majority of the members present is required for the commission to establish salaries under ORS 292.912.**

[(3) The commission shall meet as frequently as the proper and efficient discharge of its duties may require.]

(4) A member of the commission *[shall be]* **is** eligible for compensation and expenses under ORS 292.495.

(5) The *[Personnel Division]* **Oregon Department of Administrative Services** shall assist the *[Public Officials Compensation]* commission in carrying out its functions.

SECTION 7. ORS 292.930 is amended to read:

292.930. **Subject to an appropriation made by law**, each of the following elective officers shall be paid an annual salary on a monthly basis as *[determined by the Legislative Assembly]* **established under ORS 292.912** each biennium beginning July 1, *[1985]* **2009**:

(1) Governor.

(2) Secretary of State.

(3) State Treasurer.

(4) Attorney General.

(5) Superintendent of Public Instruction.

(6) Commissioner of the Bureau of Labor and Industries.

(7) Chief Judge of the Court of Appeals.

[(7)] **(8) Court of Appeals Judge.**

(9) Chief Justice of the Supreme Court.

[(8)] **(10) Supreme Court [Justice] Judge.**

[(9)] **(11) Circuit Court Judge.**

1 ~~[(10)]~~ (12) Tax Court Judge.

2 **(13) District attorney.**

3 **SECTION 8.** ORS 171.072 is amended to read:

4 171.072. (1) A member of the Legislative Assembly shall receive for ser-
5 vices an annual salary **established under ORS 292.912.** *[of the greater of:]*

6 *[(a) One step below the maximum of Salary Range 1 in the Management*
7 *Service Compensation Plan in the executive department as defined in ORS*
8 *174.112; or]*

9 *[(b) Seventeen percent of the salary of a Circuit Court Judge.]*

10 (2)(a) The President of the Senate and the Speaker of the House of Rep-
11 resentatives each shall receive for services, as additional salary, an amount
12 equal to the *[sum]* **salary** allowed each of them as a member under sub-
13 section (1) of this section.

14 **(b) The majority leader and minority leader of the Senate and the**
15 **majority leader and minority leader of the House of Representatives**
16 **each shall receive for services, as additional salary, an amount deter-**
17 **mined by the Public Officials Compensation Commission.**

18 (3) A member of the Legislative Assembly shall receive, as an allowance
19 for expenses not otherwise provided for, a per diem determined as provided
20 in subsection (9) of this section for each day within the period that the
21 Legislative Assembly is in session, to be paid with the salary provided for
22 in subsection (1) of this section. Pursuant to procedures determined by the
23 Legislative Administration Committee, a member may draw from an accrued
24 allowance.

25 (4) A member of the Legislative Assembly shall receive, as an allowance
26 for expenses incurred in the performance of official duties during periods
27 when the legislature is not in session, \$400 for each calendar month or part
28 of a calendar month during those periods, to be paid monthly, and subject
29 to approval of the President of the Senate or Speaker of the House of Rep-
30 resentatives, mileage expenses and a per diem determined as provided in
31 subsection (9) of this section for each day a member is engaged in the busi-

1 ness of legislative interim and statutory committees, including advisory
2 committees and subcommittees of advisory committees, and task forces and
3 for each day a member serves on interstate bodies, advisory committees and
4 other entities on which the member serves ex officio, whether or not the
5 entity is a legislative one.

6 (5) In addition to the mileage and per diem expense payments provided
7 by this section, a member of the Legislative Assembly may receive re-
8 imbursement for actual and necessary expenses, subject to approval by the
9 President of the Senate or Speaker of the House of Representatives, for leg-
10 islative business outside of the state.

11 (6) The President of the Senate and ~~the~~ Speaker of the House of Repre-
12 sentatives may delegate to the chairpersons of interim and statutory com-
13 mittees and task forces the approval authority granted to *[them]* ~~the~~
14 **President and Speaker** by subsection (4) of this section, with respect to
15 expenses incurred in attending any meeting of a particular committee or task
16 force.

17 (7) Amounts received under subsections (3) to (5) of this section are ex-
18 cluded from gross income and expenditures of the amounts are excluded in
19 computing deductions for purposes of ORS chapter 316. If there is attached
20 to the personal income return a schedule of all ordinary and necessary
21 business expenses paid during the tax year as a member of the Legislative
22 Assembly, a deduction may be claimed on the return for legislative expenses
23 paid in excess of the amounts received under subsections (3) to (5) of this
24 section. Expenses of members of the Legislative Assembly *[that]* ~~who~~ are
25 reimbursed by the state for actual expenses for meals and lodging associated
26 with state travel for the same period during which a legislator receives per
27 diem *[is]* ~~are~~ subject to state income tax.

