

*A Publication
of Legislative
Administration
Committee Services*

Oregon
Legislative Assembly

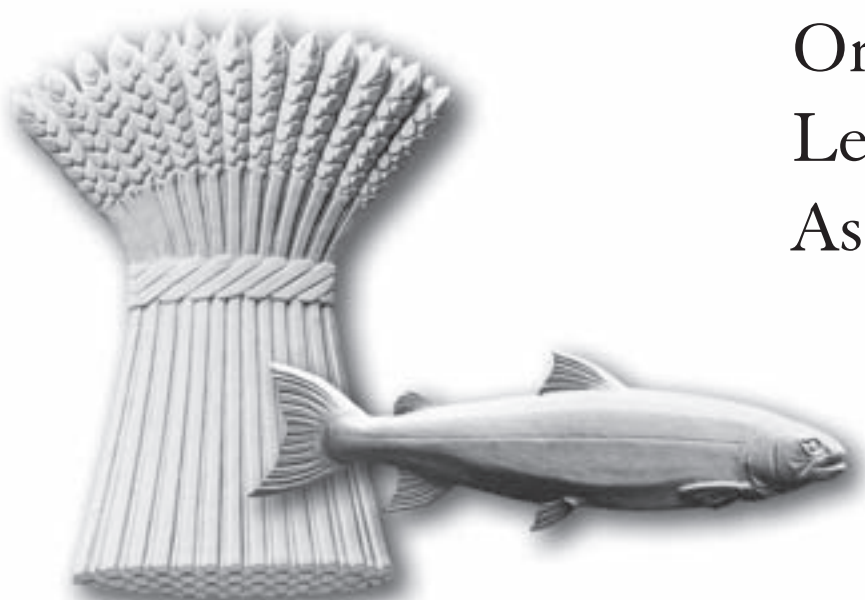
2005

Summary of Legislation

Oregon 2005
Legislative Assembly

Summary of Legislation

73rd
Oregon
Legislative
Assembly



A publication of
Legislative Administration
Committee Services
November 2005

Summary of Legislation 2005

The **2005 Summary of Legislation** is a compilation of selected bills, memorials, and resolutions considered by the Seventy-third Oregon Legislative Assembly. Summaries contain background information; effects of enacted measures and measures not enacted; and dates when enacted measures become effective. Included are summaries of vetoed bills and text of the Governor's veto messages. For ease of use, a subject index and a chapter number conversion table for the 2005 Oregon Laws is found at the end of this publication.

Although material in this document was reviewed for accuracy prior to publication, specific legal matters should be researched from original sources. The Legislative Administration Committee makes neither expressed nor implied warranties regarding these materials.

Complete measure history and final vote tallies may be obtained by consulting the Final Legislative Status Report, Regular Session 2005. Copies of bills, resolutions, memorials, amendments, and the Status Report are available from Legislative Publications and Distribution. Information about the legislature is also available at: <http://www.leg.state.or.us>

This document was compiled by Committee Services staff:

Janet Adkins	John Houser	Matt Shields
Rick Berkobien	Jim Keller	Jim Stembridge
Anna Braun	Sam Litke	Bill Taylor
Patrick Brennan	Heidi Moawad	Marjorie Taylor
Judith Callens	Cletus Moore	Sandy Thiele-Cirka
Cara Fischer	Joe O'Leary	Theresa Van Winkle
Tiffany Harris	Sam Sears	

Special thanks to Bill Sweeny, Publications Coordinator, for the lay-out of this publication and assistance with printing. Thanks also to Debbie Malone and James Goulding of Committee Services for their assistance in compiling and reviewing information for this publication.

For information on legislative revenue and fiscal measures, see:

Revenue Measures Passed by the 2005 Legislature (Research Report # 2-05) - Summarizes legislation related to revenue. For a copy of this document, please contact:

Legislative Revenue Office

900 Court Street, NE H-197 State Capitol
Salem, Oregon 97301
503-986-1266

You can also view and download a copy of this document at: <http://www.leg.state.or.us/comm/lro/publications.htm>

Budget Highlights: 2005-2007 Legislatively Adopted Budget - Summarizes state budget and selected legislation that impacts state agencies. For a copy of this document, please contact:

Legislative Fiscal Office

900 Court Street, NE H-178 State Capitol
Salem, Oregon 97301
503-986-1828

You can also view and download a copy of this document at: <http://www.leg.state.or.us/comm/lfo/publications.htm>

Contact information for Summary of Legislation:

Committee Services

900 Court Street, NE, Rm. 453 State Capitol
Salem, Oregon 97301
503-986-1813
<http://www.leg.state.or.us/comm/commsrvs/home.htm>

For other legislative publications, contact:
Legislative Publications and Distributions
900 Court Street, NE, Rm. 49 State Capitol
Salem, Oregon 97301
503-986-1180

*A Publication of
Legislative Administration Committee Services*

Table of Contents

Economic Issues

Business, Consumer Affairs and Economic Development	1
Transportation	13

Governmental Issues

Elections	21
General Government.....	25
Veterans.....	35

Human Service Issues

Education	39
Health and Human Services	47

Natural Resource Issues

Agriculture, Forestry and Environment	61
Land Use	67
Water, Fish and Wildlife	71

Judiciary Issues

Civil Law	77
Criminal Law	87

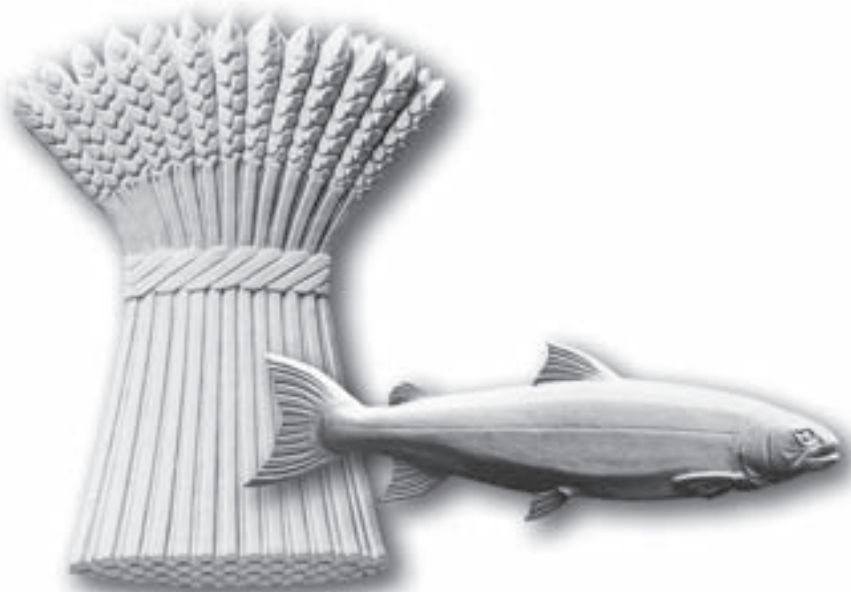
Measures Vetoed by the Governor	97
---------------------------------------	----

Indices

Oregon Laws 2005 Chapter Number Index.....	105
Subject Matter Index	109
Measure Number Page Index	117

Economic Issues

Business, Consumer
Affairs And Economic
Development



2005 Summary of Legislation

Senate Bill 81

Relating to rates of public utilities

SB 81 requires an electric company to mitigate rate increases to customers who have had continuous contracts since before 1960 if the transition to higher rates represents more than a 50 percent increase in the first year. The measure is directed at a PacificCorp rate case pending before the Public Utility Commission, and will take effect if the rate increase is approved. It requires higher electricity rates to be phased in for Klamath water users who have pre-1960 contracts. Klamath “Off-Project” Water Users and other irrigators in the Klamath Basin receive electricity from PacificCorp for irrigation pumping in accordance with contracts that date to 1956 with a former company. The low electricity rates were offered as part of the Klamath River Compact, in exchange for the irrigators being “off-project,” i.e. not using Klamath River water. SB 81 provides rate mitigation, limits such mitigation to seven years, and requires the full cost of the mitigation credits to be spread equally among all other customers of the company.

An unrelated provision of SB 81 allows any public utility to charge a customer a different rate for energy if the difference arises from an optional schedule or tariff that takes into account the customer’s past energy usage, and provides price incentives designed to encourage changes in the customer’s energy usage

Effective date: July 21, 2005

Senate Bill 118

Relating to homeowner insurance

SB 118 responds to consumer complaints about increases in premiums and the non-renewal of homeowner’s insurance policies. The measure adds notice requirements and limits factors that insurance companies can consider in making their rating and underwriting decisions, including a prohibition on the treatment of consumer inquiries as claims and limiting the time period an insurer can look back on a consumer’s claim history to five years. It also prohibits use of a claim prior to the consumer’s purchase of the home if the risk has been mitigated by the homeowner to the satisfaction of the insurer. SB 118 was developed by the Insurance Division through a year-long effort including several public meetings and work with industry representatives.

Effective date: January 1, 2006

Senate Bill 173

Relating to state program for small business

SB 173 creates a two-tier system for certification of emerging small businesses and modifies qualification thresholds. A “tier one firm” is one that employs fewer than 20 full-time equivalent (FTE) employees and has average annual gross receipts that do not exceed \$1.5 million for a construction firm or \$600,000 for a non-construction firm. A “tier two firm” is one that employs fewer than 30 FTE and has average annual gross receipts below \$3 million for a construction firm or \$1 million for a non-construction firm. The measure also increases participation from seven to twelve years, six years at each tier, and allows reinstatement of a formerly certified business if the business still qualifies and has eligibility remaining. By expanding the program to larger companies and lengthening the period of participation, the Department of Transportation expects SB 173 to create a more competitive pool of firms that can handle larger and more complex transportation contracts and subcontracts.

Effective date: January 1, 2006

Senate Bill 311

Relating to required medical examinations for workers’ compensation claims

SB 311 requires the Department of Consumer and Business Services to regulate medical exams for workers’ compensation claims and to maintain a list of providers authorized to perform independent medical exams. The measure requires the agency, by rule, to set standards for certification; to develop and approve training; to develop a process for investigation of complaints; to set criteria for sanctions under the medical exam program; and requires creation of an expedited process for a worker to appeal the insurer’s choice of a medical examiner based on location. The measure was a product of an interim committee and a work group that revamped the insurer medical exam process in workers’ compensation claims. Physician exams in workers’ compensation claims had been criticized because of their lack of objectivity.

Effective date: January 1, 2006

Senate Bill 323

Relating to independent contractors

The 2003 Legislative Assembly (SB 232) established the Independent Contractors Task Force (ICTF) to study is-

sues related to the definition of independent contractor. The task force met during the 2003-2004 interim to gather information and formulate recommendations.

SB 323 is the product of the task force, aligning statutes and addressing concerns about worker safety and the interests of employers. To distinguish independent contractors from employees, the measure stipulates that an independent contractor must be free from direction and control over the means and manner of providing services, that the person be engaged in an independently established business, and that the person be responsible for obtaining necessary licenses to provide the services. It lists five criteria, three of which people must meet in order to show that they have independently established a business: maintenance of a business location; bearing the risk of loss of the business; providing contracted service to two or more persons; significant investment in the business; and authority to hire other persons. The bill replaces the definition of independent contractor previously used by the Employment Department and the Revenue Department, but does not substantially affect current law regarding who is covered under the state workers' compensation system. The bill also clarifies statute regarding farmers who provide services to other farms and establishes that newspaper "stringers," freelance photographers, and correspondents who sell items by the piece are not considered employees for purposes of unemployment insurance statutes.

Effective date: January 1, 2006

Senate Bill 328

Relating to prefabricated structures

SB 328 allows modular (pre-fabricated) homes intended for delivery in another state to be mass produced. Specifically it allows modular homes to be built to the construction standards of the receiving state, exempts the homes from certain Oregon building code requirements, and allows the factory electrical and plumbing installations to be performed by persons not licensed in Oregon as electricians or certified as plumbers. The Director of the Department of Consumer and Business Services is directed to report to each Legislative Assembly, beginning with the 2007 Session and ending with the 2011 session, on the manufacture of prefabricated structures intended for delivery in other states.

The modular home industry is one of the fastest growing sectors of the construction industry. In contrast to manufactured homes, which are subject to federal

standards, factory-built modular homes are subject to state building code regulations. Prior to passage of SB 328, modular homes were subject to an inspection and compliance process that did not fit a mass-production situation. Under SB 328, the structures will instead need to meet the building code requirements of the receiving state, which will be responsible for any necessary in-plant inspections in Oregon.

Effective date: January 1, 2006

Senate Bill 386

Relating to permanent total disability benefits paid in workers' compensation claims

SB 386 redefines the wage threshold that a person with a permanent total disability (PTD) may earn and still be eligible for prorated workers' compensation benefits. It sets the threshold as the lesser of: the federal poverty level for a family of three; or two-thirds of the worker's average weekly wage at the time of injury. Modifications were also made to the process for rescinding PTD status, so that it requires: material, vocational, or medical improvement; continuation of payments during appeal (with reimbursement from the Worker's Benefit Fund if insurer is upheld); and employee attendance and cooperation with vocational evaluation. An administrative law judge may request a medical arbiter, and the PTD evaluation must include at least one interview or examination of the worker.

Prior to enactment of SB 386, if a worker could earn minimum wage for even a few hours a week, that person was considered gainfully employed and not eligible for PTD benefits. SB 386 sets a threshold amount that a worker can earn and still be eligible for prorated benefits and it clarifies several conditions for evaluating and rescinding PTD status.

Effective date: January 1, 2006

Senate Bill 477

Relating to prevailing rates of wage

SB 477 modifies Oregon's prevailing wage rate law, known as the "Little Davis-Bacon Act," which requires workers on public works projects to be paid no less than the prevailing wage for the same trade in the locality where the labor is performed. The measure increases the dollar threshold, from \$25,000 to \$50,000, for the size of a public works project that requires payment of the prevailing wage. The \$25,000 threshold was set in 1995, when it was raised from \$10,000. The measure contains other

provisions, including: a requirement that contractors and subcontractors working on public works file a one-time, \$30,000 “public works bond” specifically for wage claims (a one-year exception to the new bond is provided for certified disadvantaged, minority, or emerging small businesses); a requirement that a public agency retain 25 percent of contract payments until the contractor files payroll statements and that the contractor retain 25 percent of payments to a first-tier subcontractor until the subcontractor files payroll statements; a requirement for payment of the higher of state or federal prevailing wages when a project includes both state and federal funds; clarification that volunteer labor and donated materials are not included when calculating a public project’s value for purposes of the prevailing wage threshold; and clarification that government staff resources used for design, management, or inspection, and any fees waived or paid by a public agency, are not counted as part of the project value.

Effective date: January 1, 2006

Senate Bill 479

Relating to taxation

SB 479 provides a five-year property tax exemption for purchases of certain types of new or newly acquired equipment by qualified food processing companies. To qualify, companies must engage in the processing of raw or fresh fruit, vegetables, nuts, legumes, or seafood. Companies must qualify and apply by July 1, 2011 to be eligible for the five-year exemption. The measure applies to tax years beginning on or after July 1, 2006.

Based on “value added” comparisons, food processing is the third largest manufacturing sector in Oregon, with an annual payroll of nearly \$500 million and nearly 17,000 full-time and seasonal workers. More than twelve Oregon-based processing plants closed within the past five years and forecasts for the coming ten years suggest a net loss in Oregon’s employment in the industry. Factors behind the decline include increased energy costs and low market prices due to international competition that may reduce the sector’s competitive advantage.

Effective date: January 1, 2006

Senate Bill 838

Relating to commercialization of research

SB 838 creates the Oregon Innovation Council, which will provide advice and oversight on issues relating to commercialization of research. The council will develop a

state plan. The measure also creates an Oregon Innovation Fund that the council can distribute based on its state plan. The measure directs the council to establish a signature research center and contract with a private, not-for-profit corporation for administering the center. The bill also appropriates funds continuously to the Oregon Innovation Council for grants and loans to Oregon emerging businesses and the Oregon University System.

The mission of the Oregon Innovation Council is to enhance the competitiveness of the Oregon traded sector and knowledge industries by increasing the state’s capacity for innovation, technology development and product creation through a single council that coordinates an array of state efforts.

Effective date: August 17, 2005

Senate Bill 853

Relating to university research tax incentives

SB 853 authorizes Oregon public universities to establish venture development funds to provide capital grants for entrepreneurial programs and “proof of concept” funding for commercially viable products and services. It allows taxpayers who contribute to such funds to claim 60 percent of a contribution as a personal or corporate tax credit, up to \$50,000. The tax credit is limited to 20 percent of the contribution in any one tax year, in effect spreading the maximum allowance over three tax years. The measure limits the total venture development fund contributions eligible for the tax credits to \$10 million for the Oregon University System and \$4 million for Oregon Health and Science University. It also provides a mechanism to reimburse the state General Fund by requiring a university to transfer 20 percent of royalties, licenses, or other income received from funded activities to the General Fund until the total amount of tax credits claimed is reimbursed. Grant recipients will be required to remain in the state for five years or to repay the grant. The State Treasurer is given responsibility for investing the funds. SB 853 provides an incentive to attract private investment to bridge the gap between basic university research and marketable products, processes, or intellectual property with the intent of benefiting the state economy and increasing jobs.

Effective date: January 1, 2006

Senate Bill 879

Relating to strategic investment zones

The Strategic Investment Program (SIP) was authorized by the 1993 Legislature to increase Oregon’s ability to

attract capital-intensive industries, particularly high-technology firms. The program works by establishing an exemption on a project's property for 15 years with the project's first-year assessed value greater than \$25 million being exempt. The exemption threshold then increases by three percent per year during the exemption period, with the threshold starting at \$100 million for locations inside the urban growth boundary (as of December 1, 2002) of a metropolitan area or city with a population of over 30,000. A community service fee is paid each year to local public service providers equaling 25 percent of each year's tax savings, but capped at an annual maximum of \$500,000, or \$2,000,000 for projects in an urban location.

SB 879 modifies the SIP by allowing counties to request that the Oregon Economic and Community Development Commission establish strategic investment zones, defined as a geographic area within which the property of eligible projects may be exempt from property taxation under ORS 307.123. The measure applies to strategic investment zones and projects designated as eligible on or after January 1, 2006. The result is the potential for local governments to negotiate individual breaks on property taxes to persuade large employers—particularly in the field of technology—to locate in Oregon.

Effective date: January 1, 2006

Senate Bill 929

Relating to racing

SB 929 allows off-track (simulcast) mutuel wagering at times other than live race times. Magna Entertainment Corporation formerly had year-round authority to operate off-track betting because it operated both Portland Meadows horse racing and Multnomah Greyhound Park. Portland Meadows ran six months of the year and Multnomah Greyhound Park ran the other six months. Simulcast wagering was allowed during both meets. In December, 2004, Magna Entertainment Corporation discontinued its greyhound racing operations and closed Multnomah Greyhound Park. This ended greyhound racing in Oregon and restricted the ability to operate the off-track betting to the six-month period when races are conducted at Portland Meadows. SB 929 allows off-track wagering at times other than live race times with restrictions that would apply if greyhound racing returns.

The measure maintains a statutory requirement that a licensee conduct at least 720 live races a year, but allows the Oregon Racing Commission to reduce the number. SB 929 also changes the percentage of mutuel wagering

proceeds required to be distributed by certain race meet licensees to associations.

Effective date: May 19, 2005

Senate Bill 955

Relating to properties governed by declarations

Unlike traditional single family developments where each person owns his or her property, a condominium requires that individual owners, in addition to owning their individual units, have an interest in certain features of the development that are held in common. These can include yards and recreational facilities or open space, exterior of buildings, and common equipment such as heating and cooling systems.

SB 955 requires the boards of directors of condominiums and planned communities to include, under their annual reserve study, a 30-year plan for the maintenance, repair, and replacement of the common elements of association property. The measure requires that the plan be appropriate for the size and complexity of the common elements and the association property, and requires the board of directors and the declarants to provide unit owners with a written summary of the reserve study and any adopted revisions to the plan within 30 days after conducting the reserve study

Effective date: January 1, 2006

Senate Bill 983

Relating to communication services

When a domestic violence survivor leaves an abusive situation, they often confront financial challenges such as difficulties in setting up telephone service due to an outstanding account.

SB 983 directs the Public Utility Commission to establish administrative rules that prohibit the termination of local telephone service if the termination would significantly endanger a customer or a person in the customer's household who is at risk of unwanted sexual contact; is disabled or elderly and at risk of abuse; or is a stalking victim. Once a customer has established proof of being qualified, the telecommunication utility is required to work with the individual in establishing basic telephone service and a reasonable payment schedule.

Effective date: September 1, 2005

House Bill 2005

Relating to combined license processing pilot projects

HB 2005 authorizes the Department of Consumer and Business Services (DCBS) to establish pilot projects for the consolidation of state licenses. It allows state agencies that participate in the pilot to use combined applications, to adopt common license terms, to charge adjusted fees, and to issue combined licenses. The measure requires DCBS to prepare a proposal for combined licenses for the Oregon Liquor Control Commission, the Department of Environmental Quality, and the Department of Agriculture. State agency participation in the pilots is voluntary. The provisions sunset on June 30, 2008.

The Office of Regulatory Streamlining at DCBS has been working on a “Small Retailer Consolidated Renewal Project.” Small retailers, such as convenience stores, are regulated by over a dozen agencies and must deal with applications, forms, fees, inspections, and reports or audits from each. HB 2005 is necessary to move forward with the consolidated licensing pilots by allowing participating agencies flexibility in their paperwork requirements.

Effective date: May 25, 2005

House Bill 2062

Relating to health benefit plans

HB 2062 authorizes the Insurance Pool Governing Board to assess health insurance companies that have contracted with the board to offer certified plans to small employers. The measure limits the assessment period and the level of the assessment, and requires employers to pay a contribution toward the premium. HB 2537 (2003) permitted the board to contract for and offer health benefit plans to new small employers who were not already providing health plans and who were not eligible for subsidies under the Family Health Insurance Assistance Program. The board contracted with private insurance carriers for two plans that became available to qualified small employers in March of 2005, the Alternative Group Plan and the Children’s Group Plan. The 2003 legislation did not contain an appropriation to implement the program. The board will use the revenue from the assessments in HB 2062 to market the program and to provide additional training and outreach to employers. Under the plans, employers are expected to pay at least \$50 per month per employee enrolled. HB 2062 defines a small employer as employing from two to 50 employees, and makes technical changes to program definitions and eligibility standards.

Effective date: August 17, 2005

House Bill 2078

Relating to construction claims

HB 2078 creates a nine-member Task Force on Construction Claims to study the relationship between claims and industry practices, construction defects, consumer protection, and state requirements on contractors. The measure specifies that the directors of the Department of Consumer and Business Services, the Construction Contractors Board, and the Department of Energy will appoint members with specific backgrounds in residential construction as well as a public member. The task force is required to conduct a study of the causes and extent of construction defects, ways to reduce defects and claims, the affordability of contractor liability insurance, and the need for consumer protection. The task force is directed to contract with a professional expert to provide options and recommendations for actuarially sound insurance reforms and to report to the Seventy Fourth Legislative Assembly by January 1, 2007. The task force sunsets January 1, 2008.

HB 2078 is designed to enhance consumer protection and to be part of a solution to the increasing costs of liability insurance for construction contractors. According to a survey conducted by the Construction Contractors Board, residential contractors have reported insurance premium increases averaging over 160 percent over the last three years and some reported increases of over 100 percent per year. The measure also seeks to continue the collaboration that resulted in SB 909 (2003), which established a procedure for notice of a construction defect in a home as a prerequisite for either compelling arbitration or commencing court action to recover damages from the contractor within a ten year “statute of repose” period.

Effective date: July 27, 2005

House Bill 2091

Relating to review of certain decisions in worker’s compensation claims

HB 2091 consolidates all workers’ compensation contested case reviews and hearings into the Workers Compensation Board. Although most contested cases, those relating to compensability of claims, were processed by the board prior to passage of the measure, a small number of cases were reviewed instead by the Office of Administrative Hearings. These included appeals regarding vocational assistance benefits, medical services, the amount or non-payment of medical bills, managed care organizations, and penalties for an insurer’s unreasonable delay or refusal to pay com-

pensation. Under HB 2091, these cases are transferred to the Workers Compensation Board. The change is intended to eliminate redundancies for claimants, decrease confusion over where an appeal should be filed, and decrease processing time, particularly in cases involving more than one matter that previously would involve dual jurisdiction. The measure also maintains the policy of providing an independent panel for appeal of agency decisions.

Effective date: January 1, 2006

House Bill 2117

Relating to investigators

HB 2117 abolishes the Oregon Board of Investigators (OBI) and transfers its functions to the Board on Public Safety Standards and Training (BPSST) as of January 1, 2006. The OBI was created by the 1997 Legislative Assembly to license private investigators and to ensure that standards of competency and practice are established and enforced. The transfer of functions to the BPSST is considered necessary because OBI licensing fees are not sufficient to maintain a minimum administrative and investigative staff. To provide representation for licensed investigators, the measure enlarges BPSST's Private Security Advisory Committee by two members.

HB 2117 also makes a number of changes to investigator licensing procedures and sanctions, including: creating a temporary and an interim license; requiring an Oregon licensed investigator residing out of state to designate an in-state agent for the service of process; allowing assessment of costs for disciplinary hearings; increasing maximum civil penalties for a person working as an investigator without a license; establishing a waiting period for re-application following a revocation or denial of license; and allowing a combination of work experience and education to satisfy eligibility requirements. These changes and other clarifications were recommended by the current Board of Investigators.

Effective date: July 22, 2005

House Bill 2124

Relating to transfer of experience rating for unemployment taxes

HB 2124 prohibits transferring or acquiring a business primarily for the purpose of obtaining a lower State Unemployment Tax Assessment (SUTA); the measure also prohibits advising another person to engage in such activity. The prohibited rate manipulation activity is known as "SUTA dumping," and HB 2124 brings Oregon law into full compliance with the federal SUTA Dumping Preven-

tion Act of 2004. The measure requires recalculation of unemployment tax rates when an employer transfers a business to another employer, and requires the new rate to be based on the transfer of unemployment experience attributable to the transfer. It makes violation of the provisions a Class C felony, provides a penalty tax rate, and authorizes a civil penalty of up to \$10,000 against persons who knowingly advise violation of the provisions. A limited amnesty is provided for the first year, under which civil penalties will be waived and criminal prosecution avoided if the employer voluntarily contacts the Oregon Employment Department to resolve previous activity that may be construed as a violation, and if the employer pays all past-due taxes owed as a result of previous unlawful transfer activity.

Effective date: January 1, 2006

House Bill 2127

Relating to amounts collected for unemployment insurance tax

HB 2127 lowers unemployment tax rates paid by Oregon employers by 12 percent. Under current law, employers pay both federal unemployment tax and state unemployment tax. These two taxes are deposited into the State Trust Fund and are used solely for paying unemployment insurance benefits. Each September, the Employment Department determines which of eight tax schedules will go into effect for the following calendar year in order to keep the reserves at an appropriate level for the Trust Fund solvency. HB 2127 adjusts the formula that determines the required balance for the Unemployment Insurance Trust Fund, reduces the new employer base rate, adjusts the rounding of the taxable wage base to the nearest \$100 rather than \$1,000 and spends down the Benefit Reserve Fund while building up the Trust Fund. The effect of these changes is the reduction of unemployment insurance business taxes by 12 percent and the increased stability of administrative funding for the Employment Department.

Effective January 1, 2006

House Bill 2191

Relating to film production incentives

HB 2191 provides incentives to bring film and video production work to Oregon. It offers rebates of up to 6.2 percent of labor costs to film production companies that spend at least \$1 million on an Oregon film production (including feature films, television shows, or commercials). The rebate program, known as the "Greenlight Oregon" program, works in the following way: Eligible film production companies withhold, in lieu of state personal income

taxes, 6.2 percent of the wages they pay, submitting the withheld wages to the Department of Revenue (the withholding rate may be adjusted by administrative rule). The Department of Revenue retains the money in a special fund, called the Greenlight Oregon Labor Rebate Fund (GOLRF). After the company's eligibility is confirmed by the Oregon Film and Video Office, the rebate paid to the film/video production company equals the amount the company has contributed to the GOLRF, less administrative costs deducted by the Department of Revenue and the Oregon Film and Video Office. The provisions of HB 2191 sunset on January 1, 2012.

Effective Date: November 4, 2005

House Bill 2199

Relating to vertical housing development zones

HB 2199 improves tax-exemption incentives for so-called "vertical housing," and transfers oversight of the vertical housing development program from the Economic and Community Development Department to the Housing and Community Services Department. Oregon's vertical housing concept, originating in 2001 legislation, is designed to encourage developments that include both commercial and residential elements, also known as "mixed-use" developments, to promote the growth of downtown areas and the use of light rail and other public transportation. HB 2199 expands the definition of "vertical housing development project" to include projects that have residential and nonresidential uses in any portion of the project. The measure also offers additional property tax exemptions for vertical housing projects that offer low income residential housing. The measure sunsets January 1, 2016.

Effective Date: November 4, 2005

House Bill 2604

Relating to professional real estate activity

HB 2604 consolidates and modifies grounds for discipline of real estate and escrow agents and directs the Real Estate Commissioner to adopt rules regarding investigations of complaints and progressive discipline. It specifies that an investigator is to report to the commissioner without conclusions as to violations and that a license suspension or revocation may not be imposed without showing significant damage or injury, incompetence, dishonesty or fraud, or repeated violations. The measure also provides that failure of a real estate licensee to renew a license constitutes a single offense of unlicensed professional real estate activity for each 30-day period of activity after expiration. It clarifies that a

real estate licensee does not have the duty to investigate the condition of property, the legal status of the property's title, or the owner's past conformance with law. HB 2604 also allows a broker associated with the principal broker to create a business organization for the purpose of receiving commission payments. It directs the Real Estate Agency to establish a procedure for disbursement of disputed funds from the Clients' Trust Account to the person who delivered funds to a real estate broker or principal real estate broker.

The Real Estate Agency and the Real Estate Commissioner are responsible for licensing and education of realtors and enforcement of Oregon's real estate laws applicable to brokers, property managers, real estate marketing organizations, and escrow agents. HB 2604 was introduced by the Oregon Association of Realtors out of concern that statutory grounds for license sanctions were numerous, vague, redundant, or in some cases outdated, and that minor errors by licensees were leading to investigations and threats of license revocation.

Effective date: January 1, 2006

House Bill 2717

Relating to postponement of workers' compensation hearings

HB 2717 requires that a postponed workers' compensation hearing be held no later than 120 days from the original hearing date unless the postponement is for the purpose of joining parties. The measure increases the required notice period before a hearing from 10 days to 60 days, but provides that this notice limit may be waived by agreement of the parties and the board. Postponements of appeal hearings are a common occurrence and prior to the passage HB 2717, there was no limit on the length of the postponement. The measure maintains a 90-day requirement for a hearing, and the ability to postpone for extraordinary circumstances, but limits the postponement period to 120 days from the original hearing date. Because additional hearings and administrative staff will be required to achieve the new timeline, the measure also increases the expenditure limit for the Workers' Compensation Board.

Effective date: January 1, 2006

House Bill 3097

Relating to state building code

HB 3097 eliminates a 2006 sunset on the Department of Consumer and Business Services' authority to implement a program for electronic permitting and access to building codes information, and expands it from a regional pilot program to a statewide program. The measure also expands

allowable uses of resources available to the department's Tri-County Building Industry Service Center to assist building code enforcement officials in consistent application of the code statewide. The 2003 Legislature directed the department, in cooperation with jurisdictions in the tri-county metropolitan area, to develop an electronic access network that includes resource sharing arrangements with private businesses (SB 713). In January the Building Permits Online website became available, offering the ability to apply and pay for minor electrical and plumbing labels, to download permit forms, to obtain permit information, and to determine code jurisdiction by entering an address. Future plans include online permitting, plan submission, and complex permit application.

Effective date: January 1, 2006

House Bill 3143

Relating to enterprise zones

HB 3143 authorizes the Department of Economic and Community Development to designate up to ten additional enterprise zones and authorizes a port district, with the consent of its county, to apply for designation or to co-sponsor an enterprise zone within port district boundaries. Previously, the limit on the number of zones was 47, plus tribal reservation and federally designated zones. Companies located in enterprise zones are eligible for three to five years of property tax exemptions on structures, equipment, or certain personal property if they meet statutory requirements related to job retention/creation and any conditions stipulated by the zone's local government sponsor. Enterprise zones are designated for up to ten years and may only be sited in economically distressed areas.

In addition to increasing the number of zones that can be formed, HB 3143 deletes a low population density requirement associated with the designation of tribal reservation enterprise zones. The measure also exempts a company in an enterprise zone that had a fire in July 2005 from the requirement to repay previously-exempt property taxes for failure to meet conditions of the enterprise zone. This provision responds to the destruction of a plywood mill in Sutherlin whose owners plan to rebuild there.

Effective date: November 4, 2005

House Bill 3305

Relating to unemployment insurance benefits extension

HB 3305 provides limited emergency unemployment benefits to persons who exhausted benefits with their

payment for the week of December 4, 2004 or later. The measure extends benefits for up to six and a half weeks during the period from May 1, 2005 to August 13, 2005. Most workers are entitled to 26 weeks of benefits in a year, but extended periods of unemployment left less than half of eligible unemployed, including many returning military personnel, with no remaining benefits. It was estimated that approximately 9,800 persons would have exhausted their regular benefits by the end of April, 2005, making them eligible for the emergency extension benefits contained within HB 3305. In 2003, emergency unemployment benefits were similarly provided for the six-month period between April and October.

Effective date: April 21, 2005

House Bill 3324

Relating to business organizations

HB 3324 allows an Oregon chartered bank or trust company to organize as a limited liability company (LLC) as an alternative to being organized as a corporation. The measure specifies that membership (ownership) interests are freely transferable. It allows, through specified steps, conversion of a corporation bank or trust company to an LLC and conversion of an LLC to a corporation. It also specifies how stockholders and owners may dissent from conversion plans and receive the value of their shares.

Since 1993, Oregon companies have been allowed to form as LLCs. Banks were not included at that time because the Federal Deposit Insurance Corporation (FDIC) would not insure limited liability companies. In 2003, the FDIC provided coverage for banks that organized as LLCs. Community banks may take advantage of the LLC option as a way to maintain local control.

Effective date: January 1, 2006

House Bill 3363

Relating to energy efficiency

HB 3363 establishes minimum efficiency standards for a specific list of new commercial appliances not covered by federal standards and prohibits the sale or installation of appliances not meeting the standards beginning in 2007 for some of the appliances, and in 2008 and 2009 for others. For the appliances covered, the measure contains the same standards adopted in California and Washington. The measure directs manufacturers to test and certify products as meeting standards. It contains standards for new commercial refrigerators, freezers, clothes washers,

external power supplies, incandescent reflector lamps, certain traffic lighting fixtures and traffic signals, unit heaters, ice cube machines, and metal halide lamp fixtures. Sales of new appliances manufactured in Oregon but sold outside the state are exempted, as are installations in mobile or manufactured homes or recreational vehicles. The measure is expected to provide energy and water savings to businesses and consumers, and allows the Oregon Department of Energy to periodically review the standards and report to the Legislative Assembly if those standards need to be updated. It does not require replacement of existing commercial appliances and will not affect the sale or installation of used commercial appliances.

Effective date: January 1, 2006

Major Legislation Not Enacted

Senate Bill 171

Relating to public utilities

SB 1149 (1999) marked a major change in the regulation of utilities in Oregon, providing commercial electricity users direct access to competitive markets, adopting transition policies and certain consumer protections, and establishing a public purpose charge that is used for a variety of purposes such as renewable resources and weatherization for low-income households. Following implementation of SB 1149, the Public Utility Commission (PUC) recognized that certain small cogeneration facilities were inadvertently included in some regulatory standards.

SB 171 would have exempted small cogeneration facilities from non-safety regulations. The measure also would have codified the “net benefits” standard that is used when the PUC considers a potential electric utility acquisition or merger. Under ORS 757.511 and ORS 757.505, the PUC would have had to find a proposed sale resulted in “net benefits” to the utility’s customers, as well as determined that the transaction did not impose a detriment on Oregon citizens as a whole. The PUC could have either granted the application; conditioned an order to authorize the acquisition upon the applicant’s satisfactory performance or adherence to specific requirements; or issued an order denying the application. It would have been up to the

applicant to show that granting the application was in the public interest.

Senate Bill 190

Relating to workers’ compensation coverage for home care workers

SB 190 would have permitted the Home Care Commission to elect workers’ compensation coverage for certain home care workers. It would have allowed termination of temporary total disability benefits of home care workers who refuse modified employment in certain circumstances. The measure, as introduced, would have allowed the Home Care Commission to sign up for workers’ compensation at the option of a home care consumer.

Senate Bill 209

Relating to protection of consumers from unconscionably excessive prices

SB 209 would have allowed the Governor to prevent businesses from price gouging under a declared “abnormal disruption of the market” caused by a state of emergency. The measure applied to residential construction materials and supplies, food, motor vehicle fuel, and medical services and supplies in the event of a fire, flood, earthquake, volcanic activity, sabotage, an act of terrorism, or war. In the event of a Governor-declared state of emergency, merchants and wholesalers would have been prohibited from charging unconscionably excessive prices. A declaration of an abnormal disruption of the market would have had to specify the county or counties that are affected and the date and time of the disruption.

The measure defined “unconscionably excessive” as a price being marked up by more than 20 percent from either the price just prior to the emergency event or from the prices other local merchants or wholesalers are charging after the event occurred. If a price increased more than 20 percent due to additional costs placed on the merchant or wholesaler because of an emergency, the price would not have been considered to be unconscionably excessive. The measure would have allowed merchants and wholesalers to request a review of anticipated price increases due to the “anticipated disruption of the market.”

Senate Bill 321

Relating to employment relation in public collective bargaining

SB 321 would have modified the definition of employment relations in public collective bargaining for employees who

are prohibited from striking to include staffing levels and safety issues that have a potential impact on job safety and workload for employees. The measure would have added safety and staffing issues as a mandatory bargaining issue for public employee interest arbitration for collective bargaining. The change would have applied to non-strikable employees such as police officers and firefighters. Since SB 750 passed in the 1995 session, staffing and safety issues are no longer considered in interest arbitration cases.

Senate Bill 426

Relating to public employer recognition of labor organizations

SB 426 would have required a public employer to recognize a union approved by a majority of the unrepresented affected employees if a majority of those employees sign authorization cards approving the union. This would have removed the step of Employment Relations Board elections.

Senate Bill 545

Relating to loans

SB 545 would have capped the interest rate allowed to be charged for short term unsecured “payday loans” at 15 percent of the original loan or renewal amount. At an average term of 14 days, this translates to a 391 percent annual percentage rate. Currently there is no cap for payday loans in Oregon. There was testimony that 600 percent annual percentage rate on loans are common. This measure would also have limited the maximum loan amount to the lesser of \$1,000 or 25 percent of the loan applicant’s monthly gross income and made violation of the payday loan provisions an unlawful trade practice.

Senate Bill 644

Relating to Oregon family leave

SB 644 would have required employers to count on-the-job injury leave as workers’ compensation leave, not family leave. Under the Oregon Family Leave Act, workers are eligible for 12 weeks of family leave time if they work for an employer with more than 25 employees. Workers can take family leave for their own serious condition or a serious health condition of a family member. Family leave can also be taken to care for a sick child who doesn’t have a serious health condition, but who needs care at home. Current Oregon law is silent on whether an employer can require a worker to use family leave time to cover a job related injury

that is covered under workers’ compensation law.

The SB 644 minority report excluded “family leave” from the definition of “employment relations” for purposes of public employee collective bargaining. It would have changed the term “equivalent” to “comparable” for the position the employee is entitled to be restored to after taking family leave, and changed the eligibility calculation for family leave.

Senate Bill 669

Relating to attending physicians for workers’ compensation claims

SB 669 would have required the Department of Consumer and Business Services to work with the Management Labor Advisory Committee to conduct a study to determine if health practitioners, who work as personal physicians, should be considered as “attending physicians” for workers’ compensation purposes. The measure required that the study be completed in two years at a projected cost of \$300,000. Each session the legislature gets requests for various types of medical providers to be considered attending physicians for purposes of workers’ compensation. For example, naturopaths are not considered “attending physicians” under workers’ compensation, so must refer out to another physician when treating a patients for an on-the-job injury.

Senate Bill 672

Relating to properties governed by declaration

SB 672 would have addressed a number of areas of potential dispute between homeowners and homeowner associations, including allowance for higher deductible liability insurance for common property, distribution of proposed annual budget information, prescribed use of electronic notices and ballots, and a process for requesting court appointment of a receiver to manage the association in case a failure to fill board vacancies results in lack of a quorum. According to community association managers, planned communities and condominium complexes are the fastest growing housing market segment in the state. This growth has led to increasing disputes between homeowners and homeowner associations.

Senate Bill 738

Relating to fire safety standards for cigarettes

SB 738 would have required any cigarette sold in Oregon

to be self-extinguishing or “fire-safe.” The measure was modeled after a similar law in New York State.

Senate Bill 1057

Relating to security of personal information

SB 1057 would have enabled a consumer to place a “security freeze” on the release of the person’s credit information by consumer reporting agencies. While such a freeze was in effect, a consumer reporting agency would have been prohibited from releasing a credit report or other information that bears on the consumer’s creditworthiness without the express consent of the consumer. The measure included exceptions for those with an existing debtor-creditor relationship with the consumer, for collection agencies, and for those acting pursuant to a court order. SB 1057 would have provided that a consumer be able to remove or temporarily lift the security freeze at any time, subject to a fee charged by the consumer reporting agency, not to exceed \$10. However, the measure would have prohibited consumer reporting agencies from charging a fee to implement the consumer’s initial request for a security freeze. The measure provided a private right of action for consumers against consumer reporting agencies. A similar measure, HB 2412, was introduced in the House.

House Bill 2409

Relating to minimum wage

HB 2409 would have exempted Oregon’s minimum wage of \$7.25 an hour from future automatic inflation adjustment for certain tipped employees. The measure would have applied to employees required to report tips who customarily receive \$30 or more in tips a month. An employer would have been prohibited from displacing employees or reducing hours, wages or benefits in order to hire someone at lower hourly rates determined by the measure’s provisions. The measure also would have allowed an employer to pay a minor 50 cents less than the minimum wage per hour for the first 60 days of employment. The minimum wage was set at \$6.90 an hour by voter approval of Ballot Measure 25 in November 2002; the initiative also requires automatic adjustment of the minimum wage for inflation each year.

