

■ SUMMARY OF LEGISLATION ■

2007

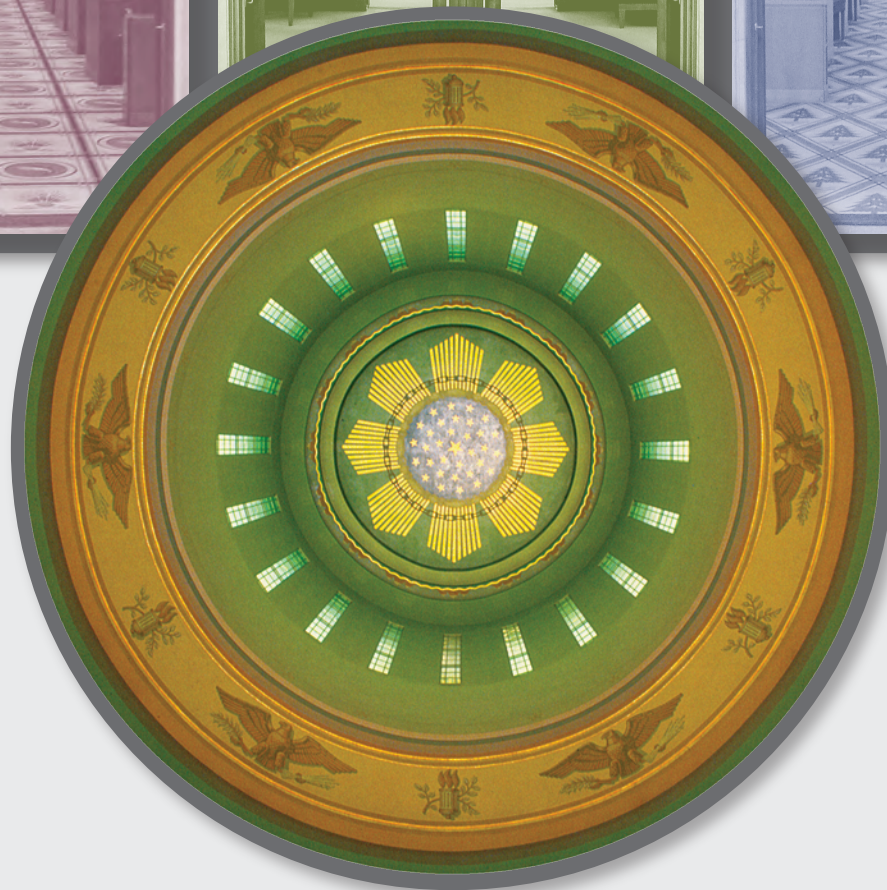
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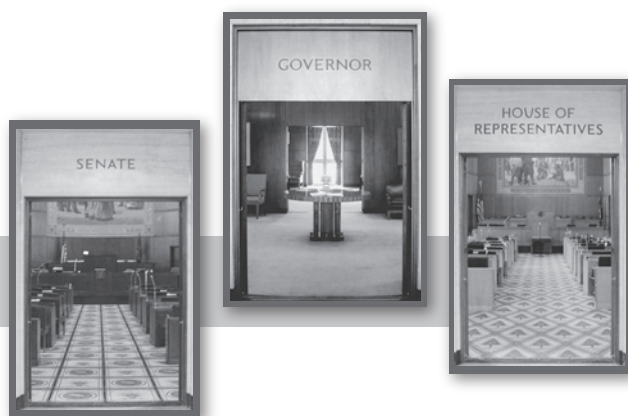
74th Oregon Legislative Assembly

2007 Summary of Legislation

A publication of
Legislative Administration
COMMITTEE SERVICES

December 2007

2007 SUMMARY OF LEGISLATION



The **2007 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 2007 Oregon Laws is found at the end of this publication.