28 (8) For periods when the Legislative Assembly is not in session, the Leg-
29 islative Administration Committee shall provide for a telephone and an ex-
30 pense allowance for members of the Legislative Assembly that is in addition
31 to the amount allowed under subsection (4) of this section. In determining

1 the amount of allowance for members, the committee shall consider the ge-
2 ographic area of the member's district. The additional allowance shall reflect
3 travel expenses necessary to communicate in districts of varying sizes.

4 (9) The per diem allowance referred to in subsections (3) and (4) of this
5 section shall be the amount fixed for per diem allowance that is authorized
6 by the United States Internal Revenue Service to be excluded from gross
7 income without itemization.

8 **SECTION 9.** ORS 8.690 is amended to read:

9 8.690. Upon request of a county officer, the district attorney and deputies
10 of the district attorney shall advise the county court and other county offi-
11 cers on all legal questions that may arise. When *[any]* **an** action is instituted
12 against *[any]* **a** county officer or county employee for damages for an alleged
13 wrongful act or omission in the performance of official duty, the district at-
14 torney shall defend *[such]* **the** action. The district attorney shall also prose-
15 cute and defend all actions, suits[,] and proceedings to which the county may
16 be a party. For such services the district attorney shall receive no compen-
17 sation other than salary **and any additional amounts paid under ORS**
18 **8.830.**

19 **SECTION 10.** ORS 8.790 is amended to read:

20 8.790. No salary, fees, percentage or compensation of any kind shall be
21 allowed, paid to or received by any district attorney or deputy district at-
22 torney except as provided in ORS 8.110 to 8.150, 8.160, *[and]* 8.670 to 8.852
23 **and 292.930.**

24 **SECTION 11.** ORS 8.852 is amended to read:

25 8.852. The district attorneys of the various counties shall be paid monthly
26 salaries as *[adopted in the salary plan provided for in ORS 240.240 (2), to*
27 *include salary adjustments awarded management service employees]* **provided**
28 **in ORS 292.930.**

29 **SECTION 12.** ORS 292.430 is amended to read:

30 292.430. (1) In addition to the annual salaries *[set forth in ORS 171.072*
31 *and 292.313]* **established under ORS 292.912**, the Oregon Department of

1 Administrative Services may "pick-up," assume and pay to the Public Em-
2 ployees Retirement Fund any employee contributions, otherwise required by
3 ORS 238.200, for the Governor, Secretary of State, State Treasurer, Attorney
4 General, Superintendent of Public Instruction, Commissioner of the Bureau
5 of Labor and Industries, **district attorneys** and members of the Legislative
6 Assembly.

7 (2) The department may provide health, dental, life and long-term disa-
8 bility insurance without cost to the officers referred to in subsection (1) of
9 this section and to judges of the Supreme Court, Court of Appeals, Oregon
10 Tax Court and circuit courts in such amounts as are provided from time to
11 time to employees in the unclassified service of the state.

12 **SECTION 13. ORS 292.313, 292.405, 292.410, 292.415, 292.425 and 292.920**
13 **are repealed.**

14 **SECTION 14. This 2007 Act does not take effect unless the amend-**
15 **ment to the Oregon Constitution proposed by _____ Joint Resolution**
16 **_____ (2007) (LC 1566-1) is approved by the people at a special election**
17 **held throughout this state on the same date as the next primary**
18 **election. This 2007 Act takes effect on the effective date of that con-**
19 **stitutional amendment.**


20



STATE OF OREGON
Legislative Counsel Committee

November 7, 2006

To: Marjorie Taylor, Committee Administrator,
Public Commission on the Oregon Legislature

From: Doug McKean, Senior Deputy Legislative Counsel 

Subject: LCs 1566 and 1566-1—Public Officials Compensation Commission

On behalf of the Public Commission on the Oregon Legislature, you requested a draft constitutional amendment to create an independent commission to establish salaries of certain public officials. You also requested a bill draft to amend the statutes relating to the Public Officials Compensation Commission.

Enclosed are the two drafts, LCs 1566 and 1566-1.

The first draft, LC 1566, is similar to LC 1072, which you submitted with the request, but includes the changes you asked for.