House Bill 2463

Relating to exemption from state personal income tax

HB 2463 would have exempted unemployment benefits

from state personal income tax for benefits paid after January 1, 2006. Under current law, weekly unemployment benefit payments are fully taxable as income under both federal and Oregon personal income tax laws.

House Bill 2693

Relating to medical marijuana

HB 2693 would have clarified that employers are not required to accommodate the use of medical marijuana, regardless of whether it is used at the workplace, which would have allowed employers to treat employees who have medical marijuana cards similarly to employees who do not have medical marijuana cards. Under provisions of the measure an employee with a medical marijuana card who tested positive for marijuana could have been subjected to the same remedial measures that the employer could apply to an employee who did not have a medical marijuana card. The measure would not have prohibited an employer from continuing to accommodate medical marijuana users at their discretion.

HB 2693 further provided that employers could not be required to either allow an employee or independent contractor to possess, consume, or be impaired by the use of marijuana during working hours, or to allow any person who is impaired by use of marijuana to remain in the workplace. The measure also would have clarified that nothing in the Oregon Medical Marijuana Act precludes an employer from establishing or enforcing a policy to achieve or maintain a drug-free workforce.

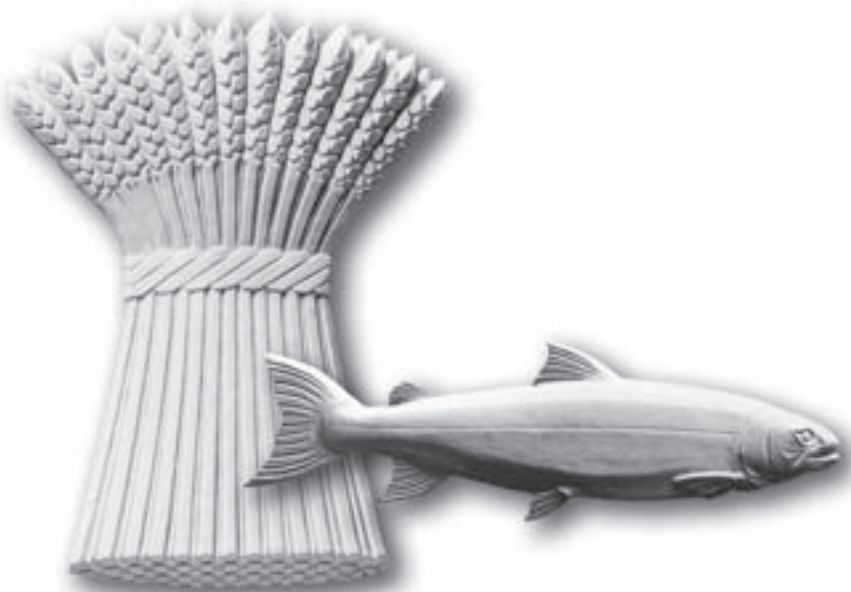
House Bill 2720

Relating to minimum wage

HB 2720 would have capped the automatic annual increase in Oregon’s minimum wage. The level of the cap was left blank in the measure as introduced, but a four percent cap was recommended in testimony by the Oregon Business Association, the requester of the measure. The minimum wage was set at \$6.90 an hour by voter approval of Ballot Measure 25 in November 2002; the initiative also requires automatic adjustment of the minimum wage for inflation each year.

Economic Issues

Transportation



2005 Summary of Legislation

Senate Bill 71

Relating to financing for transportation projects

SB 71 authorizes the issuance of up to \$100 million in lottery bond revenues for multimodal transportation projects in Oregon to help make key non-highway investments in facilities. The measure requires that at least 15 percent of the net proceeds be allocated to projects in each of the state's five congressional districts, and requires at least a 20 percent public or private match for eligible projects. The Oregon Transportation Commission (OTC) is to select projects from proposals with the advice and assistance of the Freight Advisory Committee and the State Aviation Board, and to take into consideration factors such as economic benefit, leverage of other funds, project readiness, and inter-modal benefits.

Oregon's transportation infrastructure includes 6,640 bridges, 66,000 miles of roads, 96 general aviation airports and one international passenger/cargo airport, two major intercontinental railroads, 19 short-line railroads, 2,413 miles of railroad track, and 23 deep and shallow draft ports. Improvements in air, rail, and marine infrastructure keep sectors of the economy connected to distribution points and allow OTC to take advantage of the most efficient and cost-effective system for transporting products.

SB 71 also contains a provision prohibiting the Port of Portland from financing an inter-modal transportation facility focused on rail transportation on the former Reynolds Aluminum property in Troutdale.

Effective date: August 29, 2005

Senate Bill 152

Relating to lottery bonds for construction of passenger terminal at North Bend Airport

SB 152 authorizes the issuance of lottery bonds for grants to finance the construction of a passenger terminal at the North Bend Airport. The North Bend Airport District identified the need to build a new terminal building with accompanying improvements. The estimated project cost is \$32.2 million and includes passenger facilities, parking and car rental services, fire fighting and rescue operations, airplane parking aprons and terminal business offices. The South Coast Development Council agreed that improved air travel could significantly aid the southwestern Oregon region and recommended that "development of an expanded commercial air route structure and the construction of new passenger terminal facilities be accomplished as soon as practical."

The North Bend Airport District must demonstrate that it will have sufficient funding to complete the project before the lottery bonds are issued. The measure requires bond proceeds be deposited in the North Bend Airport Improvement Fund by December 15, 2007 if conditions are met.

Effective date: August 18, 2005

Senate Bill 367

Relating to the use of safety belts

SB 367 requires drivers and passengers in privately-owned commercial vehicles designed and used to transport 15 or fewer passengers to use seat belts. The measure exempts the operator of a taxi cab from the requirement, and places the liability for failure to ensure proper use of child safety systems on the passenger, rather than the vehicle operator.

Oregon voters approved Ballot Measure 9 in 1990, mandating the use of safety belts in most vehicles. Current exemptions include vehicles built without safety belts, passengers in excess of the number safety belt-equipped seating positions, and privately-owned commercial vehicles (except pickup trucks) with a combined weight of less than 8,000 pounds. SB 367 was drafted in response to a high-profile accident involving a taxicab van in January of 2005, in which one passenger was killed and four others injured.

Effective date: January 1, 2006

Senate Bill 448

Relating to applicability of motor carrier laws

SB 448 changes an exemption for school buses and other vehicles transporting students to clarify that, under certain circumstances, those vehicles may be used for public transportation purposes. The measure is aimed at expanding transportation options in areas of the state where public transportation service is limited. State law exempts vehicles used or leased by a school district from motor carrier law limitations when exclusively transporting students and others to or from school or school-sponsored activities. The measure allows a school district board to use vehicles it operates or leases for transporting school children for other limited public transportation purposes, if approved by the Department of Transportation, as long as the service is not offered in competition with any private, regulated passenger carrier or a mass transit district. Similarly, the measure exempts government vehicles from

motor carrier regulations when operating as a carrier of passengers for hire.

SB 448 further exempts vehicles operated by a nonprofit entity from the 40-mile distance restriction when providing public transportation. As with school district vehicles, a nonprofit entity offering public transportation service must not be in competition with a regular route, full-service scheduled carrier of persons, or a mass transit district.

Effective date: June 14, 2005

Senate Bill 595

Relating to suspension of motor carrier laws at a time of emergency

SB 595 allows the Director of the Oregon Department of Transportation (ODOT) to temporarily suspend one or more of a list of specified motor carrier statutes for up to 72 hours for the purpose of expediting the movement of persons or property during a period of emergency. Such an emergency can include man-made or natural events causing or threatening loss of life, injury to persons or property, human suffering or financial loss; examples include fire, flood, severe weather, earthquake, volcanic activity, spills or releases of hazardous material, civil disturbance, sabotage, or war.

During summer months, the threat of fire often necessitates fire crew members to be on duty longer than 14 hours at a time. Truck drivers are needed to refuel helicopters used in combating wildfires; however, helicopter pilots, by Federal Aviation Administration standards, have fewer restrictions on their duty than do truck drivers. Federal regulations limit truck drivers to 14-hour days, and once a driver accumulates 70 hours in any eight-day period he or she must take 34 consecutive hours off. Federal regulations allow for the suspension of these time constraints only once an official emergency declaration has been made. SB 595 is designed to allow the ODOT Director to take immediate action in cases where the governor is unable to make an immediate emergency declaration.

Effective date: June 7, 2005

Senate Bill 640

Relating to security measures for documents issued by the Department of Transportation

SB 640 creates a new requirement that persons applying for issuance, renewal, replacement or reinstatement of a driver's license, permit or identification card must provide

biometric data or verify their identity against existing biometric data contained in the records of the Oregon Department of Transportation (ODOT). Biometric data is defined as measurements of the physical characteristics of a person's face that can be used to authenticate a person's identity. The measure allows ODOT to charge a \$3 fee per license, permit and identification card to cover the costs of collecting and verifying against biometric data.

The current form of driver's license and identification cards used in Oregon was first put into use in November of 2003, and included a number of different security features, but did not include the use of biometric data. Biometric technology uses special software and photographs or scans of individuals to identify them by unique physical features, such as facial features. Two types of checks can be performed using biometric data: "one-to-one" checks compare current data with previously captured data for the same individual; and "one-to-many" checks scan the entire database to determine whether another record exists with the same data, such as a license under a different name with the same photograph.

Effective date: January 1, 2006

Senate Bill 938

Relating to offenses involving bicycles

SB 938 makes two adjustments to statutes governing the operation of bicycles on streets and roads. Current law prohibits unsafe passing on the right for vehicles, including bicycles, unless the vehicle being passed is signaling intentions to make a left turn, the paved portion of the road is sufficient to allow two or more lanes of vehicles to proceed in the same direction as the passing vehicle, and the roadway ahead is sufficiently unobstructed. SB 938 differentiates between motor vehicles and bicycles by permitting cyclists to pass another vehicle on the right if the rider may safely do so under existing conditions. Current law also requires a cyclist to use a bicycle lane or path on a road where one exists, unless authorities determine that the lane is unsuitable for safe bicycle use. SB 938 allows cyclists to safely move out of the lane for the purposes of: passing another bicycle, vehicle or pedestrian that may not be safely passed within the bike path or lane; preparing to turn left at an intersection or into a private road or driveway; avoiding debris or other hazardous conditions; preparing to turn right where authorized; or preparing to continue straight at an intersection where the bike lane is to the right of the vehicle turn-only lane.

Effective date: January 1, 2006

Senate Bill 998

Relating to motor vehicles with a weight of less than 12,000 pounds

SB 998 increases from 8,000 pounds to 10,000 pounds the weight limit for vehicles from certain restrictions related to vehicle registration. Current law requires any vehicle with a gross weight of over 8,000 pounds to be registered with the Division of Motor Vehicles (DMV) as a commercial truck, regardless of the vehicle's intended use. In addition to higher registration fees, vehicles registered with commercial plates are required to drive at slower speeds and to use the right lane on interstate highways. SB 998 increases the minimum weight for the commercial plate requirement to 10,000 pounds, reflecting the increased use of heavier trucks and sport utility vehicles, as well as the increasing size of such vehicles, for personal use on Oregon roads.

Effective date: January 1, 2006

House Bill 2740

Relating to motor vehicle brokers

HB 2740 clarifies the responsibilities of motor vehicle brokers as agents of a vehicle buyer or lessee and prohibits brokers from receiving a fee from both the buyer and the seller for the same transaction. The measure was developed by the Department of Justice in collaboration with auto dealers, lenders, and AAA Oregon following investigations of several brokers and in response to concern over the lack of clarity in the law regarding the role of a broker. It requires written disclosure of the nature of the broker's service and how the broker fee will be paid, and stipulates that if the broker maintains vehicles in inventory, the disclosure is to include a statement as to whether the broker is acting as a dealer or broker for the transaction and "clear and conspicuous" notice to the buyer if the broker adds a fee to the purchase price that has been negotiated with the seller.

Effective date: January 1, 2006

House Bill 2742

Relating to safe routes to schools

HB 2742 establishes a Safe Routes to Schools Fund for the purposes of facilitating the creation of a safe routes to schools program by the Oregon Department of Transportation (ODOT). The measure authorizes ODOT to apply for, accept, receive and disburse gifts, grants and donations

from the federal government or any other sources, to be deposited into the Safe Routes to Schools Fund. The purpose of the program is to provide assistance to local communities in eliminating hazards and barriers to children walking or biking to and from school; that assistance can be in the form of evaluation of community programs, technical advice and assistance, and public education.

The federal highway funding reauthorization measure, which was signed into law on August 10, 2005, included funding related to the development of safe routes to schools. It has been estimated that Oregon could receive as much as \$2 million annually from the federal government from that legislation.

Effective date: January 1, 2006

House Bill 2811

Relating to image display devices

HB 2811 expands the list of equipment and devices that may not be used in a motor vehicle while operating on a highway to include devices that display a broadcasted television image and digital video disk and videocassette players displaying video images, provided that the device is located forward of the driver seat or the image is visible to the driver while operating the vehicle. The measure provides exceptions for emergency vehicles and for image display devices designed to assist in vehicle navigation.

There has been a proliferation during recent years of devices designed to equip motor vehicles and motor homes with televisions, videocassette and digital video disk players, video games and other types of visual equipment. These devices have raised concerns regarding safety due to the possibility of a vehicle driver being distracted by visual images displayed on the devices.

Effective date: January 1, 2006

House Bill 2840

Relating to school zones

HB 2840 adjusts the school speed zone law enacted during the 2003 Legislative Session. The measure stipulates that school zone speed limits apply on roads adjacent to a school from 7:00 AM until 5:00 PM on school days, or at any time when flashing light traffic control devices are operating indicating that children may be arriving at or leaving the school. At crosswalks marked as school zones, the 20 mile per hour (mph) applies when the flashing light display device is active, during posted times, or when children are present.

SB 179, adopted during the 2003 Legislative Session, established that if the speed limit on the highway leading up to the school zone is 30 mph or less, the school zone speed limit is to be set at 20 mph at all times; if the approaching speed limit is greater than 30 mph, the school speed zone limit is 20 mph either when warning lights are flashing (indicating that children may be present) or during specific hours posted on the sign. For locations not adjacent to a school but marked by school zone signs and a crosswalk, the speed limit is 20 mph when warning lights are flashing, during posted hours, or when children are present.

Effective date: July 1, 2006

House Bill 2937

Relating to theft

HB 2937 directs the Oregon Department of Transportation (ODOT) to suspend for six months the driving privileges of any individual convicted of stealing gasoline. Twenty-eight other states have enacted similar legislation, with four others having versions of the measure under consideration in 2005. Many fueling stations in states with the law post signage on and around pumps to notify drivers that leaving the station without paying for fuel can result in loss of license, which helps deter theft. Rising gasoline prices has resulted in anecdotal evidence of an increase in the number of gasoline thefts. HB 2937 is designed primarily to address theft of gasoline from filling stations, but could also be applied to thefts from private vehicles or residences

Effective date: January 1, 2006

House Bill 3121

Relating to vehicles with low appraisal values

HB 3121 allows authorities to dispose of a vehicle with an appraised value of \$500 or less at the request of a person in lawful possession of the vehicle. The measure is designed to help local authorities assist landowners in disposing of abandoned vehicles that may be located on their property. The authority disposing of the vehicle is required to document the transaction, and may issue a junk slip to have the vehicle removed and disposed of by a certified dismantler. The person requesting that a vehicle be removed may be assessed a fee by the authority. The measure also requires a person claiming a lien for the cost of removal or storage of such a vehicle to retain the vehicle for 15 days after the lien attaches prior to closing the lien.

Current law authorizes the Oregon State Police or the Oregon Department of Transportation to dispose of vehicles abandoned on the right of way of state and interstate highways; vehicles abandoned on the right of way of a county road may be removed by the county sheriff or appropriate county agency; and vehicles on streets or alleys within city limits may be removed by city police or city agency representatives. HB 3121 provides for the removal of derelict vehicles from private property.

Effective date: January 1, 2006

House Bill 3197

Relating to anatomical gifts

HB 3197 directs the Oregon Department of Transportation (ODOT) to transfer, upon request, certain driver's license information for persons designated as anatomical donors to procurement organizations. The measure also modifies methods by which the donor designation can be revoked, and adjusts the list of persons authorized to make an anatomical gift on behalf of a deceased person. HB 3197 also outlines the responsibilities of hospitals and procurement organizations by bringing Oregon into relevant national practices and standards of care, and enhances the role that emergency personnel play in ascertaining the donor status of deceased individuals in the field. Procurement organizations are prohibited from reselling or disclosing personal information provided by ODOT.

There are currently more than 81,000 people on the national waiting list for life-saving organ transplants. Half of these will not receive a needed organ due to the shortage of available anatomical donations; about 17 people die every day for lack of a transplant. Representatives for anatomical donor associations report that organs from a single donor can save the lives of up to eight people, and other tissues can enhance the lives of more than 50 individuals.

Effective date: January 1, 2006

House Bill 3252

Relating to highway speeds

HB 3252 stipulates that in cases where the Oregon Department of Transportation (ODOT) designates the speed for a particular road to be higher than 65 miles per hour, the designated speed for trucks and other specified vehicles must be at least five miles per hour lower than the designated speed for other vehicles. In addition to trucks, the lower speed limit would apply to school buses

and school activity vehicles, worker transport buses, buses used to transport children for church activities, and vehicles used by nonprofit organizations to transport persons for higher.

HB 2661 (2003) provided ODOT with the authority to post speed limits in excess of 65 miles per hour on interstate highways if, after traffic and engineering analysis, the department determines that such an increase is safe. HB 3252 would apply in cases where the speed limit is raised in excess of 65 miles per hour, mandating that the differential between the above listed vehicles and other vehicles must be at least five miles per hour.

Effective date: January 1, 2006

House Bill 3415

Relating to proceeds of certain bonds

HB 3415 requires that proceeds from bonds issued for the replacement or repair of bridges but not spent by the Oregon Department of Transportation (ODOT) be spent instead on highway projects of statewide significance and on highway freight projects. HB 2041 (2003) authorized ODOT to issue Highway User Tax revenue bonds to finance highway improvements, including up to \$1.3 billion for the replacement and repair of bridges. The department had identified a number of bridges nearing the end of their design life, and a significant number of bridges constructed between 1947 and 1961 were beginning to show signs of cracking. At the time, estimates indicated that 487 of 555 bridges of that type required attention. Since that time, however, a 2004 study by engineers from Oregon State University has indicated that some of the problems originally identified are not as bad as originally believed, while others were found to be capable of lasting longer than estimated or cost less to repair. As a result, the department will not require all of the \$1.3 billion in bond revenues. HB 3415 requires that the excess bond revenues originally earmarked for bridge repair be used instead to address highway projects of statewide significance identified by the Oregon Transportation Commission (75 percent) and road freight projects outlined by the Freight Advisory Committee (25 percent).

Effective date: January 1, 2006

Major Legislation Not Enacted

Senate Bill 558

Relating to mass transit districts

SB 558 would have required the Lane County Mass Transit District Board of Directors to be elected by citizens of the district instead of appointed by the Governor. Discussion focused on who the Board of Directors is accountable to and how changes in Board membership should occur.

Senate Bill 842

Relating to studded tires

SB 842 would have imposed a fee on the retail sale of studded tires or on installation of studs on tires. Proposed fees ranged from \$5 to \$10 per tire. Revenues would have been deposited in the State Highway Fund for the purpose of repairing damage caused by studded tires to state, county and city highways, roads and streets.

Senate Bill 1027

Relating to vehicle mirrors

SB 1027 would have required commercial delivery trucks, weighing 26,000 pounds or less, to be equipped with forward crossview mirrors. Failure to have trucks properly equipped with the mirrors would have resulted in a \$180 fine. Forward crossview mirrors allow a driver to see in front of the truck. Accident site investigations have found that persons or objects less than 4 feet 11 inches in height that are directly in front of commercial delivery trucks are not visible by the driver in a seated position and are similarly not visible if less than 4 feet 7 ½ inches if the driver is standing in the front cab.

House Bill 2608

Relating to residency status for acquiring documents issued by the Department of Transportation

HB 2608 would have required the Oregon Department of Transportation (ODOT) to receive proof of legal presence in the United States and a federal identification number

prior to issuing, renewing, or replacing any driver's license, driver permit, or identification card. The measure required the department to verify Social Security numbers with the Social Security Administration or, if a federal identification number was given, to verify that number with the United States Department of Homeland Security. An exception was provided in cases where ODOT had previously confirmed the individual's citizenship.

Current law requires that a person be a resident in the state or to be domiciled in the state. Residency is established for the purposes of licensure by taking a job in the state, remaining within the state for a period of six months regardless of domicile, placing children in public school without payment of nonresident tuition fees, or making a declaration of residence for purposes of receiving in-state tuition rates at a public education institution.

House Bill 2869

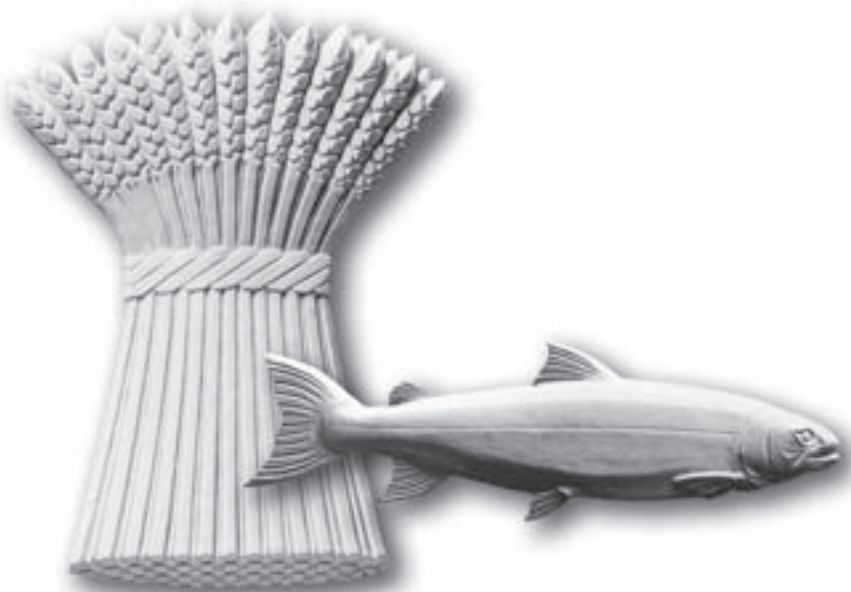
Relating to studded tires

HB 2869 would have imposed a \$10 per tire fee for studded tires sold in Oregon. The fee would have been paid on a quarterly basis by retailers who sell studded tires, and retailers would have been authorized to keep five percent of the total tax collected for expenses incurred in the collection of the tax. The Oregon Department of Transportation (ODOT) was directed by the measure to adopt rules prescribing penalties and interest due for the late payment of the tax.

Oregon motorists may legally utilize studded tires between November 1st and April 1st each year. ODOT encourages drivers to use studded tires only when necessary, and to use other types of traction tires when possible, because of the damage that studded tires inflict upon roadways. In particular, tires with studs can create ruts into which water can collect, creating hazardous driving conditions. ODOT estimates that \$11 million is spent annually to repair damage caused by studded tires. The tax HB 2869 would have created was designed to help cover those road repair costs.

Governmental Issues

Elections



2005 Summary of Legislation

Senate Bill 27

Relating to estimates of the financial impact of state measures

SB 27 expands the role of state officials charged with preparing estimates of the financial impact of state measures, which are printed in the voters' pamphlet and on the ballot. Previous statute required the Director of the Department of Revenue, the Secretary of State, the State Treasurer, and the Director of the Oregon Department of Administrative Services to project the expenditures, reduction in expenditures, tax revenues, reduction in revenues, indebtedness and interest that would result if a given measure was enacted by the voters. SB 27 creates the Financial Estimate Committee, which consists of the same four officials, plus one representative of a city, county, or district with expertise in local government finance. The measure directs the Financial Estimate Committee to prepare the financial estimates that currently appear on the ballot and in the voters' pamphlet, and it expands the scope of those estimates as follows.

In addition to providing estimates of the revenues or indebtedness that would result if a measure is enacted, the Financial Estimate Committee is authorized to issue estimates of the revenues or indebtedness that would result if a given measure is rejected by the voters. Second, the measure allows the committee to express estimates as a single dollar amount or as a range of amounts. Third, the measure gives the committee the discretion to prepare a brief, impartial, narrative statement explaining the financial effects of a measure. If the committee generates such a statement, it will appear in the voters' pamphlet along with the measure to which it relates. Finally, SB 27 directs the committee to consult with the Legislative Revenue Officer to determine whether a measure has significant indirect economic or fiscal effects, and to incorporate the relevant part of the revenue officer's analysis into the estimate issued by the committee.

A SB 27 minority report was not adopted by the Senate. The minority report would have replaced the membership of the Financial Estimate Committee with four members of the public—two appointed by the Speaker of the House and two appointed by the President of the Senate—for each measure on the ballot requiring a financial estimate. These four members would have had to prepare financial estimates in accordance with previous statute and did not call for any of the expanded functions proposed under SB 27. It would have required the citizen groups to estimate the tax liability of a measure on median income earners if the measure involved raising state funds through taxation.

Effective date: January 1, 2006

House Bill 2167

Relating to elections

HB 2167 modifies provisions related to campaign finance reporting, the conduct of elections, and voting equipment laws in order to simplify reporting for candidates and committees and to make the disclosure and voting process more comprehensible to the public. It expands the definition of "independent expenditure," which previously applied only to candidates, to include expenditures made in connection with ballot measures consistent with the definition adopted by the Oregon Court of Appeals in *Crumpton v. Keisling* (1999). It standardizes exemptions from reporting for different types of committees and changes reporting timelines for certain types of reports filed by candidates. The measure extends a requirement to file mid-term statements of contributions to the offices Attorney General, Governor, Secretary of State, State Treasurer, Commissioner of the Bureau of Labor and Industries, and state senator. It prohibits the Secretary of State from approving a voting machine unless the machine can duplicate votes onto paper and allow an elector to view the copy and requires, for ballots cast using voting machines, a paper copy be retained by the county clerk for purposes of consideration as a ballot in the event of a recount. The measure also repeals statutes that are outdated or have been rendered moot by court decisions, including the statute prohibiting receipt of contributions during a legislative session, and makes other miscellaneous and/or technical changes. The measure codifies a Supreme Court opinion that allows 60 days from ballot title certification to appeal a Secretary of State ruling on compliance review. Restoration of the date for declaration of candidacy is necessary because the date was changed by the 2001 Legislature to afford early declarations and challenges to the term limits law. Several of the measure's voting machine provisions are related to the federal Help America Vote Act of 2002, which requires that at least one Direct Recording Electronic voting system be provided per county for access to the voting process by people with disabilities.

Effective date: January 1, 2006

House Bill 3458

Relating to elections

HB 3458 limits the expenditure of campaign funds for certain personal uses, enhances penalties for violations of campaign finance laws, and overhauls the system for establishing campaign accounts and reporting contributions, loans, and expenditures to the Secretary of State. It was introduced as a comprehensive, bipartisan campaign

finance reform measure incorporating some of the provisions recommended by a Campaign Finance Disclosure Panel convened by the Secretary of State.

Effective January 1, 2007, HB 3458 requires electronic filing of all contribution and expenditure statements by candidates and committees (except for federal offices) that anticipate raising or spending more than \$300 in connection with a campaign. The measure directs the Secretary of State to make the campaign finance data available on the Internet and to maintain the information there for six years. The measure increases the frequency of campaign finance reporting and establishes two reporting schedules. During the six-week period preceding a primary or general election, candidates and committees are required to report contributions and expenditures within seven days; at all other times, candidates and committees are required to file electronic reports within 30 days of receiving a contribution or making an expenditure.

HB 3458 requires candidates and political committees to establish a single exclusive campaign account for campaign expenditures and contributions. Candidates and treasurers of political committees must deposit campaign contributions within seven days of receipt. The measure prohibits the commingling of personal and campaign funds, but allows the transfer of campaign funds investment purposes.

HB 3458 increases the level of political contributions or expenditures for which details about contributor or expenditure must be reported from \$50 to \$100. It expands the initial disclosures required of political committee treasurers when they register with the Secretary of State, including information about candidate “controlled committees.” The measure requires campaign loan terms to be disclosed and a copy of loan agreements retained by the candidate until the loan is repaid. It also requires more detailed reporting of the source of campaign contributions and redefines “independent expenditures” to provide a guideline for when an expenditure by a third party supporting or opposing a candidate or measure needs to be reported to the Secretary of State as a contribution.

HB 3458 increases the civil penalty for conversion of campaign funds to personal use to \$1,000 (plus the amount of the funds converted). It prohibits candidates from using campaign funds to compensate themselves for professional services provided to their campaigns and bans the use of campaign funds to pay rent, mortgage, or utilities associated with a candidate’s primary residence.

Effective date: August 29, 2005

Major Legislation Not Enacted

Senate Bill 161

Relating to elections

SB 161 would have allowed the Secretary of State, after consultation with affected county clerks, to request that the Governor issue a proclamation postponing the date of an election in the event of an emergency that renders it impossible or impracticable to cast ballots or for elections officials to tally ballots. The measure would have limited the period of postponement to a maximum of 14 days.

The SB 161 minority report was passed by the Senate, but did not advance in the House of Representatives. The minority report would have designated the offices of Governor, Secretary of State, State Treasurer, Attorney General, state senator and state representative as nonpartisan elected offices. The statutory designation as a nonpartisan office would have resulted in a corresponding change in the system of primary elections, eliminating current voting restrictions based on political party affiliation.

Senate Joint Resolution 10

Proposing amendment to Oregon Constitution to allow voter registration not later than day of election

SJR 10 would have referred a constitutional amendment to voters to allow voter registration on the same day as an election. Current law requires Oregon voters to register within 20 days of an election.

The SJR 10 minority report, which was not adopted by the Senate, would have proposed an amendment to the Oregon Constitution to require the Legislative Assembly to pass a measure funding public schools by the 81st day of each legislative session.

House Bill 2583

Relating to voter registration

HB 2583 would have required individuals registering to vote for the first time in Oregon to provide evidence of their United States citizenship. The measure specified that demonstrating proof of citizenship would require

submission of an original or copy of either a birth certificate, a naturalization document, or a valid passport. Current law requires Oregon voters to be U.S. citizens and residents of the state. Registrants are required to attest to their citizenship and residency when they sign and submit voter registration cards. Submitting false information is a Class C felony. If a person is registering for the first time, he or she is currently required to submit proof of identity, but not proof of citizenship. Registration occurs when a legible, accurate and complete registration card is received by a county clerk.

The HB 2583 minority report, which was not adopted by the House, would have prohibited paying or receiving money or any other thing of value based on the number of signed voter registration cards. If passed, it would have applied to registration cards collected on or after the effective date of passage.

House Bill 3090

Relating to elections

HB 3090 would have required persons setting up unofficial election ballot drop sites to file a statement with the county clerk containing contact information, the location of the drop site, and other specified information. The measure would have required signage identifying the site as an unofficial drop site, and would have set a civil penalty for failure to file the requisite statement. It would also have required persons transferring ballots from any place of deposit to a county clerk or other secure location to have received training from the county clerk. Current law does not require registration of unofficial ballot drop sites. The measure was intended to balance convenience for voters with ballot security and the prevention of voting irregularities.

House Joint Resolution 31

Relating to impeachment of certain state officials

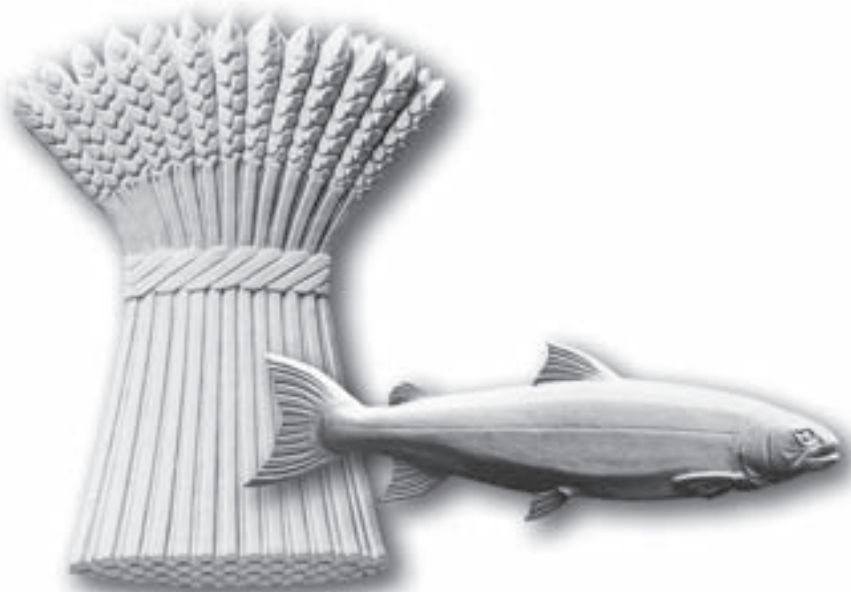
HJR 31 would have referred a constitutional amendment to voters to give the House of Representatives the power of impeachment over the Governor, the Secretary of State, the State Treasurer, the Commissioner of the Bureau of Labor and Industries, the Attorney General, department directors and heads of state agencies who are appointed by the Governor, and state judges. Impeachment proceedings could have been brought for malfeasance, crime, incapacity, or negligence. Impeached would have required a vote of at least 31 members of the House of Representatives; an individual so impeached would have been removed from

office if the Senate, sitting as a court of impeachment, convicted the officer by a two-thirds vote.

Currently, the Oregon Constitution provides that public officials are not subject to impeachment. Instead, public officials may be tried for criminal offenses and, if convicted, the judgments may provide for removal from office. Additionally, the current procedure to remove judges provides that the Governor may remove a judge if the legislature passes, by a two-thirds vote, a joint resolution finding incompetence, corruption, malfeasance, delinquency in office, or other sufficient cause. Finally, Article II § 18 provides for a recall of any public officer and Article IV § 15 provides that either house may punish its members for disorderly behavior, and may, with the concurrence of two thirds, expel a member. Oregon is the only state that does not have impeachment provisions in its constitution.

Governmental Issues

General Government



2005 Summary of Legislation

Senate Bill 2

Relating to seismic safety

SB 2 directs the Department of Geology and Mineral Industries (DOGAMI) to develop a statewide seismic (earthquake risk) needs assessment and related geographic information system (GIS) databases. The measure appropriates \$500,000 of General Fund to the department to conduct the assessment and sunsets provisions on January 2, 2008.

Session Law (2001, Chapters 797 and 798) require seismic vulnerability evaluations of public schools and critical response facilities such as hospitals, fire stations, and police stations, and to rehabilitate such buildings as necessary to a standard of seismic safety. In 2004, an Oregon Seismic Safety Policy Advisory Commission task force recommended performing the seismic needs assessment and developing GIS databases as an important step in implementing Ballot Measures 15 and 16 approved by voters in 2002 (See SB 3). DOGAMI indicates that it continues to work with federal and state funding partners and stakeholders to complete the earthquake risk assessments as funds become available

Effective date: August 23, 2005

Senate Bill 3

Relating to seismic rehabilitation

SB 3 requires the Director of Office of Emergency Management to develop a grant program for the seismic rehabilitation of critical public buildings. Oregon Laws (2001, Chapters 797 and 798) require the rehabilitation of such buildings to a standard of seismic safety. Ballot Measures 15 and 16, approved by the voters in 2002, amended the Oregon Constitution to allow the state to lend credit through general obligation (GO) bonds for seismic rehabilitation of public schools and emergency facilities. SB 3 creates a grant committee to review applications and make determinations of funding based on a scoring system directly related to the statewide needs assessment performed by the Department of Geology and Mineral Industries (see SB 2).

The Legislature established the Oregon Seismic Safety Policy Advisory Commission (ORS 401.343) in response to public concerns about seismic safety after the 1989 Loma Prieta earthquake. In 2004, the Commission convened a task force on implementation of Ballot Measures 15 and 16. The task force recommended three actions: 1) develop a grant program to allocate GO bond funds

for earthquake rehabilitation in schools and emergency facilities; 2) perform a statewide needs assessment and develop a geographic information system database; and 3) authorize and appropriate GO bonds to provide stable, long term funding to meet earthquake safety requirements. SB 3 creates the voter-approved funding structure to meet seismic rehabilitation priorities.

Effective date: August 29, 2005

Senate Bill 17

Relating to Task Force on Telecommunications Law Revision

SB 17 establishes a 10-member Task Force on Telecommunications Law Revision responsible for reviewing current laws governing telecommunications, identifying and correcting obsolete statutes and inconsistent terminology, consolidating and clarifying statutory provisions to reflect changing technology, and making recommendations on the proper scope of the Public Utility Commission's (PUC) authority to regulate telecommunications.

The measure was drafted out of a need expressed by telecommunications stakeholders and policy makers to review and revise Oregon law to reflect changing technologies, pending federal law, and the scope of the PUC's current authority of regulating telecommunications. SB 17 was modeled after HB 3615 (1999), which established an interim task force to study the structure of the PUC and determine whether changes to the structure of the PUC are necessary or advisable.

Effective date: January 1, 2006

Senate Bill 359

Relating to Oregon Advocacy Commissions Office

SB 359 establishes the Oregon Advocacy Commissions Office to provide administrative support to the separate Commissions on Asian Affairs, Black Affairs, Hispanic Affairs and the Commission for Women. The Director of the Department of Administrative Services is directed to appoint the administrator of the office after consultation with the commissions. The measure adds a requirement that appointments to each commission by the Governor represent all parts of the state to the extent possible. A General Fund appropriation is included in the measure for operations, including two staff positions. An Other Funds expenditure limitation is also established for grants and donations.

Effective date: August 29, 2005

Senate Bill 408

Relating to rates of public utilities

SB 408 establishes mechanisms to close the gap between the amount of taxes that are collected from utility customers and what is actually paid to state, federal, and local governments. The Public Utility Commission (PUC) currently sets utility rates on a stand-alone basis, with income taxes included in rates that are based on the revenues and costs of the utility's regulated service. Current statute requires consolidated entities to file corporate income taxes as a consolidated group instead of a separate subsidiary of the parent corporation. Because of this, there is often a difference between the hypothetical calculation used to set rates and taxes actually paid.

Under SB 408, public utilities are required to file an annual tax report to the PUC on or before October 15 following the year for which the report was made. The PUC is then be required to review the report and determine whether the amount of taxes assumed in rates or otherwise assessed to ratepayers differs from the amount of taxes actually paid to units of government. If a difference occurs, the PUC is directed to require the utility to implement an automatic adjustment clause to rates within 30 days of its findings.

The measure outlines the conditions of the automatic adjustment clause, such as that the clause cannot be used to make rate adjustments that are properly attributable to any other affiliate of the utility or its parent company. The PUC is allowed to not require the utility to implement the automatic adjustment clause if it has a "material adverse effect" on its customers and prevents the PUC from authorizing a rate or schedule of rates that is not "fair, just and reasonable."

A SB 408 minority report would have required the PUC to convene a work group to study and evaluate appropriate methods to account for taxes collected from public utility ratepayers to ensure that the amounts collected from ratepayers matched amounts in which the utility or the affiliated corporation(s) properly attributed to the utility's regulated operations pay to units of government. The measure would have established membership of the work group and would have required that the group prepare a written report of their evaluation and findings for presentation to the 74th Legislative Assembly.

Although the Governor did sign this measure into law, he did submit a letter outlining his concerns about issues related to it.

Effective date: September 2, 2005

Senate Bill 421

Relating to state building code

The Tri-County Building Industry Service Board Center was created by the 1999 Legislature to provide services to contractors and building officials in the 27 jurisdiction tri-county area, such as applying for building permits and dispute resolution services. The Center works with industry and officials to develop uniform practices and procedures for the building and construction industries in several counties.

SB 421 builds on the concept of the center and requires development of a regional-based system, with local and state liaisons, to assist state and local governments in carrying out provisions of the State Building Code. Under this concept, state code chiefs and policy makers would be locally based to oversee the activities of the State Building Code in prescribed regions, and be responsible for state code interpretation and administration, compliance, local enforcement, and consistent service and delivery. The Department of Consumer and Business Services would have the authority to administer and supervise the State Building Code.

Effective date: Status: September 2, 2005

Senate Bill 660

Relating to requirements for formation of special districts

SB 660 requires a county board or local boundary commission to approve a petition for formation of a special district if the petition meets requirements set forth in state law. Some local jurisdictions have interpreted state law as allowing a measure of discretion to deviate from statutory criteria in considering special district petitions. A recent Linn County Circuit Court opinion construed the statute more narrowly. SB 660 codifies the decision of the Linn County Court and requires county boards and local boundary commissions to adhere closely to statutory criteria in evaluating special district petitions.

Effective date: January 1, 2006

Senate Bill 837

Relating to self-insurance programs by public bodies

SB 837 establishes requirements for public bodies that self-insure for tort liability or property damage. Specifically, the measure requires certain disclosures and institutes basic financial management standards including a mini-

mum reserve account, annual independent audits, and adequate reinsurance requirements against catastrophic losses. The measure establishes a public body's right of action against a self-insurance program that fails to comply with the requirements and stipulates that a program, or a third party administrator of a program, may not collect commissions or fees from an insurer.

According to the Special Districts Association, public body self-insurance pools have successfully operated in Oregon for the past 20 years to the benefit of cities, counties, schools and special districts. Presently, such programs provide coverage for more than 30 types of Oregon local governments, with nearly 900 participating members. Participation in these pools is not mandatory, and public bodies can and do insure through the private marketplace, thereby maintaining price competitiveness. The self-insured public body pools aggregate group risks, maintains a self-insured retention, and purchases reinsurance for catastrophic losses. Since these public entity pools do not sell insurance, their management is unregulated by Oregon's insurance code. SB 837 institutes a higher degree of public disclosure and ensures compliance with basic financial requirements regarding the operation of a public body's self-insurance program.

Effective date: January 1, 2006

Senate Bill 847

Relating to the single-unit housing property tax exemption

SB 847 provides a local option of a ten-year property tax exemption for newly-constructed, single-unit, owner-occupied housing units that are located in a city's distressed area. A "distressed geographic area" is defined as a deteriorated residential area that is unsafe and may contain a significant number of vacant or abandoned dwellings, but it can not exceed 20 percent of the city's total land mass. A unit that is qualified for the exemption must have a market value that is no more than the lesser of 120 percent of the city's median housing value or a percentage adopted by the city. The tax exemption applies to tax years beginning on or before July 2005 and sunsets after July 2015. During the 10 year exemption period, owners are still obliged to pay taxes on land. A similar tax exemption ended in June 2003. The Department of Revenue's Expenditure Report for 2003-05 estimated that the value of this exemption was \$2.8 million and \$3.2 million for FY 2001-03 and FY 2003-05, respectively.

Effective date: November 4, 2005

Senate Bill 1089

Relating to Republic of the Sudan

SB 1089 declares the Legislative Assembly's findings regarding genocide in Sudan. It requires the Oregon Investment Council (OIC) and the State Treasurer to act reasonably to try to ensure that funds are not invested in any company the OIC knows to be doing business in Sudan for as long as the Sudanese government's campaign of human rights violations, atrocities, or genocide continues. The measure requires any divestment to be accomplished without monetary loss to the funds, and requires the OIC and State Treasurer to make reasonable efforts to investigate all companies in which the OIC has invested to determine whether any of the companies are doing business in Sudan. SB 1089 requires the Treasurer to notify any company that investments will be withdrawn for as long as the company does business in Sudan and the atrocities in the region continue. The measure establishes that provisions do not apply to the Treasurer's fiduciary responsibilities, nor to: entities engaged in human relief activities or social welfare; companies engaged in journalism; or U.S. companies authorized by the federal government to do business in Sudan. The measure requires an annual report to the Legislature on actions taken under the measure.

The conflict in the Sudan has resulted in a campaign of ethnic cleansing of African farmers that the U.S. Congress has now declared to be a "genocide." Indiscriminate killing, mass rapes, looting of livestock and the burning of villages at the hands of government troops and the militias have resulted in thousands of deaths and forced over one million people from their homes.

Effective date: August 23, 2005

Senate Bill 1096

Relating to the transfer of jurisdiction of certain Multnomah County roads to the City of Gresham

SB 1096 transfers jurisdiction of Multnomah County roads located in the City of Gresham to the city. The measure directs Multnomah County and the City of Gresham to enter into an agreement concerning the distribution of the county's total road funds. If Multnomah County and the City of Gresham fail to reach an agreement before December 31, 2005, then Multnomah County is required to transfer annual funds to the city equal to the county's total share of State Highway Fund moneys, minus road funds transferred to other jurisdictions pursuant to inter-

governmental agreements, multiplied by the percentage share of county road center line miles transferred to the City of Gresham. SB 1096 creates an advisory committee to make recommendations to Multnomah County regarding the appropriate allocation of road funds among the Cities of Troutdale, Wood Village, and Fairview.

Effective date: January 1, 2006

House Bill 2116

Relating to highway speeds

HB 2116 allows the Oregon Department of Transportation (ODOT) to establish a process for setting highway speeds. ODOT separately lists speed zone designations for each segment of highway individually in its administrative rules. Approximately 100-120 speed zone changes occur annually. The measure aims to save costs and delays associated with individual rule-making for each speed zone change.

Effective date: May 25, 2005

House Bill 2155

Relating to fire-fighting resources

HB 2155 grants the Governor greater flexibility to assist local jurisdictions with fire suppression needs. The Office of State Fire Marshal supports Oregon fire services during major emergency operations through the Conflagration Act (ORS 476.510). The Conflagration Act was adopted in 1940 as a civil defense measure and can be invoked only by the Governor. The Act authorizes the Fire Marshal, as directed by the Governor, to mobilize firefighters and equipment from around the state and provides funding from state resources. HB 2155 gives fire departments and districts the authority and liability coverage afforded by the Act to provide “good neighbor” assistance, without usual mutual aid agreements, when directed to do so under the Act.

Effective date: January 1, 2006

House Bill 2169

Relating to elections

HB 2169 modifies Oregon statutes to incorporate the use of Direct Recording Electronic (DRE) voting systems in order to comply with the Help America Vote Act (HAVA) passed by Congress in 2002. As part of the federal requirements, beginning in 2006, states must have systems in

place to enable voters with disabilities to vote privately and independently. Each county must have at least one DRE system to enhance access for these voters. HB 2169 incorporates DRE devices as valid voting machines and their output as a valid ballot type. The measure also requires any such system to produce a paper record to accommodate existing statutory requirements that recounts be conducted by hand. The measure does not affect the established vote-by-mail process.

Effective date: January 1, 2006

House Bill 2189

Relating to public employee retirement

HB 2189 adds provisions clarifying how breaks in service of over six months affects membership status under the Public Employee Retirement System (PERS) when the employee returns to public employment. It specifies that an employee will not be considered to have a break in service when the time off is due to a PERS-approved disability or employment of a seasonal nature, and it considers a vested member who was inactive on August 28, 2003, to have not had a break in service if he or she returns to employment with the same qualifying employer before January 1, 2006. The measure also clarifies that retirement credit in PERS or the Oregon Public Service Retirement Program (OPSRP) are interchangeable for purposes of retirement eligibility, and that an employee returning from a break in service who is entitled to receive a retirement allowance under PERS may qualify for the retirement age available under PERS. The measure also makes clarifications regarding when death benefits become available, determination of overtime rates, and conversion of community college hours to OPSRP hours of service.

Effective date: June 29, 2005

House Bill 2389

Relating to manufactured housing

HB 2389 establishes a state income tax credit for mobile home residents who are living in homes valued at \$110,000 or less and are involuntarily moved from a mobile home facility pursuant to the termination of a rental agreement and closure of a mobile home park or facility. The measure provides that the tax credit is the lesser of \$10,000 or the actual cost of moving and reestablishing a residence at a different mobile home facility, minus any payments or reimbursements accruing to the mobile home resident from the landlord. It allows only one-third of the total tax credit

to be claimed by a mobile home resident for the tax year in which the mobile home is involuntarily moved.

The measure creates an exception for mobile home residents whose gross annual income is not more than 200 percent of federal poverty guidelines and permits the total amount allowable as a tax credit to be claimed all at once, in the tax year of the involuntary move. HB 2389 establishes tax exempt status for amounts received as a result of the sale of a manufactured dwelling park to certain tenant organizations and nonprofit entities.

HB 2389 directs the Housing and Community Services Department to encourage manufactured home dwelling park landlords to provide information to the Department concerning available spaces in mobile home and manufactured dwelling parks. It prohibits jurisdictions from denying placement of a manufactured dwelling, due solely to its age, if the dwelling is being relocated by reason of a park closure.

Effective date: January 1, 2006

House Bill 2599

Relating to public records

HB 2599 exempts from public disclosure personally identifiable information about customers who receive water, sewer, or storm drain services from a public body. However, the measure allows the release of personal information if state or federal law requires release of the information.

Proponents of HB 2599 asserted that the measure provides to customers of public utilities a level of privacy and protection against the inappropriate use and disclosure of personal information that is on par with the type of protection offered by private companies.

Effective date: July 27, 2005

House Bill 3238

Relating to state administrative rules

HB 3238 modifies state administrative rule requirements and review procedures by: specifying items that must be included in statements regarding costs of rule compliance on small businesses; requiring agencies to review rules within five years of adoption to assess both their effectiveness and the accuracy of any estimates and assumptions made during the rulemaking process; and expanding the duties of agency-appointed advisory committees on administrative rules to include advising the agency on

fiscal impact statements, the impact of rules on small businesses, and agency compliance with statutes. The measure includes a procedure for objecting to a fiscal impact statement and for correcting statements. It also modifies rulemaking procedures requiring agencies to respond to requests for clarification of agency objectives and methods for evaluating success.

State agencies are required to provide statements of fiscal impact for proposed administrative rules identifying how state and local agencies and the public may be affected. The requirement includes a projection of any significant effect on businesses and an estimated cost of compliance for small businesses. HB 3238 expands and modifies these requirements.

Effective date: January 1, 2006

House Bill 3262

Relating to public employee retirement

HB 3262 makes a number of unrelated modifications to Public Employee Retirement System (PERS) statutes. The measure: 1) clarifies that PERS is one system with multiple programs, allowing movement of employer assets to cover liabilities where they arise in the system; 2) allows veterans who make full-cost purchases for their time in the service to choose a lower benefit calculation that results in a cheaper purchase cost; 3) clarifies that termination from PERS automatically cancels beneficiary designations and that alternate payee awards are property that can be passed to heirs; 4) provides that school districts, colleges, and the state may report salary for calculation of final average salary based on when the salary is paid for Tier 2 and Oregon Public Service Retirement Plan (OPSRP) members, providing certain salary exclusions to prevent inflation of final average salary calculation; 5) allows part-time OPSRP school employees who work at least 600 hours in a year to count the year as a service credit year (but under reduced benefits), allowing them to reach retirement or disability based on years worked; 6) codifies the practice of allowing inactive police and fire members to retire at age 50 with unreduced benefits, provided they have achieved at least 25 years of service; and 7) allows retired employees of the Black Butte Ranch Rural Fire Protection District and Service District and the Sunriver Service District to work more than 1,039 hours for those districts in a year and still receive PERS retirement benefits. These changes were proposed to deal with particular problems that arose with the PERS system. The calculation of salary based on when it is paid, instead of when it is earned, eases administrative costs for

schools and is consistent with current record-keeping and accounting systems and with how Tier 1 member salaries are reported.

Effective date: November 4, 2005

House Bill 3466

Relating to Oregon State Lottery funding of sports programs at institutions of higher education

HB 3466 repeals the Oregon State Lottery Commission's authority to operate "Sports Action" games, which allow the public to bet on the outcome of on professional football games. Under previous law, the proceeds of Sports Action games were used by the State Board of Higher Education to fund athletic programs at state institutions of higher education. HB 3466 establishes a new funding source for athletic programs at institutions of higher education by replacing the funds previously drawn from Sports Action proceeds with one percent of total lottery revenues. The shift in funding sources is based, in part, on projected increases in lottery revenues resulting from the introduction of line games.

The National Collegiate Athletic Association (NCAA) does not allow states that sponsor gambling on athletic events to host NCAA championship tournaments. The elimination of Sports Action Games in Oregon under HB 3466 makes the state eligible to bid on opportunities to host NCAA tournaments.

Effective date: July 1, 2007

House Bill 3502

Relating to the State Fair

HB 3502 transfers the operation and properties of the Oregon State Fair and its exposition center to the State Parks and Recreation Department beginning January 1, 2006. It requires the State Parks and Recreation Director to appoint a State Advisory Committee consisting of seven members, including a resident from each congressional district and two persons to represent county fair interests.

Since 1997, the Oregon State Fair has had difficulty meeting its operating and debt service requirements out of existing fair and exposition earnings. Recent legislation provided general funds for operating expenses and lottery-backed bonding authority for maintenance, modernization, and new construction projects, including a multi-purpose pavilion completed in 2004. The transfer to the State Parks and Recreation Department under HB 3502 is intended

to relieve State Fair staff from certain agency and property management responsibilities and, through dedicated Lottery Funds, to provide operational support.

Effective date: August 24, 2005

Major Legislation Not Enacted

Senate Bill 420

Relating to the Oregon Government Standards and Practices Commission

SB 420 would have directed the Oregon Law Commission to conduct a comprehensive review of government ethics laws and prepare a report relating to the substance, administration, and enforcement of government ethics laws in the state. The measure would have required the commission to hold at least one public hearing before submitting its report to the Legislative Assembly on October 1, 2006. The commission's report would have included recommended legislation; recommendations regarding the organization, structure, and processes for administering and enforcing government ethics laws; recommendations for ethical standards governing the conduct of state and local government officials, public employees, and lobbyists; recommendations for funding the Oregon Government Standards and Practices Commission (or any other agency or entity that the commission determines should administer and enforce the state's ethics laws); and any other material the commission deems appropriate. The measure appropriated \$224,000 from the General Fund for the July 2005 biennium to fund the commission's research and report.

Senate Bill 1074

Relating to distribution of fines

SB 1074 would have prohibited the City of Coburg from retaining fines collected from the prosecution of traffic violations on Interstate 5 that exceed an amount equal to 15 percent of the city's general fund budget. Not later than 120 days after each fiscal year, the City of Coburg would have been required to transfer excess fines to the State Treasurer for deposit into the Police Standards and Training Account for police officer training.

House Bill 2001

Relating to audits

HB 2001 would have created the Director of Legislative Audit Office to be appointed by the Joint Legislative Audit Committee. The Legislative Audit Office would have been authorized to conduct performance and program audits of state agencies and operations. HB 2001 would have repealed the statutory authority of the Secretary of State to conduct performance and program audits.

House Bill 2028

Relating to the Joint Legislative Audit Committee

The Joint Legislative Audit Committee (JLAC) consists of the chair of the House Ways and Means Committee, the chair of the Senate Ways and Means Committee, four members of the House appointed by the Speaker and four Senate members appointed by the President.

HB 2028 would have amended the membership of JLAC to five members of the House appointed by the Speaker, five members of the Senate appointed by the President and one member each from the House and Senate who must also be a member of the Joint Legislative Committee on Ways and Means. JLAC would have met during the Legislative Session to review all audits and accept requests for performance and program audits from individual legislators, legislative committees, the Division of Audits, the Budget and Management Division and the Legislative Fiscal Office.

House Bill 2236

Relating to state agencies leasing property to other state agencies

The Department of Administrative Services (DAS) is required in ORS 276.385 to fix rental for space in buildings managed by DAS so as to provide amounts necessary to repay indebtedness, interest, construction, improvements, repairs, equip and furnish buildings, structures and other projects for state government. HB 2236 would have required DAS and other state agencies that lease state-owned space to another state agency to ensure that the property rental or leasing rates were competitive with property rental or leasing rates charged in the private sector. The measure also would have required a biennial review of the property rental and leasing rates of state agencies.

House Bill 2912

Relating to protection of exercise of religion

HB 2912 would have prohibited a public body from substantially burdening a person's free exercise of religion, including when the burden results from the application of a rule of general applicability, unless the public body meets the burdens of providing evidence and persuading the adjudicator that the imposition of the burden is the least restrictive means of furthering a compelling government interest. Additionally it provided that the prohibition would not have applied to burdens imposed on persons due to application of certain land use statutes, goals, or regulations. HB 2912 would also have authorized a civil action for violations.

House Bill 3505

Relating to eminent domain

HB 3505 would have specified that a public body may only exercise eminent domain (condemn property) if the primary purpose of obtaining the property is ownership and use by the public. It would have specified that the primary purpose could not be conveyance of the property, or interest in the property, to a private party, and included specific exemptions for certain types of condemnations and properties. The measure was introduced following the U.S. Supreme Court's decision in *Kelo v. City of New London*, which held that fostering private re-development is a legitimate use of a government's power of eminent domain.

House Joint Resolution 1

Proposing amendment to Oregon Constitution relating to sessions of the Legislative Assembly. Proposes amendment to Oregon Constitution to require annual sessions of Legislative Assembly.

HJR 1 would have, upon voter approval, amended the Oregon Constitution to require annual sessions of the Oregon Legislature. It would have referred the ballot measure to voters at the 2006 Primary Election. The measure proposed that the sessions in odd-numbered years be solely for measures pertaining to the state budget and be limited to 120 days. The even-year sessions were proposed to be limited to 60 days for measures pertaining to policy and budget. Oregon is one of six state legislatures that have biennial legislative sessions, the others being Arkansas, Montana, Nevada, North Dakota, and Texas.

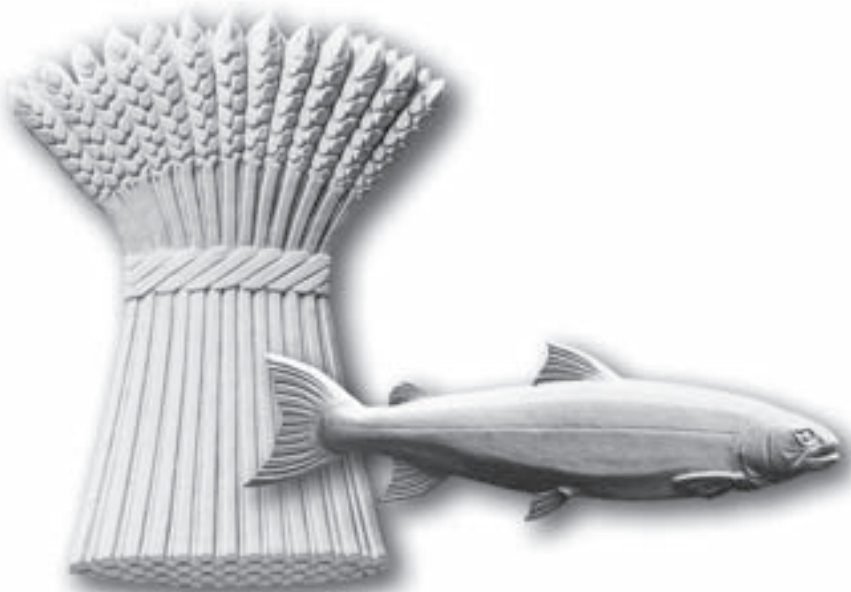
House Joint Resolution 39

Proposing amendment to Oregon Constitution relating to redistricting

HJR 39 would have, upon voter approval, amended the Oregon Constitution to create a five-member commission to develop a legislative redistricting plan following each decennial census. The resolution specified appointment of commissioners by the Supreme Court and created timelines for the commission, beyond which the responsibility would fall to the Legislative Assembly. The Oregon Constitution currently directs the Legislative Assembly to draw redistricting plans for state legislative districts using statutory and constitutional criteria, with the responsibility falling to the Secretary of State if the legislature fails to put forward a plan. Plans developed by either the legislature or the Secretary of State may be appealed the State Supreme Court.

Governmental Issues

Veterans



2005 Summary of Legislation

Senate Bill 486

Relating to tuition waiver program of Oregon Military Department

SB 486 extends a waiver program for undergraduate tuition offered through the Oregon Military Department to surviving spouses and dependents of Oregon National Guard members killed while on active duty. The measure also increases the waiver level for the entire program from 90 percent to 100 percent of resident tuition. As under the current program, if the waiver is used for courses taken at a private institution, it may not exceed the equivalent of resident tuition at Oregon State University. The benefit for members is conditioned on staying in the National Guard for four years after completion of courses and is subject to availability of funds. The federal government currently reimburses the tuition waiver for Oregon National Guard members returning from duty.

Effective date: July 1, 2005

Senate Bill 1100

Relating to benefits for performing military services

SB 1100 creates the Oregon Military Emergency Financial Assistance Fund for the Oregon Military Department to provide hardship grants and loans to members and immediate family of Oregon National Guard members on active duty. SB 5629 appropriates \$1.5 million in initial funding for the program. The measure establishes a tax-refund check-off option for voluntary contributions to provide future income for the fund. SB1100 also enhances and expands the Department of Veterans' Affairs' services to veterans, provided by county veterans' service offices, by adding \$2.6 million in funding provided through SB 5629 (in addition to \$669,876 funded through the agency's budget). Additionally, SB 1100 allows students attending post-secondary schools who have been called to active duty options to complete their course work or withdraw from courses without penalty. Contents of SB 1100 were formerly in HB 2602 and HB 2700.

Effective date: November 4, 2005

House Bill 2681

Relating to high school diplomas for veterans

HB 2681 requires school districts to issue a high school diploma to veterans who did not complete high school because of wartime military service that took place after the end of the Korean War. In order for veterans to receive

a high school diploma they must demonstrate that they have earned a General Educational Development (GED), a post-secondary degree, or made a minimum score on the Armed Services Vocational Aptitude Battery. The measure also makes future combat veterans eligible for the same benefit under the same guidelines.

Senate Bill 374 (2003) provided veterans of World War I, World War II and the Korean Conflict the opportunity to receive a high school diploma if they did not complete high school because of service in the Armed Services and were discharged or released under honorable conditions. HB 2681 extends the same opportunity to veterans of the Vietnam War, the Gulf War, and the conflicts in Grenada, Panama, Somalia, Afghanistan, and Iraq and to those who served in an area designated as a combat zone by the President of the United States.

Effective Date: July 15, 2005

House Bill 2687

Relating to veterans

HB 2687 modifies the definition of "veteran." By qualifying as a "veteran" under current Oregon law, a person is eligible for a wide range of benefits including certain health benefits, educational stipends, home loans and public employment preferences. Many of these benefits are governed by federal law, but some are not. Current state and federal definitions of "veteran" require a soldier to have been deployed for a minimum of 180 days, unless wounded.

Effective date: January 1, 2006

House Bill 2795

Relating to military memorial

HB 2795 appropriates General Funds to the Director of Veterans' Affairs for building a memorial to Oregon military personnel killed in the Afghanistan and Iraq wars. More than 30 United States soldiers with strong ties to Oregon have been killed in these wars since the United States first invaded Afghanistan in October, 2001. The proposed memorial would be constructed on the grounds of the Veterans' Affairs Building in Salem at a cost expected to be about \$350,000.

Effective date: September 2, 2005

House Bill 2933

Relating to tax liabilities of military personnel

HB 2933 provides that outstanding income tax liabilities of active duty military personnel be held in abeyance until six months after active duty service ceases, and that the liability be discharged if the taxpayer is killed in action. The measure includes the tax liability, interest and penalties. It also permits these taxpayers to amend prior years' tax returns until December 31, 2006 and allows all Oregon active duty military personnel six months after they return to Oregon to pay their unpaid personal income tax liability, interest and penalties. Under current law, no one is exempt from paying personal income taxes although the Department of Revenue has the authority to waive or reduce an owed tax, interest, and penalties assessed for taxpayers who can show good and sufficient cause.

Effective date: November 4, 2005

House Bill 2945

Relating to property tax exemptions for veterans

HB 2945 increases the homestead or personal property exemption amounts for qualified, disabled veterans; and modifies the eligibility requirements. The exempt amounts are increased from \$10,160 to \$15,000 of assessed value for a disabled veteran, and from \$13,500 to \$18,000 for a veteran with a service-connected disability. The measure modifies the veteran's income eligibility requirement by limiting it to no more than 185 percent of the federal poverty guidelines and grants a property tax exemption on homestead property up to \$60,000 of assessed value if the claimant satisfies certain criteria. The measure also provides for refunds if taxes have been paid. The measure requires that exemption amounts grow annually by 3 percent during the time period that the homeowner is eligible to claim the exemption. In Fiscal Year 2003-2004, roughly 37,500 qualified veterans or their spouses received an exemption on an average assessed value of \$12,000.

Effective date: November 4, 2005

House Bill 3504

Relating to benefits for performing military service

HB 3504 increases the education benefit program in Department of Veterans Affairs (DAV) to \$150/month (from \$50/month). It creates the Oregon Troops to Teachers program in the Oregon Student Assistance Commission to pay tuition to veterans attending college who agree

to teach in Oregon. The measure requires the Oregon Military Department to reimburse active members of Armed Forces and certain retirees the cost of hunting and angling licenses. It also creates the Oregon Veterans' Emergency Financial Assistance Fund in DAV to provide emergency financial assistance to veterans and their immediate families.

Effective date: September 2, 2005

House Joint Memorial 2

Urging Defense Base Closure and Realignment Commission to reject recommendation to reduce jet fighter coverage for Pacific Northwest

HJM 2 urges the Base Realignment and Closure Commission (BRCC) to examine and reject the Department of Defense (DOD) recommendation to reduce the 142nd Fighter Wing's F-15 jet fighter coverage for Pacific Northwest airspace from 15 aircraft to two. The purpose of the BRCC is to ensure that the national military infrastructure is optimally arranged to support the defense of the nation. However, the DOD has recommended to the commission that the 142nd Fighter Wing's F-15 jet fighter coverage for the Pacific Northwest be reduced from 15 aircraft to two at the same time they have recommended increases in aircraft on alert in other regions of the United States. A reduction in aircraft on alert to protect the Pacific Northwest will directly and immediately increase the vulnerability of the region to attack from enemies of the United States.

Filed with Secretary of State: June 16, 2005

House Joint Memorial 15

Urging Congress to allow returning combat veterans up to 21 days to make transition to civilian life and workplace

HJM 15 urges Congress to allow returning combat veterans up to 21 days to make a transition to civilian life and the workplace. According to testimony received by the Committee on Veterans' Affairs, returning National Guard and Reserve soldiers are routinely sent immediately back to their homes and communities, denying them continuing close camaraderie and support (as is currently experienced by members of the regular military) during their efforts to deal with the stress of having been in combat.

Filed with Secretary of State: July 12, 2005

House Joint Memorial 16

Urging Congress to establish grants for veterans starting new businesses

HJM 16 urges Congress to establish grants for veterans starting new businesses. Testimony was heard on the hardships of new veterans attempting to resume civilian life. Reportedly, 40 percent of National Guard soldiers returning from active federal duty are unemployed. HJM 16 would urge Congress to take actions to help allow veterans to consider the option of starting their own businesses in lieu of finding employment.

Files with Secretary of State: July 12, 2005

House Joint Memorial 18

Urges Congress to change spending on veteran's health care from discretionary spending to direct spending

HJM 18 urges Congress to change veterans' health care funding from a discretionary entitlement to a permanent entitlement. Proponents assert that providing quality, timely health care services for veterans, disabled as a result of military service or not, should be a top priority. Guaranteed funding would eliminate the year-to-year uncertainty about funding levels that have prevented the Department of Veterans Affairs from adequately planning and meeting the growing needs of veterans seeking care.

Filed with Secretary of State: July 12, 2005

House Joint Memorial 25

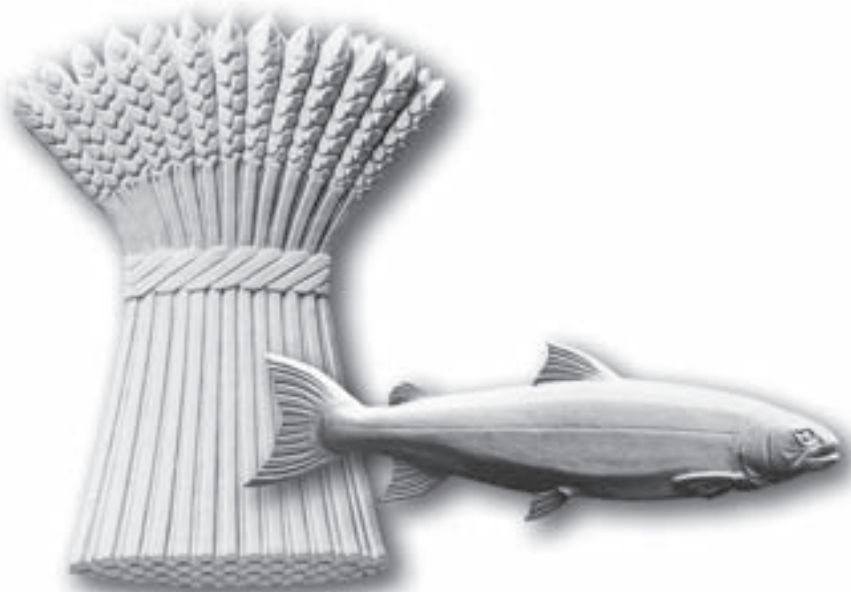
Urging Congress to eliminate practice of subcontracting disability payments from veteran's pension

HJM 25 urges Congress to eliminate the practice of subtracting disability payments from pension amounts due to disabled veterans. Prior to 1999, disabled military retirees were, in effect, required to fund their own veterans' disability compensation because they forfeited a dollar of earned retirement pay for each dollar they received in veterans' disability compensation. Since 1999, Congress has enacted legislation to progressively eliminate the retired-pay-disability offset. Adequate funding to eliminate all the offset has not been available, so Congress has given initial priority to the most severely disabled and combat-disabled military retirees, and is phasing out the offset over ten years for retirees with non-combat-related service-connected disabilities of 50 to 90 percent.

Filed with Secretary of State: July 12, 2005

Human Service Issues

Education



2005 Summary of Legislation

Senate Bill 300

Relating to education

SB 300 creates the Expanded Options Program, which allows high school juniors and seniors to obtain dual high school and college credit for community college or Oregon University System courses. The measure requires that school districts pay tuition for students accepted by a college or university as well as fees and other instructional costs such as textbooks and equipment. Excluded are courses that are identical in scope to a course offered by the student's high school. Colleges and universities are allowed to designate programs that accept students under the program and to apply their own admission and enrollment requirements.

As part of the measure, each high school is allowed to cap program participation to 330 quarter hours (about seven full-time students) per 1,000 students. Schools must provide information on the program to all students and recent dropouts, and give priority to at-risk students if more students apply than can be accepted.

Under SB 300, school districts will receive full state school support for participants and require districts to spend an average of at least 50 percent of the district's general purpose grant for each student in the program. The Oregon Department of Education must report annually on the program to legislative committees beginning January 1, 2008.

Effective date: January 1, 2006

Senate Bill 342

Relating to higher education courses

The Board of Higher Education and the Board of Education have recently approved the Oregon Transfer Module (OTM). The plan is a set of general education course guidelines that could be transferred to a public community college or university without the student losing credits. The module is 45 credits and would take about one year to complete.

SB 342 requires community colleges and state institutions in the Oregon University System (OUS) to operate a statewide articulation and transfer system. Community colleges and state institutions are required to continue to provide and improve an effective articulation and transfer framework by completing specific tasks. The measure allows community colleges and OUS state institutions to implement other measures to create an effective articulation and transfer framework for students and requires OUS and

the Department of Community Colleges and Workforce Development to submit a report on their progress to legislators. The measure sunsets in 2010.

Effective date: July 22, 2005

Senate Bill 383

Relating to dissection of animals

SB 383 allows students to refuse to participate in, and parents and legal guardians to refuse to allow student participation in, dissection of animals as part of public school course. The measure directs school districts to provide alternative materials or methods to demonstrate coursework competency. Eleven states have laws or policies that allow students to not participate in dissection activities.

Effective date: July 7, 2005

Senate Bill 467

Relating to summer lunch programs

SB 467 requires the Oregon Department of Education (ODE) to reimburse school districts, government agencies and community groups for lunches served during summer as part of the summer food service program or national school lunch program. The measure appropriates General Funds to ODE for reimbursement for summer lunch programs.

The Summer Food Service Program (SFSP) provides free, nutritious meals and snacks to help children in low-income areas get the nutrition they need throughout the summer months when they are out of school. Children who are 18 years and younger qualify and may receive free meals and snacks through SFSP. Meals and snacks also are available to persons with disabilities, over age 18, who participate in school programs for people who are mentally or physically disabled.

Effective date: August 3, 2005

Senate Bill 755

Relating to education employees

SB 755 requires school boards to adopt policies on the reporting of child abuse. If there is reasonable cause to support the report of child abuse, the employee would be placed on paid administrative leave until the Department of Human Services (DHS) or a law enforcement agency had completed their investigation. Upon request of a law

enforcement agency, DHS or the Teacher Standards and Practices Commission, the school district would be required to provide the records of investigations of suspected child abuse by a school employee. The measure directs school districts and private schools to disclose disciplinary records of employees convicted of certain crimes, and directs them to remove information from the record that would disclose the identity of the child or victim.

SB 749, which was not enacted, is the companion piece to SB 755. SB 749 would have set up the training component so that school employees could better understand their role as mandatory reporters. Training also would have been available to parents and guardians of students.

Effective date: June 29, 2005

Senate Bill 882

Relating to the education of a health care workforce

SB 882 directs the Employment Department, in consultation with employers in the health care industry, to perform a periodic statewide and regional assessment for health care occupations, to be used by the Joint Boards of Education to inform higher education providers and health care industry employers of identified needs.

The Joint Boards of Education, based on the needs assessment, inform community colleges, Oregon University System, Oregon Health and Science University and health care industry employers of the statewide needs, approve health care programs to ensure they fulfill the statewide need, alignment of health care programs, student transferability between programs, course articulation and common student learning outcomes.

Effective January 1, 2006

Senate Bill 1071

Relating to education

SB 1071 authorizes the Department of Education to provide online courses to K-12 public school students through the Oregon Virtual School District (OVSD). The measure provides OVSD \$2 million from the State School Fund for the 2005-07 biennium and specifies that virtual districts are not eligible for the school formula revenue from the State School Fund. As is the case with other charter schools, OVSD is exempted from statutes and rules applicable to other school districts unless specifically included. SB 1071 authorizes the Department of Education to adopt rules and establish procedures and to establish

qualifications for students to access online courses and the student-teacher ratio. The measure also requires that ODE present a report to the Legislative Assembly by March 1, 2007 on the progress of the program.

Current public charter schools that offer online courses must have 50 percent or more of their students within the boundary of the school district where the charter school is located. The Superintendent of Public Instruction may contract with education service districts, school districts, public charter schools, community colleges, state institutions of higher education or any other public entity to provide online courses through OVSD.

Effective Date: September 2, 2005

House Bill 2450

Relating to school finance

HB 2450 removes the sunset provision on high-cost disability grants and small school district funds and continues the funding for high-cost disability at \$12 million per year and \$2.5 million per year for the small high school fund. The measure increases the biennial limit for facility grants in the school distribution formula from \$17.7 million to \$25 million beginning in the 2007-09 biennium.

HB 2450 had two major amendments proposed but not adopted into the final measure. The first one would have dedicated a percentage of projected personal income tax revenue to K-12 education and provided certain percentage amounts to various school-related funds. The second amendment would have allowed the Portland Public Schools to maintain a statutory tax rate that would have provided the district with additional school funding.

Effective Date: August 29, 2005

House Bill 3129

Relating to high school graduation requirements

HB 3129 requires students to complete three years of mathematics and four years of English prior to high school graduation in order to receive a diploma. The measure also increases from 22 to 24 the total number of credits required for graduation. Both changes become effective on July 1, 2009. The measure allows students to receive a diploma if they meet or exceed the academic content standards for English or mathematics or display proficiency in English and mathematics at a level established by the State Board of Education.

Effective Date: January 1, 2006

House Bill 3174

Relating to the renewal of the charter of public charter schools

HB 3174 provides a renewal process for charter schools, which stipulates: 1) the initial public school charter can be no longer than five years and subsequent charters may not exceed 10 years; 2) charter schools must submit a renewal request at least 180 days prior to expiration of the charter, and the sponsor must hold a public hearing within 45 days to announce whether the charter will be renewed and the reasons if it is not to be renewed; and 3) the charter school and the sponsor may agree to different timelines. The measure also outlines the process for renewal and for cases where a charter is not renewed

The 1999 Legislative Assembly created public charter schools with the passage of Senate Bill 100. Public Charter Schools are largely exempt from state and local regulations. The “charter” refers to an agreement between the charter school board and its sponsor, usually the school district, and describes how the charter school will be operated, what will be taught and how success will be measured. If the terms of the “charter” are not met, the sponsor may close the school. There are currently 57 charter schools in the State of Oregon. Some charter schools have not been renewed by their local districts primarily due to financial instability, failure to meet their academic goals or they did not have their minimum 25 students required by law.

Effective Date: July 15, 2005

House Bill 3179

Relating to athlete agents

HB 3179 establishes the Uniform Athlete Agents Act, which provides for uniform registration, certification, and background checks for sports agents seeking to represent student athletes who participate in, or may be eligible to participate in, intercollegiate sports. The measure imposes specified contract terms on the agreements and provides educational institutions with the right to notice, as well as a civil cause of action for damages resulting from a breach of specified duties. The measure also requires agents to disclose their training, experience, and education, whether they or an associate have been convicted of a felony or a crime of moral turpitude, have been administratively or judicially determined to have made false or deceptive representations, have had their agent license denied, suspended or revoked in any state, or have been the subject

or cause of any sanction, suspension or declaration of ineligibility. The Department of Education may request a criminal records check for the individuals applying for registration as athlete agents, collect fees related to the registration, and assess civil penalties against athlete agents for violation of laws related to registration.

Effective Date: January 1, 2006

House Bill 3184

Relating to education service districts

In the 2005 Session, several proposals for consolidation of Education Service Districts (ESDs) were discussed in committees or work groups. Ultimately, HB 3184 which addresses four distinct issues, was approved.

First, the measure reduces the ESD portion of the State School Fund from 5 percent to 4.75 percent and changes the minimum funding for ESDs to \$950,000 from the previous \$1,000,000. These reductions will begin with the 2006-07 State School Fund Distribution.

Second, HB 3184 specifies under what circumstances an ESD may provide entrepreneurial services. Those circumstances are: the services are part of the local service plan; the services are provided pursuant to a business plan; and the primary purpose of the services is to address a need of component school districts. In addition, the measure defines core services to be provided to component school districts by ESDs and requires school districts and ESDs to work together to develop local service plans.

Third, the measure establishes a pilot project for three ESDs to implement a new governance structure for their boards. For the pilot project, Willamette ESD, High Desert ESD and Northwest ESD boards will have nine board members each; five representing geographic zones who are elected by the boards of the component school districts, and four direct appointments made by the first five members. The four direct appointments must comprise a public post-secondary institution member, a social service provider member, a the business community member, and one “at-large” member.

Finally, HB 3184 directs the Department of Education to review administrative and support services provided by the department, ESDs, and school districts that support classroom instruction for the purpose of identifying and evaluating redundant services.

SB 765, which was not enacted, would have required the State Board of Education to designate ESDs as Regional Education Service Agencies (RESAs) and implemented

a new governance structure in all ESDs as established HB 3184. However, some provisions from SB 765 were amended into HB 3184.

While not enacted, SB 415 would have mandated consolidation of the 20 existing ESDs down to eight ESDs and removed large school districts from any ESD. A Senate committee also discussed that that possible savings achieved by ESD consolidation in SB 415 could have paid for a proposal for all-day kindergarten in SB 414, which also was not enacted.

Effective date: September 2, 2005

Major Legislation Not Enacted

Senate Bill 6

Relating to students

Performance-enhancing drugs and supplements are used to boost athletic performance, ward off fatigue and enhance physical appearance. They are also taken to increase muscle mass and energy. These substances include creatine, androstenedione, ephedra, and anabolic steroids. Androstenedione was classified as a controlled substance in the Anabolic Steroid Control Act of 2004, making its use as a performance-enhancing drug illegal. In December 2003, the Food and Drug Administration announced the ban of ephedra from the marketplace because of health concerns. Anabolic steroids are typically available only by prescription.

Some students, wanting to have greater athletic success, reportedly take performance-enhancing supplements and at times suffer ill effects from use. SB 6, except under specific circumstances, would have prohibited school administrators, teachers, employees and volunteers from promoting, suggesting use or supplying performance-enhancing supplements to students. Violations would have subject to a maximum imprisonment of three months, \$500 fine, or both.

Senate Bill 50

Relating to teaching licenses

Civil rights laws that affect today's teachers and students extend beyond those included in statute (Title VI of the

Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972.) when ORS 342.123 was enacted in 1977. SB 50 would have eliminated specific reference to those two federal laws, and instead require teachers to demonstrate knowledge of federal and state laws that prohibit discrimination. The measure also directed the Teacher Standards and Practices Commission to require applicants for teaching licenses to meet cultural competency standards as established by the commission.

Senate Bill 228

Relating to physical education

SB 228 would have established a minimum amount of required participation in physical education (PE) by kindergarten through 8th grade public school and public charter school students. Students in kindergarten through grade five would have been required to participate in 150 minutes each school week, and students in grades six through eight would have had to participate in PE for 225 minutes each school week. The measure would have specified requirements for PE instruction, and would have directed the Oregon Department of Education (ODE) to collect data on the number of PE minutes for a report to the Legislative Assembly. The measure would have established the Physical Education Fund and grant program for ODE to award grants to school districts and public charter schools to meet the PE instruction requirements.

Currently, neither statute nor administrative rules require a specific amount of time for elementary and middle school students to receive PE instruction. Administrative rule does prescribe that school districts provide a planned K-12 instructional program that includes all common curriculum goals and academic content standards in PE.

Senate Bill 639

Relating to benefit plans for education district employees

SB 639 would have established the Oregon Educators Benefit Board with 10 members appointed by the Governor. The board's goal would have been to provide a high-quality plan of health and other benefits for eligible employees at affordable costs to both the districts and the employees. The measure would have directed the board to contract for health and dental benefit plans by October 1, 2006 and required the board to offer a range of plans that employees could choose from, which would be comparable to what the district provided and at a similar cost. The measure would have also allowed the board to contract for other benefit plans including life insurance; supplemental medi-

cal, dental and vision insurance; and, accidental death or disability insurance. The board also would have been required to offer a long-term care insurance plan.

The rising costs of health insurance continue to be an issue for school districts' budgets and school employees. Similar legislation was introduced in the 2003 session with the assumption that significant savings could be achieved by creating a statewide health insurance pool for school employees.

Senate Bill 766

Relating to school administrators

SB 766 would have prohibited school districts, education service districts, or public charter schools from entering a contract that grants an administrator specific benefits. The measure would have allowed a school to make contributions to an administrator's retirement plan in lieu of contributions to the Public Employees Retirement System (PERS), but contributions could not have exceeded contributions that would have been made directly to PERS.

Several news stories highlighted administrator compensation packages they received as they departed employment with districts. SB 766 would have limited compensation packages for administrators and specified that they could not receive retirement benefits that are not available to other district employees.

Senate Bill 860

Relating to students

A report from the Department of Education Food Choices in Oregon Schools Task Force noted a growing body of evidence related to childhood obesity, which has generated interest in student health in the United States. Research has linked childhood obesity to early onset of illnesses such as diabetes, hypertension and heart disease. Data also indicate that increases in childhood obesity and other diseases stem from poor nutrition and limited physical activity.

SB 860 would have required that each school district board adopt a school district wellness policy for schools. It would have defined goals, guidelines and standards for inclusion in the wellness policy, and would have required nutrition guidelines and standards that address food sales at schools. The measure would have required districts to have a wellness policy in place prior to entering into a contract related to the sale of food and for districts to submit their policies to the Oregon Department of Education. The department would have been required to report on the measure to the Legislative Assembly.

House Bill 2560

Relating to integration of Portland State University and Oregon Health and Science University

HB 2560 would have created the Portland Metropolitan Universities Board of Directors, which would have been charged with developing a plan for the merger of Oregon Health and Science University (OHSU) and Portland State University (PSU). The measure would have established PSU as a public corporation under the control of the Portland Metropolitan Universities Board of Directors, removing the university from the Oregon University System. The OHSU Board of Directors would have been changed to the Portland Metropolitan Universities Board of Directors.

House Bill 2727

Relating to school finance

HB 2727 would have required the Department of Education to notify school districts of the resources available to assist with a breakfast and lunch program in order to help such programs become self-supporting.

A minority report brought forward for HB 2727 would have replaced the measure and appropriated to the Department of Education, for the 2005-2007 biennium, \$5.1 billion dollars from the General Fund, \$296 million from the Administrative Services Economic Development Fund, and \$950,000 from timber tax and severance tax funds, for a total of \$5.4 billion for K-12 funding.