The second draft, LC 1566-1, is a draft joint resolution proposing an amendment to the Oregon Constitution to create the independent commission. The draft is modeled, to some extent, on Article 28 of the Washington Constitution.

Please note that LC 1566-1 might raise constitutional issues under section 1, Article XVII of the Oregon Constitution, and might be challenged on the basis that it contains more than one amendment to the Constitution. See *Armatta v. Kitzhaber*, 327 Or. 250, 959 P.2d 49 (1998). Arguably, the proposed amendment could implicitly change other provisions of the Oregon Constitution concerning appropriations and the authority of the Legislative Assembly. Based on decisions of the Oregon Supreme Court, I believe LC 1566-1 would probably survive an *Armatta* challenge, but this conclusion is not free from doubt. Of course, *Armatta* issues could be avoided by converting LC 1566-1 into a constitutional revision. See section 2, Article XVII of the Oregon Constitution.

Because of the limited time available to deliver these drafts to you, I haven't had time to prepare a full analysis of the "separate-vote" question; however, I wanted to bring the issue to your attention.

Encls.

D R A F T

SUMMARY

Proposes amendment to Oregon Constitution relating to compensation of public officials.

Refers proposed amendment to people for their approval or rejection at special election held on same date as next primary election.

JOINT RESOLUTION

Be It Resolved by the Legislative Assembly of the State of Oregon:

PARAGRAPH 1. The Constitution of the State of Oregon is amended by creating a new section 15 to be added to and made a part of Article IX, such section to read:

SECTION 15. (1) Salaries for members of the Legislative Assembly, elected officials of the Executive Department, district attorneys and judges of supreme court, court of appeals, circuit courts and tax court shall be established by an independent commission created by law for that purpose. A majority of the members of the commission shall be selected by lot from elector registration records. An individual who holds an office or position the salary of which is established by the commission, or an immediate family member of the individual, may not be a member of the commission. As used in this section, the term "immediate family member" has the meaning defined by law.

(2) Any change of salary by the commission shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives and the Chief Justice of the Supreme Court on or before October 31 of each even-numbered year and shall become law on July 1 of the odd-numbered year following the filing unless, by May 1

1 of that odd-numbered year, the Legislative Assembly passes a bill re-
2 jecting or amending the salaries and the bill takes effect on or before
3 July 1 of that odd-numbered year.

4 (3) The salaries established under this section supersede any other
5 provision for the salaries of members of the Legislative Assembly,
6 elected officials of the Executive Department, district attorneys and
7 judges of the state's supreme court, court of appeals, circuit courts
8 and tax court. However, pursuant to section 1, Article VII (Amended)
9 of this Constitution, the salaries of judges of the supreme court and
10 other courts may not be diminished during the term for which they
11 are elected. The salaries of these members, elected officials, district
12 attorneys and judges in effect on the effective date of this section re-
13 main in effect until changed under this section.

14
15 PARAGRAPH 2. The amendment proposed by this resolution shall
16 be submitted to the people for their approval or rejection at a special
17 election held throughout this state on the same date as the next pri-
18 mary election.

DRAFT

SUMMARY

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

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

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

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

(2) Pursuant to the policies and directions of the Legislative Fiscal Officer and the Joint Program Policy Analysis and Government Ac-

1 countability Committee created under ORS 171.580, the Office of Pro-
2 gram Policy Analysis and Government Accountability shall conduct
3 performance, program and management evaluations or reviews of any
4 state agency, as defined in ORS 291.272, or any state program and any
5 other state-funded program.

6 (3) The Legislative Fiscal Officer may enter into contracts to carry
7 out the functions of the Office of Program Policy Analysis and Gov-
8 ernment Accountability.

9 **SECTION 2.** (1) In conducting an evaluation or review under section
10 1 of this 2007 Act:

11 (a) The Director of the Office of Program Policy Analysis and Gov-
12 ernment Accountability may examine and inspect all accounts, books,
13 records, files, papers and documents and all financial affairs of any
14 public body as defined in ORS 174.109.

15 (b) The director may cause a search to be made of and extracts to
16 be taken from any account, book, record, file, paper or document in
17 the custody of any public officer without paying any fee for the search
18 or extract. Any public officer having the custody of the account, book,
19 record, file, paper or document shall make any search requested by the
20 director and furnish the extracts as requested.