House Bill 2733

Relating to students who are not taught in public schools

HB 2733 would have eliminated the requirement that parents notify the local education service district of the intent to home-school a child. The measure would also have removed the requirement for any testing for home-school students. The requirement for the home-school student to participate in interscholastic activities was to remain in effect, but would replace the examination adopted by the State Board of Education with a nationally-normed standardized achievement test.

House Bill 3162

Relating to the Oregon Educational Act for the 21st Century

HB 3162 would have abolished the Certificate of Initial Mastery (CIM) and the Certificate of Advanced Mastery

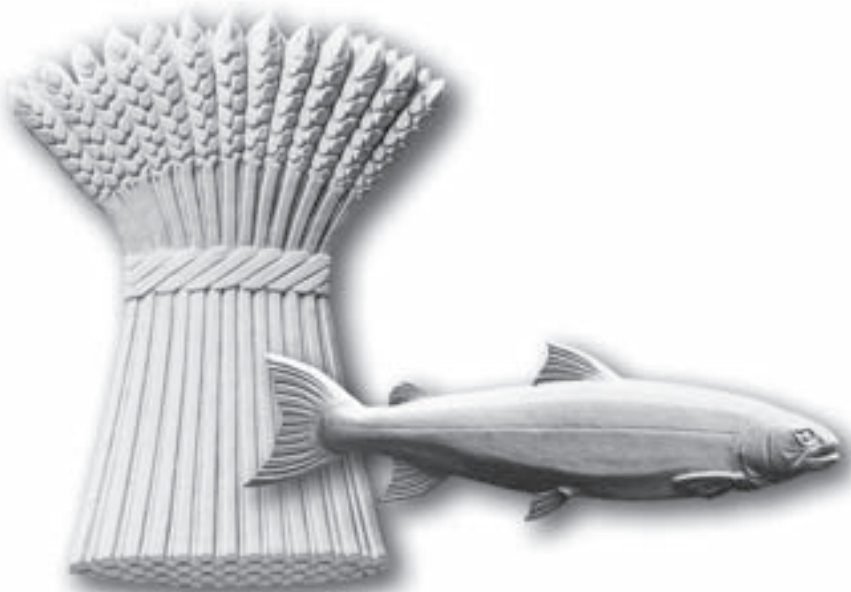
(CAM) by July 1, 2007. The measure also directed the Department of Education (ODE) to contract with an independent contractor to develop and implement a statewide assessment system by July 1, 2007.

A minority report brought forward on the measure would have directed the Joint Boards of Education to analyze and make recommendations about reforming education from prekindergarten through college. The minority report required ODE to advertise for bids from private entities for the development of a statewide assessment system and would have abolished the CIM and CAM by July 1, 2008.

The Education Act for the 21st Century was enacted by the 1991 Legislative Assembly. In 1995 the Act was amended to establish statewide standards in English, math, science and social studies. The statewide assessments are given in grades 3, 5, 8, and 10 and when the students meet the statewide standards in the academic subjects they are awarded the CIM. The Act also created the CAM, which is earned by students at approximately age 18, and includes both college preparatory and professional training. The 2003 Legislative Assembly amended the requirements for the CIM to include English, math and science only, which aligned state standards with the Federal No Child Left Behind Act standards. Schools and districts, at their option, can offer endorsements to the CIM in social science, second language, the arts and physical education.

Human Service Issues

Health and
Human Services



2005 Summary of Legislation

Senate Bill 1

Relating to limitations on health insurance coverage

SB 1 requires that group health insurance policies cover expenses for treatment of chemical dependency and mental or nervous conditions at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses for treatment of other medical conditions. The measure prohibits coverage from treatment limitation, limits on payments for treatment, or limits on duration of treatment unless similar limitations exist for coverage of other medical conditions. It allows coverage to be limited to treatment that is medically necessary as determined under the policy for other medical conditions and establishes that coverage is not required for: educational, correctional, or sheltered living provided by a school or halfway house; long-term in a residential programs; psychoanalysis or psychotherapy as part of an educational or training program; court-ordered sex offender treatment; or a screening interview or treatment program. SB 1 establishes that insurers may manage benefits by using contracted provider panels, differential designs, preadmission screenings, prior authorization, utilization review and other mechanisms, and allows health maintenance organizations and health care service contractors to create substantive plan benefit and reimbursement differentials at the same level as, and no more restrictive than, those for other medical conditions. Prior to 1996, five states had approved parity legislation, and in 2003 more than 30 states had some form of mental health parity law.

The SB 1 minority report, which did not pass, noted issues such as the increasing number of people without health insurance, increasing premium rates and impact of mandates on health care costs. The minority report would have prohibited the Legislative Assembly from enacting health insurance mandates including requiring payments for certain providers or requiring certain health insurance coverage by an insurer.

Effective date: January 1, 2007

Senate Bill 404

Relating to Rural Health Services Program

SB 404 provides loan repayments for physicians, physician assistants, nurse practitioners and pharmacists who practice in rural hospitals, rural health clinic or in a medically underserved rural community. The measure includes periods of time during which pharmacists must practice

in these areas to qualify and the amount of loan repayment they qualify for depending on time practicing in these locales. The loan repayment program was originally created to encourage physicians, nurse practitioners, and physician assistants to practice in rural areas in Oregon with “unmet health care needs.” Qualifying communities are found in 27 of the 36 counties in Oregon. Annual payments may be for up to \$25,000. Rural hospitals, rural health clinics and medically underserved areas of the state are established by federal law, state statute and the Office of Rural Health.

Effective Date: July 1, 2005

Senate Bill 460

Relating to clinical nurse specialists

SB 460 allows clinical nurse specialists (CNSs) to prescribe and dispense prescription drugs in a formulary developed by the Oregon State Board of Nursing. The measure specifies educational requirements for a CNS that wishes to apply for this prescriptive authority and limits liability of a CNS in certain circumstances. SB 460 also directs the board to report to the 74th Legislative Assembly on the implementation of CNS prescriptive authority. Clinical nurse specialists are licensed registered nurses who hold a graduate degree in nursing or a post-master’s certificate in nursing with specific classroom and clinical practice. There are currently 152 licensed clinical nurse specialists in Oregon.

Effective Date: January 1, 2006

Senate Bill 501

Relating to health insurance

SB 501 requires that insurance carriers provide the state with information on premiums, costs for claims, medical loss ratio, premium amount paid by enrollees, and percentage of change between premiums from the previous year. The report must aggregate financial information from preceding years for the total amount of general administrative expenses, surplus maintained, reserves maintained for unpaid claims, new underwriting gains or losses, and net income after taxes. Carriers must submit the information electronically, and the Health Insurance Reform Advisory Committee must evaluate information by each health plan, small employer plans, insurance plans for affiliated groups, and large employers. The Department of Consumer and Business Services must make these reports available to the public through a searchable

Internet web site. Health care costs, including higher insurance premiums, have been escalating much faster than inflation. More transparency of the health care insurance market is an area that has been targeted in an attempt to better control increases.

Amended into SB 501 were provisions of SB 374 that require insurance carriers to cover colorectal cancer screenings. For an insured person over 50 years of age, health policies must cover an annual fecal occult blood test plus one sigmoidoscopy every five years, and a colonoscopy every 10 years or one double contrast barium enema every five years. Additionally, colorectal screening examinations must be covered by insurers for any high-risk person regardless of age. The measure stipulates that these screening provisions apply to health insurance policies issued or renewed on or after 2006.

Effective Date: August 23, 2005

Senate Bill 618

Relating to breast-feeding in workplace

SB 618 allows employers to provide unpaid rest periods to accommodate employees who are nursing and wish to express milk for their children. It allows employers to permit an employee to make up time before or after her shift if she uses an unpaid rest period to express milk. Under the measure, an employer need not compensate an employee for the unpaid rest time when the employee does not make up the amount of time used. The measure does allow employers to make reasonable accommodations of a room or location, other than a rest room or toilet stall, for an employee to express milk in private. The measure's provisions apply to employees nursing a child age 18 months or younger, and allows an employer to temporarily change a worker's job duties if her regular duties do not allow her to express milk.

According to the Department of Human Services, breast-feeding protects both the mother and child from immediate and future health problems, with corresponding reductions in health care costs. The American Academy of Pediatrics recommends arrangements be made to provide expressed breast milk if the mother and child are separated during the first year and encourages employers to provide appropriate facilities and time in the work day for breast pumping. Tennessee, Minnesota, Illinois, Hawaii and Connecticut have passed breastfeeding and return to work laws.

Effective Date: January 1, 2006

Senate Bill 782

Relating to public assistance

SB 782 directs the Department of Human Services (DHS) to inform former recipients of public assistance who have been terminated from programs due to ineligibility or because a program has been terminated that the person may reapply if circumstances affecting eligibility change. The measure applies only to notices of termination that are revised or developed by DHS on or after the effective date of the measure.

Amended into SB 782 were provision from SB 824, which exempts medical assistance recipients whose family income is no more than 10 percent of the federal poverty guidelines from the requirement to pay a monthly premium. Several studies have shown that very low income Oregon Health Plan (OHP) clients were unable to pay even nominal premiums, and thus were being removed from the OHP. The measure also directs DHS to establish a six-month grace period for payment of overdue premiums for those recipients required to pay a monthly premium. Additionally, the measure allows DHS to pay a pharmacy for a brand name drug when cost, after discounts, is equal to or less than the generic version of the same drug. There is also a budget note in the DHS budget (HB 5148) that directs the agency to study this issue.

Effective Date: August 3, 2005

Senate Bill 815

Relating to foster parents

SB 815 establishes a bill of rights for foster care parents who are part of the state's child welfare system. The measure also allows foster parents to initiate an inactive status for up to 12 months to allow relief from caring for foster children, and stipulates that a "caregiver relationship" does not include a relationship between a child and a non-related foster parent unless the relationship has continued for a period of at least six consecutive months.

Effective Date: January 1, 2006

Senate Bill 870

Relating to Oregon Project Independence

SB 870 establishes the Oregon Project Independence (OPI) Fund in the State Treasury and requires that \$250,000 be transferred from the Senior Property Tax Deferral Revolving Account into the OPI Fund no later

than February 1, 2006. The measure also transfers excess funds from the Senior Property Tax Deferral Revolving Account to the OPI Fund beginning in the 2007-09 biennium, amounting to either 35 percent of the prior tax year payments to counties or \$5.0 million. SB 870 removes the Department of Revenue's obligation to repay to the General Fund the amount advanced to the Senior Property Tax Deferral Revolving Account within the department from the General Fund. Under SB 870, the Department of Human Services (DHS) may not adopt rules expanding OPI to adults with physical disabilities unless the moneys in the OPI Fund are sufficient to provide services to eligible seniors and persons with Alzheimer's disease as well as to adults with physical disabilities. The measure allows DHS to determine whether the OPI Fund is sufficient to provide services.

Effective Date: August 17, 2005

Senate Bill 880

Relating to practice of nursing

SB 880 expands the scope of duties for nurse practitioners (NPs) by allowing them to: certify that certain people are not carrying a restrictable disease; issue health certificates; interact with the court; and receive diagnostic/laboratory test results. It also allows NPs to sign various statements and permits, maintain the death records of institutionalized individuals, provide advice to individuals regarding sterilizations, and to give consent to diagnosis and treatment by NPs acting within the scope of practice without the consent of parent or guardian. The 1975 Legislative Assembly authorized the certification of nurse practitioners, and in 1979, NPs were given prescriptive authority under a formulary.

Effective Date: January 1, 2006

Senate Bill 962

Relating to brominated flame retardants

SB 962 places penta- and octa-brominated diphenyl ether into the category of "hazardous substances" and sets limitations on how much of these chemicals can be contained in products used in the state. The measure requires the Department of Human Services (DHS) to submit a report related to certain types of brominated flame retardants to an appropriate legislative interim committee and establishes information to be contained in the report.

Polybrominated diphenyl ethers (PBDE's) are flame-retardant chemicals used in consumer products to prevent

them from burning. Penta-, octa-, and deca-BDE are the most common types, with deca-BDE making up about 82 percent of the total usage. Animal studies related to PDBE exposure have identified liver and thyroid problems including cancerous tumors. Deca-BDE is classified as a possible human carcinogen.

Effective Date: January 1, 2006

Senate Bill 973

Relating to adoptions

SB 973 requires people who are petitioning the courts to adopt a child to contact or attempt to contact certain relatives of that child regarding the planned adoption. The measure establishes the circumstances under which a petitioner would be required to contact certain distant relatives of the child. Oregon law did allow birth parents of an adopted child to enter into a written agreement with the adopted parents to allow ongoing contact with the child; however, the law did not require adoption petitions to include the names and addresses of other members of the adopted child's family, such as grandparents and siblings. Additionally, the petitioner was not required to send copies of the petition to these individuals.

Effective Date: January 1, 2006

Senate Bill 1026

Relating to health insurance coverage for prostate cancer screenings

SB 1026 requires health insurance carriers to provide prostate cancer screening examinations. The measure specifies which tests are covered and requirements for men at certain risk of prostate cancer. The requirement is for policies issued on or after the measure's 2006 effective date. Prostate cancer is the second leading cause of cancer death in American men, exceeded only by lung cancer. The American Cancer Society estimates that 30,350 men in the U.S. will die of prostate cancer during 2005. Prostate cancer accounts for about 10 percent of cancer-related deaths in men.

Effective Date: January 1, 2006

Senate Bill 1064

Relating to reconnection of family members

SB 1064 establishes that a person receiving developmental disability services has the right to be informed that a family member has contacted the Department of Human

Services (DHS) to determine the person's location, and to be informed of the name and contact information of the family member. The measure requires DHS to establish a process by rule to provide guidance for situations in which the person with developmental disabilities is incapable of providing consent, does not have a guardian, and in which the release of information is in the person's best interest. The measure is geared toward individuals with developmental disabilities who were institutionalized and had little or no contact with their parents or family members, but who now have family members (siblings) who are seeking to "reconnect" with their disabled brother or sister.

Effective Date: January 1, 2006

Senate Bill 1085

Relating to medical marijuana

SB 1085 eliminates provisions that allow cardholders or their caregiver to possess, deliver, or produce excessive amounts of marijuana, and establishes that an authorized medical marijuana grower is exempted from criminal prosecution for possession of marijuana. The measure requires the Department of Human Services (DHS) to issue a registry identification and grow site cards to qualified persons. It allows health care professionals to administer marijuana to cardholders in a licensed health care facility if certain requirements are met. SB 1085 requires law enforcement agencies to verify that a person is a lawful cardholder and prohibits law enforcement from using or releasing information other than for certain reasons. The marijuana grow site card is to be displayed at all times. DHS may not issue a grow site card for five years if the applicant or cardholder is convicted of certain felonies, with the ban being permanent if the applicant or cardholder is convicted of a second offense. The measure allows a cardholder to reimburse a grower only for costs of supplies and utilities for growing marijuana. A cardholder may possess up to six mature plants, 24 ounces of usable marijuana, and 18 marijuana seedlings; growers may possess the same amount of plants and usable marijuana, per cardholder, for up to four cardholders. Growers must return all marijuana and the grow site card when ceasing to grow for a person. The measure allows law enforcement to only confiscate amounts of marijuana in excess of amounts authorized by law.

SB 1085 allows a "choice of evils" affirmative defense for a person who claims a medical benefit, provided that the amount does not exceed the authorized amounts. It establishes a crime for growing marijuana in an unauthorized

site, and eliminates the affirmative defense for a grower. The measure allows a third party to grow marijuana for a cardholder who has been convicted of violating certain felonies and for that cardholder to possess up to one ounce of usable marijuana at any given time for a period of five years following the conviction date.

SB 1085 was introduced with identical provisions to SB 772.

Effective Date: January 1, 2006

Senate Bill 1088

Relating to payment for prescription drugs for a person who is eligible for both Medicare and Medicaid prescription drug benefits

SB 1088 directs the Department of Human Services (DHS) to adopt rules to modify the Medicaid drug benefit for persons who are eligible for both Medicare and Medicaid ("dual eligibles") in response to provisions of the federal Medicare Modernization Act (MMA). The measure requires DHS to report to appropriate interim legislative committees on the adoption of the rules and the implementation of the MMA for persons who are dually eligible. The measure also allows DHS to place claims against the estates of dually eligible persons for whom a MMA "clawback" payment has been made.

Effective Date: August 17, 2005

Senate Bill 1097

Relating to disclosure of information pertaining to cremated remains in the possession of the Department of Human Services

SB 1097 permits the Department of Human Services (DHS), for the purpose of internment or creation of a memorial, to release the name, date of birth and date of death for persons whose remains are in possession of the state. The state is currently in possession of approximately 3,500 cremains of individuals who died between 1914 and 1971 at various state institutions. In May of 2005, the Oregon State Hospital master plan recommended that the state create a memorial for the dignified, perpetual care of the cremains, and DHS created a fund for people wanting to contribute to the memorial.

Effective Date: August 29, 2005

House Bill 2058

Relating to health-related licensing boards

HB 2058 creates separate accounts in the State Treasury for each of the nine health-related licensing boards, including the Board of Examiners of Licensed Dietitians, the State Mortuary and Cemetery Board, the Board of Naturopathic Examiners, the Board of Examiners of Nursing Home Administrators, the Occupational Therapy Licensing Board, the State Board of Pharmacy, the Board of Radiologic Technology, the State Board of Examiners for Speech-Language Pathology and Audiology, and the Oregon State Veterinary Medical Examining Board. The measure allows any interest earned on the accounts to be credited to the accounts, and transfers the boards' ability to obtain financial services from the Department of Human Services (DHS) to the Department of Administrative Services. Additionally, the measure changes the name of the Board of Radiologic Technology Fund to the Board of Radiologic Technology Account and the Oregon State Veterinary Medical Fund to Oregon State Veterinary Medical Examining Board Fund. HB 2058 also removes the sunset clause on the requirement that athletic trainers be registered in Oregon, making athletic trainers registration a permanent requirement.

Effective date: August 17, 2005

House Bill 2202

Relating to State Commission on Children and Families

HB 2202 designates the State Commission on Children and Families (OCCF) as responsible for the coordination of the statewide planning and to involve state agencies and advisory committees to develop a comprehensive and coordinated approach for the delivery of services to runaway and homeless youth and their families. The measure specifies that the coordinated approach is to include an assessment of service needs, integration of existing services, identification and tracking of a statewide high-level outcomes, funding mechanisms, resources and policies that support a continuum of integrated services, and identification of delivery systems and policies that reflect the differences between urban and rural runaway and homeless youth and their families. HB 2202 also directs OCCF to report the implementation and additional recommendations to the Governor, the Speaker of the House, the President of the Senate, and the interim legislative committee on children and families prior to January 1, 2007.

In 2003, the House Committee on Health and Human Ser-

vices recommended the formation of the Oregon Homeless and Runaway Youth Work Group. The work group membership included the Oregon Homeless and Runaway Youth Coalition (OHRYC), OCCF, and Department of Human Services Children, Adults and Families (DHS/CAF).

Effective date: July 13, 2005

House Bill 2276

Relating to Oregon Supplemental Income Program

HB 2276 requires that the Oregon Supplemental Income Program provide supplemental cash payments to recipients of Supplemental Security Income (SSI) and special need allowances to eligible persons for one-time or ongoing needs. The measure repeals obsolete provisions pertaining to state programs that provided aid to the disabled and the blind and old-age assistance prior to the creations of the federal Supplemental Security Income Program.

The Oregon Law Commission created the Welfare Code Project Work Group in 2004 to review and develop revisions to obsolete, inconsistent and conflicting provisions throughout ORS Chapters 412 (Aid to the Blind and Disabled Persons) and 413 (Old Age Assistance). HB 2276 coordinates and updates Chapters 410 – 414, which outlines Aid to Blind and Disabled Persons, Old Age Assistance, and Oregon's "Welfare Code."

Effective date: January 1, 2006

House Bill 2426

Relating to dental hygiene

HB 2426 allows dental hygienists with a limited access permit (LAP) to provide authorized dental hygiene services at specified locations and to specified populations. The measure allows the Board of Dentistry to add populations and locations as needed, and allows LAP dental hygienists to apply sealants and prescribe fluoride.

In the Dental Hygienists Workforce Initiative 2004 final report, sponsored by the Oregon Department of Education and the Department of Community Colleges and Workforce Development, highlighted the growing dental provider shortage throughout Oregon and that the shortage is expected to get worse as the numbers of dentists retire and the aging population and underserved Oregonians continue to rise.

Effective date: May 13, 2005

House Bill 2490

Relating to podiatry

HB 2490 expands the Oregon Board of Medical Examiners (BME) to include a Doctor of Podiatric Medicine (DPM) as a board member. The measure limits the DPM's voting authority, permits podiatric physician and surgeon to dispense prescription drugs and it repeals the Advisory Council on Podiatry. The BME regulates the practice of medicine in a manner that promotes quality care. In addition to its licensing functions, the BME conducts investigations, imposes disciplinary action, and supports rehabilitation, education, and research to further its mandate to protect the citizens of Oregon.

Effective date: January 1, 2006

House Bill 2497

Relating to continuation of requirements for health insurance coverage of women's health care services

HB 2497 eliminates the sunset date for the mandate that health insurers cover mammograms and gynecological examinations, requiring health insurance coverage for pregnancy and childbirth expenses, mammograms and gynecological exams. The Legislative Assembly established the mandate in 1993, and in 1999 extended the mammogram and annual gynecological exam for women 18 to 64 years of age, annual mammograms, changing the baseline age for mammograms to 40 years of age. The 2005 sunset date was also established in 1999.

Effective date: May 18, 2005

House Bill 2498

Relating to health insurance coverage for clinical breast examinations

HB 2498 requires health insurance coverage for annual clinical breast exam (CBE) for women ages 18 years and older, independent of a women's health exam. Clinical breast examination seeks to detect breast abnormalities and, for some women, can be an important complement to mammography in the early detection of breast cancer. Clinical breast examination is currently included in the women's annual health examination; however, for some women who do not require annual pap smears, an annual CBE is not required.

Effective date: January 1, 2006

House Bill 2706

Relating to testing of blood of pregnant women

HB 2706 adds a human immunodeficiency virus (HIV) test to the routine prenatal panel of laboratory tests and creates a single consent process for routine prenatal laboratory tests. Under the measure, a woman can refuse HIV testing; however, only those who actively choose to opt out will be omitted from HIV testing.

Currently in Oregon, when pregnant woman consents to a routine prenatal panel of laboratory tests, the panel does not include a HIV test. The pregnant woman must specifically consent to an HIV test. Data indicates that only 60 percent of pregnant women are being tested for HIV, which indicates that approximately 22,000 pregnant women in Oregon are not being given the opportunity to be informed of their HIV status.

Effective date: January 1, 2006

House Bill 2754

Relating to Oregon Center for Health Professions

HB 2754 creates the Oregon Center for Health Professions within the Department of Higher Education, to be administered by the Oregon Institute of Technology (OIT). The measure specifies that the Center is to develop baccalaureate degree programs in allied health, facilitate partnerships between community colleges, private institutions of higher education, the Oregon University System, and the health care industry to expand capacities in allied health education programs and provide continuing education for allied health care professions.

The 2003 Legislative Assembly enacted HB 2577, which directed the Oregon Telecommunications Coordinating Council (ORTCC) to bring healthcare and education stakeholders together to analyze Oregon's readiness to use long distance learning to address the health care workforce shortage. Additionally, the Governor's Healthcare Workforce Initiative seeks policies that increase access, transferability, pathways, student outcomes and the attainment of credentials through the education system.

Effective date: January 1, 2006

House Bill 2800

Relating to nurses

HB 2800 states that a hospital may not require a registered nurse (RN), licensed practical nurse (LPN), or certified

nursing assistant (CNA) to work beyond an agreed upon shift, work more than 48 hours in any hospital-defined work week, or work more than 12 consecutive hours in a 24 hour time period. A hospital may, however, require an additional hour of work beyond the 12 hours if certain criteria are met. The measure is the result of collaborative efforts between the Oregon Nurses Association (ONA), the Oregon Association of Hospitals & Health Systems, and the Oregon State Hospital relating to nurse staffing, shift length and mandatory overtime.

Current law stipulates that nurses may not accrue overtime more than two hours beyond a regularly scheduled shift and 16 hours in a 24 hour time period. HB 2800 applies to all private, charitable, non-profit, and governmental hospitals, and hospitals are required to make “every reasonable effort” to obtain additional registered nurses, licensed practical nurses or certified nursing assistants prior to requiring employees to work overtime. In addition, the measure states that circulating nurses operating in a Type I ambulatory surgical center must be a registered nurse and present during certain surgical procedures, and that the Department of Human Services (DHS) may grant a variance for such a requirement.

Oregon law provides for exceptions to the overtime provisions of HB 2800 if there is a national or state emergency, emergency circumstance as defined by DHS administrative rule, or if a hospital has made reasonable efforts to contact all qualified, on-call nursing staff and nursing services and is unable to obtain replacement staff in a timely manner.

Effective date: January 1, 2006

House Bill 3029

Relating to Juvenile Crime Prevention Advisory Committee

HB 3029 transfers the Juvenile Crime Prevention Advisory Committee and related juvenile crime prevention programs and services from the Criminal Justice Commission to the State Commission on Children and Families. The 1999 Legislative Assembly created the Juvenile Crime Prevention Advisory Committee (JCPAC) within the Oregon Criminal Justice Commission as part of a statewide effort to provide services for high-risk youth through local juvenile crime prevention plans. In an effort to maximize resources and strategies, the interconnectedness with local commissions, and the commitment of local partners working together, Governor Kulongoski proposed shifting the funding and responsibility for juvenile crime prevention to the State Commission on Children and Families.

Effective date: July 13, 2005

House Bill 3073

Relating to abuse of certain individuals

HB 3073 specifies that reasonable self-defense is not abuse for purposes of laws requiring reporting of abuse of individuals who are elderly, mentally ill, developmentally disabled or in a long term care facility. The measure requires the Director of the Department of Human Services (DHS) to establish an advisory committee to help oversee the development of behavior management plans and appropriate response to the use of physical force or threats of physical force. Additionally, HB 3073 directs the advisory committee to review certain allegations of abuse and directs DHS to determine, through an investigation, whether the incident constitutes abuse or self-defense. The measure specifies the criteria to be used during the investigation, and allows the person being investigated to appeal to the Director.

During the 2003-2004 legislative interim, the American Federation of State, County and Municipal Employees (AFSCME), created a workgroup to review the mental health system from its perspective. The group created a “Perfect World” scenario, a system without barriers or financial constraints, beginning with the family following through the entire system. The workgroup developed nine areas of concern and ten recommendations. Of those, the second recommendation was that self-defense should not result in an automatic charge of “abuse” against the employees who must defend themselves against an attack. Investigations need to result in clear and convincing evidence that abuse did occur. If a pattern of abuse is proven then discipline or termination is appropriate, but guilt and intent must first be established.

Effective date: January 1, 2006

House Bill 3108

Relating to human services

HB 3108 contains four main provisions: 1) Type A and B and rural critical access hospitals reimbursement; 2) Department of Human Services (DHS) adoption of administrative rules adjusting timelines for executing managed care contracts; 3) DHS adoption of administrative rules to adjust Oregon Health Plan (OHP) services to comply with the DHS budget; and 4) the establishment of a program within DHS to regulate cross-connections and backflow assemblies that are part of a water system.

Type A and B and Rural Critical Access Hospitals Reimbursement – HB 3108 states that prepaid managed care health services, including hospital services, must reimburse Type A

and Type B hospitals and rural critical access hospitals fully for the cost of covered services based on the cost-to-charge ratio used for each hospital in setting the capitation rates paid to the prepaid managed care health services organization for the contract period. For medical assistance benefits not administered by a prepaid managed care health services organization (i.e., a fee-for-service provider), DHS is to reimburse Type A and Type B and rural critical access hospitals fully for the cost of covered services based on the most recent audited Medicare cost report for Oregon hospitals adjusted to reflect the Medicaid mix of services. The measure also assists DHS in its efforts to resolve issues with the federal Centers for Medicare and Medicaid Services (CMS) relating to Type A and B hospital reimbursement.

DHS Administrative Rule Adjusting Timelines for Executing Managed Care Contracts – HB 3108 allows DHS to modify the timing of managed care contracts to better comply with CMS approval of state plan amendments or waiver changes.

DHS Administrative Rule Adjusting Oregon Health Plan (OHP) Services to Comply with DHS 2005-07 Legislatively Adopted Budget (LAB) – HB 3108 directs DHS to adopt rules implementing the adjustment of OHP services in DHS's 2005-2007 budget. In addition, the measure directs DHS to seek, within 30 days of the effective date, a federal CMS waiver to the related administrative rule changes.

Establishment of a program to regulate cross connections and backflow assemblies that are part of a water system and allows DHS to assess fees to support the program – HB 3108 establishes a program within DHS for regulating cross connections and backflow assemblies that are part of a water system. The measure grants authority to DHS to assess an annual fee on community water systems, to be determined by the number of water service connections.

Effective date: August 29, 2005

House Bill 3230

Relating to Oregon Disabilities Commission

HB 3230 transfers the Oregon Disabilities Commission (ODC) to the Department of Human Services (DHS), it creates the Oregon Deaf and Hard-of-Hearing Services program (ODHHSP), requires the establishment of an ODHHSP Advisory Committee, and transfers employees, unexpended cash balances, and records. The measure also requires that the State Board of Education consult with DHS in the development of standards for sign language interpreters for the deaf and hard-of-hearing in public

schools, and allows any public agency to contract with DHS for coordination and provision of sign language interpreter services.

Effective date: July 27, 2005

House Bill 3260

Relating to physical therapy

HB 3260 establishes the Physical Therapy Practice Act. Highlights of the measure include: creation of a new definition of physical therapist aide; redefining the practice of physical therapy; creating additional licensing and renewal requirements; expansion of the Physical Therapy Board's authority to impose sanctions; and modification of the board's membership requirements. The measure also deletes provisions not applicable to semi-independent agencies.

Effective date: January 1, 2006

House Bill 3443

Relating to 2-1-1 telephone number

HB 3443 establishes 2-1-1 as the statewide telephone number for access to health and human services information and directs the Office of Emergency Management (OEM) to enter into a contract with a 2-1-1 system facilitator to design, implement, and support a statewide 2-1-1 telephone system. The measure establishes the 2-1-1 Account in the state Treasury, and allows OEM to accept federal or other moneys to be used to provide grants to 2-1-1 providers.

In 2000, the Federal Communications Commission (FCC) created the three-digit 2-1-1 dialing code, exclusively to provide public access to information about and referral to health and human services. The FCC ruling only designated 2-1-1's purpose. Each state must determine how best to turn the dialing code into a responsive, sustainable system available 24 hours a day, 365 days a year for all Americans.

Effective date: July 15, 2005

House Bill 3465

Relating to continuation of health insurance coverage for medical condition for which a prudent lay person believes immediate medical attention is necessary to stabilize the medical condition

HB 3465 removes the sunset on statutes that make it illegal for providers of commercial health insurance to deny a claim or require preauthorization for emergency medi-

cal screening exams and procedures required to stabilize an emergency medical condition. The statute employs a “prudent lay person” standard, meaning that an insurer may not deny claims for emergency medical care as long as the insured was reasonable in seeking out or initiating emergency treatment. The original legislation (1997) contained a sunset provision, which was extended during the 2003 legislative session. The measure is the result of an agreement developed by insurers and medical providers.

Effective date: June 29, 2005

House Bill 3482

Relating to automated external defibrillators

HB 3482 establishes a two-stage sequence of activity to provide automated external defibrillators (AEDs) in public school facilities and in certain health club facilities. The measure allows the Department of Education to establish a grant program, with the goal of placing AEDs in at least two public school facilities in each district. However, participation in the grant program is to be at the discretion of each school district or public charter school. The grant amount is limited to no more than 60 percent of the actual allowable cost, with the district or public charter school would be responsible for the remaining 40 percent.

An automated external defibrillator is a portable automatic device used to restore normal heart rhythm to patients in cardiac arrest. The AED is applied outside the body, automatically analyzes the patient’s heart rhythm, and advises the rescuer whether a shock is needed to restore a normal heart beat. If the patient’s heart resumes beating normally, the heart has been defibrillated.

Effective date: July 20, 2005

House Joint Resolution 25

Promoting and maintaining a stable and well trained workforce for the elderly and individuals with disabilities

HJR 25 recognizes and acknowledges the need for maintaining a stable, well-trained direct professional workforce to provide care and services to advance community integration and personal security for the elderly and individuals with disabilities. The elderly and individuals with disabilities are at risk of experiencing mental health problems ranging from sleep disturbance and anxiety to clinical depression. Nationally, an estimated 15 to 25 percent of people over age 65 are believed to have mental health problems requiring intervention, and 10 to 15 percent of the senior population has alcohol and drug-related

problems. Suicide is often the consequence of ignoring, minimizing or misdiagnosing these serious mental health impairments. While seniors represent only 13.7 percent of the population, they account for at least 25 to 30 percent of all successful suicides. There are few services that respond to the mental health needs of the older population in the public or private mental health systems. While seniors account for 15 percent of Oregon’s population, less than five percent of the total clientele served by community mental health programs are age 65 and older, and less than one percent of the clientele served by alcohol and drug providers are age 65 and older.

Filed with the Secretary of State: July 14, 2005

Major Legislation Not Enacted

Senate Bill 329

Relating to Oregon Prescription Drug Program

SB 329 would have expanded eligibility for the Oregon Prescription Drug Program to include people of any age with a gross income up to 300 percent of the federal poverty level, as well as enrollees in health benefits plans up to a maximum enrollment of 250,000 individuals. It would have eliminated the requirement that a person not have been covered by private health insurance with prescription drug benefits for the previous six months. The measure would have allowed the Department of Administrative Services to establish a waiting list for the program and to periodically open enrollment to accept applications from enrollees in health benefit plans. The program, which began enrolling clients in the program in 2005, is geared toward lowering drug costs for enrollees primarily through bulk purchasing of prescription drugs.

A minority report brought forward for SB 329 would also have expanded eligibility for the Oregon Prescription Drug Program to include people of any age with a gross income up to 300 percent of the federal poverty level and eliminated the requirement that a person not have been covered by private health insurance with prescription drug benefits for the previous six months. The minority version of the measure would have required that the program develop comprehensive pharmacy services in health care sites under section 340B of the Public Health Services Act. The 340B program is a section of federal law that gives certain health

care providers the ability to offer prescription drugs for their patients at very low prices.

Senate Bill 446

Relating to health care

SB 446 would have authorized the Board of Medical Examiners to establish a professional liability fund for physicians to cover claims up to \$1 million. It would have also required that claims against physicians first be heard by a prelitigation hearing panel with only unanimous findings being admissible for subsequent legal proceedings. The rising cost of medical malpractice insurance has been an issue for many years. In 2003, the Oregon Legislature created a six member Professional Panel for Analysis of Medical Professional Liability Insurance and charged it with providing a report on medical professional liability insurance. During session, a work group proposed several solutions but was unable to come to a consensus. SB 446 was subsequently amended to remove medical liability provision and instead would have required that the Department of Human Services annually distribute information on its medical assistance programs.

Senate Bill 503

Relating to certificate of need

SB 503 would have expanded or created new certificate of need (CON) requirements for hospitals, specialty surgical hospitals, ambulatory surgical centers, and diagnostic imaging centers prior to beginning construction on new facilities, or relocating, adding health services or expanding an existing health facility with projected costs, including equipment, of \$10 million or more. The measure would have required that all CON applications be open to public inspection and for the Office for Oregon Health Policy and Research (OHPR) to convene a committee to review and evaluate the application. The measure would also have established criteria under which the state would evaluate the CON, and outlined the applicant's rights regarding hearings and reviews. Rural hospitals, basic health services, certain religious institutions, special inpatient care facilities, alcohol and drug rehabilitation centers, mental health treatment facilities and the state hospital would have been exempt from CON. The measure would have required new skilled nursing, intermediate care service and new special inpatient facilities obtain a CON. Skilled nursing or intermediate facilities seeking to replace equipment with similar basic equipment would have been exempt. OHPR would have been required, upon request,

to convene a panel to review application for a CON, conduct public meetings and submit recommendation to the Department of Human Services. Certain health facilities already in the process of planning or building by certain dates would have been exempt from the CON process. CON was examined as a method to constrain healthcare costs by limiting the growth of healthcare facilities, which many supporters believe drives up overall healthcare costs.

A minority report on SB 503 would have repealed CON for all health care facilities, skilled nursing facilities, intermediate care facilities and health maintenance organization health care facilities.

Senate Bill 541

Relating to Task Force on Electronic Medical Records

SB 541 would have established the Task Force on Electronic Medical Records, which would have been directed to make recommendations on: medical records technical architecture regarding security and confidentiality; national standards for the transfer and exchange of electronic medical records and health-related data between providers, payers and other authorized users; and compliance with the Health Insurance Portability and Accountability Act (HIPAA). Congress included as part of HIPAA provisions to address the need to develop a consistent framework for electronic transactions and other administrative simplification issues. Oregon currently does not have a task force to address the exchange of medical records and other health care information.

Senate Bill 572

Relating to workplace violence against nursing staff members

SB 572 would have permitted nursing staff, who had reasonable cause to believe that a patient committed an assault on the nurse or another nurse, to report the incident to both law enforcement and their employer. If the law enforcement agency receiving the report then filed a written report, the law enforcement agency would have been required to enter relevant data about the incident into the Oregon State Police's Uniform Crime Reporting Program. SB 572 would have given nurses who file assaults immunity from civil liability relating to the report. The measure would have created an unlawful employment practice against an employer who takes any retaliatory action against a nurse for making a report of an assault and prohibited an employer from requiring a nurse to provide further treatment to a patient who previously

assaulted the nurse unless accompanied by a second staff member. The measure also would have allowed a nurse providing home health care services to refuse treating a patient unless the nurse was equipped with a communication device to call for help.

Under SB 572, nursing employers would have been required to publish and make available to the public an annual report regarding incidents of assault reported under the measure and other reports of assault made known to the employer. The report could not contain any personal identifiers, and would have required nurse employers to develop and implement a written violence prevention and self defense program for staff members.

Senate Bill 818

Relating to human services

SB 818 would have directed the Department of Human Services (DHS) to continue its faith-based or community assistance pilot program until 2008 and to establish an additional pilot program in a second service delivery area. Provisions of SB 598, which would have allowed the Office for Oregon Health Policy and Research (OHPR) to establish a system to help individuals access pharmaceutical patient assistance programs, were also amended into SB 818. Patient assistance programs are generally operated by various pharmaceutical companies to provide low-cost or no-cost drugs to individuals with limited resources.

SB 818 also would have required changes to the state's child welfare system by directing DHS to work directly in partnership with law enforcement in child welfare cases and to standardize policies among all offices. The measure would have required DHS to work with consultants to analyze its system and to report to appropriate interim legislative committees regarding the review.

Senate Bill 849

Relating to emergency contraceptives

SB 849 would have allowed pharmacists or groups of pharmacists to dispense emergency contraceptive pills without a prescription. The measure would have expanded the statutory definition of "practice of pharmacy" to include the authority to dispense emergency contraceptive pills without a prescription, if the pharmacist was acting in accordance with a written protocol established by a physician, physician's assistant, or nurse practitioner licensed to prescribe drugs. The measure defined "protocol" as a written agreement in which a physician or other health

care practitioner licensed to prescribe drugs authorizes a pharmacist or group of pharmacists to initiate or modify drug therapy involving emergency contraceptive pills for a patient of record.

Senate Bill 1040

Relating to health care information

SB 1040 would have required health care insurers to annually report to Department of Consumer and Business Services (DCBS) on payment information for the preceding year related to health care services diagnostic related groups (DRGs) and procedures. DCBS would have been required to adopt rules regarding information in the report, including DRGs and paid claims data for DRGs. DCBS would have had to make this information available to Office for Oregon Health Policy and Research (OHPR) for aggregation of the data prior to public disclosure. The measure specified that OHPR: could conduct research and studies of information; identify specific health care facilities in publicly disclosed reports; could not disclose information that would identify an individual patient; and could disclose any information identifying individually negotiated contract rates between hospitals or other health care providers and insurers. OHPR would have been required to make information available over the Internet that allowed for comparison of information for specific health care facilities and specific DRGs and procedures. The costs of hospital procedures and what various payers of health care are ultimately charged is an area that proponents of the measure believe results in higher costs overall, and that more "transparency" of costs and charges would aid in constraining increasing costs.

A minority report on SB 1040 would have required that OHPR develop and implement a system of reporting information for cost and charges for physician services by medical specialty and by diagnostic related groups and procedures. OHPR would have been required to aggregate information, conduct analyses and studies relating to cost and charges for physician charges, and make the information gathered available over the Internet web site that links health care consumers to information about services, charges, and utilization for specific hospitals in Oregon.

House Bill 2009

Relating to adoption

HB 2009 would have amended Chapter 109 to require the Department of Human Services (DHS) to first consider the child's grandparents or other birth relatives as prospec-

tive adoptive parents before considering other non-relative adoptive parents. Child Protective Services (CPS) is the division within DHS that responds to reports of child abuse and neglect and is responsible for continuing care of children placed in its legal custody. State and Federal law requires DHS to plan and implement permanent placement for children in its custody. If the agency determines that a child cannot be returned to a parent, and the court approves, it may seek to place the child in an adoptive placement, among other options. Adoption requires that the parent's parental rights be voluntarily relinquished or be terminated by court order. Current law allows a preference for relatives of the child in certain circumstances and requires DHS to give priority to temporary or continuing placement with relatives.

House Bill 2010

Relating to Children Protection Unit

HB 2010 would have required that the Attorney General create a Children Protection Unit (CPU) within the Department of Justice (DOJ). The CPU would have provided oversight of the duties of the Department of Human Services (DHS) related to child protection, and would have established a process for seeking public input into how DHS performs its duties relating to the protection of children. Child Protective Services (CPS) is the division within DHS that responds to child abuse reports. CPS caseworkers address reports of abuse, assess situations and prepare service plans to assist children and families. CPS staff work closely with law enforcement agencies and other members of multidisciplinary teams to assess and review child abuse reports and have shared legal responsibility for taking and responding to child abuse reports.

House Bill 2787

Relating to rural health care tax credits

HB 2787 would have extended the rural health care income tax credit to include rural emergency medical technicians. Oregon's Office of Rural Health was established in 1979, partnered with Oregon Health & Science University in 1989, and is statutorily (ORS 442.475-485) mandated to coordinate statewide efforts for providing health care in rural areas and to develop legislation to facilitate and further develop the rural health care delivery system in Oregon. The Office of Rural Health administers the program that grants up to \$5,000 in personal income tax credits to eligible rural doctors and eligible health care providers.

House Bill 3049

Relating to offset calculations

HB 3049 would have directed the Department of Human Services (DHS) to adopt rules under which a person with a developmental disability who is receiving medical assistance and residential services from the department could retain earned income up to \$320 per month. Currently, the department applies earned income toward the cost of residential services for persons with developmental disabilities who are both recipients of Supplemental Security Income (SSI) and receive services under the Medicaid Home and Community Based waiver. DHS counts any earned income that the resident receives, disregarding the first \$65 per month, and applies the remained earned income to offset the cost of the services DHS provides to the resident.

House Bill 3488

Relating to mental health system of care

HB 3488 would have directed the Department of Human Services to develop a review process and make recommendations regarding the state's system of mental health care and to develop a plan for the second phase of review using the Phase I Framework Master Plan. It would have required completion of a schematic design phase for new state hospital facility by the date of convening of the Seventy-fourth Legislative Assembly in January 2007. The measure was set to sunset on January 2, 2008. The measure would have authorized the Department of Administrative Services to issue financing agreements to finance payment of schematic design phase and appropriate moneys to Department of Human Services for plan.

The Oregon State Hospital, previously known as the Oregon State Insane Asylum, has occupied the same site since 1883. The original site was developed in conjunction with the Oregon State Penitentiary. Two of the buildings are on the list of local historic buildings for their architectural, human and environmental significance. Demolition of the structures is possible only after complying with requirements that verify the building cannot be reasonably repaired or restored. And, there is no viable beneficial use of the building and no serious interest by outside parties in relocating the building. None of the buildings on the site are on the State or National Registry of Historic Buildings. The Phase I Master Plan recommended is that a "historic reconnaissance" of the site be made prior to any site use decisions. Because the facility is owned by the State of Oregon, there is no financial incentive to the owner to

have the buildings or site officially declared as “historic.” Any work done on the site must comply with state and national statutes of archaeological sites.

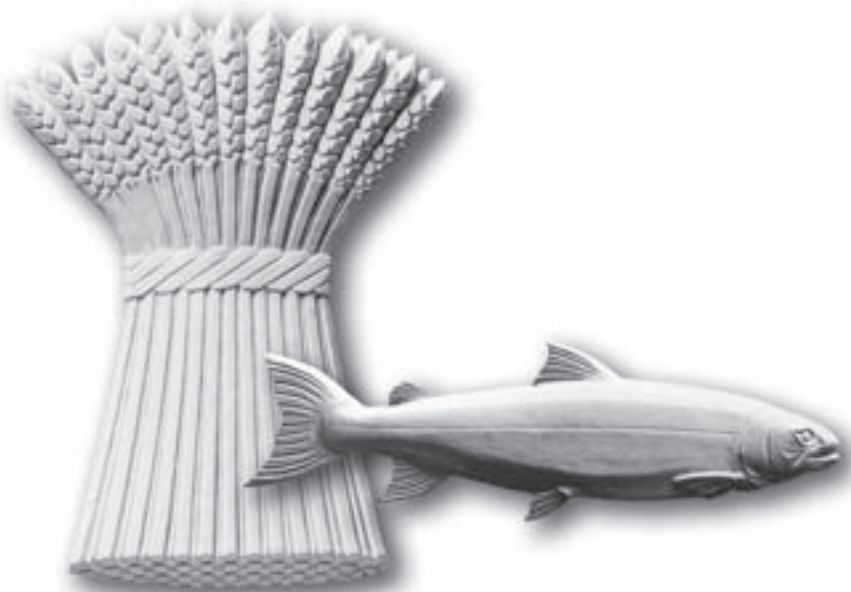
House Joint Resolution 6

Universal access to health care for all Oregonians

HJR 6 would have referred to voters a proposed amendment to Oregon’s Constitution declaring access to health care as a fundamental right of every Oregon resident and directing the Legislative Assembly to adopt a plan that would have expanded health care coverage. In 2002, Oregon residents voted on the only universal health care initiative in the country, Ballot Measure 23, also known as the Oregon Comprehensive Health Care Finance Act of 2002. That measure would have implemented a system to cover “all medically necessary health services,” from medications to mental health services and long-term care, for all state residents. The ballot measure would also have expanded the Oregon Health Plan, the state’s public health program, to cover all residents, and would create two new taxes to help fund the expansion.

Natural Resource Issues

Agriculture, Forestry
and Environment



2005 Summary of Legislation

Senate Bill 43

Relating to toxics use reduction

SB 43 makes a number of changes to Oregon's Toxics Use Reduction and Hazardous Waste Reduction Act of 1989. The measure is a product of a 2003 interim stakeholders' group convened by the Department of Environmental Quality that sought to streamline and update the law. The measure replaces the Act's annual reporting requirement with a one-time implementation summary. It also excludes certain businesses and activities from the scope of the law, such as businesses that fall under the law because of a hazardous waste site cleanup. Further, the measure changes the process for dealing with non-complying businesses by removing a public hearing requirement meant to draw attention to the non-compliance. In its place, SB 43 authorizes civil penalties of up to \$500 per day in order to achieve compliance.

Effective date: June 9, 2005

Senate Bill 177

Relating to liability for fire fighting

SB 177 specifies that agents and employees of forest protective organizations are considered agents of a public body for purposes of tort actions when engaged in fighting fires under the direction of the State Forester. HB 2200 (2003) relieved wildland firefighters of liability for injuries suffered by persons or property as a result of firefighters acting within the scope of their duties; willful misconduct or gross negligence were not covered by the measure. HB 2200 was allowed to become law without the signature of Governor Kulongoski, who expressed concern about the method by which it provided liability for forest protective association employees. SB 177 outlines the narrow circumstances under which forest protective association employees would be considered to be acting as agents of the Department of Forestry.

Effective date: January 1, 2006

Senate Bill 290

Relating to pesticides

SB 290 specifies that the geographic reporting location for use outside of urban areas is the third-level hydrologic unit for the location, and that the geographic reporting area for urban areas is to be the five-digit zip code area in the Department of Agriculture's pesticide use reporting system. The measure prohibits the department from

collecting information that could be used to identify an individual reporter. Additionally, SB 290 allocates moneys for the system.

The Legislative Assembly implemented the Pesticide Use Reporting System (PURS) in 1989. After an initial pilot program during the 1999-2001 biennium, a temporary electronic reporting system went online in early 2002, but because of budget cuts was scaled back before the data was transferred to a permanent system.

Effective date: August 17, 2005

Senate Bill 1072

Relating to forestry policy

SB 1072 establishes legislative findings that state, federal and private forestlands are important environmental and economic resources increasingly jeopardized by drought, insects, disease, and fires. It also establishes legislative findings related to the utilization of biomass in general, and woody biomass in particular, as it relates to energy production, ecological benefits, and job creation and economic benefits to rural communities. The measure directs the State Forester to take actions to increase the use of forest biomass and to report to the Governor and Legislative Assembly by October 1, 2008.

SB 1072 also requires that the State Forester establish communication with the federal government regarding woody biomass utilization, to promote public education and outreach regarding woody biomass, to seek opportunities to provide a sustainable source of woody biomass from federal, state and tribal forests, and to report to the Governor and Legislative Assembly every three years regarding the effect of woody biomass collection and conversion on plant and wildlife resources and air and water quality. Public comment is to be solicited regarding the location of facilities designed to utilize woody biomass.

Effective date: January 1, 2006

House Bill 2120

Relating to fees assessed by the State Department of Geology and Mineral Industries

HB 2120 revises the method by which fees are assessed for aggregate and mineral mining operations in the state. Previously, operators paid a fee based upon the tonnage of material removed from the ground, with the fee being determined by steps within a range. For example, the fee for extracting less than 10,000 tons in a calendar year

was \$670, while the fee for extracting between 10,000 and 100,000 tons was \$735, and so on, up to a maximum of \$3,735 for more than 1.5 million tons. HB 2120 changes the fee system from step categories to a fee of \$.0075 per ton of material removed, plus a \$635 base permit fee.

Both the Department of Geology and Mineral Industries and industry representatives had sought to make the fee structure for aggregate and mineral mining more equitable for small operators, while providing the department with the funding necessary to carry out its duties. While HB 2120 in its original form merely altered the fee level for each extraction level, an agreement was reached to replace the system with a pennies-per-ton method for calculating the fee. The new fee structure will bring in an estimated \$300,000 per biennium in additional revenues, while reducing the burden for small operators and increasing the burden for larger operators.

Effective date: July 27, 2005

House Bill 2327

Relating to forest fire protection

HB 2327 revises state policy with regard to forest fire protection. The burden of paying for fire protection in Oregon has historically been shared by both landowners and the general public, with landowners covering approximately 60 percent of the cost in recent years. The system consists of three levels: base protection is provided via ten local forest protection districts and three forest associations, and is funded equally through the General Fund and forest patrol assessments paid by private forestland owners; emergency protection is funded through the Oregon Forest Land Protection Fund (OFLPF), which consists of revenues from harvest taxes, acreage assessments, lot and improvement assessments, and accumulated interest; and, catastrophic protection is a specialized insurance policy purchased by the state using funds from the OFLPF.

HB 2327 was the product of a work group formed at the direction of the 2003 Legislative Assembly to examine funding mechanisms for forest fire protection. Other legislation passed in 2003 prohibited the use of OFLPF funds for purchase of catastrophic fire insurance for the 2005 fire season, but the work group determined that the state should instead direct that the insurance be funded equally between the General Fund and the OFLPF. HB 2327 provides for that change, while also permanently increasing the fund's reserve base, and reduces or suspends the collection of harvest taxes that flow into the

fund should the reserve base be met.

HB 2327 also eliminates authority of the State Forester, Department of Forestry or other organizations to prohibit or hinder a landowner from fighting a fire on his or her own property, except in cases where such action would increase the risk of injury to persons or damage to equipment.

Effective date: August 29, 2005

House Bill 2507

Relating to sodium azide

HB 2507 requires removal of motor vehicle air bags containing sodium azide from vehicles prior to wrecking or dismantling, and stipulates that such air bags are to be deployed or removed within seven days unless properly stored by a vehicle dealer, automobile repair facility or a certified wrecker. Violation is punishable as a Class D violation, with conviction of a third violation punishable as a Class C misdemeanor. Only a vehicle dealer, automobile repair facility, or a certified wrecker may possess more than two undeployed air bags containing sodium azide.

Air bags have been mandatory equipment on all new vehicles since 1994. Sodium azide is the ingredient most commonly used to activate air bags; a small electronic trigger causes the sodium azide to decompose into a harmless nitrogen gas that rapidly inflates the air bag. Following their useful life these vehicles are dismantled, crushed or stored in junkyards.

Sodium azide is a poisonous substance that, as a solid, has the appearance of salt, is odorless, and dissolves in water. Ingesting small amounts of sodium azide can result in death. It can also be converted to a poisonous gas if it comes in contact with certain metals. Concern has been expressed about the potential hazards of the intentional or unintentional release of sodium azide into the environment.

Effective Date: January 1, 2006

House Bill 2513

Relating to horticulture

HB 2513 requires that all commercial shipments of nursery plant stock be accompanied by a bill of lading or shipping invoice. The measure directs the Oregon Department of Agriculture (ODA) to adopt rules establishing a standard form for shipping invoices and to provide those forms, at cost, to businesses licensed to sell or produce nursery stock. Exemptions are provided for commercial

shipments or deliveries between two separate locations owned, rented or leased by the owner of the stock, as well as to stock in the possession of a licensed landscape contractor.

HB 2513 is designed to provide law enforcement with an additional tool for reducing the theft of nursery stock. A survey conducted by a nursery industry group estimated that \$284,193 worth of nursery plants was stolen from 36 nurseries in the Willamette Valley from 2001 to 2004.

Effective date: January 1, 2006

House Bill 2539

Relating to State Department of Agriculture fees

HB 2539 increases license fees for various types of food processing and distribution businesses by basing the fees on annual gross sales or services. These fees are used primarily to provide funding for the Food Safety Division of the Oregon Department of Agriculture (ODA). The measure has built-in increases that take effect beginning on July 1, 2006 and ending on January 2, 2010.

The Food Safety Program's 33 inspectors monitor Oregon's food industry and enforce sanitation laws in order to ensure that consumers receive food that is not contaminated, mislabeled, misrepresented, or changed in any way that would impair safety, wholesomeness or purity. The fees paid by food processors and distributors provide 76 percent of the cost of the Food Safety Program, with the remainder provided by the General Fund (11 percent) and other sources (13 percent). The fee increases are a response to concerns that the prior fee levels were insufficient to cover the costs of the program and maintain public safety and confidence in Oregon's food supply.

Effective date: August 17, 2005

House Bill 2577

Relating to noxious weeds

HB 2577 designates the Oregon Department of Agriculture (ODA) as the primary state agency for coordinating noxious weed control programs throughout the state, and requires the department to work in conjunction with the State Weed Board to develop a statewide plan for control of noxious weeds. The measure directs ODA and the State Weed Board to work to secure federal and private funding for weed control projects. Finally, HB 2577 directs ODA to report to the Legislative Assembly by October 1, 2008 regarding noxious weed control and funding efforts. The measure was one of a package of bills developed during

the 2003-2005 Interim by the Noxious Weeds Task Force, which was comprised of state agency representatives, agricultural representatives, environmental representatives, and plant biologists from Oregon universities.

Oregon is home to nearly 100 different plant species classified as noxious weeds, both terrestrial and aquatic. The term refers to plants that have adapted highly successful survival mechanisms that allow them, when introduced to a new environment, to spread rapidly and thoroughly, often pushing out existing species and altering local ecology. As a result, noxious weeds can have a detrimental effect on agriculture, recreation, infrastructure and animal habitat.

Effective date: January 1, 2006

House Bill 2593

Relating to state hazardous waste disposal fees

HB 2593 makes permanent the temporary schedule for payment of state hazardous waste management fees to the Department of Environmental Quality (DEQ) by hazardous waste disposal facility operators. The current allocation of fee revenue is also made permanent by the measure. One-third of the revenue is dedicated to paying DEQ's general management costs for hazardous waste regulation, and two-thirds is to be placed in the Hazardous Substance Remedial Action Fund to fund hazardous waste site cleanup.

Oregon has a single hazardous waste disposal facility, located near Arlington in eastern Oregon. The facility pays a management fee to the DEQ based on the amount and types of waste received from individual users of the facility. The Legislative Assembly enacted a temporary lower fee schedule, which took effect in 1997, to allow the facility to remain competitive with similar facilities in neighboring states. The temporary fee schedule was scheduled to sunset on January 2, 2006.

Effective Date: January 1, 2006

House Bill 2729

Relating to community forest authorities

HB 2729 grants cities and counties the ability to create community forest authorities for the purpose of managing and maintaining forest lands for conservation and industrial purposes. The measure specifies the process by which a local government may form a community forest authority and outlines membership requirements, duties, and powers. Community forest authorities are

empowered to issue tax-exempt bonds and loan the money to nonprofit organizations for the cost of purchasing and managing tracts of forest land. The bonds would then be repaid by revenues generated by the harvest of timber from the forest and would not be an obligation to the municipality or its taxing power.

HB 2729 was introduced in response to the gradual loss of working industrial forests throughout Oregon. As developers continue to purchase forestlands and take them out of production, less land is available for timber harvest, recreation, and habitat protection. Proponents of the measure believe that it offers municipalities an option for maintaining and conserving forestland.

Effective date: July 13, 2005

House Bill 3461

Relating to agricultural commodities

HB 3461 extends the program for facilitating negotiations between seed growers and seed dealers over the price of grass seed to annual ryegrass seed and tall fescue grass seed. HB 3811 (2001) authorized an agricultural cooperative to work with seed dealers to establish prices for perennial ryegrass seed; negotiations are mediated by the Oregon Department of Agriculture (ODA). The purpose of such negotiations is to provide stability in the price that seed growers will receive from seed dealers. ODA is empowered to compel parties choosing to participate in these voluntary negotiations to act in accordance with state policy, to adopt rules, collect fees, and designate persons to supervise negotiations and to act as intermediaries.

Effective date: June 20, 2005

House Joint Resolution 8

Designating the pear as the official state fruit

HJR 8 designates the pear (*Pyrus Communis*) as the official fruit of the State of Oregon. The pear joins a number of other symbols and commodities designated by the Legislative Assembly during the state's history to represent Oregon, including most recently milk as the official state beverage (1997), the Oregon hairy triton as the official state seashell (1991), and the hazelnut as the official state nut (1989).

Pears are Oregon's top fruit commodity, with a total crop value of over \$72 million in 2003, and rank as the state's tenth overall agricultural commodity. Oregon ranks second in the nation in fresh pear production (behind Washington) and third in combined fresh and process

pear production (behind Washington and California). Oregon pears are exported to more than 40 countries worldwide. Approximately 17,600 acres statewide are in pear production annually.

Filed with the Secretary of State: May 9, 2005

Major Legislation Not Enacted

House Bill 3258

Relating to labor relations involving agricultural employees

HB 3258 would have added individuals employed in agricultural labor to the list of employees covered by Oregon's labor relations act. Current state and federal law provide a regulatory structure for most industries that outlines how employers, unions and employees are to interact in the collective bargaining process. However, agricultural employment is not regulated under the existing collective bargaining laws. "Agricultural labor" is defined in statute as: services performed on a farm in connection with soil cultivation; raising or harvesting crops or horticultural commodities; caring for livestock, poultry, fur-bearing animals or bees; or other labor on a farm, including equipment maintenance, timber salvage, clearing brush or debris, etc.

While HB 3258 would have provided for collective bargaining rules for agricultural workers for the purposes of discussing wages, hours and working conditions between employers and employees, the measure would not have allowed for mandatory binding interest arbitration, which involves a state-appointed, third-party arbitrator making a final decision following negotiations. The measure designated the Employment Relations Board as the state entity to oversee collective bargaining.

House Bill 3316

Relating to noxious weeds

HB 3316 would have created the Noxious Weed Control Fund within the Oregon State Treasury for the purpose of accepting gifts, grants, and donations to combat the spread of invasive plant species on a statewide basis. The measure also would have created a tax credit of up to a taxpayer's total tax liability for moneys donated to the fund. Fund moneys would have been continuously appropriated to

the Oregon Department of Agriculture to: develop, implement or demonstrate new and innovative techniques for noxious weed control; supplement funding for existing weed control projects and districts; fund project grants related to noxious weeds in commercially-grown crops; and, for the administration of the fund. The measure was one of a package of bills developed during the 2003-2005 Interim by the Noxious Weeds Task Force, which was comprised by state agency representatives, agricultural representatives, environmental representatives, and plant biologists from Oregon universities.

House Bill 3481

Relating to extension and expansion of environmental improvement tax credits and exemptions and tax credits and exemptions to promote development of a biodiesel production industry in Oregon

HB 3481 would have expanded the existing local property tax exemption for certain fuel production facilities to include biofuel and verified fuel additive production facilities, and outlined the qualifications for the tax exemption. Local taxing districts would have been allowed to opt out of participation in the exemption by filing a written statement to that effect before July 1 of the first tax year to which their non-participation would apply.

HB 3481 would also have expanded the existing pollution control income tax credit program to include biofuel production and processing facilities, farm storage facilities related to the production of biodiesel feedstocks, facilities using open-loop biomass conversion plants to produce certain types of fuels or energy, equipment used in biofuel processing or production, and equipment used for growing crops that are harvested for biofuel purposes.

The measure also extended the income and corporate excise tax credit for years beginning January 1, 2006 to agricultural producers engaged in agricultural or livestock operations which produce plant or animal that is used by a biodiesel or ethanol producer. The amount of the tax credit was to be based on the number of gallons of biodiesel or ethanol produced from the feedstock provided by the producer.

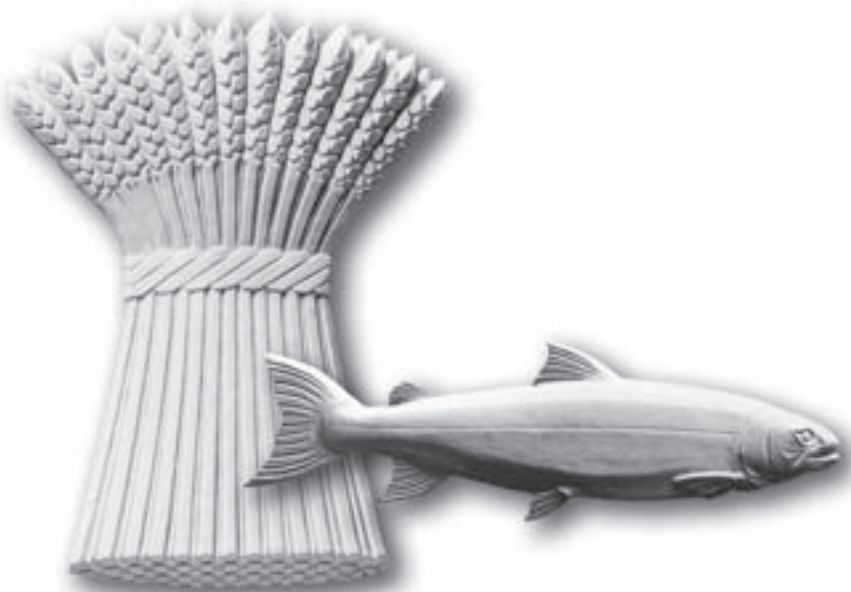
HB 3481 would have created the Clean Bus Grant Fund and authorized the Department of Education to award grants to school districts to replace buses manufactured prior to 1994, or to retrofit buses manufactured prior to 1993, with exhaust after-treatment devices, help districts meet federal matching requirements to fund retrofits or provide funding for pilot projects using biodiesel fuel.

HB 3481 would also have outlined the requirements for gasoline additives and expanded the definition of energy facility to encompass facilities producing energy, heat, transportation fuels, or fuel substitutes. Excise taxes would have been reduced or eliminated for motor or farm vehicles using pure or part biodiesel for fuel. The measure clarified that all state-owned vehicles were to have used alternative fuels for operation. It also established biodiesel standards for Oregon and directed the Department of Agriculture to study and monitor its sale and use. The measure set requirements for total state biodiesel and ethanol production.

Other provisions contained within HB 3481 included: requirement that certain public building renovations include cost-effective solar energy design and technologies; issuance of lottery bonds for the purpose of financial assistance to the Community Renewable Energy Project Fund; allowance for the construction and operation on state buildings or grounds of electrical generators that utilize renewable energy, including permission for the agency to sell the electricity; extension of the sunset on the Sustainability Board Fund from 2006 to 2012.

Natural Resource Issues

Land Use



2005 Summary of Legislation

Senate Bill 82

Relating to task force on land use planning

SB 82 creates the Oregon Task Force on Land Use Planning consisting of 10 members unanimously appointed by the President of the Senate, the Speaker of the House, and the Governor. The Task Force is charged with conducting a broad overview of Oregon's land use planning system and to gather information regarding the effectiveness of that system and the extent to which it meets Oregonians current and future needs. The measure is a product of a work group made up of a broad range of interests that began work in 2003 on the issue of a comprehensive review of the statewide land use system.

Oregon's land use system has existed for over 30 years. Every legislative session since 1973, there have been changes to the system of varying degrees. However, usually these changes only address specific areas. Over the years, the system has become more and more complex. At the same time, Oregon has changed significantly in areas that impact land use such as its demographics and economic base.

Effective date: August 9, 2005

Senate Bill 96

Relating to the number of hearings required to amend statewide land use planning goals

SB 96 allows the Land Conservation and Development Commission (LCDC) to amend land use planning goals and guidelines after a single public hearing if the change is mandated by legislative action or a statewide ballot measure.

Prior to the passage of SB 96, LCDC was required to hold at least ten public hearings, two in each congressional district, when considering a change to land use planning goals or guidelines. The requirement was considered impractical in cases where the change was specifically required to conform land use goals or guidelines to a change in the law. In such cases, LCDC was required to hold multiple hearings, but had no authority to take the public testimony into account before making a final decision.

Effective Date: January 1, 2006

Senate Bill 103

Relating to farm housing in marginal lands counties

SB 103 establishes conditions for siting a dwelling in conjunction with farm use in exclusive farm use zones in

marginal lands counties. This corrects an oversight in HB 3171 (2001) that amended rules relating to "accessory farm dwellings" used by farm workers. HB 3171 also required the Land Conservation and Development Department to adopt rules regarding the approval of farm worker housing. However, the measure only amended ORS 215.283 and inadvertently failed to amend ORS 215.213, which applies in "marginal lands" counties. The two counties that use the marginal lands exclusive farm use statute, Lane County and Washington County, have not had clear authority to authorize farm worker housing as originally intended in HB 3171. SB 103 corrects this oversight by making parallel changes to the ORS 215.213 to provide for farm worker housing in the marginal lands counties.

Effective date: January 1, 2006

Senate Bill 538

Relating to guest ranches

SB 538 extends the sunset date on the establishment of guest ranches in Eastern Oregon to January 2, 2010. Guest ranches would not normally be allowed in exclusive farm use zones under Oregon's land use planning rules. The guest ranch statute was scheduled to sunset December 31, 2005. The measure also makes changes to the limitations on the size of the guest ranch facility, eliminates the requirement that a ranch must be within 10 miles of an urban growth boundary and requires the Department of Land Conservation and Development, the Department of Agriculture, and the Economic and Community Development Department to report to the legislature during the 2007 and 2009 legislative sessions.

Effective date: January 1, 2006

Senate Bill 887

Relating to annexations by cities

SB 887 prohibits cities from annexing certain lands, based upon unique characteristics such as location, size, zoning, development, the number of employees, or years in operation, without the consent of the property owners in the territory to be annexed. The measure specifically prohibits the City of Beaverton from conducting any annexation that does meet with the approval of affected landowners. SB 887 also specifies that all annexation plans initiated by a city are to be approved solely by the residents of the area proposed for annexation. The provision related to the City of Beaverton is scheduled to sunset on January 2, 2008, while the specific annexation provision is scheduled

to sunset June 30, 2035, with a five-year extension allowed under certain circumstances. The measure also calls for a review of a number of annexation issues by an interim legislative committee related to land use for possible consideration during the 2007 Legislative Session.

Effective Date: September 2, 2005

House Bill 2356

Relating to approval of land division

HB 2356 modifies the procedure for approval of a subdivision or partition plat by clarifying that a county surveyor's approval of a subdivision plat is a limited land use decision, and is therefore not considered a land use decision that can be appealed to the Land Use Board of Appeals (LUBA). It has no effect on any rules governing the process for dividing land. The measure is a response to the Court of Appeals decision in *Hammer v. Clackamas County*, where the court found that the county surveyor's approval of a subdivision plat was a land use decision that could be appealed to the state Land Use Board of Appeals (LUBA). The court's decision was contrary to historical interpretation and practice that never intended that the signing of a plat by the county surveyor would be considered a land use decision.

Effective Date: June 16, 2005

House Bill 2438

Relating to exception to land use planning goals

HB 2438 modifies the rulemaking authority of the Land Conservation and Development Commission (LCDC) related to the exceptions process for statewide land use planning goals. The measure requires that LCDC adopt rules which may be used to allow an exception to a statewide planning goal to permit a use which may not comply with the approval standards for that type of use. The measure does not change any existing standards used for justifying an exception and allows for the continued use of the exception process in a manner in which it had been developed.

The exception process is used when a land use application cannot otherwise be permitted through compliance with existing goals, administrative rules, and local regulations. HB 2438 is a response to a 2002 Court of Appeals decision that determined that a county may not use the exception process if the use is permitted under the relevant goal.

Effective Date: January 1, 2006

House Bill 2484

Relating to annexation

HB 2484 requires that a proposal for annexation of territory into an urban growth boundary by a city or district be approved by a majority of the votes cast both by residents of the city or district and of the territory to be annexed prior to taking effect. Previously, a simple majority of all voters casting ballots in both the city/district and the territory to be annexed was required to approve such annexations.

Annexations can be either voluntary, initiated by a property owner seeking to bring property into a city limits, or involuntary, initiated by a city or district when the city limits completely surround the area to be annexed or when the city or district identifies an area to be annexed.

Effective Date: January 1, 2006

House Bill 3310

Relating to land use

HB 3310 streamlines the periodic review process used by cities and counties as part of the update of their comprehensive plans by exempting cities and counties under certain conditions. It also requires that issues arising from periodic review be taken under consideration by the Department of Land Conservation and Development (DLCD), rather than the Land Use Board of Appeals (LUBA).

Cities with a population greater than 10,000 that are not part of a metropolitan planning organization, and all counties, are required to undergo periodic review every ten years to update their comprehensive plans. Periodic review may be required sooner in cases where a city is growing faster than the state average for five consecutive years, or if a major state investment or significant new employer results in the need to review the city's comprehensive plan. Such updates are designed to consider any changes in state law that may have occurred since the previous comprehensive plan adoption, as well as local changes such as demographics that may have taken place. Prior to the passage of HB 3310, all cities with populations greater than 2,500 were required to participate in the periodic review process.

Effective Date: September 2, 2005

Major Legislation Not Enacted

Senate Bill 1037

Relating to land use

SB 1037 would have formalized the claims and judicial review process for compensation claims by landowners whose property values decrease as a result of government land use regulations. The measure would have granted explicit authority to state agencies to waive land use regulations in lieu of paying compensation, and set a limit of \$1,000 for a compensation application. SB 1037 also would have allowed for the transfer to subsequent owners of land use regulation waivers granted by state or local governments, and provided that property conveyed to a business entity of the owner is considered to have the same date of acquisition as was the case under the previous owner.

Oregon's land use system was created by the legislature in 1973. Ballot Measure 37, approved by voters during the 2004 General Election, required that governments pay financial compensation to landowners or waive the regulation to allow development and/or subdivision of the property.

House Bill 3483

Relating to regional land use planning commissions

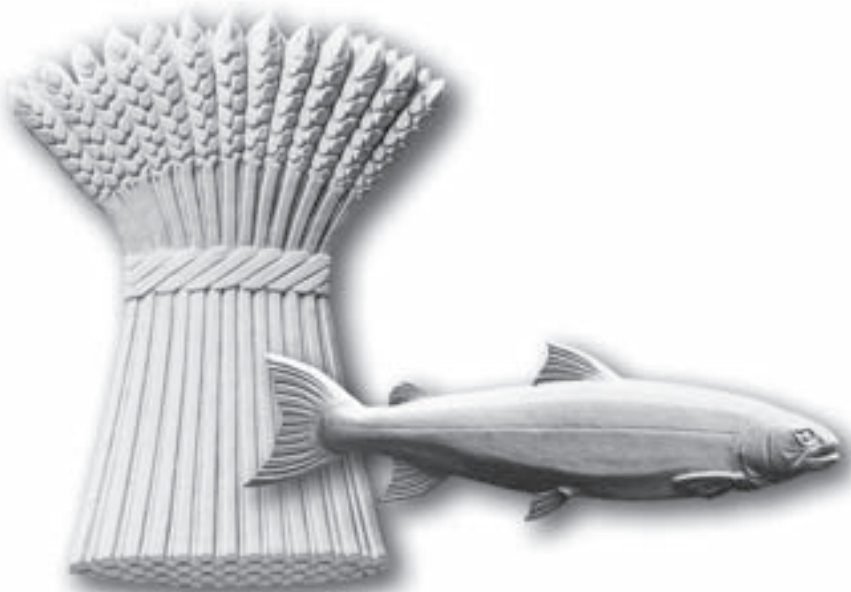
HB 3483 would have required the establishment of five regional land use planning commissions: one for the Portland metropolitan area; one for coastal counties; one for southern Oregon; one for eastern Oregon; and one for the Willamette Valley. Each commission would have been charged with adopting, revising or amending any rules necessary for the implementation of statewide land use planning goals within the region. The arrangement was designed to allow for greater consideration of diverse administrative and planning capabilities of local governments.

The Land Conservation and Development Commission (LCDC) is the state agency responsible for developing statewide planning goals and the implementing administrative rules. While the goals are state-wide, not every goal is applicable to each jurisdiction within the state. For example, the goals and rules pertaining to coastal issues

are applicable only to counties and cities along the coast; however, rules affecting urbanization and public facilities apply throughout the state.

Natural Resource Issues

Water, Fish and Wildlife



2005 Summary of Legislation

Senate Bill 346

Relating to farming of aquatic species in exclusive farm use zones

SB 346 makes aquaculture an allowed use in exclusive farm use zones. Aquaculture is generally defined as the propagation, cultivation, maintenance, and harvesting of aquatic species. Currently aquaculture is generally allowed in exclusive farm use zones as a conditional use. SB 346 alleviates the need for aquaculture facilities to go through the conditional use permitting process.

Effective date: January 1, 2006

House Bill 2170

Relating to ballast water

The 2003 Legislative Assembly created the Task Force on Ballast Water Management (HB 3620) to address ballast water management. The task force was charged with reviewing Oregon's ballast water management program and make recommendations. HB 2170 incorporates several task force recommendations: modifies the definition of *open sea exchange* and *coastal exchange*; specifies that open sea or coastal exchange occur via flow-through or empty and refill exchanges; and extends the Task Force on Ballast Water Management until January 2007.

Effective date: January 1, 2006

House Bill 2875

Relating to temporary change in point of diversion

Currently, Oregon statute (ORS 540) allows water districts, with a manager, to propose various types of temporary water right transfers as long as the proposed transfer does not result in injury to existing water rights or enlargement of the originating water right. However, there are no provisions that address a district's transmission system or diversion facility should it fail and the district needs to move the point of diversion. HB 2875 allows certain districts the opportunity to temporarily change the point of diversion in the event that an emergency prevents the district from diverting water from its authorized point of diversion. The measure provides an emergency tool for districts and does not diminish the protection to the existing water rights or the State's water resources.

Effective date: January 1, 2006

House Bill 2881

Relating to delisting of Aleutian Canada goose

HB 2881 removes the Aleutian Canada goose from Oregon's threatened and endangered species lists. The Aleutian goose was listed as an endangered species under the federal Endangered Species Act (ESA) at the time that Oregon's Endangered Species Act was enacted in 1987. All native species then protected under the federal ESA were included statutorily on Oregon's threatened and endangered lists. During the intervening years, the Aleutian Canada goose population has successfully rebounded, to the point where they are no longer a federally protected species. However, the Oregon Department of Fish and Wildlife (ODFW) lacks the authority to delist the Aleutian goose from the state threatened and endangered lists because it is listed in statute as protected.

Many Oregon landowners and farmers have been suffering damage to property and crop depredation by the geese over the past several years as the number of birds has increased. HB 2881 allows ODFW to take a number of administrative actions, including opening hunting seasons, in order to better manage the rapidly growing Aleutian Canada goose population.

Effective date: June 29, 2005

House Bill 3038

Relating to municipal water right permit extensions

The issuance of a water right permit activates statutory timelines for constructing the associated works and making full beneficial use of the water. Generally, if construction is not completed or full beneficial use is not attained within those statutory timelines (usually five-years), the Water Resources Department (WRD) may grant an extension of time, if it is determined to be of "good cause." Historically, the WRD applied the permit development timelines differently for municipal use permits than for the private use permits in terms of the "construction" requirement.

In April of 2004, the Oregon Court of Appeals held in *Water Watch vs. Coos Bay North Bend Water Board and the Oregon Water Resources Department* that in order to be granted a water right permit, a municipality must fully construct the facilities necessary to use the water within five years of receiving the permit. This decision differed significantly from the WRD's practice, in that the department granted extensions to municipalities upon request.

HB 3038 allows municipalities 20 years to commence the construction from the date on which the permit is issued and allows for extensions upon a municipality showing of “good cause.” In addition, the measure requires the WRD to consider populations of fish listed as sensitive, threatened or endangered under state or federal law as a condition of an extension, and authorizes the department’s permit extensions actions prior to the effective date of the measure.

Effective date: June 29, 2005

House Bill 3472

Relating to commercial fishing

Oregon’s non-resident commercial vessel licenses and commercial individual fishing licenses fees are substantially lower than Washington’s or California’s non-resident commercial fees. HB 3472 increases the annual non-resident boat license fee from \$400 to \$760 and the annual non-resident commercial fishing license fee from \$100 to \$290.

In addition, Oregon law allows for a limited entry fishery for marine, nearshore rockfish. Increased fishing of rockfish have resulted in the need to limit the number of participants and to provide adequate protection for equitable distribution among users. However, current law does not provide an ending date for qualifying. HB 3472 also prohibits the issuance of new black rockfish and blue rockfish vessel permits after December 2005, except by lottery, and modifies the vessel ocean Dungeness crab permit transfer restrictions.

Effective date: July 22, 2005

House Bill 3494

Relating to Deschutes River Basin

In September 2002, after several years of work group and steering committee meetings, the Water Resources Commission adopted administrative rules implementing the Deschutes Basin Ground Water Mitigation Program (OAR Chapter 690, Division 505) and the Deschutes Basin Mitigation Bank and Mitigation Credit Program (OAR 690, Division 521).

After the Commission’s adoption of the mitigation rules, the rules were challenged in the Oregon Court of Appeals by Water Watch of Oregon and several other organizations. In May 2005, the Court concluded, in its written opinion, that the Commission’s rules, which require annual buck-

et-for-bucket (volume) mitigation to offset consumptive use by new ground water uses with extensive monitoring and adaptive management opportunities, do not meet the statutory requirement to “maintain” streamflows necessary for the designated Scenic Waterways.

HB 3494 specifies that the rules adopted by the Water Resources Commission for the Deschutes Basin ground water study area and certified effective by the Secretary of State on September 27, 2002 satisfies statutory mitigation requirements and eliminates other conditions relating to satisfaction of statutory mitigation requirements. Additionally, HB 3494 directs the Water Resources Department to report to the Seventy-fifth Legislative Assembly on the implementation and operation of the Deschutes River Basin ground water mitigation and mitigation bank programs.

Effective date: July 29, 2005

Major Legislation Not Enacted

Senate Bill 532

Relating to water quality

SB 532 would have required the Environmental Quality Commission to develop a plan to substantially reduce the amount of persistent bioaccumulative toxics discharged into Type I mixing zones. It would have required the commission to test fish in Type I mixing zones that are likely to accumulate persistent bioaccumulative toxics and required reporting by persons who discharge waste containing persistent bioaccumulative toxics. SB 532 would have required people who discharge waste to pay for the installation and maintenance of a system of buoys marking the perimeter of the Type I mixing zone into which such discharges were made. The measure would have required the commission to report to the legislature no later than January 1, 2009.

SB 532 was one of several measures during the 2005 session designed to limit the use of so-called “Toxic Mixing Zones.” Mixing Zones are areas of rivers which the Department of Environmental Quality issues permits allowing a person to discharge wastes into. Mixing Zones may contain pollution at levels that are higher than would be permissible in the river as a whole.

House Bill 2025

Relating to fluoridation of water supplies

HB 2025 would have required that water suppliers, serving populations greater than 10,000 people, fluoridate the water supply. However, the measure specified that if the water supplier did not have sufficient funds to pay for the implementation of a water fluoridation system, the supplier could stop or be exempt from the fluoridation requirement.

House Bill 2172

Relating to transfers of water rights within districts

HB 2172 would have created a provision for voluntary water right cancellations similar to the existing provision for transfer of a water right in danger of forfeiture. The measure would have provided a district with an opportunity to transfer water rights requested to be cancelled to other lands within the district's boundaries. After the water right holder had made the decision to submit the required documentation to cancel a water right, before it was cancelled, the irrigation district would have provided an opportunity to transfer the water right somewhere else in the district, so long as, among other things, the district maintained a list of patrons who requested water from the district.

During the 2003-2004 interim, the Water Resources Department (WRD) convened a work group of interested stakeholders to address the issues relating to "water right ownership," particularly who should receive notice and who needs to concur in initiating a water right transaction that involves a shared delivery system within an irrigation district. The work group addressed voluntary water right cancellations, allocations of conserved water, and water right transfers, with the direction to ensure the protection of existing water rights, to establish clear, efficient, and equitable processes and procedures, and to develop policies that unify the water user community.

House Bill 2265

Relating to the Department of State Lands

HB 2265 would have increased certain removal-fill permit fees, established new fees for additional removal-fill authorizations, and waived permit fees for habitat restoration projects. An amendment was adopted that removed the wetland jurisdictional reporting and revised removal-fill permit fee restructure, replacing the measure with language that clarified that the Department of

State Lands (DSL) could not charge fees for easements over submerged lands. The Removal-Fill Program was established within DSL in 1967, and the removal-fill fees provide approximately 67 percent of the program's operating revenue.

House Bill 2759

Relating to cougars

HB 2759 would have created a ten-county pilot program for the reinstatement of the use of dogs to hunt cougars. The ten counties that would have been included were Baker, Coos, Curry, Douglas, Grant, Jackson, Josephine, Umatilla, Union, and Wallowa; additional counties would have been allowed to petition to be included in the pilot program beginning June 30, 2008. The measure also would have directed the Oregon Department of Fish and Wildlife to develop standards for handling hunting dogs and for training hunters in the use of dogs in the pursuit and taking of cougars. The pilot program was designed to sunset on January 2, 2010.

Ballot Measure 18, enacted by voters in November of 1994, banned the use of dogs and bait pits in the hunting of bears and cougars; the law includes exceptions for federal, state, and county agents acting in their official capacity in taking animals causing damage or that are a public nuisance or health risk. The estimated number of cougars in Oregon has increased substantially during the past decade, though there is disagreement among biologists, activists and lobby groups as to the reasons for the increase.

House Bill 2812

Relating to the Task Force on Water Law Reform

HB 2812 would have created a twelve-member Task Force on Water Law Reform and specified duties and membership for the task force. The measure included a sunset date of January 31, 2009 for the task force. Oregon's basic Water Code was adopted in 1909 and reviewed in 1955. Programs and responsibilities have since been added and altered. The measure was brought forward to address what some believe to be an arcane, anachronistic and complex array of policies and procedures.

House Bill 3046

Relating to exotic animals

HB 3046 would have prohibited the possession, sale, or breeding of exotic animals, including non-indigenous members of the cat family, non-indigenous members of

the dog family, nonhuman primates, wolves, crocodiles, alligators, caimans, certain poisonous snakes, and bears (other than black bears). The measure would have provided persons currently owning animals in these categories to continue to do so, but would have required that an identification microchip be implanted in such animals. Owners of exotic animals would have been required to post signage on the property where the animal was kept to provide notice that an exotic animal is on the property.