21 (c) The director may issue:

22 (A) Subpoenas compelling at a specified time and place the appear-
23 ance and sworn testimony of any person whom the director reasonably
24 believes may be able to provide information relating to any evaluation,
25 review or other investigation being undertaken under this section; and

26 (B) Subpoenas duces tecum compelling the production of any ac-
27 count, book, record, file, paper, document or other evidence that the
28 director reasonably believes may relate to an evaluation, review or
29 other investigation being undertaken under this section.

30 (2) If a person fails to comply with any subpoena issued under
31 subsection (1) of this section, a judge of the circuit court of any

county, on application of the director, shall compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the circuit court.

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

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

SECTION 4. ORS 171.580 is amended to read:

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

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

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

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

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

1 [(2)] (3) The **Joint Program Policy Analysis and Government Ac-**
 2 **countability** Committee has a continuing existence and [*may*] **shall** meet,
 3 act and conduct [*its*] **the committee's** business during sessions of the Leg-
 4 islative Assembly or any recess [*thereof*] **in a session** and in the interim
 5 between sessions.

6 [(3)] (4) The term of a member [*shall expire*] **expires** upon the convening
 7 of the Legislative Assembly in regular session next following the com-
 8 mencement of the member's term. When a vacancy occurs in the membership
 9 of the committee in the interim between sessions, until [*such*] **the** vacancy
 10 is filled, the membership of the committee [*shall be considered not to*] **does**
 11 **not** include the vacant position for the purpose of determining whether a
 12 quorum is present, and a quorum is a majority of the remaining members.

13 [(4)] (5)(a) Members of the committee shall receive an amount equal to
 14 that authorized under ORS 171.072 from funds appropriated to the Legislative
 15 Assembly for each day spent in the performance of their duties as members
 16 of the committee or any subcommittee [*thereof*] **of the committee**, in lieu
 17 of reimbursement for in-state travel expenses. [*However,*]

18 (b) When engaged in out-of-state travel, members shall [*be entitled to re-*
 19 *ceive their actual and necessary expenses therefor*] **receive the expenses ac-**
 20 **tually and necessarily incurred** in lieu of the amount authorized by
 21 **paragraph (a) of** this subsection.

22 (c) Payment **under this subsection** shall be made from funds appropri-
 23 ated to the Legislative Assembly.

24 [(5)] (6) Action of the committee shall be taken only upon the affirmative
 25 vote of the majority of members of the committee.

26 [(6)] (7) The Legislative Fiscal Office **or the Office of Program Policy**
 27 **Analysis and Government Accountability** shall furnish to the committee
 28 [*such*] **the** services of personnel and [*such other*] **the** facilities [*as*] **that** are
 29 necessary to enable the committee to carry out its functions as directed by
 30 law, with such assistance as the Division of Audits and Oregon Department
 31 of Administrative Services can provide.

SECTION 5. ORS 171.585 is amended to read:

171.585. The Joint *[Legislative Audit]* **Program Policy Analysis and Government Accountability** Committee shall:

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

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

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

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

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

[(6)] (5) Assign tasks to the Legislative Fiscal Office[, *the Budget and Management Division, the Division of Audits or a special task force*] **or the Director of the Office of Program Policy Analysis and Government**

1 **Accountability.**

2 [(7)] (6) Review state agency performance measures and make recommen-
 3 dations for change.

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

5 297.050. The Division of Audits of the office of the Secretary of State shall
 6 supply the Joint [*Legislative Audit*] **Program Policy Analysis and Gov-**
 7 **ernment Accountability** Committee and the Legislative Fiscal Officer with
 8 a copy of each audit report made by or for the Division of Audits.

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

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

21 (2) [*Payments authorized under this section shall be consistent with ORS*
 22 *171.580 and 171.585.*] The Division of Audits shall report to the Joint [*Legis-*
 23 *lative Audit*] **Program Policy Analysis and Government Accountability**
 24 **Committee** [*established*] **created** under ORS 171.580 when estimated expenses
 25 for an audit authorized under subsection (1) of this section exceed the esti-
 26 mated expenses for a biennium.

27 (3) All moneys received from the various state departments, boards, com-
 28 missions, institutions and state-aided institutions and agencies of the state
 29 in the payment of the costs of audits and reviews under this section and ORS
 30 297.210 shall be credited to the Division of Audits Account.

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

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

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

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

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

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

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

16 (d) A description of current fees and proposed changes to fees, along with
17 information supporting the amounts of the current fees and any proposed
18 changes to the fees.

19 (3) A description of all temporary and permanent rules adopted by the
20 board since the last report was submitted.

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

23 (5) If the board issues licenses, a description of the board's licensing ac-
24 tivities performed since the last report that is adequate to allow evaluation
25 of the board's performance of its licensing responsibilities, including:

26 (a) The number of license applications;

27 (b) The number of licenses issued;

28 (c) The number of examinations conducted;

29 (d) The average time between application for and issuance of licenses;

30 (e) The number and types of complaints received about persons holding
31 licenses;

- (f) The number and types of investigations conducted;
- (g) The number and types of resolutions of complaints;
- (h) The number and type of sanctions imposed; and
- (i) The number of days between beginning an investigation and reaching a resolution.

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

SECTION 9. ORS 184.360 is amended to read:

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

(2) It is the policy of this state that internal audit activities within state government be coordinated to promote effectiveness.

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

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

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

(4) Not later than December 31 of each calendar year, the department shall prepare and submit a report to the Joint *[Legislative Audit]* **Program Policy Analysis and Government Accountability** Committee. In the absence of the Joint *[Legislative Audit]* **Program Policy Analysis and Government Accountability** Committee, the department shall submit the report to the Joint Committee on Ways and Means or the Emergency Board. The report shall describe internal audit activities that have occurred in state government during the calendar year in which the report is prepared.

SECTION 10. ORS 184.649 is amended to read:

184.649. The Department of Transportation shall appear before the Joint *[Legislative Audit]* **Program Policy Analysis and Government Account-**

1 **ability** Committee [*established by*] **created under** ORS 171.580 at least once
2 each biennium to report on internal audits and federal audits of the depart-
3 ment.

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

5 283.343. At least biennially, the Oregon Department of Administrative
6 Services shall examine compliance with rules adopted pursuant to ORS
7 283.340 by state agencies owning vehicles. The department shall submit
8 biennially to the Joint [*Legislative Audit*] **Program Policy Analysis and**
9 **Government Accountability** Committee a management report on state-
10 owned motor vehicles that includes:

11 (1) Summaries of agency compliance examinations, with specific emphasis
12 on noncomplying state agency fleets;

13 (2) Numbers of motor vehicles, listed by model and by state agency;

14 (3) Mileage utilization of motor vehicles, listed by state agency;

15 (4) Operating cost per mile of motor vehicles, listed by state agency; and

16 (5) Recommendations for increasing motor vehicle utilization, for de-
17 creasing the overall motor vehicle population and for absorbing noncomply-
18 ing state agency fleets into the motor pool.

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

20 291.100. (1) It is the intent of the Legislative Assembly, in funding the
21 development and implementation of a new statewide financial management
22 system, that statewide financial management systems and policies support
23 program-driven budget planning and execution, based on timely and accurate
24 statewide managerial cost accounting information and that such systems
25 support legislative program, **performance and management evaluation**
26 **or review** [*evaluation and performance auditing*] of statewide programs and
27 services.

28 (2) The Oregon Department of Administrative Services shall devise and
29 supervise statewide financial management systems for all state agencies by
30 preparing policies and procedures for implementing and operating financial
31 management systems for all agencies in state government, and measuring

1 implementation. In order to [assure] **ensure** that the state's investment in a
2 modern and complete statewide financial management system is fully imple-
3 mented, every agency and unit of state government shall:

4 (a) Cooperate and comply fully with policies and procedures and deadlines
5 prepared by the Oregon Department of Administrative Services for estab-
6 lishing a database for the financial management system.

7 (b) Comply fully with policies and procedures prepared by the Oregon
8 Department of Administrative Services for operation of the financial man-
9 agement system.

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

12 (a) Progress in implementing the financial management system as to
13 preparation of financial statements, nonfinancial management information
14 and the ability of the system to support legislative program, **performance**
15 **and management evaluation or review** [*evaluation and performance au-*
16 *dit*ing].

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

20 (4) After a review of the Oregon Department of Administrative Services
21 report by the Legislative Fiscal Officer, the Joint [*Legislative Audit*] **Pro-**
22 **gram Policy Analysis and Government Accountability** Committee may
23 schedule a hearing for any agency or unit of state government to review
24 compliance with this section and policies and procedures of the Oregon De-
25 partment of Administrative Services[, *prior to any appropriation approval by*
26 *the Legislative Assembly, as provided in ORS 171.585 (1)*].