Current law designates the Oregon Department of Agriculture (ODA) as the entity responsible for licensing exotic animals and regulating their importation. ORS 609.305 authorizes cities and counties to prohibit the keeping of exotic animals. HB 3046 would have terminated regulation of exotic animals by ODA and transferred it to local animal control agencies.

House Bill 3104

Relating to maintenance of the Willamette River

The Willamette River Basin is the 13th largest river basin by volume in the United States. The river and its tributaries drain a river basin that is approximately 11,500 square miles in area. Average flow on the river is some 32,000 cubic feet per second (cfs) where the river flows into the Columbia. By contrast, at its peak flood in February of 1996, the Willamette's flow was estimated to be approximately 460,000 cfs.

HB 3104 would have directed the Oregon Parks and Recreation Department to enter into an agreement with Mid-Willamette Valley Council of Governments to perform dredging and other maintenance activities on the Willamette River and to fund the dredging and other maintenance activities from the State Parks and Recreation Department Fund. Additionally, the measure established that the Mid-Willamette Valley Council of Governments is eligible to apply for grants through the Parks and Recreation Department Fund and provided authority to the Mid-Valley Willamette Valley Council of Governments to contract with other entities to perform the dredging and maintenance activities.

The Department of Environmental Quality (DEQ) conditions issuance of discharge permits to ensure that any pollution from the discharge is not at a level so that threatens aquatic life or human health in Oregon rivers. However, the discharges may be allowed at a level that results in higher levels of toxic substances in the river at the point of discharge.

The HB 3104 minority report would have directed the

Environmental Quality Commission (EQC) to adopt, by September 1, 2006 and periodically revise, a water quality plan to reduce amount the amount of persistent bioaccumulative toxins (PBTs) in the Willamette River. The measure would have required DEQ to test fish in the Willamette River that are likely to accumulate PBTs before issuance or renewal of a permit allowing waste discharge into the Willamette River. The minority report also would have required that permit holders monitor the waste discharge and report monthly to DEQ. The measure also would have required permit holders who discharge PBTs into the Willamette River at concentrations causing the river waters to fail to meet water quality and purity standards to install and maintain a system of buoys or similar markers around the perimeters of the zones.

House Bill 3478

Relating to wolves

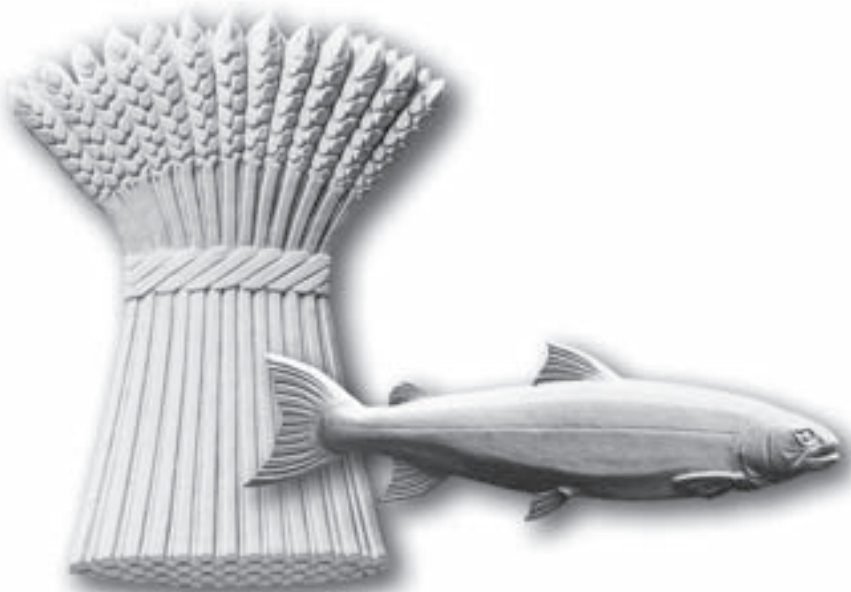
HB 3478 would have revised Oregon's policy regarding gray wolves by adding them to the statutory definition of game mammal and by allowing the Oregon Department of Fish and Wildlife (ODFW) to establish a special status classification for wolves. The measure would have provided for the taking of wolves without a permit in cases where the wolf was causing harm to livestock, and would have created a Wolf Management Compensation Fund to compensate owners of livestock whose animals were injured or killed by wolves.

Gray wolves were reintroduced by federal authorities to management areas in Wyoming and Idaho in the 1990s after having been largely eradicated in the western United States decades earlier. Since reintroduction, their numbers have continued to grow, and there have been three confirmed sightings of wolves that have crossed the border from Idaho into Oregon. Because gray wolves are designated as an endangered species under the Oregon Endangered Species Act, the Oregon Fish and Wildlife Commission adopted a wolf management plan on February 11, 2005 in anticipation of the need to manage wolves if and when they establish a population in the state. HB 3478 was designed in part to implement the wolf management plan.

On January 31, 2005, a federal court decision reinstated the endangered designation for gray wolves in the lower 48 states. Because of the wolf's federal endangered designation, and because of the failure to pass HB 3478 or other enabling legislation, the management plan adopted by the commission remains on hold.

Judiciary Issues

Civil Law



2005 Summary of Legislation

Senate Bill 94

Relating to child abuse reporting

SB 94 revises the process by which law enforcement agencies and the Department of Human Services (DHS) share information about reports of child abuse received by each entity. The measure deletes the current requirement that every report of child abuse received by law enforcement or DHS be cross reported to the other agency. In its place, SB 94 creates a two-tiered system by which the most serious allegations of abuse received by either entity must be cross reported to the other entity within 24 hours and all other reports of child abuse must be cross reported within 10 days. DHS, in collaboration with law enforcement and other interested parties is to develop and promulgate rules by January 1, 2006 to establish criteria to easily identify reports that require notification within 24 hours.

Effective date: June 20, 2005

Senate Bill 153

Relating to traffic enforcement

SB 153 requires each city operating a photo red light camera or mobile photo radar system to place a sign indicating operation of that equipment in the location of the photo unit. The measure requires a citing jurisdiction to dismiss a citation, without requiring a court appearance by the registered owner, when the owner submits a certificate of innocence indicating the owner was not the driver when the photo documenting the violation was taken. It allows a citation to be reissued by the jurisdiction only once if the registered owner appears to be the driver/violator in the red light or mobile unit photo and prohibits a registered owner from submitting a certificate of innocence if responding to a reissued citation. The measure requires cities to present a biennial report to the legislature on its photo radar program and outcomes.

Effective date: January 1, 2006

Senate Bill 234

Relating to paternity

SB 234 defines “legal father” as a man: 1) who has adopted the child; 2) whose paternity has been established through marriage or a voluntary acknowledgement of paternity; 3) whose paternity has been established in a dependency action; or 4) pursuant to applicable tribal law. The measure modifies provisions relating to putative fathers in adoptions, dependency and other court

matters. The measure clarifies that the putative father must be served with a summons relating to various phases of a dependency matter, such as proceedings to consider establishing permanent guardianship or termination of parental rights. SB 234 permits the court to make a judgment of nonpaternity after appropriate notice to the parties. The measure also requires a court to inform a man claiming to be the father of a child that paternity-establishment services may be available through the child support program.

SB 234 allows a legal parent to petition a court to re-open the issue of paternity if blood tests show a zero percent probability that the legal father is the biological father of the child. The petition may be made within two years after a voluntary acknowledgment or a default judgment, or at any time if paternity is presumed because the child was conceived or born during a marriage. The measure requires the court to disestablish paternity if the tests show the legal parent is not the father, unless there is a showing of undue harm to the child; however this defense can be overcome where the court finds fraud. SB 234 sunsets the disestablishment of paternity provisions on January 2, 2008. This means that after January 2, 2008, the disestablishment of paternity will revert to the law prior to the measure’s effective date of January 1, 2006.

Effective date: January 1, 2006.

Senate Bill 247

Relating to dispute resolution

SB 247 repeals a scheduled January 2, 2006 sunset of the dispute resolution programs of the University of Oregon and Portland State University. These programs were transferred to the Department of Higher Education last session, when the Dispute Resolution Commission was abolished. The University of Oregon now administers Community Programs that provide mediation services and conflict resolution training to private parties. Portland State University now administers the Public Policy Program (Oregon Consensus Program) to mediate disputes involving public bodies. This measure establishes these programs as permanent fixtures in statute, and rededicates existing court filing fee surcharges to the General Fund. Both programs are funded from surcharges on certain court filing fees. The measure redirects revenues from these fees, which are currently deposited into the Dispute Resolution Account, to the General Fund. The measure also transfers the fund balance in the Dispute Resolution Account to the General

Fund on the effective date of the Act.

Effective date: August 29, 2005

Senate Bill 275

Relating to Oregon Uniform Trust Code

SB 275 enacts a version of the Uniform Trust Code (UTC) and incorporates most of the existing Oregon statutes on trusts and trust administration. Currently, there are very few Oregon statutes that relate to trusts. This creates uncertainty which is made worse as trusts become more common and involve assets, beneficiaries, or activities in more than one state. This measure was developed by a workgroup of Oregon legal experts under the direction of the Oregon Law Commission. The measure generally follows the UTC, however it modifies a number of the uniform provisions to conform to existing Oregon law.

The measure adds numerous default provisions to aid in interpretation and administration when a trust does not address a significant issue. Major provisions of the measure address the following trust law topics: governing law; principal place of administration; methods of providing notice; appointment of special representatives; methods of creating trusts; and the creation and administration of charitable trusts, pet trusts, spendthrift trusts, and revocable trusts. The measure defines the powers and duties of trustees as well as the liability of trustees and the civil remedies for breach of trust. The measure will require notification and accounting by the trustee to the beneficiary upon request with some limited exceptions.

Effective date: January 1, 2006

Senate Bill 278

Relating to personal representatives

SB 278 defines who may act as a personal representative of a deceased person for purpose of access to protected health information records. Under current law, only individuals appointed by the court are deemed to be personal representatives of the decedent for purposes of disclosure of health information under HIPAA. This measure creates the following prioritized list of persons to whom disclosure of a decedent's personal health information would be permitted in the absence of an appointed personal representative: 1) a person appointed as guardian or with authority to make medical and health decisions at the time of the decedent's death; 2) the decedent's spouse; 3) an adult designated in writing by the persons on this list, if no listed person objects; 4) a majority of the adult children

of the decedent who can be located; 5) either parent of the decedent or a person acting in loco parentis; 6) a majority of the adult siblings of the decedent who can be located; or 7) any adult relative or friend.

Effective date: June 20, 2005

Senate Bill 324

Relating to confidentiality involving public body

SB 324 prohibits a public body from entering into a settlement or compromise that requires the terms or conditions of the settlement or compromise be confidential unless: 1) federal law requires confidentiality, or 2) a court orders the terms and conditions of a settlement or compromise be confidential after the court finds, in writing, that the specific privacy interests of a person under 18 years of age or a victim of sexual abuse outweighs the public interest in knowing the terms and conditions of the settlement or compromise. SB 324 applies to actions and mediations commenced after the effective date of the measure (January 1, 2006).

Effective date: January 1, 2006

Senate Bill 591

Relating to pedestrians

SB 591 repeals three pedestrian crosswalk statutes and replaces them with one law that addresses when and how long vehicles must stop for pedestrians walking in crosswalks with and without signals before proceeding in the lane of travel or making a turn at an intersection. Under the measure a vehicle must stop for pedestrians in the lane of travel plus the adjacent lane. A bicycle lane or the part of the roadway where a vehicle stops, stands or parks is considered part of the lane of travel. When making a turn at a signalized crosswalk, a vehicle must stop for a pedestrian in the lane into which the vehicle is turning plus six feet.

Effective date: January 1, 2006

Senate Bill 1041

Relating to custodial interference

SB 1041 creates a civil action of custodial interference based on the crime of custodial interference that allows a victim of custodial interference to recover, in a civil suit, special and general damages and reasonable attorney fees. SB 1041 creates an affirmative defense to civil liability for custodial interference for a defendant to the civil action of custodial interference who reasonably and in good faith believes that the alleged custodial interference was necessary to preserve

the physical safety of the defendant, the person who was taken or abducted, or the parent or guardian of the person who was taken. The measure permits a court to order counseling for the person taken or abducted or for parties to a civil action for custodial interference.

Effective date: September 2, 2005

House Bill 2213

Relating to enforcement of spousal support obligations

HB 2213 removes the requirement that the District Attorney (DA) or Division of Child Support (DCS) provide withholding services when the obligee (the spouse receiving support payments) is due only spousal support payments and does not receive public assistance.

The Child Support Program is required by federal law to enforce spousal support obligations when the obligee is owed child support. When the obligee is only owed spousal support, and not child support, federal law neither requires nor funds enforcement. Because ORS 25.381 does not distinguish between child and spousal support, the DA or DCS is required to provide withholding services in cases where only spousal support has been ordered without receiving funding from the federal government. HB 2213 makes enforcement services for spousal support optional when the individual is not on public assistance.

Effective Date: January 1, 2006

House Bill 2230

Relating to restitution

HB 2230 replaces the outdated term and definition for “pecuniary damages” for purposes of criminal restitution, with “economic damages,” as that term is defined in the statute governing tort actions (ORS 31.710). Future impairment of earning capacity is excluded from the definition of economic damages for criminal restitution. The measure also redefines the meaning of “victim” to permit restitution to be paid to the actual victim of a crime, a third party that the court has determined has suffered economic damages as a result of the defendant’s criminal conduct, the Criminal Injuries Compensation Account, and an insurance carrier that has expended moneys on behalf of a crime victim. The measure also establishes a priority of payment of compensatory fines and restitution when there are multiple victims to whom that court has awarded such payments.

Effective date: January 1, 2006

House Bill 2285

Relating to administrative procedure

HB 2285 amends the statutes that govern disciplinary proceedings against certain professional licensees. Under previous statute, if a health professional regulatory board decided to issue a notice of intent to impose a disciplinary sanction, the board was not required to disclose the information that it obtained as part of its investigation, unless the person requesting the information could demonstrate by clear and convincing evidence that the public interest in disclosure outweighed any interest in nondisclosure.

HB 2285 requires health professional licensing boards, upon request by a licensee who has received a notice of intent to impose disciplinary action, to disclose information obtained by the board in its investigation of the complaint that triggered the disciplinary action. The measure exempts from disclosure: 1) information that is privileged or confidential under other laws; 2) information would permit the identification the person(s) who filed complaints with the board; 3) information that would permit the identification of any person who provided information that led to the filing of the notice and who will not be providing testimony at the hearing; and 4) reports of expert witnesses. The measure permits health professional regulatory boards to establish fees reasonably calculated to reimburse the actual cost of disclosing information to licensees or applicants.

Effective date: January 1, 2006

House Bill 2415

Relating to abuse of vulnerable persons

HB 2415 provides protections to elderly individuals from financial and physical abuse by prohibiting an abuser from obtaining property from the abused through intestate succession, by will, by trust, or from a life insurance policy if the abused dies within five years of the abuse. Additionally, the measure prohibits an abuser from obtaining property that is owned jointly with rights of survivorship with the decedent and provides that a decedent’s life estate in property continues in heirs or devisees for a time equal to the normal life expectancy of the decedent where the abuser has some future interest in that property.

Oregon statute provides that a person may not inherit property from a person that he or she has killed. Those statutes also limit a slayer’s right to obtain property from a decedent in the case of joint ownership, under a life insurance policy, by intestate succession, or through a

trust. Generally, these statutes limit a slayer's ability to benefit from killing another person in a way that the slayer otherwise would have benefited if the decedent would have died by other means.

House Bill 2415 categorizes abusers, individuals who feloniously abuse other individuals either physically or financially, with slayers for the purposes of property succession. In other words, abusers are prohibited in all of the same ways that slayers are from benefiting from the death of the decedent if the decedent dies within five years of the abuse.

Effective Date: January 1, 2006

House Bill 2416

Relating to abuse of vulnerable persons

HB 2416 extends a cause of action for physical and financial abuse to financially incapable persons and persons with disabilities. ORS 124.100 provides for a cause of action for financial or physical abuse of elderly or incapacitated persons. Remedies include treble damages for both economic and non-economic losses and recovery of attorney fees. HB 2416 extends the list of individuals who are protected under this statute to include financially incapable persons and persons with disabilities.

Effective Date: January 1, 2006

House Bill 2591

Relating to causes of action related to food

HB 2591 prohibits a person from bringing a cause of action for food-related conditions against those involved with the selling of food. The measure defines a food-related condition as: 1) weight gain; 2) obesity; 3) a health condition associated with weight gain or obesity; or 4) a generally recognized health condition alleged to be caused by, or alleged to likely result from, long-term consumption of food rather than a single instance of consumption of food. Exceptions are provided for actions based on violations of state and federal statutes dealing with adulterated and misbranded food and knowing and willful violations of state and federal laws relating to the manufacturing, marketing, distribution, advertisement, labeling, or sale of food.

One such case is currently pending in the Federal District Court of New York, *Pelaman v. McDonalds*. The original suit, which was brought on behalf of obese minors residing in New York, made several allegations based on New

York statutory consumer protection law and common law negligence. The New York courts have dismissed all claims except one that relies on section 349 of the New York Consumer Protection Act, which makes unlawful deceptive acts or practices in the conduct of any business, trade or commerce. A similar Oregon statute can be found at ORS 646.608 (u). HB 2591 prohibits a cause of action based on that Oregon statute or common law negligence.

Effective Date: January 1, 2006

House Bill 2662

Relating to unemployment benefits for victims of certain offenses

HB 2662 prohibits the Employment Department from disqualifying individuals who are victims, or parents and guardians of minor children who are victims, of domestic violence, sexual assault, or stalking, from receiving unemployment benefits if those individuals leave work or avoid other available work in order to protect themselves or their minor children from further domestic violence, sexual assault, or stalking.

Individuals are automatically disqualified from receiving unemployment benefits if, among other things, they voluntarily leave work without good cause, fail without good cause to apply for available suitable work when referred by the employment office or director, or fail without good cause to accept suitable work when offered. The law provides exceptions to those disqualification rules if the individual is a victim of domestic violence, in danger at his or her current or available workplace, and has pursued all reasonable alternatives to leaving work. HB 2662 expands this exception to include victims of sexual assault and stalking and the parents or guardians of minor children who are victims of domestic violence, sexual assault, or stalking.

HB 2662 further modifies the current standard in two additional ways. First, it provides that an individual may still receive benefits if they reasonably believe themselves to be in danger at the workplace or elsewhere; previously, statute requires that the individual be in danger at his or her workplace. Second, the measure provides that the individual must pursue reasonable alternatives, whereas the law previously required pursuit of all alternatives.

Effective Date: June 20, 2005

House Bill 2730

Relating to Amber Plan

HB 2730 provides civil immunity for radio or television broadcasters who participate in the Amber Plan. It also provides that civil immunity does not apply for intentional misconduct or gross negligence.

The Amber Plan is a method police use to notify the public that a child is missing or has been kidnapped. As part of this process, local media and broadcasters voluntarily disseminate information received from police regarding the missing children and the suspected abductor. Examples of the types of lawsuits that individuals might raise against companies issuing Amber alerts are defamation and negligence. Currently, no such lawsuits have been brought either in Oregon or nationally. Eleven other states have preemptively implemented similar laws.

Effective Date: January 1, 2006

Major Legislation Not Enacted

Senate Bill 208

Relating to telephone solicitations

SB 208 would have permitted the Attorney General to enforce the federal “do not call” registry in state court. The measure would have incorporated the federal do not call registry rules and exemptions into Oregon law and would have authorized the Attorney General to resolve matters by an Assurance of Voluntary Compliance pursuant to the provisions of the Oregon Unlawful Trade Practices Act. If a matter proceeding to court and the state prevailed, the measure would have provided that the Attorney General could have obtained damages, restitution, reasonable attorney’s fees and investigative costs. Current Oregon law provides for a state “do not call” list, but that scheme was preempted by the federal “do not call” registry in 2003, which unlike Oregon’s is available to consumers free of charge.

Senate Bill 304

Relating to asbestos

SB 304 would have revived product liability civil actions

for damages resulting from asbestos-related disease claims, while limiting the scope of the revival to those claims based on exposure from 1940 to 1987. ORS 30.907 already provides for a specific cause of action based on asbestos-related damages that are within two years of discovery, but the statute applies prospectively only to exposures after 1987.

Senate Bill 333

Relating to attorney fees for tort claims of specified amount

The majority report for SB 333 would have amended ORS 20.080 which provides that in a tort action where the amount of damages pled is \$5,500 or less, to require that court must award reasonable attorneys fees for the prosecution of the action under certain circumstances. The statute would have applied if the court found that demand were made on the defendant to pay the claimed amount in advance of the commencement of the action unless the defendant tendered payment of an amount greater than the actual damages awarded to plaintiff. SB 333 would have increased the maximum damages in such cases to \$7,500. The measure also would have required a potential plaintiff to serve the defendant or, if known, the defendant’s liability insurer with documentation of the injury or damages not less than 10 days before filing a formal complaint.

The SB 333 minority report would have increased the maximum amount of damages from \$5,500 to \$10,000 and would have required the court to award reasonable attorney fees to a prevailing party, whether the party is the plaintiff or the defendant, in such cases. The minority report would have prevented plaintiff recovery of attorney fees if the court found that the defendant offered to settle the claim for an amount greater than the damages awarded to plaintiff.

Senate Bill 1000

Relating to human rights

SB 1000 would have established a system of civil unions to ensure eligible same sex couples substantially equivalent legal protections and responsibilities conferred under state law to spouses in a marriage. The measure would have provided that children of partners in a civil union be afforded the same legal benefits, protections, and responsibilities under state law as are granted to or imposed upon children of spouses in a marriage. SB 1000 would have also prohibited discrimination on the basis

of sexual orientation in public accommodations, housing, and employment.

Current law already prohibits discrimination in housing and real estate transactions, public accommodations, and employment on such bases as race, color, sex, marital status, religion, or national origin. Employment discrimination statutes also prohibit discrimination on the basis of an individual's age or expunged juvenile record, and housing laws also prohibit discrimination on the basis of income and familial status. SB 1000 would have expanded the scope of these existing provisions to include a prohibition against sexual orientation discrimination. The measure would have exempted certain bona fide religious organizations from the nondiscrimination provisions of the measure.

After passing the Senate, SB 1000 was substantially amended by a House committee. The text of the original measure was replaced with language that would have created a system allowing two eligible individuals who are prohibited from marrying each other under current law to enter into a reciprocal benefits agreement that would have provided each individual with a group of specifically enumerated rights with respect to the other individual, such as the right of survivorship in joint property, the right to make funeral arrangements for the other party, the right to be an heir for purposes of inheritance and intestacy and the right to the same hospital visitations as a spouse. The amended version of the measure stated that reciprocal beneficiaries would not have the same rights and obligations as married couples, except for those enumerated by the measure.

Both versions of SB 1000 came following the November 2004 approval of Ballot Measure 36, which amended the Oregon Constitution to state: "It is the policy of Oregon, and its political subdivisions, that only a marriage between one man and one woman shall be valid or legally recognized as a marriage."

Senate Bill 1011

Relating to medications that are intended to inhibit the enzyme known as cyclooxygenase-2

SB 1011 would have permitted the filing of a civil action resulting from the use of a COX-2 inhibitor to be permitted to commence within two years after the plaintiff first discovered, or should have discovered, the injury and the relationship between the injury and the product; or, in the case of an action for death from the use of COX-2 inhibitor, no later than three years from the date that the

causal relationship between the death and the product was discovered.

Oregon's current tort laws provide that a civil suit may be brought no later than two years after the date on which the plaintiff discovers, or reasonably should have discovered, the injury or from the discovery of the causal connection between the injury and the product. This provision, however, is limited to apply to an injury that occurred on or after January 1, 2004. Under *Gladhart v. Oregon Vineyard Supply Co.*, 332 Or 226 (2001) any suit arising from a pre-2004 injury must have been brought within two years of the injury or the claim is barred. This measure would have created an exception to the forward-looking scope of ORS 30.905 for actions relating to injuries caused by medications known as "COX-2 inhibitors" such as Vioxx. These drugs were withdrawn by manufacturers in September 2004 after the FDA approved a label change for the product following disclosure of data about the increased risk of cardiovascular problems associated with the substance.

House Bill 2373

Relating to civil liability for the unlawful use of firearms

HB 2373 would have prohibited civil actions against manufacturers, distributors, or dealers of firearms and ammunition. The measure provided several exceptions, including situations when the seller knew or should have known the purchaser was likely to use the firearm to cause physical injury, product liability (defective products), breach of contract and warranty, and violation of statutes governing the sale and marketing of firearms and the licensing of manufacturers.

House Bill 2605

Relating to notification to a parent prior to performing an abortion on a minor

Oregon law does not require a parent or guardian to receive notice that his or her underage daughter or ward is seeking an abortion.

HB 2605 would have required a person to notify the parents of an unemancipated minor or ward seeking an abortion 48 hours prior to the performance of the abortion that the minor was seeking an abortion. The measure would have allowed a person to perform an abortion without giving notice if: 1) there was a medical emergency and notification was not possible; 2) the Department of Human Services (DHS) or a court authorized the abor-

tion, or 3) the person who was to perform the abortion provided notice to the parent in person. HB 2605 would have required DHS to request, within 3 days of receiving notice, the assignment of an administrative law judge from the Office of Administrative Hearings if a minor has requested an abortion. The measure would have allowed the administrative law judge to authorize the abortion if the administrative law judge found that: 1) the applicant was mature and capable of giving informed consent or 2) obtaining an abortion without parental notification was in the best interest of the applicant.

If enacted, the HB 2605 minority report would have prohibited a health care provider from intentionally terminating the pregnancy of a minor without having first notified a parent of the minor unless, in the professional judgment of the health care provider: 1) terminating the pregnancy before notice would have been necessary to protect the life or health of the minor; 2) providing notice to the parent would likely result in abuse of the minor or would otherwise not be in the best interest of the minor; 3) the minor is mature and capable of providing informed consent to the termination without providing notice to the parent; or 4) terminating the pregnancy without providing notice to a parent would otherwise be in the best interest of the minor.

House Bill 2743

Relating to liability

HB 2743 would have provided immunity from civil liability to different classes of individuals and companies relating to the selling and use of drugs and medical devices approved by the federal Food and Drug Administration (FDA). The measure stipulated that a civil action may not be brought against any individual or company by reason of the sale or prescription of a drug or medical device that was approved by the FDA and is in compliance with manufacturing and labeling regulations. The measure allowed for an exception to this type of civil immunity by allowing a civil action against health practitioners if the plaintiff could show that no reasonable health practitioner would sell the drug or medical device, or prescribe the drug or medical device, to any class of patients. HB 2743 would also have provided immunity from civil liability to any individual or company by reason of use if the individual bringing the claim is suffering from a known and disclosed side effect of the drug, and to pharmacists by reason of preparing or selling a drug or medical device if the preparation or sale is done pursuant to a prescription issued by a physician or health care provider. The measure did not provide immunity from civil liability to pharmacists for negligence in the preparation of the prescription.

House Bill 2745

Relating to civil actions against licensed professionals

HB 2745 would have imposed pleading requirements for professional liability claims by requiring that a claim include certification by the claimant's attorney stating that the attorney has consulted with a person who holds the same license, registration, or certificate as the defendant and who is qualified, available, and willing to testify to admissible facts and opinions sufficient to create a question or fact as to the professional liability. Generally, plaintiffs are required to hire experts when bringing professional liability claims in order to show that the defendant breached his or her duty of care. The measure would have required plaintiffs to hire and pay for an expert prior to filing a lawsuit, rather than hiring one later in the litigation process.

House Bill 2839

Relating to employees of the Department of Human Services

HB 2839 would have imposed personal liability on employees of the Department of Human Services (DHS) who intentionally falsified reports, willfully misrepresented truth, or intentionally misused their position of trust or power of employment.

The Oregon Tort Claims Act (OTCA) protects officers, employees, or agents of public bodies from personal liability for any tort committed by those individuals while acting within the scope or their employment or duties. Under the OTCA, an individual must bring a claim against the public body. Such claims are subject to procedural requirements and the amount of damages that a claimant may recover are limited. HB 2839 would have allowed individuals to bring direct actions against DHS employees who are directly responsible for the care or placement of children or wards and who intentionally falsified reports, willfully misrepresented truth, or intentionally misused their position of trust or power. These actions would not be subject to the procedural requirements and damage recovery limitations set out in the OTCA.

House Bill 2893

Relating to comparative fault in civil actions

HB 2893 would have allowed consideration by the court of the fault of persons who are not subject to the jurisdiction of the court, and of persons who are not subject to an action because the claim is barred by a statute of limitation or a statute of ultimate repose, for the purpose of determining the percentage of fault for each defendant.

The measure would have allowed defendants to elect to withdraw consideration of fault of a person who settled with the plaintiff and provided that if the fault of a person was withdrawn from consideration, the defendant need not establish the fault of that person and the court must reduce the total amount of damages awarded in the action by the amounts paid to the plaintiff in settlement.

Under current Oregon law, juries are required to compare the fault of the plaintiff with the fault of all parties against whom recovery is sought, third party defendants, and any persons with whom the plaintiff has settled. Juries are not allowed to factor in the fault of a person who is immune from liability to the claimant, is not subject to the jurisdiction of the court, or is not subject to action because the claim is barred by a statute of limitation or statute of ultimate repose. HB 2893 would have changed these rules and allowed juries to attribute fault to parties who are not subject to the jurisdiction of the court and parties who are not subject to action because the claim is barred by a statute of limitation or statute of ultimate repose.

House Bill 2896

Relating to medical liability actions

HB 2896 would have required submission of a medical liability claim against a physician, nurse, or health care facility to a prelitigation hearing panel and directed the Board of Medical Examiners to appoint a hearing panel for such claims. The measure also specified procedures applicable to these proceedings. The measure also required plaintiffs with medical liability claims against physicians, nurses, and health care facilities (medical malpractice claims) to submit those claims to a hearing panel that is administered by the Board of Medical Examiners, consisting of three persons: 1) a physician; 2) a lawyer; and 3) a person who is not a lawyer, physician, or nurse. The parties were required to present their case, in an informal matter, before the hearing panel, which would then have issued a report stating whether the claim has merit. The measure stipulated that rules of evidence would not apply, that there would be no cross examination of the witnesses, that the parties could only be present for the purpose of presenting their argument, that all communication between the parties and the panel must be fully disclosed, and that all of the proceedings were to be confidential and could not be used in subsequent proceedings.

House Bill 3085

Relating to legal expenses awarded against state agencies

HB 3085 would have changed the standard that requires

state agencies to pay the attorney fees, costs, and disbursements in civil cases where the judgment went against the agency, as well as several other changes to the applicable attorney fee statutes, including: 1) providing procedural requirements necessary to obtain attorney fees; 2) requiring the court, at the request of either party, to make special findings of fact and state its conclusions of law on the record regarding the issues material to the award or denial of attorney fees; 3) providing that the court may not rely on factors specified in ORS 20.075 (1) or Oregon Rules of Civil Procedure 68 in determining whether to award attorney fees; 4) providing that an agency must pay petitioners' attorney fees and costs, including expert witness fees when the agency withdraws an order for purposes of reconsideration and modifies or reverses the order in favor of petitioner; and 5) placing the burden on the agency to show that its actions were substantially justified.

House Bill 3208

Relating to civil actions against licensed professionals

HB 3208 would have imposed pleading requirements for professional liability claims, mandated a settlement conference for an action in which a professional liability claim is made, and allowed for a defendant in a professional liability claim to request the impaneling of a common sense jury if a claim is for more than \$50,000.

A settlement conference is a form of mediation where a judge, other than the judge assigned to the case, acts as a mediator in an attempt to achieve settlement. HB 3208 would have required the judge to decide what information the parties may submit and impose sanctions against persons who fail to appear or participate in good faith.

House Bill 3476

Relating to rights of reciprocal beneficiaries

HB 3476 would have allowed two individuals to enter into a valid reciprocal beneficiary relationship if: 1) each party was at least 18 years of age; 2) each party was not married or a party to another reciprocal beneficiary relationship; 3) the parties were prohibited from marrying each other under ORS 106; 4) each party consented to the relationship and consent was not obtained by force, duress, or fraud; and 5) each party signed a declaration of reciprocal benefits.

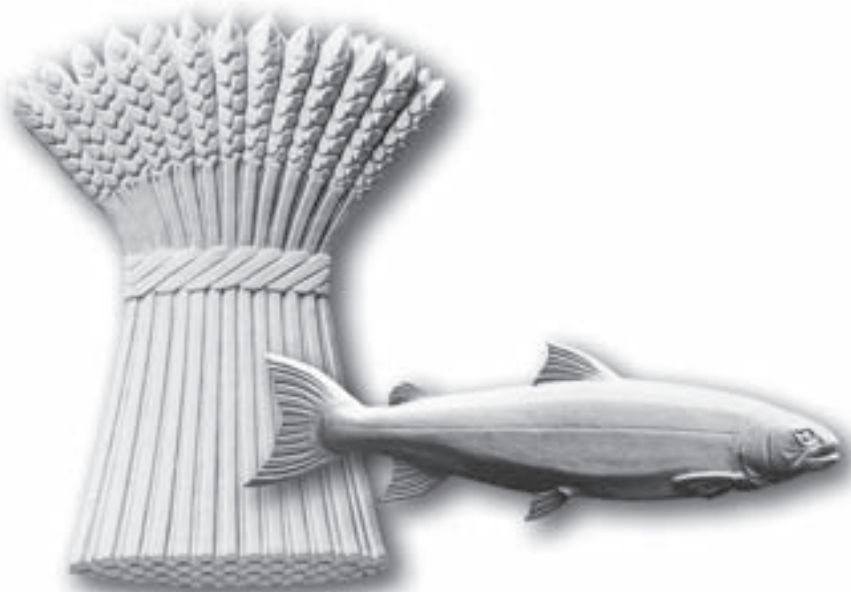
HB 3476 would have allowed parties to a reciprocal benefits agreement to register the agreement with the Director of Human Services. The Director would be required to

provide a certificate of reciprocal beneficiary relationship to each party and maintain a record of each declaration. The measure would have allowed a party to a reciprocal benefits agreement to terminate the agreement upon the issuance of a marriage license or the legal marriage of either party.

HB 3476 would have stated that reciprocal beneficiaries would not have the same rights and obligations as married couples. However, HB 3476 would have granted reciprocal beneficiaries the right: 1) of survivorship in property that both people own; 2) to grant the other party the right to make funeral arrangements for the other party; 3) to be an heir by including the reciprocal beneficiary within the definition of “heir” and “interested party” for the purposes of probate law (inheritance); 4) to an intestate share of the other reciprocal beneficiary’s estate and the right to be the personal representative for the estate; 5) to occupy the principal place of residence until one year after the death of the decedent; 6) to hospital visitation rights to the same extent as that of a married spouse; 7) to examine and obtain copies of autopsy reports and laboratory tests from the State Medical Examiner; 8) to apply for a retroactive homestead exemption or continue an exemption; 9) to inspect records of the State Registrar of the Center for Health Statistics to the same extent of a married spouse; 10) to obtain from a financial institution a deposit of \$25,000 or less upon the death of the other reciprocal beneficiary by presentation of an affidavit to the institution; and 11) of reciprocal beneficiary within the definition of “interested party” for the purposes of obtaining access to the safety deposit box of the deceased reciprocal beneficiary for the purposes of obtaining a will or other legal documents.

Judiciary Issues

Criminal Law



2005 Summary of Legislation

Senate Bill 36

Relating to criminal procedure

SB 36 amends the statute regarding the service of subpoenas for witnesses in criminal cases to allow for a validly served subpoena to be carried over when a case has been reset. Under the measure, a new subpoena is not required if the witness is notified of the change by certified mail, registered mail with a return receipt requested, or express mail. It is the duty of the proponent of the subpoena to provide the required notice to the witness by one of these means. The subpoena may also be validly continued under the measure if so ordered in open court in the presence of the witness.

Effective date: January 1, 2006

Senate Bill 39

Relating to verdict of guilty except for insanity

SB 39 requires the trial court to state on the record the mental disease or defect established as a basis for a guilty except for insanity (GEI) verdict. The measure also requires the court, after the entry of a GEI verdict and if committing the defendant to the jurisdiction of the Psychiatric Security Review Board, to order a psychological or psychiatric evaluation be provided to the court if no such evaluation was provided to the court prior to trial.

Effective date: January 1, 2006

Senate Bill 89

Relating to custodial sexual misconduct

SB 89 makes it a Class C felony for a person employed by a police agency, correctional institution or probation/post prison supervision office to have sexual intercourse with a person who is arrested, confined to a facility, or on supervision to the program, institution, or police agency for which the person is employed. The measure also makes it a Class A misdemeanor for any such person to have a lesser degree of sexual contact with the inmate, supervisee or arrestee. Consent is not a defense to prosecution, however in cases where the complainant is on probation, parole, post prison supervision or another form of conditional or supervised release, it is an affirmative defense that the defendant lacked supervisory authority over the complainant. The affirmative defense is not available in a case arising from an actual custody setting.

Effective date: July 13, 2005

Senate Bill 128

Relating to grand jury proceedings

SB 128 amends the statute that outlines the type of evidence that is admissible in a grand jury proceeding. Under the measure, if a grand jury is investigating a charge of failure to report as a sex offender, it may receive in evidence a certified copy of the defendant's sex offender registration forms if accompanied by an affidavit of record keeper of the State Police's sex offender records.

Effective date: January 1, 2006

Senate Bill 203

Relating to statute of limitations

SB 203 specifies that the six-year statute of limitations for enumerated felony offenses, and the four-year statute of limitations for enumerated misdemeanor offenses when the victim was under 18 at the time of the offense, are triggered following a report to a law enforcement agency or to the Department of Human Services, and not by a report to "other governmental agencies" or actors as required by current law. The measure is in response to a case in which the Oregon Court of Appeals held that the "other governmental agency" language meant a government agency that has a child abuse reporting obligation under ORS 419B.010. *State v. Walker*, 192 Or App 535 (2004).

Effective date: January 1, 2006

Senate Bill 232

Relating to juveniles

SB 232 establishes "Responsible Except for Insanity" (REI) as an affirmative defense in juvenile delinquency matters and codifies disposition of youths found REI. Currently, the juvenile code is silent as to the disposition of youths who successfully assert the defense. This measure establishes the procedure and standards for the defense and a dispositional system for those who are found REI. The measure also creates a juvenile panel of the Psychiatric Security Review Board (PSRB) for disposition of youths with serious mental conditions, appropriates \$15,000 to the PSRB, and expands its membership. The measure requires the Department of Human Services to study how to allow a child with developmental disabilities to assert a mental health defense and to report its findings to the Legislature by January 2007.

Effective date: January 1, 2007

Senate Bill 240

Relating to Criminal Justice Research and Policy Institute

SB 240 creates the Criminal Justice Research and Policy Institute within the Mark O. Hatfield School of Government at Portland State University. The purpose of the institute is to: 1) assist state and local governments in developing policies to reduce crime and delinquency through research and analysis; 2) promote professionalism in public safety careers; and 3) strengthen the ties among the Legislative Assembly, state and local government, the Oregon Criminal Justice Commission, the academic community and the Department of Public Safety Standards and Training.

Effective date: July 7, 2005

Senate Bill 243

Relating to conditions of release

SB 243 amends the statutes that set out conditions of post prison supervision and parole for individuals convicted of sex crimes. The measure imposes a wholesale prohibition on persons convicted of sex crimes from being present at or on property adjacent to the grounds of a school, child care center, playground or other places intended for use primarily by children, such as the children's room of a library, without prior written approval. The measure creates a further condition of supervision prohibiting such persons from being present more than one time at a place where persons under 18 regularly congregate without prior written approval. Such places may include malls, movie theaters, beaches, and other places that children congregate in certain contexts. The measure is in response to the Oregon Court of Appeals ruling in *Brundridge v. Board of Parole*, 192 Or App 648 (2004).

Effective date: January 1, 2006

Senate Bill 287

Relating to hearsay

In March of 2004, the United States Supreme Court struck down the conviction of a Washington state man for assault [*Crawford v. Washington* 124 S. Ct. 1354 (2004)]. It did so because the out-of-court statement of the defendant's wife made to police was admitted into evidence during the trial. The United States Supreme Court held that testimonial statements of absent witnesses can only be admitted if the defendant had a prior opportunity to cross examine the witness or if the defendant prevented the witness from

testifying. Since neither could be shown in the case, Mr. Crawford's conviction was overturned.

Unlike the federal evidentiary code, and the evidentiary code of most states, Oregon's evidentiary code (ORS 40) does not allow the introduction of evidence of a victim's out-of-court statement when the defendant prevents the victim from testifying.

SB 287 permits a victim's statement made out-of-court to be used in court if a party to the court proceedings, usually a defendant in a criminal trial, engaged in wrongdoing that caused the person making the statement to be unavailable. For example, this measure would permit a court to hear an out-of-court statement that a victim gave to a police officer if the victim made a statement to a police officer and if the abusing person prevented the victim from testifying by threatening to harm the victim if the victim were to testify. The measure applies to statements made before or after the effective date when a statement is introduced into evidence in a court after January 1, 2006.

Effective Date: January 1, 2006

Senate Bill 368

Relating to audiovisual recordings

SB 368 creates the crime of unlawful operation of an audiovisual device in a movie theater. The measure allows an owner of a theater or the owner's employee to detain, if there is probable cause, a person using a recording device. SB 368 allows law enforcement to operate an audiovisual device in a movie theater for law enforcement purposes.

The movie industry reports major losses due to piracy of movies that end up sold on the black market or distributed for free on the Internet.

Effective date: January 1, 2006

Senate Bill 528

Relating to crime

SB 528 is the legislative response to *Blakely v. Washington*, 124 S. Ct. 2531 (2004). The measure codifies the criminal court procedure for pleading and proving enhancement facts that could be used to impose a term of imprisonment beyond the presumptive guidelines sentence. The measure creates a bifurcated procedure whereby offense-related enhancement facts and defendant-related enhancement facts may be tried to the jury. Offense-related enhancement facts would be tried to the jury along with the elements of the crime, unless found by the trial court to

be unfairly prejudicial. Defendant-related enhancement facts would be tried to the jury in a sentencing phase if the defendant is convicted of the crime. The measure also applies this bifurcated process to the statutes providing for the possibility of enhanced sentences for “dangerous offenders” and “sexually violent dangerous offenders.” It also makes the process applicable to cases remanded to the trial court that will result in resentencing. The measure sunsets on January 2, 2008.

Effective date: July 7, 2005

Senate Bill 547

Relating to criminal impersonation

SB 547 expands the crime of criminal impersonation of a peace officer to prohibit a wearing law enforcement uniform with the intent to obtain a benefit, or to injure or defraud another. Currently, ORS 162.367 makes impersonating a peace officer a Class C felony, but the statute is limited to circumstances where a person uses false law enforcement identification in the commission of an offense.

Effective date: January 1, 2006

Senate Bill 568

Relating to speeding violations

SB 568 allows a court to suspend a person’s driving privileges for up to 30 days if a person exceeds a speed limit by more than 30 miles an hour and has had one or more speeding violations within 12 months of the current offense. If a person drives 100 miles per hour or greater, the measure requires the court to impose a fine of \$1,000 and suspend the person’s license for not less than 30 days or more than 90 days. SB 568 applies to offenses committed after the effective date of the Act.

SB 568 was passed in response to Oregon law enforcement reports that more drivers are exceeding the speed limit and by greater amounts of speed. It is not uncommon to have motorists drive at speeds in excess of 100 miles per hour, which presents a serious risk to the motoring public.

Effective date: January 1, 2006

Senate Bill 641

Relating to dogfighting paraphernalia

SB 641 creates a new crime of possessing or owning dogfighting paraphernalia if the person owns or possesses such items with the intent that it be used to train a dog as

a fighting dog or be used in furtherance of a dogfight. The crime would be a Class A misdemeanor. The measure defines “dogfighting paraphernalia” to include specific items used in dogfighting.

Effective date: January 1, 2006

Senate Bill 844

Relating to dogs

SB 844 creates new classifications for dangerous and potentially dangerous dogs, and sets penalties for maintaining dogs classified as dangerous or potentially dangerous. The measure also modifies existing penalties for maintaining a dog deemed to be a public nuisance. Under the measure, a dog can be classified as potentially dangerous if it engages in behavior requiring a person to take defensive measures to avoid injury, inflicts a nonserious injury on a person without provocation, or injures or kills another animal without provocation; all apply only if they occur off the private property of the dog’s keeper. A dog may be classified as dangerous if it inflicts serious bodily injury or kills a person, if it is used as a weapon in the commission of a crime, or if it commits an action commensurate with being classified as a potentially dangerous dog after having been given such designation in the past.

SB 844 specifies that dogs deemed to be potentially dangerous may be released by authorities only under certain circumstances, and may be euthanized at the discretion of a dog control board, county governing body, or court. Dogs deemed to be dangerous are required to be euthanized. The owner of a dog who, through negligence, fails to prevent the animal from engaging in actions consistent with the definition of a dangerous dog can be convicted under the measure of a Class A misdemeanor or of a Class C felony, if the dog kills a person. The measure also provides for strict civil liability in certain circumstances.

Effective date: January 1, 2006

Senate Bill 907

Relating to controlled substances

SB 907 modifies the crimes of Criminal Mistreatment in the First Degree and Child Neglect in the First Degree to include leaving the victim in a place where methamphetamine is manufactured. The measure requires mandatory child abuse reporters to report a child exposed to controlled substances. The measure also clarifies the court’s ability to suspend child visitation if the parent’s controlled substance abuse is deemed not to be in best interests of child. The

Criminal Justice Commission is directed to elevate Manufacture of Methamphetamine to a level eight offense on the sentencing guidelines grid, up from a level four. The measure also creates a new sentencing scheme for certain repeat methamphetamine offenders, modeled after the Repeat Property Offender statute. The Department of Corrections is authorized to modify programs based on the need for drug treatment. Finally, SB 907 separates the existing criminal drug statute (ORS 475.992) into multiple statutes for statistical purposes and makes conforming changes throughout the criminal code.

Effective date: August 16, 2005

Senate Bill 914

Relating to presentence reports

SB 914 requires all presentence reports to provide an analysis of what disposition is most likely to reduce the offender's criminal conduct, to explain why that disposition would have that effect and to provide an assessment of the availability to the offender of any relevant programs either in or out of custody. The measure is intended to represent a step toward actually applying principals of crime reduction in sentencing decisions.

Effective date: January 1, 2006

Senate Bill 919

Relating to Oregon Criminal Justice Commission

SB 919 requires the Oregon Criminal Justice Commission (OCJC) to conduct a study to determine whether it is possible to incorporate consideration of reducing criminal conduct and the crime rate into the sentencing guidelines, and if so, to determine the means of doing it. The OCJC is required to report to the interim Judiciary Committee on its progress and to submit the study's findings and recommendations to the next Legislative Assembly by January 15, 2007. The measure is intended as a step toward revising the sentencing guidelines to encourage sentences that are determined to best reduce crime.

Effective date: January 1, 2006

Senate Bill 978

Relating to disclosure of information

SB 978 expands a district attorney's authority to limit disclosure of "personal identifier information." The measure defines "personal identifiers" as a person's address, telephone number, Social Security number, date of birth,

a person's depository account at a financial institution or a credit card number. The measure prohibits a defense attorney from supplying his or her client with "personal identifiers" absent a court order. Currently, the limitation applies only to the alleged victim's or witness's address and telephone number.

If a defendant is not represented by counsel, the district attorney is required to give the defendant information that the defendant's attorney would be entitled to if the defendant were represented by one. This include identifier information. Some defendants have obtained personal identifier information, such as Social Security numbers, from these records and then used this information to commit identify theft.

Effective date: January 1, 2006

Senate Bill 1067

Relating to telephonic harassment

SB 1067 expands crime of telephonic harassment to include sending to or leaving a text message, voicemail, or any other message, knowing that the caller has been forbidden from so doing by a person exercising lawful authority over the receiving telephone. The measure creates an affirmative defense if the defendant is a debt collector, unless the defendant makes threats of violence. The offense is a Class B misdemeanor.

Effective date: January 1, 2006

Senate Bill 1068

Relating to consequences of violating conditions of release agreement

SB 1068 requires a peace officer to arrest a person without a warrant if the officer has probable cause to believe that the person has been charged with an offense, is presently released as to that charge pursuant to a release agreement, and the person has failed to comply with a no contact condition of the release agreement. This is an expansion of current law, which only requires arrest under these circumstances where the pending charges are certain domestic violence allegations.

Effective date: January 1, 2006

House Bill 2050

Relating to conditions of release

HB 2050 requires, as a condition of probation, parole, or

post-prison supervision, that a person convicted of certain assault and sex crimes not be allowed to reside within three miles of the victim who was under 18 years old at the time of the offense. The measure creates several exceptions: if the offender is living in a halfway house; if the offender is living in a county with a population less than 130,000; if the offender demonstrates to the court that imposition of the condition will deprive the person of a residence that would be materially significant in aiding in the rehabilitation of the person or in their success on supervision; or in circumstances where the victim is the one that moves to a location within three miles of the offender.

Effective date: January 1, 2006

House Bill 2141

Relating to corrections

HB 2141 gives specific authority to the Department of Corrections and the Oregon Youth Authority to temporarily transfer inmates or youthful offenders to a hospital if they are severely mentally ill. The measure stipulates that inmates who are youthful offenders and those with severe mental illnesses will receive the level of care appropriate for their needs and consistent with best practices standards in a more therapeutic milieu, as opposed to correctional facilities designed primarily for public safety. The measure requires a hearing similar to a civil commitment if the transfer is for more than 30 days, and requires a new hearing every 180 days to ensure that the inmate is still in need of the mental health care.

Effective date: July 1, 2005.

House Bill 2142

Relating to use of physical force

HB 2142 specifies the circumstances under which an employee of the Department of Corrections may or may not use deadly physical force. Deadly physical force is authorized only for medium or higher security institutions, or in cases where it is directed at an inmate associated with such institutions. The measure specifically lists situations where deadly physical force cannot be used, specifically in instances where an inmate is attempting to escape from minimum security custody, a work crew, or during transport or other supervised activity if the inmate is classified as minimum custody.

Effective date: July 1, 2005

House Bill 2157

Relating to criminal records checks

HB 2157 provides certain state agencies and the Oregon State Bar with specific authority to request nationwide fingerprint-based background checks from the Federal Bureau of Investigation (FBI) for persons placed in positions of public trust who deal with vulnerable populations or sensitive information and materials, such as computer specialists, persons handling hazardous waste, and individuals in similar jobs. The measure allows some state licensing boards to request nationwide background checks from the FBI for those applying for a license or certificate and streamlines the process for background checks performed by the Oregon State Police (OSP). HB 2157 requires all agencies to adopt administrative rules that clarify circumstances when a nationwide background check will be required. It provides agencies with the means to collect fees to cover the expense of conducting background checks and directs the FBI and OSP to destroy fingerprint cards and facsimiles once background checks are completed.

Effective date: August 17, 2005

House Bill 2299

Relating to sex offender reporting

HB 2299 requires a sex offender who is relieved of their reporting requirements by the court to send a copy of the court order to the Department of State Police. It also requires sex offenders who work at, carry on a vocation at, or attend an institution of higher education to register their status with the Department of State Police.

Effective date: January 1, 2006

House Bill 2312

Relating to DNA testing

HB 2312 extends for two years provisions allowing persons to file an Affidavit of Innocence and request DNA testing in their criminal case. The statute has been expanded to include all convictions, whether by trial or plea. If a person has pled in a case, the filing of an Affidavit of Innocence could result in some or all charges being refiled by the state. Persons eligible for filing an Affidavit of Innocence are those individuals in Department of Corrections custody on a person felony, or persons out of custody convicted of murder or a sex offense.

Effective date: January 1, 2006

House Bill 2316

Relating to sex offenders

HB 2316 extends the statute of limitations for certain sex crimes against children. Currently, Oregon law provides that when a victim of certain felonies (listed below) is under 18 years of age, the statute of limitations runs out either at the victim's twenty-fourth birthday or after six years of being reported to a law enforcement agency, whichever occurs earlier. The measure changes the law to provide that prosecution can be commenced by the victim's 30th birthday or within 12 years of being reported to a law enforcement agency. The felonies included in the scope of this measure are: Criminal Mistreatment I; Rape I, II, and III; Sodomy I, II, and III; Unlawful Sexual Penetration I and II; Sexual Abuse I and II; Using a Child in Display of Sexual Conduct; Encouraging Child Sexual Abuse; Incest; Promoting Prostitution; Compelling Prostitution.

Effective date: January 1, 2006

House Bill 2322

Relating to assault

HB 2322 expands the crime of Assault in the First Degree to include intentionally or knowingly causing serious physical injury to a child five years of age or younger. Prior to passage of the measure, the charge of First Degree Assault required serious physical injury inflicted by means of a deadly or dangerous weapon. The change in the law is prompted by cases of "shaken baby syndrome." The mandatory minimum sentence for First Degree Assault is 90 months in prison, and involves a longer period of post-prison supervision.

Effective date: January 1, 2006

House Bill 2361

Relating to revocation of driving privileges

HB 2361 clarifies law surrounding revocation of driving privileges after a certain number of convictions for driving under the influence of intoxicants (DUII). Prior to the measure's passage, the law required that a person was subject to revocation if they were convicted of misdemeanor DUII "under ORS 813.010 for a third time." That phrase has been narrowly interpreted, leading to persons who had a fourth or greater conviction, or persons whose convictions were from out of state, not having their privileges revoked. The measure revises the language to

require revocation on the third or subsequent conviction, and includes out-of-state convictions.

Effective date: January 1, 2006

House Bill 2485

Relating to controlled substances

HB 2485 makes a number of statutory changes related to methamphetamine manufacture and use. It modifies existing public nuisance and abatement laws to clarify that the law applies to homes in which methamphetamine was once manufactured. It expands the crimes of Arson in the First and Second Degrees to include starting a fire or causing an explosion while engaging in the manufacture of methamphetamine. It creates two new crimes related to methamphetamine labs: first, the crime of Possessing or Disposing of methamphetamine manufacturing waste (Class C felony; maximum 5 years imprisonment, \$125,000 fine, or both); and second, the crime of Distribution of Equipment, Solvent, Reagent or Precursor Substance with intent to facilitate manufacture of methamphetamine (Class B felony; maximum 10 years imprisonment, \$250,000 fine, or both). Immunity for reporters of precursor substance transactions is granted so long as the individual was not involved in the transaction. It adds additional precursor substances for the purpose of precursor crimes, but primarily modifies several crimes, including Theft in the First Degree, to include theft of a precursor substance, and modifies precursor substance reporting requirements. The measure directs the State Board of Pharmacy to classify products containing pseudoephedrine a Schedule III controlled substance, but provides an affirmative defense if the pseudoephedrine was purchased lawfully, the person has less than six grams, and the possession is consistent with household or medicinal use.

HB 2485 also directs the Department of Agriculture to establish a task force that will certify brands of nontoxic dye or other additive that distributors may add to anhydrous ammonia, which is used in some methods of methamphetamine production. The Department of Human Services is authorized, under certain conditions and upon the recommendation of a probation, parole or post-prison supervision agency, to suspend food stamp benefits of person who has been convicted of manufacture or delivery of a controlled substance. Finally, the measure sets up a grant funding mechanism for drug courts through the Oregon Criminal Justice Commission. The companion budget measure appropriate \$2.5 million for drug court programs across the state.

Effective date: August 16, 2005

House Bill 2969

Relating to enhanced penalties for use of firearm during commission of felony

HB 2969 clarifies that a person who is being prosecuted for a second offense of using or threatening to use a firearm during the commission of a felony is subject to the second-time offender portion of the statute regardless of whether they received a 60-month presumptive sentence or probation as a first-time offender. For felonies in which the weapon used is a machine gun, short-barreled rifle, or shotgun, or in cases where the weapon is equipped with a silencer, the sentence is 120 months; a second-time offender who is convicted is given 120 months for regular firearms or 240 months for the aforementioned list of weapons.

Effective date: January 1, 2006

House Bill 2976

Relating to criminal nonsupport

HB 2976 amends the criminal nonsupport statute in two ways. First, it requires the state to prove that the defendant knowingly failed to pay child support; second, it shifts the burden of proof to the defendant by creating the affirmative defense of a “lawful excuse” for nonpayment. The crime of criminal nonsupport involves a parent or person otherwise responsible for supporting one or more children under 18 years of age refusing or neglecting to provide support without lawful excuse. Lawful excuse is defined in case law as “some condition, not of the defendant’s own making, which prevents the defendant from being able to provide support.”

Effective date: January 1, 2006

House Bill 2982

Relating to disclosure of financial institution records

Current provisions regarding disclosures to law enforcement authorities have been in effect since 1977. The growth of identity theft, forgeries, and other financial crimes have led to the need at times for longer investigative timelines. HB 2982 extends the time period for which certain law enforcement agencies, as part of a criminal investigation, may obtain limited customer account information from banks and other financial institutions from 15 days before or after a transaction to three months before or after a transaction. The measure also expands the information available to include whether the bank

has an account for a particular customer and copies of deposit slips.

The records of bank customers are not public and not available to law enforcement except through subpoena or as provided in ORS 192.585. The statute allows financial institutions to provide limited customer account information to law enforcement agencies to assist in criminal investigations. The law currently limits such information to the period up to 15 days before and after a transaction date the agency specifies.

Effective Date: January 1, 2006

House Bill 3457

Relating to forfeiture

HB 3457 permanently codifies Criminal Forfeiture into Oregon law. Criminal Forfeiture requires the district attorney to indict a count of criminal forfeiture in an indictment along with other crimes. The district attorney must prove beyond a reasonable doubt that the property to be forfeited is an instrumentality or the proceeds of the crime of conviction or past prohibited conduct that is similar to the crime of conviction. The court can issue a default judgment against the defendant if the defendant is a fugitive, provided the forfeiting agency proves that the defendant is purposefully evading the prosecution.

HB 3457 also amends Civil Forfeiture laws that went back into effect on July 31, 2005. Under HB 3457, a criminal conviction is required in most instances. The criminal conviction must constitute “prohibited conduct” and the forfeiting agency must prove that the property is either proceeds of the crime for which the claimant was convicted, or one or more other crimes similar to the crime for which the claimant was convicted, or that the property was instrumental in committing or facilitating the crime for which the claimant was convicted, or one or more other crimes similar to the crime for which the claimant was convicted. A conviction is not required when the forfeiting agency can prove that another person was convicted of a crime, and that the property claimant took the property to defeat forfeiture, the claimant knew or should have known the property was proceeds of prohibited conduct, and the claimant acquiesced in the prohibited conduct. In either type of civil forfeiture proceeding, the forfeiting agency has the burden of preponderance of the evidence if the property is personal property and clear and convincing evidence if the property is real property.

HB 3457 was considered necessary this session despite the fact that voters had approved the Oregon Property

Protection Act (Ballot Measure 3) in 2000 because of the Oregon Court of Appeals ruling that the ballot measure was unconstitutional. *Lincoln Interagency Narcotics Team v. Kitzhaber* 188 Or App 526 (2003). Review was granted by the Oregon Supreme Court and a decision is pending. *Lincoln Interagency Narcotics Team v. Kitzhaber* 336 Or 376 (2004). If the Oregon Supreme Court reverses the Court of Appeals, there will be portions of HB 3457 that will be unconstitutional.

Effective date: September 2, 2005

House Bill 3419

Relating to sex offenders

HB 3419 prohibits individuals who have been convicted of enumerated sex crimes and who are on probation, parole, or post-prison supervision from residing in a dwelling where another sex offender reside unless the living situation is approved by the relevant supervisory authority.

Effective date: January 1, 2006

House Bill 3486

Relating to sex offenders

HB 3486 requires that, by July 1, 2006, the Oregon State Police make information on certain sex offenders available to the public via the Internet. Currently, information about sex offenders designated as “predatory,” or determined to be “sexually violent dangerous offenders” is available to the public on request. This measure will require that information such as the nature of the offenses, type of supervision, the identity of the offender, and the offender’s photograph be published online.

Effective date: January 1, 2006

House Bill 3491

Relating to a crime involving false reports concerning schools

HB 3491 creates a new crime for situations where a person initiates or circulates a false report concerning an alleged hazardous substance, or alleged or impending fire, explosion, catastrophe or other emergency that is in or upon a school. The measure makes the first offense for Disorderly Conduct in the First Degree a Class A misdemeanor and the second or subsequent offense a Class C felony. The measure also separately provides the juvenile court with the authority under ORS 419C.145 to order the preadjudication detention of a youth alleged to be in violation of

the misdemeanor offense created by this measure. ORS 419C.145 currently authorizes the juvenile court to order the preadjudication detention of a youth who is accused of committing a felony or a crime involving infliction of physical injury to another person. This measure extends that authority to youths who initiate false bomb threats.

Effective date: January 1, 2006

Major Legislation Not Enacted

Senate Bill 301

Relating to the use of physical force

SB 301 would have required law enforcement agencies to adopt specific guidelines for the use of deadly force by police officers. Agencies would have been required to provide at least two sessions with a mental health professional for each officer involved in the use of deadly force, would have been prohibited from returning an officer involved in the use of deadly force to duties that may involve the use of deadly force within 72 hours of the incident, and would have been prohibited from taking sole responsibility for investigating the use of deadly force incident.

The original measure would have permitted district attorneys to present facts to a grand jury about an incident involving an officer’s use of deadly force, and provided a process by which transcripts of such grand jury proceedings could be made public under some circumstances. The measure would have repealed the statute that allows a district attorney to convene an inquest jury in such cases. A committee amendment removed the provisions of the measure requiring transcription and conditionally permitting release of grand jury proceedings concerning an officer involved use of deadly force incident. The amendment added a provision to the measure that requires the Department of Public Safety Standards and Training to develop a training program for investigation of officer involved use of deadly force incidents.

The measure also would have appropriated \$300,000 to the law enforcement agencies state-wide to be awarded by the Attorney General on a matching-grant basis to facilitate plans concerning officer use of deadly force incidents.

Senate Bill 712

Relating to crime

SB 712 would have amended certain statutes in the criminal code to enhance penalties for the assault or killing of a pregnant woman. The measure would have expanded the statutory definition of aggravated murder to include the killing of a pregnant woman when the perpetrator knew or should reasonably have known that the victim was pregnant. It would have expanded the statutory definition of murder to include the killing of a pregnant woman recklessly or under circumstances manifesting extreme indifference to human life, if the perpetrator knew or reasonably should have known that the victim was pregnant. The measure also would have increased the crime classification (i.e., first degree, second degree, etc.) for certain types of assaults perpetrated against a woman whom the perpetrator knew or reasonably should have known to be pregnant at the time of the assault.

HB 2020, which also was not enacted, would have amended the criminal code for assault or murder of a pregnant woman.

Senate Bill 956

Relating to weapons in a public building

SB 956 would have permitted individual school district boards to prohibit persons with concealed handgun licenses from possessing firearms in a public school, school bus or school activity vehicle. If a school district opted to implement this prohibition, it would have been required to post notices outside the public entrances to each school to which the prohibition applies. Currently, 166.370 makes it a Class C felony to intentionally possess a firearm in public building, including schools as defined in ORS 339.315, but there are exceptions to this prohibition, including one for a person who is licensed to carry a concealed handgun.

House Bill 2020

Relating to establishing an unborn child as the legal victim of a crime that results in harm to the unborn child

HB 2020 would have defined “human being,” for the purposes of Oregon’s criminal homicide statutes, as: 1) a person who has been born and was alive at the time of the criminal act; and 2) an unborn child. The measure stated that it is not a defense to prosecution if the defendant did not know or could not have reasonably known that the woman was pregnant.

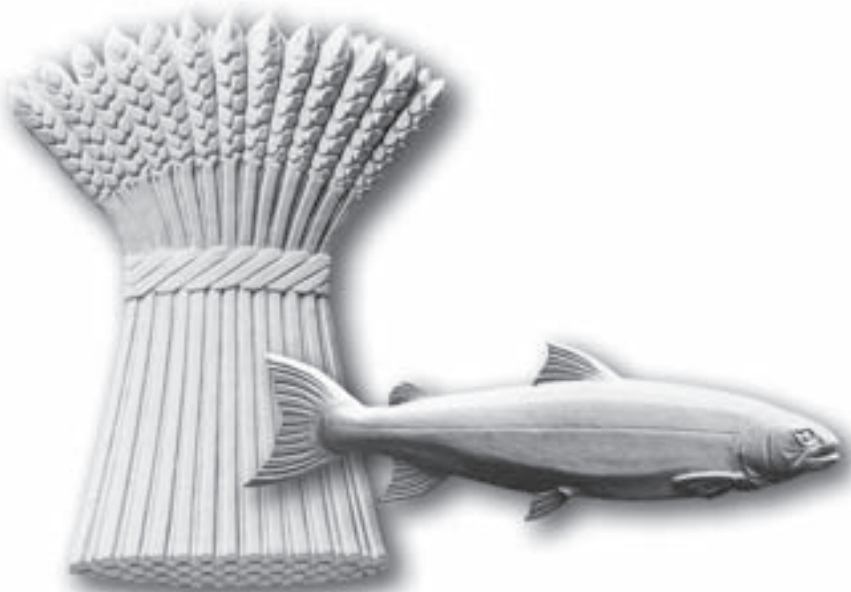
It would have exempted from prosecution: 1) a lawful abortion performed with the pregnant woman’s consent or with the consent of a person authorized to act on the pregnant woman’s behalf; or 2) a pregnant woman who causes the death of her unborn child as a result of her acts.

HB 2020 would have substituted the term “human being” for the term person in the following Oregon Revised Statute provisions: 1) aggravated murder, ORS 163.095; 2) murder, ORS 163.115; (3) manslaughter in the first degree, ORS 163.118; and (4) manslaughter in the second degree, ORS 163.125.

HB 2020 would have created the crime of assault of an unborn child and would have classified the crime as a Class B felony. The crime would have been committed when a person knowingly caused physical pain to the mother of an unborn child without the mother’s consent and by causing physical injury to a mother who caused: 1) serious physical injury to the unborn child; 2) the unborn child to be born prior to 37 weeks gestation and the child weighs 2,500 grams or less at the time of birth. The measure stated that it is not a defense to prosecution if the defendant did not know or could not reasonably have known that the woman was pregnant.

SB 712, which also was not enacted, would have amended the criminal code for assault or murder of a pregnant woman.

Measures Vetoed by the Governor



2005 Summary of Legislation

Senate Bill 405

Relating to semi-independent state agencies

The Attorney General issued an opinion that borrowing by semi-independent agencies, in order to own real and personal property, was not authorized by statute (ORS 182.466). SB 405 would have allowed semi-independent state agencies to enter into loan agreements and limit resources available to pay debts, liabilities or other obligations arising from transactions by semi-independent state agencies. SB 405 also would have required the semi-independent agency board to present a proposed loan or other agreement to the Department of Administrative Services (DAS) and to submit the most recent board audit and projected operating income and expenses associated with the property to be acquired to DAS not later than 30 days before the board's final decision regarding the proposed loan or other agreement.

Governor's Veto Message

I am returning Enrolled Senate Bill 405 unsigned and disapproved for the reasons below.

SB 405 would grant to semi-independent state agencies, such as the State Board of Massage Therapists, the State Board of Architect Examiners and the Oregon Board of Optometry, among others, the independent authority to borrow money. Such authorization would include, but not be limited to, the ability to borrow money to finance the acquisition of real property. Under SB 405, such borrowing by semi-independent state agencies would not be subject to approval by the Department of Administrative Services or the State Treasurer.

I have vetoed SB 405 because I do not believe it is consistent with my principle of accountability in government. Semi-independent state agency budgets are not currently subject to legislative review. Under SB 405 these agencies would now be allowed to issue debt without the oversight of legislative review or management by the executive branch. The Department of Administrative Services and the State Treasurer are the appropriate state agencies to oversee the financial status and obligations of state entities and to safeguard the state's assets and the state's financial credibility. Although provisions of SB 405 are intended to legally protect the state and the General Fund from obligations incurred by semi-independent agencies, I am concerned that any default by a semi-independent state agency would not only reflect badly on the state of Oregon and create considerable pressure on the state to assist such agency, but it further disengages government from the links needed to responsibly manage the programs and services the state offers and resulting fiscal impacts. Government needs

more accountability not less.

I support the state's semi-independent agencies and appreciate the hard work they perform for the people of Oregon. However, my obligation to ensure government is accountable to the citizens of Oregon, particularly with respect to state assets and its financial credibility requires me to veto SB 405. I expect the state's semi-independent agencies and the Department of Administrative Services to work together, with the State Treasurer, to address the needs of the semi-independent agencies within the existing framework for incurring debt.

Senate Bill 671

Relating to the acquisition of interests in public utilities

SB 671 would have allowed current industrial customers of Portland General Electric (PGE) to finance the purchase of the utility through the use of acquisition bonds, and authorized the Public Utility Commission (PUC) to issue a rate order for the utility to charge customers for repayment of the bonds over time. It also specified PUC authority to review and exercise jurisdiction over any application for acquisition of PGE.

Several business models for PGE were developed following PUC rejection of a proposed sale to Oregon Electric, LLC. PGE is Oregon's largest public electric utility, serving more than 1.5 million people. The utility is currently under the process of separating from Enron, its parent corporation. The concept proposed in SB 671 was a mutually-owned utility, which would have continued the utility's operational system, but with public ownership similar to the structure of an electric cooperative.

Governor's Veto Message

I am returning Enrolled Senate Bill 671 unsigned and disapproved.

SB 671 was introduced to establish a financing plan for the mutualization of Portland General Electric (PGE). I cannot support SB 671 because it fails to address the basic principles I set forth in March 2005. As I said at that time, any plan should provide rate relief and access to safe and reliable power for PGE customers; maintain appropriate support for low income energy assistance, energy efficiency and investments in renewables; protect communities that rely on revenue from PGE as it exists today; and keep PGE local and whole.

While the mutual utility concept is in part motivated by a desire to bring PGE under local, consumer control, SB 671 itself does not provide any certainty around how a mutual utility would meet my core principles. The bill does not

result in any sort of consensus about how a mutual utility ownership model would impact PGE customers; it does not specify how a mutual utility would be governed or operated; and it does not ensure the certainty and accountability that I believe PGE customers need from their utility. In the end, I am not willing to start down this path and risk another fierce debate before the Public Utility Commission without more certainty about how this proposal could affect customers and, through them, Oregon's economy.

As Governor, my focus remains on continuing to create family-wage jobs and an education enterprise that will ensure Oregonians are the best trained, best skilled, and best-educated citizenry in the nation – and it is not clear how SB 671 helps move us forward toward the goals of economic prosperity and security for all Oregonians.

Senate Bill 1008

Relating to electric utilities

SB 1008 would have created Oregon Community Power (OCP) as a public corporation activated only with approval of the Governor and authorized to: negotiate and acquire assets of Portland General Electric (PGE); issue revenue bonds; enter financing and intergovernmental agreements; and operate as a consumer-owned utility. The measure established as the purpose of OCP to provide reliable, low-cost energy to consumers in PGE's service territory. It defined a process for nominating an initial board of directors and contained policies regarding direct access, public purposes funds, and portfolio options from SB 1149 (1999), which restructured Oregon's electric power industry.

SB 1008 outlined certain provisions of public agency statutes that would have applied to OCP, such as eminent domain procedures; public records and meetings law; ethics laws; and collective bargaining procedures. It also outlined provisions that would not have applied to OCP, such as public contracting, most state personnel relations, and prevailing wage laws. Employees of OCP would not have been considered public employees or been eligible for the Public Employees Retirement System. If PGE agreed to convey the company or its assets to the City of Portland or any entity created by the city, the measure would have allowed the city to assign the right of acquisition to OCP.

Several business models for PGE were developed following PUC rejection of a proposed sale to Oregon Electric, LLC. PGE is Oregon's largest public electric utility, serving more than 1.5 million people. The utility is currently under the process of separating from Enron, its

parent corporation.

A SB 1008 minority report would have established that a local government may not acquire all or any portion of PGE or its utility assets without first obtaining the approval of each county in which PGE service territory is located. Approval would have been required by a non-emergency ordinance adopted by the county's governing body.

Governor's Veto Message

I am returning Enrolled Senate Bill 1008 unsigned and disapproved.

Enron Corporation has terminated its negotiations with the City of Portland for the acquisition of Portland General Electric (PGE) and will continue the process of stock distribution to its creditors. I believe returning PGE to its pre-Enron status is in the interests of PGE ratepayers and the employees of PGE.

I have been clear from the beginning of this process that I would not support the State of Oregon becoming financially entangled in the purchase of PGE. I have not changed my position on this issue and, therefore, have vetoed SB 1008.

My primary goal over the last several months has been to ensure that PGE, under any ownership model, continues to provide reliable and affordable power to its customers and remains an economic asset for communities throughout the state, which can be achieved without creating the option for the state to acquire a private utility company.

As Governor, my focus must remain on growing the economy, creating an education enterprise from pre-school through graduate school, ensuring our citizens have their basic needs of food, shelter and health care met, and opening the doors of opportunity for all Oregonians. Creating the option for a state-owned utility company would only distract from – not strengthen – our ability to move forward toward accomplishing these goals, which is why I cannot support this legislation.

Senate Bill 1083

Relating to farm employment tax credits

SB 1083 would have created a credit against personal and corporate income tax liability of agricultural employers for the increased labor costs associated with annual, inflation-based increases in Oregon's minimum wage. The measure explicitly excluded forestry operations (with the exception of Christmas tree farms), the stabling of horses, the breeding of greyhounds for racing, and the produc-

tion of aquatic species. Credits could have been carried forward for up to five years, and sold to other taxpayers with Oregon tax liability. The measure would have authorized the Oregon Department of Revenue to establish rules for marketing the tax credits. The tax credits would have taken effect on the tax year beginning January 1, 2006, and would have been scheduled to sunset following the 2009 tax year, though eligible credits could have been carried forward beyond the sunset date.

Ballot Measure 25, approved by voters in November of 2002, increased the state minimum wage to \$6.90 per hour and provided for annual adjustments according to changes in the consumer price index from the previous year. The minimum wage for 2005 is set at \$7.25 per hour.

Governor's Veto Message

I am returning Enrolled Senate Bill 1083 unsigned and disapproved.

The purpose behind SB 1083 when it was originally introduced was to provide a new targeted tax credit to economically help a limited number of Oregon farmers. The new tax credit was intended to equal fifty percent of the annual, incremental increase in the minimum wage paid during each tax year to workers earning the minimum wage. I supported this concept.

However, after SB 1083 passed the Senate and was sent to the House, the Legislative Revenue Office and Legislative Counsel reexamined the language of the bill and determined that the legislation as passed, was considerably broader than originally intended. It was now interpreted to provide a tax credit to all farmers for a portion of wage increases for all workers--not just workers earning the minimum wage. Furthermore, the language could be interpreted to include the cumulative effects of wage increases over time rather than just the increase made in each individual tax year. With this broader interpretation of the bill, the estimated revenue impact of SB 1083 to the state amounted to \$244.2 million--a twenty-fold increase over the original estimate that was considered by the Senate.

I recognize the burden that annual minimum wage increases place on some Oregon farmers, which is why I would have signed SB 1083 if the House of Representatives had amended the bill to reflect the original intent of the sponsor. On July 29, 2005, I sent a letter to all members of the House requesting that SB 1083 be returned to the House committee so that it could be amended to reflect the original intent of the bill when it was introduced. A majority of the House of Representatives ignored my request and chose to approve a bill that they knew I would veto.

As Governor, I am committed to upholding my pledge to restore fiscal responsibility and accountability in state government and allowing SB 1083 to go into law would not only be inconsistent with that commitment, but it would not be in the best interest of all Oregonians. While I am unable to sign SB 1083 as sent to me, I recognize the key role the agricultural industry plays in Oregon's economy and I will work with the Department of Agriculture and the legislature to develop a targeted safety net for the current biennium, as well as a fair, responsible, and sustainable plan for 2007-09 and beyond.

HB 2056

Relating to licenses issued by the Oregon Liquor Control Commission

HB 2056 would have established a one-time, non-refundable initial application fee of \$400 for Oregon Liquor Control Commission licenses, in addition to the current license fee of \$500, and would have converted annual license renewals to biennial renewals with a corresponding doubling of the current annual fee. The measure did not raise the local government license review fee. In addition to the fee provisions, the measure would have limited local government authority to regulate the nuisance aspects of alcohol sales to cover only nuisances on the licensed premises. Licensees were concerned that an ordinance adopted by the City of Portland regulates nuisances created on property over which the licensee has no control.

Governor's Veto Message

I am returning Enrolled House Bill 2056 unsigned and disapproved.

HB 2056 was filed, with my support, on behalf of the Oregon Liquor Control Commission (OLCC) prior to the legislative session. The original bill would have increased OLCC's administrative capacity and streamlined its regulatory processes in the area of liquor license issuance and renewal. However, due to an amendment added at the request of the Oregon Restaurant Association (ORA) and adopted in the session's closing hours, HB 2056 now infringes upon local governments' ability to adopt reasonable "time, place and manner" restrictions intended to regulate the nuisance aspects of establishments that serve alcoholic beverages. I do not support limiting local governments in this way; accordingly, I have vetoed HB 2056.

The Oregon Liquor Control Act provides that the OLCC is the primary regulator of liquor licensees. However, the Act also provides local governments with the limited ability

“to adopt reasonable time, place and manner regulations of the nuisance aspects of establishments that offer entertainment or serve alcoholic beverages if the city or county makes specific findings that the establishment would cause adverse effects to occur.” ORS 471.164. Reasonable questions have been raised about the appropriate scope and application of local ordinances adopted pursuant to this limited authority. I agree that local governments must proceed with extreme caution when attempting to hold businesses accountable for the behavior of patrons outside their premises and can only proceed within the confines of the limited authority granted by the Liquor Control Act. However, the ORA’s amendment – which would significantly narrow the statute and prevent cities and counties from considering links between business practices and patrons’ off-site behavior as part of their regulation of community establishments – is not the answer.

I am concerned that the ongoing conflict over the enforcement of Portland’s “time, place and manner” ordinance indicates a lack of effective collaboration and communication between the city, OLCC, law enforcement and business owners. The regulation of establishments that serve alcohol must strike a balance that protects public safety and enables businesses to succeed – and this balance cannot be achieved without the joint participation of all stakeholders. I have asked the OLCC to work with the City of Portland, the League of Cities, law enforcement, community members, ORA and business representatives to examine the current system for licensing and regulating businesses that serve alcohol. If administrative or legislative changes are necessary to improve the ability of state and local entities to work together to enforce the state’s liquor regulations and keep communities safe, I expect the group to bring them forward and to pursue them together.

Some of the positive aspects of the original HB 2056 can be salvaged notwithstanding my veto of the bill. With a steady increase in the number of license applications they receive and process, OLCC has a demonstrated need for the 3 additional license investigator positions that would have been funded by HB 2056’s new initial license fee. The authority for these positions does not hinge on the enactment of HB 2056. I expect OLCC to move forward with their plan to seek position authority and expenditure limitation for these three positions from the Emergency Board. In addition, OLCC has some limited ability under HB 2094, a regulatory streamlining bill that I already signed into law, to allow for extended license renewal terms of up to 5 years. I intend to bring the remaining regulatory streamlining changes back to the next legislative session.

House Bill 2480

Relating to prescription drugs in state medical assistance program

HB 2480 would have added Hepatitis C prescription drug therapies into the current mental illness, HIV and AIDS and cancer “carve out” policy. In 2001, the Legislative Assembly enacted SB 819, which established an evidence-based prescription drug program for state agencies. The program includes a preferred drug list (PDL), which is the list of prescription drug classes that have gone through an evidence-based review process to determine the best choice of drugs within the class and a requirement for pharmacists to exchange the preferred drug for any non-preferred drug that the provide prescribes. The requirement to exchange the preferred for nonpreferred drug, however, does not apply to prescriptions to treat mental illness, HIV and AIDS and cancer.

Governor’s Veto Message

I am returning Enrolled House Bill 2480 unsigned and disapproved.

Since I took office, I have been advocating to strengthen the Department of Human Services’ (DHS’s) ability to effectively manage the Oregon Health Plan’s (OHP’s) fee-for-service prescription drug program. In my view, effective management requires not only financial accountability, but also the optimization of patient care. When those objectives are achieved, the state is not only able to provide appropriate medical care to existing OHP clients; it is also able to maximize the number of people to which it can provide health coverage – a public policy that benefits all Oregonians.

Existing statutory limitations already compromise the state’s ability to most effectively manage the OHP fee-for-service drug benefit. As my office has written to you in previous letters, HB 2480 would further inhibit the state’s ability to effectively manage that benefit.

DHS currently provides effective treatments for people on the Oregon Health Plan with hepatitis C infection. Their program is consistent with the clinical guidelines established by national experts and the administrative procedures used by Oregon’s health insurers. HB 2480 could prevent DHS from continuing to effectively manage their prescription drug program for the treatment of hepatitis C in a manner that ensures that patients most likely to benefit from treatment receive the appropriate medications.

People on the Oregon Health Plan are some of our most vulnerable citizens. It is imperative that everyone on the

Oregon Health Plan, regardless of their illness or social circumstances, receive the best medical care possible. It is my obligation, indeed our collective obligation, to ensure that everyone on the Oregon Health Plan receives the appropriate medical care.

House Bill 2588

Relating to study of chiropractic services provided in workers' compensation claims

HB 2588 would have directed the Oregon Health and Science University (OHSU) to conduct a five-year research project to investigate the impact of allowing open access to chiropractic services in Workers' Compensation claims. It also would have authorized the use of Workers' Benefit Fund revenues to fund the research projects, required the Director of the Department of Consumer and Business Services (DCBS) to establish an eight-member advisory committee, and required OHSU to report to the Governor, Legislative Assembly, director of DCBS and the Workers' Compensation Management-Labor Advisory Committee no later than June 30, 2011.

Current Oregon Workers' Compensation statutes stipulate that only a medical physician, osteopathic physician, or oral surgeon may be an attending physician for the life of a workers' compensation claim, and that the attending physician must coordinate care for other providers. A doctor of chiropractic may be an attending physician for only 12 treatments or 30 days, whichever comes first.

Governor's Veto Message

I am returning House Bill 2588 unsigned and disapproved.

This bill would allow chiropractors to serve as attending physicians for some injured workers while the impact is studied, with the study cost of nearly \$1 million to be paid out of the Workers Benefit Fund.

The Workers Benefit Fund comes from employer and worker payments of a few cents for every hour worked. It was set up as a dedicated fund, specifically for the purposes of providing supplemental benefits for injured workers and helping them return to work. This special-purpose fund should not be used by the legislature to pay for studies or projects like that proposed by HB 2588.

It is particularly inappropriate to use funds from the workers' compensation system to pay for a proposal that is not supported by employers and workers. HB 2588 has not received the support of the Management-Labor Advisory Committee (MLAC), consisting of representatives of management and

labor; instead, it was promoted by chiropractors seeking greater authority to treat injured workers. In my view, changes in the workers' compensation system should be driven by the needs of employers and workers, not the desires of those who provide services.

Proponents of the bill have argued that chiropractic care can be a preferable and more cost-effective approach to treating some conditions such as back injuries. However, the bill is not limited to treatment of back injuries or other areas where chiropractic care may be appropriate. It would give chiropractors unlimited authority to serve as attending physicians regardless of the nature of the worker's injury, including responsibility for all treatment of the injured worker, establishment of treatment plans, authorization of time loss, releasing the worker to return to work, deciding when the worker is medically stationary, evaluation of permanent impairment, authorization of physical therapy, allowing the worker to decline light duty due to the commuting distance, and perhaps even approval of palliative (pain control) care needed to remain at work.

The role of chiropractors in worker's compensation was intentionally limited as part of the Mahonia Hall reforms. Thus far, I have not seen any evidence that access to chiropractic care under these limits is insufficient. Neither workers nor employers have said that the current limits cause problems. However, I am not opposed to the idea of re-examining the role of chiropractors in the workers' compensation system. For this reason, I am asking the Department of Consumer and Business Services, in conjunction with MLAC, to review the role of chiropractors in the workers' compensation system and make recommendations to the next legislative session. This review may cover the role of other providers if MLAC feels it would be appropriate. Once this review is complete, we will have better information on which to base a discussion about whether changes to the workers' compensation system are needed.

House Bill 3463

Relating to motor racing tracks

HB 3463 would have classified race tracks in continuous operation since 1969 as a permitted use for exclusive farm use (EFU) land. The measure required that the race track abide by all applicable EFU ordinances, would have allowed only race vehicles suitable for the type of track (including go-carts, race carts, motorcycles and all-terrain vehicles), and would have provided for operation of race vehicles until 10:00 p.m. if suitable lighting were to be installed.