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

28 291.272. As used in ORS 291.272 to 291.280, unless the context requires
29 otherwise:

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

31 (2) "Department" means the Oregon Department of Administrative Ser-

1 vices.

2 (3) "Governmental service expenses" means the expenses of state govern-
3 ment that are attributable to the operation, maintenance, administration and
4 support of state government generally, and includes the following:

5 (a) Administrative expenses of the Oregon Department of Administrative
6 Services supported out of the General Fund.

7 (b) Sixty percent of the expenditures of the Legislative Assembly out of
8 moneys appropriated from the General Fund, and all of the expenditures in-
9 curred in the administration of the duties of the Emergency Board.

10 (c) Sixty percent of the expenditures incurred in the administration of the
11 duties of the Joint **Legislative** Committee on Ways and Means and the
12 Emergency Board.

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

16 **(e) Sixty percent of the expenditures incurred out of moneys ap-**
17 **propriated from the General Fund in the administration of the duties**
18 **of the Joint Program Policy Analysis and Government Accountability**
19 **Committee.**

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

23 [(f)] (g) Seventy-five percent of the administrative expenses of the Office
24 of the Governor incurred out of moneys appropriated from the General Fund.

25 (4) "State agency" means every state officer, board, commission, depart-
26 ment, institution, branch or agency of the state government, whose costs are
27 paid wholly or in part from funds held in the State Treasury, and includes
28 the Legislative Assembly, the courts and their officers and committees.

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

30 419C.001. (1) The Legislative Assembly declares that in delinquency cases,
31 the purposes of the Oregon juvenile justice system from apprehension for-

ward are to protect the public and reduce juvenile delinquency and to provide fair and impartial procedures for the initiation, adjudication and disposition of allegations of delinquent conduct. The system is founded on the principles of personal responsibility, accountability and reformation within the context of public safety and restitution to the victims and to the community. The system shall provide a continuum of services that emphasize prevention of further criminal activity by the use of early and certain sanctions, reformation and rehabilitation programs and swift and decisive intervention in delinquent behavior. The system shall be open and accountable to the people of Oregon and their elected representatives.

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

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

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

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

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

(b) The custodian of information that the Secretary of State deems necessary to conduct the audit shall provide the Secretary of State or the auditor selected by the Secretary of State access to the information notwithstanding the fact that the information may be made confidential or access to the information restricted by ORS 419A.255 or another law. Infor-

1 mation obtained by the Secretary of State or the auditor pursuant to this
2 paragraph and made confidential by ORS 419A.255 or another law may be
3 used by the Secretary of State, the officers and employees of the Secretary
4 of State or the auditor solely for the purpose of performing the audit re-
5 quired by subsection (2) of this section and may not be used or disclosed for
6 any other purpose.

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

8 **(a) "Performance audit" includes determining:**

9 **(A) Whether the programs, policies and services referred to in**
10 **subsection (2) of this section that are the subject of the audit are ac-**
11 **quiring, protecting and using resources economically and efficiently;**

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

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

15 **(b) "Program audit" includes determining:**

16 **(A) The extent to which the desired results or benefits of the pro-**
17 **grams, policies and services referred to in subsection (2) of this section**
18 **are being achieved;**

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

22 **(C) Whether the programs, policies and services referred to in sub-**
23 **section (2) of this section complement, duplicate, overlap or conflict**
24 **with other related programs;**

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

27 **(E) Whether the programs, policies and services referred to in sub-**
28 **section (2) of this section that are the subject of the audit have com-**
29 **plied with applicable laws and regulations.**

30 **SECTION 15. ORS 171.590, 297.065 and 297.070 are repealed.**

31 **SECTION 16. Sections 1 to 3 of this 2007 Act, the amendments to**

1 ORS 171.580, 171.585, 182.472, 184.360, 184.649, 283.343, 291.100, 291.272,
2 297.050, 297.230 and 419C.001 by sections 4 to 14 of this 2007 Act and the
3 repeal of ORS 171.590, 297.065 and 297.070 by section 15 of this 2007 Act
4 do not affect any audit, action, proceeding or prosecution begun before
5 and pending on January 1, 2008.

6 SECTION 17. Sections 1 to 3 of this 2007 Act, the amendments to
7 ORS 171.580, 171.585, 182.472, 184.360, 184.649, 283.343, 291.100, 291.272,
8 297.050, 297.230 and 419C.001 by sections 4 to 14 of this 2007 Act and the
9 repeal of ORS 171.590, 297.065 and 297.070 by section 15 of this 2007 Act
10 become operative on January 1, 2008.