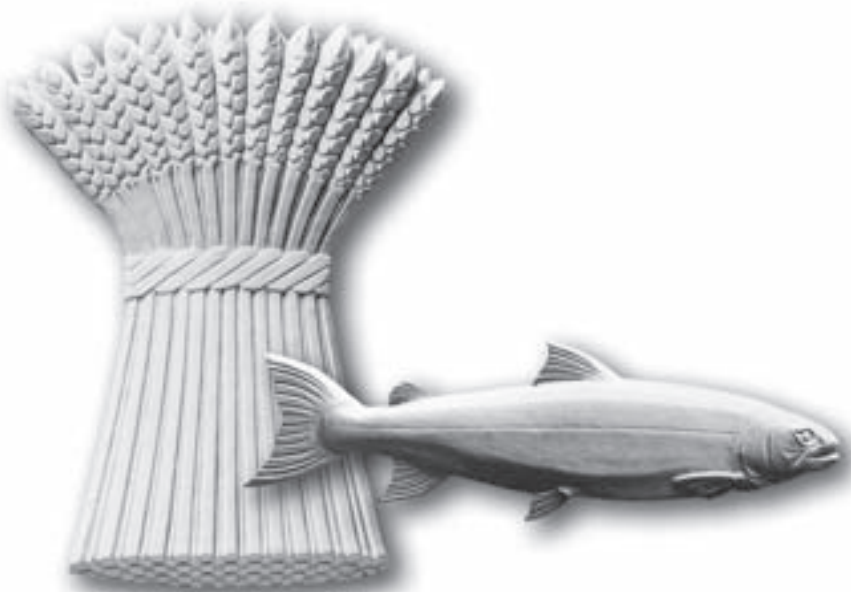
HB 3463 was designed primarily to address a number of facilities located throughout the state that provide racing on asphalt tracks, dirt oval tracks, and drag strips.

Governor's Veto Message

I am returning Enrolled House Bill 3463 unsigned and disapproved.

I vetoed this bill because there is a long-established mechanism in our land-use system that allows for appropriate pre-existing uses to continue on an exception basis. It is a mechanism that has worked. To grandfather, by legislation, existing uses on a property by property basis is inherently unfair to those who have acted in good faith under existing law.

Oregon Laws 2005 Chapter Number Index



2005 Summary of Legislation

The index below lists the 2005 Oregon Laws Chapter Numbers for enrolled measures included in Summary of Legislation

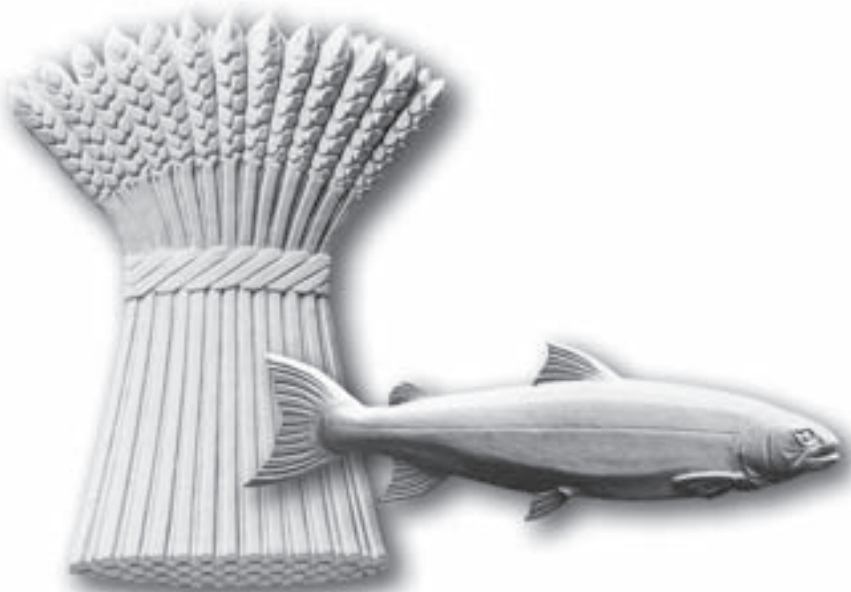
Measure	Chapter Number
SB 1	705
SB 2	763
SB 3	813
SB 17	742
SB 27	633
SB 36	298
SB 39	337
SB 43	206
SB 71	816
SB 81	594
SB 82	703
SB 89	488
SB 94	250
SB 96	147
SB 103	150
SB 118	489
SB 128	529
SB 152	756
SB 153	686
SB 173	683
SB 177	105
SB 203	252
SB 232	843
SB 234	160
SB 240	453
SB 243	532
SB 247	817
SB 275	348
SB 278	253
SB 287	458
SB 290	743
SB 300	674
SB 311	675
SB 323	533
SB 324	352
SB 328	310
SB 342	636
SB 346	354
SB 359	818
SB 367	244
SB 368	459
SB 383	460
SB 386	461
SB 404	357
SB 408	845
SB 421	833

SB 448	228
SB 460	462
SB 467	701
SB 477	360
SB 479	637
SB 486	200
SB 501	765
SB 528	463
SB 538	258
SB 547	259
SB 568	491
SB 591	746
SB 595	172
SB 618	466
SB 640	775
SB 641	467
SB 660	747
SB 755	367
SB 782	692
SB 815	676
SB 837	175
SB 838	748
SB 844	840
SB 847	470
SB 853	592
SB 870	749
SB 879	237
SB 880	471
SB 882	202
SB 887	844
SB 907	708
SB 914	473
SB 919	474
SB 929	72
SB 938	316
SB 955	543
SB 962	496
SB 973	475
SB 978	545
SB 983	204
SB 998	770
SB 1026	477
SB 1041	841
SB 1064	550
SB 1067	752
SB 1068	753
SB 1071	834
SB 1072	772
SB 1085	822
SB 1088	754
SB 1089	774

SB 1096	773	HB 2593	622
SB 1097	823	HB 2599	659
SB 1100	836	HB 2604	393
HB 2005	73	HB 2662	278
HB 2050	642	HB 2681	515
HB 2058	726	HB 2687	99
HB 2062	727	HB 2706	516
HB 2078	647	HB 2717	624
HB 2091	26	HB 2729	500
HB 2116	77	HB 2730	441
HB 2117	613	HB 2740	190
HB 2120	650	HB 2742	484
HB 2124	35	HB 2754	548
HB 2141	439	HB 2800	665
HB 2142	431	HB 2811	572
HB 2155	16	HB 2840	573
HB 2157	730	HB 2875	401
HB 2167	797	HB 2881	402
HB 2169	731	HB 2933	519
HB 2170	62	HB 2937	403
HB 2189	332	HB 2945	520
HB 2191	559	HB 2969	407
HB 2199	119	HB 2976	502
HB 2202	495	HB 2982	130
HB 2213	265	HB 3029	503
HB 2230	564	HB 3038	410
HB 2276	381	HB 3073	660
HB 2285	801	HB 3097	56
HB 2299	567	HB 3108	806
HB 2312	759	HB 3121	738
HB 2316	839	HB 3129	827
HB 2322	513	HB 3143	704
HB 2327	802	HB 3174	522
HB 2356	239	HB 3179	525
HB 2361	436	HB 3184	828
HB 2389	826	HB 3197	505
HB 2415	270	HB 3230	663
HB 2416	386	HB 3238	807
HB 2426	52	HB 3252	507
HB 2438	67	HB 3260	627
HB 2450	803	HB 3262	808
HB 2484	388	HB 3305	23
HB 2485	706	HB 3310	829
HB 2490	760	HB 3324	134
HB 2497	69	HB 3363	437
HB 2498	482	HB 3415	486
HB 2507	514	HB 3419	576
HB 2513	390	HB 3443	526
HB 2539	735	HB 3457	830
HB 2577	392	HB 3458	809
HB 2591	658	HB 3461	290

HB 3465.....	418
HB 3466.....	810
HB 3472.....	629
HB 3482.....	551
HB 3486.....	812
HB 3491.....	631
HB 3494.....	669
HB 3502.....	777
HB 3504.....	831

Subject Matter Index



2005 Summary of Legislation

Abandoned Vehicles
 HB 3121
 Abortion
 HB 2605
 Abuse of Persons
 HB 2415, HB 2416, HB 3073, SB 983
 Adoption
 SB 234, SB 973
 Advocacy Commissions Office, Oregon
 SB 359
 Afghanistan, War Memorial
 HB 2795
 Agriculture and Horticulture
 HB 2513, HB 2539, HB 2577, HB 3316, HB 3461,
 HB 3481, HJR 8, SB 359
 Air Bags, Sodium Azide
 HB 2507
 Aircraft and Aviation
 HJM 2, SB 152
 Alcohol and Drug Abuse Treatment Programs
 HB 3457, SB 907
 Alcoholic Beverages, Licenses and Permits
 HB 2056
 Aleutian Canada Goose, Delisting
 HB 2881
 Amber Plan
 HB 2730
 Anhydrous Ammonia, Theft Deterrence
 HB 2485
 Animals
 HB 3046, SB 383
 Annexation
 HB 2484, SB 887
 Arbitration
 SB 247
 Asbestos
 SB 304
 Asian Affairs, Commission on
 SB 359
 Assault
 HB 2322, SB 572, SB 712
 Athletic Trainers
 HB 2058
 Attorney Fees, Civil Actions
 HB 3085
 Attorney General
 HB 2010, HB 2424, HJR 31, SB 161, SB 208, SB 301
 Audits and Auditing
 HB 2001, HB 2028
 Bakeries and Bakery Products
 HB 2539
 Ballast Water Management
 HB 2170
 Banks and Financial Institutions
 HB 2982, HB 3324, HB 3458

Beaverton, City of
 SB 887
 Bicycles
 HB 2742, SB 938
 Birth Relatives
 HB 2009
 Blind and Visually Impaired Persons
 HB 2276
 Blood Tests
 HB 2706
 Bonds
 HB 2729, HB 3415, HB 3481, SB 1008
 Bottles and Cans
 HB 2539
 Bridges
 HB 3415
 Brominated Flame Retardants
 SB 962
 Building Codes
 HB 3097, SB 328, SB 421
 Businesses
 HB 2062, HB 3238, SB 173
 Campaign Finance
 HB 2167, HB 3458
 Canada Geese
 HB 2881
 Cancer
 HB 2497, HB 2498, SB 374, SB 501, SB 1026
 Certificates of Mastery, High School
 HB 3162
 Charter Schools
 SB 1071
 Child Abuse and Neglect
 HB 2322, HB 2599, HB 3169, SB 94, SB 749, SB 755,
 SB 907
 Children and Families, State Commission on
 HB 3029
 Chiropractors and Chiropractic
 HB 2588
 Cigarettes
 SB 738
 Circulating Nurse
 HB 2800
 Cities
 HB 3038, HB 3458, SB 847
 Citizenship, Voter Registration
 HB 2583
 Civil Liability, Manufacturers and Sellers
 HB 2373
 Coburg, City of, Traffic Fines (Interstate-5)
 SB 1074
 Colleges and Universities
 HB 2299, HB 2560, HB 2588, HB 3053, HB 3179,
 HB 3504, SB 240, SB 247, SB 300, SB 342, HB 2602,
 HB 2700, SB 404, SB 486, SB 882, SB 1100
 Commercial Fishing
 HB 3472

Community Colleges and Districts HB 2602, HB 2700, SB 342, SB 639, SB 1100	Death, Anatomical Gifts HB 3197
Compensation and Salaries HB 2213, HB 2409, HB 2720, HB 2800, SB 1083	Death, Cremated Remains In Possession of Department of Human Services SB 1097
Computers and Information Systems HB 2599, HB 3097, HB 3458, SB 541	Defibrillators HB 3059, HB 3482
Condemnation (of land) HB 3505	Dental Hygienists HB 2426
Constitution of Oregon HJR 1, HJR 6, HJR 31, HJR 39, SJR 10	Deschutes River Basin, Water Management and Mitigation HB 3494
Construction HB 2078, HB 3481	Dietitians HB 2058
Consumer and Business Services, Department of HB 2005, SB 328	Diplomas HB 3129
Consumer Protection, Insurers SB 118, SB 209	Disabilities Commission, Oregon HB 3230
Consumer Reporting Agencies HB 2412, SB 1057	Disabled Persons HB 2276, HB 2416, HB 3049, HJR 25, SB 190, SB 232, SB 907, SB 1064
Contraceptives, Emergency Contraceptives SB 849	Discrimination HB 2519, SB 176, SB 1000
Contracts and Agreements SB 323, SB 639, SB 1008	Diseases and Injuries HB 2480, HB 2591, SB 304
Controlled Substances HB 2485, HB 3457, SB 907	Disorderly Conduct, Schools HB 3491
Conviction of Crime HB 3491, SB 568, SB 749, SB 755, SB 907	Dispute Resolution Services SB 247
Coos County, North Bend Airport SB 152	Dogs HB 2759, HB 3478, SB 641, SB 844
Correctional Institutions and Programs HB 2141, SB 89, SB 301, SB 1068	Drainage Districts HB 2172
Cougars, Hunting HB 2759	Driver Licenses and Permits HB 2608
Counties HB 2602, HB 2700, SB 301, SB 1100	Driving Under (the) Influence HB 2361
Creditworthiness (Consumer Credit Reporting) HB 2412, SB 1057	Drugs and Medicines HB 2743, SB 329, SB 598, SB 818, SB 1011
Crime Victims HB 2662, SB 978, SB 983	Drugs and Medicines, Prescription Drugs, Contraceptives SB 849
Crimes and Offenses HB 2020, HB 2312, HB 2322, HB 2976, HB 3457, HB 3491, SB 6, SB 89, SB 240, SB 368, SB 572, SB 907, SB 1041, SB 1067, SB 1068	Drugs, Illegal HB 2485, SB 907
Criminal Justice Commission HB 2485, HB 3029, SB 919	Earthquakes and Seismic Safety SB 2, SB 3
Criminal Justice Research and Policy Institute SB 240	Economic Development HB 2191, HB 3481, SB 838, SB 853, SB 879
Criminal Records Checks HB 2157	Education HB 3179, HB 3184, SB 414, SB 415, SB 598, SB 818
Custody of Children SB 907, SB 1041	Elderly and Disabled Persons HB 2415
Damages HB 2412, HB 2519, SB 208, SB 304, SB 844, SB 1041, SB 1057	Elections HB 2167, HB 2169, HB 2583, HB 3090, HB 3458, SB 161, SB 558, SJR 10
Deaf and Hard-of-Hearing HB 2276, HB 3230	Electricity HB 2008, HB 3481, SB 328, SB 1072
Dealers, Tires HB 2869, SB 842	Electronic Medical Records SB 541

Electronic Products
HB 3363

Emergencies
HB 2730, SB 595

Emergency Management, Office of
HB 3443, SB 3

Emergency Medical Technicians
HB 2787

Employees PERS Status
HB 2189

Energy
HB 3363, HB 3481, SB 1008

Enterprise Zones
HB 3143, SB 833

Environmental Quality
SB 532

Ethics, Public Officials
SB 420

Evidence
HB 2312, HB 3457, SB 128, SB 386

Examinations and Tests, Medical Cancer and Chronic Diseases
HB 2497, HB 2498, SB 374, SB 501, SB 1026

Fair and Exposition Center, Oregon State
HB 3502

Family Abuse and Violence
HB 2662, SB 983, SB 1068

Farm Labor
HB 3258, SB 584, SB 1083

Federal Tax Provisions
HB 2933

Fees
HB 2761, HB 2869, HB 3472, SB 460, SB 545, SB 842

Fertilizers, Methamphetamine Production
HB 2485

Film and Video
HB 2191, SB 368

Financial Institutions
HB 2982, HB 3324, HB 3458

Firearms
HB 2142, HB 2373, HB 2969, HB 3457, SB 301, SB 956

Fires and Fire Protection
HB 2155, HB 2327, HB 2485, HB 3262, SB 962

Fish and Wildlife
HB 2759, HB 3478, HB 3504, SB 532

Food Stamp Benefits, Suspension or Denial
HB 2485

Food-Related Conditions
HB 2591

Force and Violence, Deadly Force
HB 2142, SB 301

Forest Fire Protection
HB 2327

Forests and Forest Products
HB 2327, HB 2729, SB 177, SB 1072

Foster Care
SB 598, SB 815, SB 818

Fruit, Pear, Official State Fruit
HJR 8

Funerals, Cremated Remains in Possession of Department of Human Services
SB 1097

Gambling
HB 3466, SB 929

Gasoline and Gasoline Dispensers
HB 2937, HB 3481

Genetics
HB 2312

Geology and Mineral Industries, State Department of
HB 2120

Government Standards and Practices Commission, Oregon
SB 420

Government Waste Hotline
HB 2001

Governor, Impeachment
HB 3483, HJR 31, SB 161

Grand Juries, Sex Offenders
SB 128

Grandparents
HB 2009

Grass, Industry Regulation
HB 3461

Greenlight Oregon, Film and Video Production
HB 2191

Gresham, City of, Roads
SB 1096

Harassment
SB 1067

Hazardous Wastes and Materials
HB 2484, HB 2507, HB 2593, HB 3463, HB 3483, SB 43, SB 82, SB 96, SB 532, SB 887, SB 962, SB 1037

Health Care Facilities
HB 3108, SB 503

Health Care Workers, Education Programs
HB 2754

Health Clubs, Defibrillators on Premises
HB 3482

Health Information
HB 3197, SB 278, SB 541, SB 1040

Health Insurance
HB 2407, HB 2497, HB 3465, HJR 6, SB 1, SB 374, SB 446, SB 501, SB 639, SB 1026, SB 1040, SB 1088

Health Policy and Research, Office for Oregon, Pharmaceutical Patient Assistance Program
SB 598, SB 818

Hearsay, Declarant Unavailable Due to Wrongdoing
SB 287

Hepatitis C
HB 2480

High Schools
HB 3129, HB 3162

Higher Education	Juries and Jurors
HB 2299, HB 2560, HB 2754, HB 2588, HB 3053,	HB 3208, SB 528
HB 3179, HB 3504, SB 240, SB 247, SB 300, SB 342,	Justice, Department of
HB 2602, HB 2700, SB 404, SB 486, SB 882, SB 1100	HB 2010, SB 301
Highway Fund, Studded Tire	Juvenile Courts and Proceedings
HB 2869, SB 842	SB 232, SB 234, SB 815, SB 1059
Highways and Roads	Juvenile Delinquents and Dependents
HB 3415, SB 938, SB 1096	HB 2141, HB 3491, SB 232
Historic Property	Kidnapping
SB 359	HB 2730
HIV/AIDS	Labor and Employment
HB 2706	HB 2191, HB 2409, HB 2519, HB 2693, HB 2720,
Home Care Commission	HB 2800, HB 3258, HJR 31, SB 323, SB 545, SB 572,
SB 190	SB 618, SB 644
Homelessness	Laboratories and Manufacturing
HB 2202	HB 2485, SB 907
Homeschooled Student	Land Use
HB 2733	HB 2438, HB 3310, HB 3474, HB 3481, SB 699, HB
Homicide	1037, SB 103, SB 346, SB 538
HB 2312, SB 301, SB 712	Law Enforcement Officers and Agencies
Homosexuality Discrimination	HB 2982, SB 301, SB 547, SB 1074
HB 2519, SB 176	Limitation of Actions, Crimes and Offenses
Hospitals	HB 2316, HB 3420, SB 203, SB 1011
HB 2800, SB 503, SB 572	Limited Liability Companies, Banks and Trust Com-
Housing and Community Services Department	panies
HB 2199	HB 3324
Housing	Livestock
HB 2945, SB 847	HB 2539, HB 3478, HB 3481
Human Services, Department of	Loans, Semi-Independent State Agencies
HB 2010, HB 2276, HB 2839, SB 598, SB 818	SB 405
Identity and Identification	Long Term Care, Oregon Project Independence
HB 2412, HB 3197, SB 1057	SB 870
Image Display Devices, Unlawful Use	Lottery
HB 2811	HB 3466, SB 71, SB 838
Impeachment, State Officials	Lunch and Breakfast Programs
HJR 31	HB 2727, SB 467
Impersonation, Peace Officer	Mammograms
SB 547	HB 2497, HB 2498
Indians, Enterprise Zones	Manufacturing
HB 3143	HB 2485
Innovation Council, Oregon	Marijuana
SB 838	HB 2693, SB 772, SB 907, SB 1085
Insurance and Insurers	Marriage
HB 2327, SB 118, SB 278, SB 672, SB 837	HB 3476, SB 1000
Interpreters, Sign Language	Measure 37 (2004)
HB 3230	HB 3474, SB 1037
Investigations and Investigators	Meat and Meat Dealers
HB 2117, SB 301	HB 2539
Investment Council, Sudan	Mediation
SB 1089	SB 247, SB 324
Iraq, War Memorial	Medical Assistance Payment
HB 2795	HB 2285, HB 3108, HB 3260, HB 3465
Judges and Justices	Medical Care and Treatment, Rural Health Care
HJR 31, HJR 39	HB 2787, SB 404
Judgments, Forfeiture	Medical Examiners, Board of
HB 3457	HB 2490

Medical Liability Actions
 HB 2896
 Medicare, Prescription Drug Coverage
 SB 1088
 Memorials, Cremated Remains
 SB 1097
 Mental Health and Illness
 HB 2141, HB 3073, HB 3488, SB 1, SB 39, SB 232,
 SB 1064
 Methamphetamine
 HB 2485, SB 907
 Mid-Willamette Valley Council of Governments
 HB 3104
 Military Personnel
 HB 2602, HB 2700, HB 2933, HB 2945, HB 3262,
 HB 3504, SB 486, SB 1100
 Mines and Minerals
 HB 2120
 Minors
 HB 2020, HB 2409, HB 2720, SB 234, SB 446
 Mobile Homes and Manufactured Structures
 HB 2389, SB 328
 Motor Carriers
 SB 448, SB 595
 Motor Vehicles
 HB 2116, HB 2361, HB 2583, HB 2608, HB 2740,
 HB 2811, HB 2869, HB 2937, HB 3121, HB 3197,
 HB 3463, HB 3481, SB 153, SB 367, SB 568, SB 591,
 SB 640, SB 842, SB 938, SB 998, SB 1027, SB 1074,
 SB 1094
 National Guard, 142nd Fighter Wing
 HJM 2
 Naturopaths
 SB 669
 News Media
 HB 2730, SB 323
 North Bend, Airport
 SB 152
 Noxious Weed Control
 HB 2577, HB 3316
 Nuclear Energy and Material, Trojan Nuclear Plant
 SB 1008
 Nuisances
 HB 2485, SB 844
 Nurseries (Plants)
 HB 2513
 Nurses and Nursing
 HB 2800, SB 404, SB 460, SB 572, SB 849, SB 880
 Nursing Homes Administrators
 HB 2058, SB 503
 Obesity and Food-Related Conditions
 HB 2591
 Oregon Health and Science University
 HB 2560
 Pap Smears, Health Insurance
 HB 2497

Parent and Child
 SB 234, SB 618
 Parole, Probation, and Post -Prison Supervision
 HB 2050, HB 2322, HB 3419, SB 89
 Payday Loans
 SB 545
 Pears, Official State Fruit
 HJR 8
 Pedestrians
 HB 2742, SB 591
 Personal Representatives, Health Information
 SB 278
 Pests and Pesticides, Pesticide Use Reporting System
 SB 290
 Pharmacists and Pharmacies
 HB 2485, HB 2743, SB 404
 Physical Therapy
 HB 3260
 Physicians and Surgeons
 SB 404, SB 669, SB 772, SB 849, SB 1085
 Planned Communities
 SB 672, SB 955
 Podiatric Physicians
 HB 2490
 Pollution
 HB 3481, SB 532
 Port of Portland
 SB 71
 Portland General Electric Company
 SB 671, SB 1008
 Ports, Enterprise Zone Designation
 HB 3143
 Precursor Substances
 HB 2485, SB 907
 Pregnancy and Childbirth
 HB 2020, HB 2497, HB 2706, SB 712
 Prescription Drugs
 HB 2480
 Privileged and Confidential Information
 HB 2285, HB 2605, SB 324
 Privileges and Immunities
 HB 3482, SB 572
 Probate
 SB 278, SB 1088
 Product Liability
 SB 304, SB 1011
 Professional Liability Claims
 HB 2745, HB 3208
 Project Independence, Oregon
 SB 870
 Pseudoephedrine Products, Sales
 HB 2485
 Public Accommodations, Discrimination
 HB 2519
 Public Assistance
 HB 2276, HB 3049, HB 3070, HB 3443, HJR 6, SB
 329, SB 782, SB 824, SB 1088

Public Buildings
HB 3481, SB 956

Public Contracts
HB 3481, SB 477

Public Employees Retirement System
HB 2189, HB 3262, SB 766

Public Health, Rural Health Services Program
SB 404

Public Officers and Employees
HB 2687, SB 426

Public Records
SB 749, SB 755, SB 978

Public Safety Personnel, Deadly Force
HB 2142, SB 301

Public Safety Standards and Training, Department of
HB 2117

Public Utilities
SB 81, SB 171, SB 408, SB 671, SB 1008, SB 1072, SB 1082

Races and Racing
HB 3463, SB 929

Ranches
SB 538

Real Estate Licensees
HB 2604

Reciprocal Beneficiary Relationships
HB 3476, SB 1000

Records, Disclosure
HB 2117, HB 2982

Religion and Religious Organizations
HB 2912, SB 598, SB 818

Research
HB 3481, SB 838

Restitution
HB 2230

Rivers and Streams, Deschutes River Basin
HB 3494

Sales
HB 2869, HB 3049, HB 3363, HB 3488, SB 209, SB 772, SB 842, SB 1085, SB 1097

School Finance
HB 2450, HB 2727, HB 2742, HB 3184, HB 3481, HB 3482, SB 228, SB 300, SB 414, SB 415, SB 467, SB 1071

Schools and School Districts
HB 2450, HB 2681, HB 2727, HB 2733, HB 2840, HB 3129, HB 3162, HB 3184, HB 3481, HB 3482, HB 3491, SB 6, SB 228, SB 243, SB 300, SB 342, SB 383, SB 414, SB 415, SB 446, SB 448, SB 467, SB 639, SB 749, SB 755, SB 765, SB 860, SB 956, SB 1071

Schoolteachers
HB 3504, SB 6, SB 50, SB 749, SB 755

Secretary of State
HJR 31, SB 161

Seeds, Industry Regulation
HB 3461

Senior Citizens
HB 2869, HB 3049, HB 3363, HB 3488, SB 209, SB 772, SB 842, SB 1085, SB 1097

Sentence and Punishment
SB 528, SB 914, SB 919

Sex Offender Registration
HB 2299

Sex Offenses
HB 2050, HB 2312, HB 2316, HB 2599, HB 2662, HB 3419, HB 3486, SB 89, SB 128, SB 203, SB 243, SB 983

Sexual Orientation Discrimination
HB 2519, SB 176, SB 1000

Sign Language Interpreters
HB 3230

Slaughtering and Slaughterhouses
HB 2539

Small Claims
SB 333

Social Security Numbers
HB 2608, HB 2599

Sodium Azide, Air Bags
HB 2507

Special Districts
SB 660

Speed Limits
HB 2840, HB 3252, SB 568

Sports
HB 3179, HB 3463, HB 3466, HB 3482

Staffing Levels and Safety Issues
SB 321

Stalking, Victims' Rights
SB 983

State Agencies
HB 2001, HB 2117, HB 3085, HB 3481, HB 3502, SB 247, SB 405

State Finance
SB 405, SB 1089

State Hospital
HB 3073, HB 3488

State Institutions Inmates, Abuse Reports
HB 3073

State Lands
HB 2236, SB 405

State Officers and Employees, Impeachment
HJR 31

State Police, Department of, Sex Offender Information
HB 3486

State School Fund Distributions, Education Service Districts
HB 3184, SB 414, SB 415

Statute of Limitations
HB 2316, SB 203

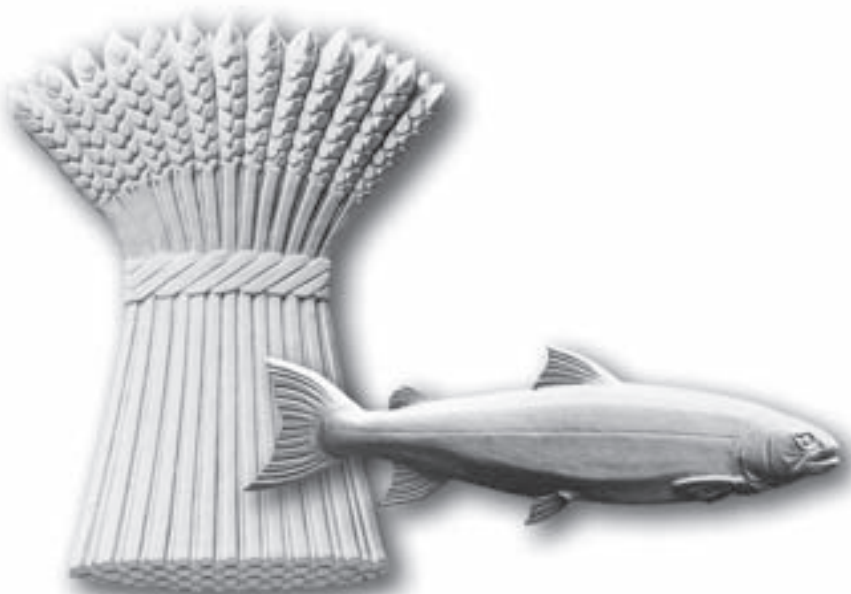
Studded Tires
HB 2869, SB 842

Subdivisions and Partitions
HB 2356

Submerged and Submersible Lands
 HB 2265, HB 3104
 Sudan, Republic of, State Investments
 SB 1089
 Supplemental Income Program, Oregon
 HB 2276
 Support of Dependents
 HB 2213
 Supreme Court, Oregon, Redistricting
 HJR 39
 Surveys and Surveyors, Seismic Safety
 SB 2
 Taxation
 HB 2463, HB 2602, HB 2700, HB 2787, HB 2933,
 HB 2945, SB 323, SB 479, SB 847, SB 853, SB 879,
 SB 1083, SB 1100
 Telecommunications Law Revision
 SB 17
 Telephone Solicitations
 SB 208
 Telephones and Telecommunications
 HB 2001, HB 3443, SB 17, SB 208, SB 983, SB 1067
 Television
 HB 2191, HB 2730, HB 2811
 Tires
 HB 2869, SB 842
 Title Loans
 SB 545
 Tobacco and Smoking, Cigarettes
 SB 738
 Torts
 HB 2893, HB 3208, SB 177, SB 324, SB 333, SB 837
 Towing Businesses
 HB 3121
 Transportation
 HB 2742, HB 3415, SB 71, SB 173, SB 558
 Treasurer, State
 HJR 31, SB 161, SB 1089
 Trojan Nuclear Plant
 SB 1008
 Trusts and Trustees
 HB 3324, SB 275
 Unemployment Compensation
 HB 2124, HB 2127, HB 3305, SB 323
 Uniform Laws, Trust Code
 SB 275
 Vehicle Air Bags
 HB 2507
 Veterans
 HB 2602, HB 2681, HB 2687, HB 2700, HB 2795,
 HB 2933, HB 2945, HB 3262, HB 3504, HJM 15,
 HJM 16, HJM 18, HJM 25, SB 1100
 Video and Sound Recordings
 HB 2811, SB 368
 Virtual School District, Oregon
 SB 1071

Volunteers, Public Contracts
 SB 477
 Voting Machines
 HB 2167, HB 2169
 Water and Water Rights
 HB 2172, HB 2265, HB 2812, HB 2875, HB 3038,
 HB 3494
 Water Supply Systems
 HB 2025, HB 2599, HB 3108
 Weapons
 HB 2142, HB 3457, SB 301, SB 956
 Weeds
 HB 2577, HB 3316
 Wolves
 HB 3478
 Women
 HB 2497, HB 2498, HB 2509, SB 618, SB 849
 Workers' Compensation
 HB 2091, HB 2588, HB 2717, SB 190, SB 311, SB
 323, SB 386, SB 644, SB 669
 Wreckers and Wrecking
 HB 2507, HB 3121
 Zones and Zoning
 HB 2199

Measure Number Page Index



2005 Summary of Legislation

Measure	Page
SB 1	48
SB 2	26
SB 3	26
SB 6	43
SB 17	26
SB 27	22
SB 36	88
SB 39	88
SB 43	62
SB 50	43
SB 71	14
SB 81	2
SB 82	68
SB 89	88
SB 94	78
SB 96	68
SB 103	68
SB 118	2
SB 128	88
SB 152	14
SB 153	78
SB 161	23
SB 171	10
SB 173	2
SB 177	62
SB 190	10
SB 203	88
SB 208	82
SB 209	10
SB 228	43
SB 232	88
SB 234	78
SB 240	89
SB 243	89
SB 247	78
SB 275	79
SB 278	79
SB 287	89
SB 290	62
SB 300	40
SB 301	95
SB 304	82
SB 311	2
SB 321	10
SB 323	2
SB 324	79
SB 328	3
SB 329	56
SB 333	82
SB 342	40

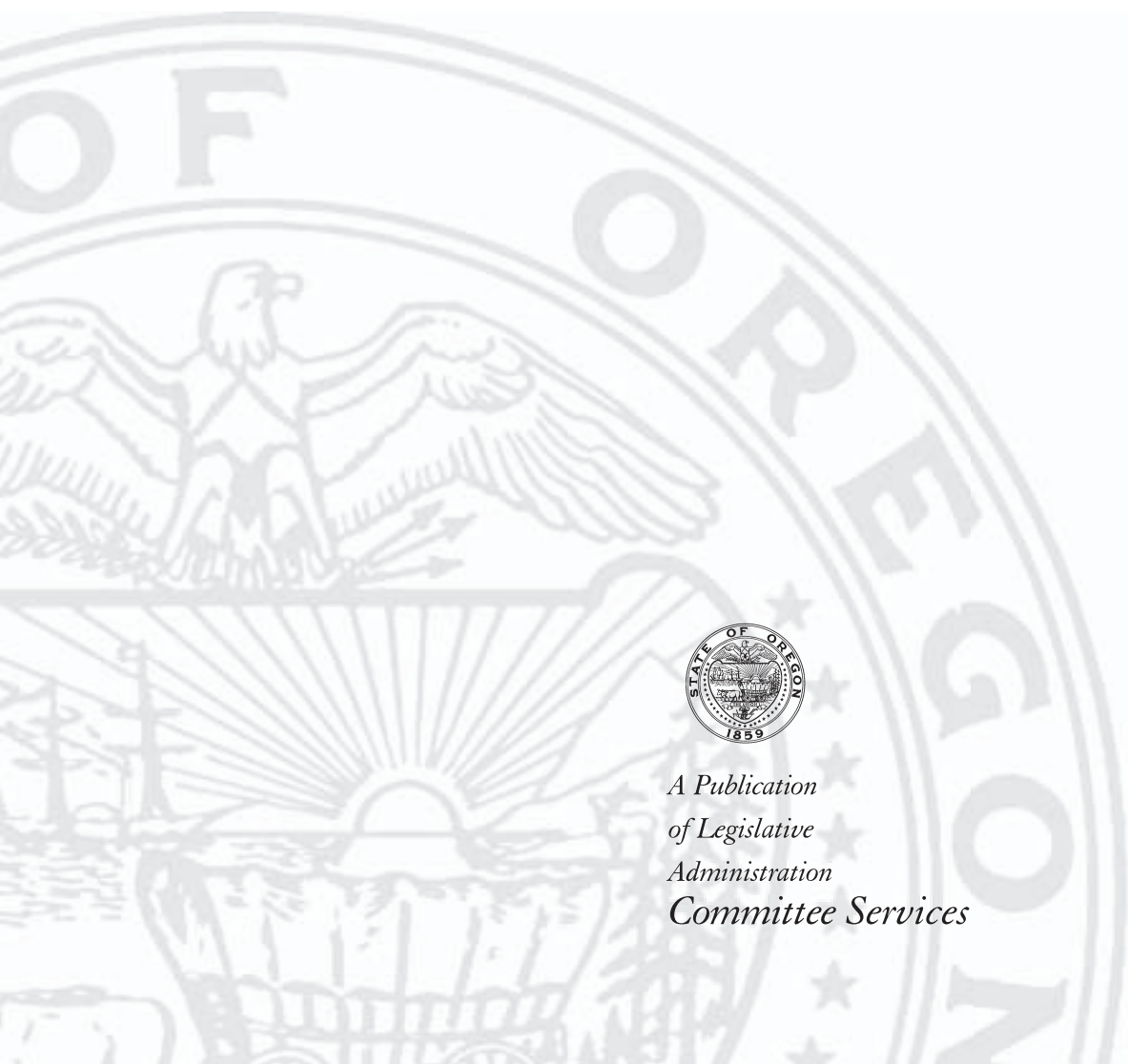
SB 346	72
SB 359	29
SB 367	14
SB 374 (see SB 501)	48
SB 368	89
SB 383	40
SB 386	3
SB 404	48
SB 405	98
SB 408	27
SB 414 (see HB 3184)	42
SB 415 (see HB 3184)	42
SB 420	31
SB 421	27
SB 426	11
SB 446	57
SB 448	14
SB 460	48
SB 467	40
SB 477	3
SB 479	4
SB 486	36
SB 501	48
SB 503	57
SB 528	89
SB 532	73
SB 538	68
SB 541	57
SB 545	11
SB 547	90
SB 558	18
SB 568	90
SB 572	57
SB 591	79
SB 595	15
SB 598 (see SB 818)	58
SB 618	49
SB 639	43
SB 640	15
SB 641	90
SB 644	11
SB 660	27
SB 669	11
SB 671	98
SB 672	11
SB 712	96
SB 738	11
SB 749 (see SB 755)	40
SB 755	40
SB 765 (see HB 3184)	42
SB 766	44

SB 772 (see SB 1085)	51	SB 1100	36
SB 782	49	SJR 10	23
SB 815	49	HB 2001	32
SB 818	58	HB 2005	5
SB 824 (see SB 782)	49	HB 2009	58
SB 837	27	HB 2010	59
SB 838	4	HB 2020	96
SB 842	18	HB 2025	74
SB 844	90	HB 2028	32
SB 847	28	HB 2050	91
SB 849	58	HB 2056	100
SB 853	4	HB 2058	52
SB 860	44	HB 2062	6
SB 870	49	HB 2078	6
SB 879	4	HB 2091	6
SB 880	50	HB 2116	29
SB 882	41	HB 2117	7
SB 887	68	HB 2120	62
SB 907	90	HB 2124	7
SB 914	91	HB 2141	92
SB 919	91	HB 2142	92
SB 929	5	HB 2155	29
SB 938	15	HB 2157	92
SB 955	5	HB 2167	22
SB 956	96	HB 2169	29
SB 962	50	HB 2170	72
SB 973	50	HB 2172	74
SB 978	91	HB 2189	29
SB 983	5	HB 2191	7
SB 998	16	HB 2199	8
SB 1000	82	HB 2202	52
SB 1008	99	HB 2213	80
SB 1011	83	HB 2230	80
SB 1026	50	HB 2236	32
SB 1027	18	HB 2265	74
SB 1037	70	HB 2276	52
SB 1040	58	HB 2285	80
SB 1041	79	HB 2299	92
SB 1057	12	HB 2312	92
SB 1064	50	HB 2316	93
SB 1067	91	HB 2322	93
SB 1068	91	HB 2327	63
SB 1071	41	HB 2356	69
SB 1072	62	HB 2361	93
SB 1074	31	HB 2373	83
SB 1083	99	HB 2389	29
SB 1085	51	HB 2409	12
SB 1088	51	HB 2412 (see SB 1057)	12
SB 1089	28	HB 2415	80
SB 1096	28	HB 2416	81
SB 1097	51	HB 2426	52

HB 2438	69
HB 2450	41
HB 2463	12
HB 2480	101
HB 2484	69
HB 2485	93
HB 2490	53
HB 2497	53
HB 2498	53
HB 2507	63
HB 2513	63
HB 2539	64
HB 2560	44
HB 2577	64
HB 2583	23
HB 2588	102
HB 2591	81
HB 2593	64
HB 2599	30
HB 2602 (see SB 1100)	36
HB 2604	8
HB 2605	83
HB 2608	18
HB 2662	81
HB 2681	36
HB 2687	36
HB 2693	12
HB 2700 (see SB 1100)	36
HB 2706	53
HB 2717	8
HB 2720	12
HB 2727	44
HB 2729	64
HB 2730	82
HB 2733	44
HB 2740	16
HB 2742	16
HB 2743	83
HB 2745	84
HB 2754	53
HB 2759	74
HB 2787	59
HB 2800	53
HB 2811	16
HB 2812	74
HB 2839	84
HB 2840	16
HB 2869	19
HB 2875	72
HB 2881	72
HB 2893	84

HB 2896	85
HB 2912	32
HB 2933	37
HB 2937	17
HB 2945	37
HB 2969	94
HB 2976	94
HB 2982	94
HB 3029	54
HB 3038	72
HB 3046	74
HB 3049	59
HB 3073	54
HB 3085	85
HB 3090	24
HB 3097	8
HB 3104	75
HB 3108	54
HB 3121	17
HB 3129	41
HB 3143	9
HB 3162	44
HB 3174	42
HB 3179	42
HB 3184	42
HB 3197	17
HB 3208	85
HB 3230	55
HB 3238	30
HB 3252	17
HB 3258	65
HB 3260	55
HB 3262	30
HB 3305	9
HB 3310	69
HB 3316	65
HB 3324	9
HB 3363	9
HB 3415	18
HB 3419	95
HB 3443	55
HB 3457	94
HB 3458	22
HB 3461	65
HB 3463	102
HB 3465	55
HB 3466	31
HB 3472	73
HB 3476	85
HB 3478	75
HB 3481	66

HB 3482	56
HB 3483	70
HB 3486	95
HB 3488	59
HB 3491	95
HB 3494	73
HB 3502	31
HB 3504	37
HB 3505	32
HJM 2.....	37
HJM 15.....	37
HJM 16.....	38
HJM 18.....	38
HJM 25.....	38
HJR 1.....	32
HJR 6.....	60
HJR 8.....	65
HJR 25.....	56
HJR 31.....	24
HJR 39.....	33



*A Publication
of Legislative
Administration
Committee Services*