11 SECTION 18. The Secretary of State, the Joint Legislative Audit
12 Committee and the Legislative Fiscal Officer may take any action be-
13 fore the operative date specified in section 17 of this 2007 Act that is
14 necessary to enable the secretary, committee and officer to exercise,
15 on and after the operative date specified in section 17 of this 2007 Act,
16 all the duties, functions and powers conferred upon the secretary,
17 committee and officer by sections 1 to 3 of this 2007 Act, the amend-
18 ments to ORS 171.580, 171.585, 182.472, 184.360, 184.649, 283.343, 291.100,
19 291.272, 297.230 and 419C.001 by sections 4 to 14 of this 2007 Act and the
20 repeal of ORS 171.590, 297.065 and 297.070 by section 15 of this 2007 Act.

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

D R A F T

SUMMARY

Creates Legislative Research Office. Specifies duties of office.

A BILL FOR AN ACT

Relating to Legislative Research Office; and appropriating money.

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

SECTION 1. As used in sections 1 to 5 of this 2007 Act, "appointing authorities" means the Speaker of the House of Representatives, the President of the Senate, the Minority Leader of the House of Representatives and the Minority Leader of the Senate.

SECTION 2. A Legislative Research Office is created within the legislative branch. The appointing authorities shall appoint a director of the office. The director serves at the pleasure of the appointing authorities. The appointing authorities shall fix the salary of the director.

SECTION 3. (1) The Director of the Legislative Research Office may employ and fix the compensation of such professional assistants and clerical and other employees as the director finds necessary for the effective conduct of the work of the Legislative Research Office.

(2) Subject to the limitations otherwise provided by law for expenses of state officers, the director and employees of the Legislative Research Office shall be reimbursed for all actual and necessary expenses incurred in performing their duties.

SECTION 4. (1) Pursuant to the policies and directions of the appointing authorities, the Legislative Research Office shall:

(a) Upon written request of a member of the Legislative Assembly

1 or any committee of the Legislative Assembly, prepare or assist in the
2 preparation of studies and reports and provide information and re-
3 search assistance on proposed legislation and other matters of interest
4 to the Legislative Assembly.

5 (b) Ascertain facts and provide analysis of proposed legislation.

6 (c) Make recommendations to the Legislative Assembly concerning
7 legislation proposed by state agencies.

8 (d) Seek the advice and assistance of political subdivisions of this
9 state, governmental agencies and any interested persons, associations
10 or organizations in the performance of the duties of the office.

11 (e) Perform such other duties as may be prescribed by law or by
12 resolution of the Legislative Assembly.

13 (2) The Director of the Legislative Research Office may adopt rules
14 relating to the submission, processing and prioritization of requests.
15 Rules adopted under this subsection shall be in conformance with any
16 applicable rule of the House of Representatives or the Senate, and
17 shall be reviewed and approved by the appointing authorities before
18 adoption. A request made by a resolution adopted by the Legislative
19 Assembly shall be given priority over other requests received or initi-
20 ated by the office.

21 (3) Pursuant to the policies and directions of the appointing au-
22 thority, the Director of the Legislative Research Office may enter into
23 contracts to carry out the functions of the Legislative Research Office.

24 SECTION 5. (1) The Legislative Research Office may accept, receive,
25 receipt for, disburse and expend federal moneys and other moneys,
26 public or private, for the accomplishment of the purposes of sections
27 1 to 5 of this 2007 Act.

28 (2) All federal moneys accepted under this section shall be accepted
29 and transferred or expended by the Legislative Research Office upon
30 such terms and conditions as are prescribed by the United States.

31 (3) All other moneys accepted under this section shall be accepted

1 and transferred or expended by the Legislative Research Office upon
2 such terms and conditions as are prescribed by law.

3 (4) All moneys received by the Legislative Research Office pursuant
4 to this section shall be deposited in the State Treasury and, unless
5 otherwise prescribed by the authority from which such moneys were
6 received, shall be kept in separate funds designated according to the
7 purposes for which the moneys were made available, and held by the
8 state in trust for such purposes. All such moneys are continuously
9 appropriated to the Legislative Research Office for the purposes for
10 which they were made available, to be disbursed or expended in ac-
11 cordance with the terms and conditions upon which they were made
12 available.