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Complete measure history and final vote tallies may be obtained by consulting the Final Legislative Status Report, Regular Session 2007. 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>

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For information on legislative revenue and fiscal measures, see:

Revenue Measures Passed by the 2007 Legislature (Research Report #3-07) summarizes legislation related to revenue. For a copy of this document, please contact:

Legislative Revenue Office
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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:

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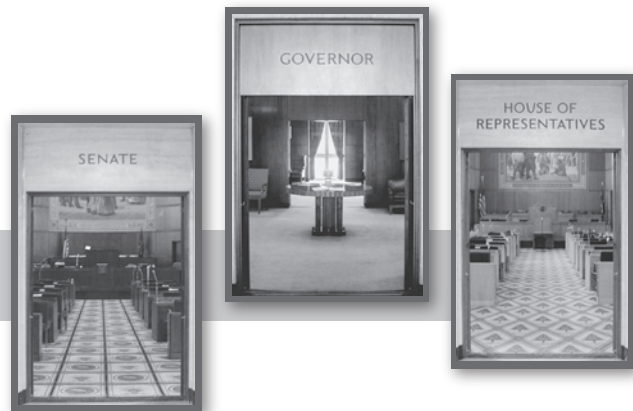
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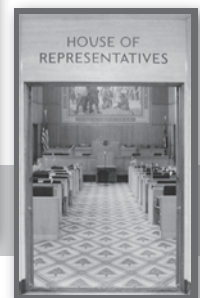
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Agriculture and Natural Resources

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Senate Bill 234

Regulating production of biopharmaceutical crops in Oregon

SB 234 authorizes the Director of the Department of Agriculture (ODA) and an appointee of the Director of the Department of Human Services to enter into memorandum of understanding or other intergovernmental agreements between state and federal agencies regarding regulation of biopharmaceutical crops. Under such agreements, state agencies may review permit applications, conduct site inspections and monitor any biopharmaceutical crops in Oregon. The measure authorizes agencies to take enforcement action if there is evidence that biopharmaceutical crops are endangering Oregon agriculture, horticulture, forest products or public health. Any information considered to be "confidential business information" must be kept confidential by the state agencies. The measure further allows ODA to implement a state permit review and oversight system paid for by the applicants. Fees charged for these state services must be reasonably calculated based on the actual cost of the oversight activities and are capped at \$10,000.

Biopharmaceutical crops are genetically engineered plants that produce therapeutic compounds, such as vaccines and enzymes. The Governor and the Senate convened a Biopharmaceutical *Ad Hoc* Committee following the 2005 Legislative Session to review biopharmaceutical concerns and develop recommendations. These recommendations were published in *Oregon Biopharmaceutical Committee: Policy Statement & Recommendations*.

Effective date: January 1, 2008

Senate Bill 235

Also included in the Environment and Energy Chapter

Enforcement of agricultural air quality laws, creating Task Force on Dairy Air Quality

SB 235 requires the Environmental Quality Commission and Department of Agriculture (ODA) to enter into a memorandum of understanding that addresses the department's administration and enforcement of air quality laws relating to agricultural operations necessary to comply with the federal Clean Air Act. The measure authorizes ODA to perform any function of the Department of Environmental Quality (DEQ) that relates to

air quality including, but not limited to, issuing permits, establishing fees, entering and inspecting premises, and assessing civil penalties. Certain agricultural operations are exempt from the air quality regulations.

SB 235 also creates a Task Force on Dairy Air Quality to study emission of air contaminants from large dairy operations and evaluate available alternatives for reducing emissions. The task force is to present its findings to DEQ and ODA by July 1, 2008, and the agencies are to jointly report on dairy air quality to an appropriate interim legislative committee by October 1, 2008.

Since the beginning of Oregon's air quality program in the 1960s, state law has exempted from regulation all agricultural operations except for field burning in the Willamette Valley. Because the federal Clean Air Act does not provide an exemption for agricultural operations, there is inconsistency between state and federal law. In the fall of 2005, several environmental groups petitioned the U.S. Environmental Protection Agency (EPA) to revoke its approval of Oregon's air quality permitting program because of this inconsistency between state and federal law. EPA agreed with the petitioners and directed the state to address the problem. Failure to come into compliance with the federal Clean Air Act could result in the revocation of Oregon's delegated authority to administer the Clean Air Act and could require businesses to obtain permits directly from EPA.

Effective date: July 17, 2007

Senate Bill 432

Establishes limitations on shipbreaking

SB 432 restricts shipbreaking of vessels over 200 gross tons to occur only in dry dock. Exceptions are provided for barges, partial dismantling a ship requiring repair, and for shipwrecks in cases where the Department of State Lands determines that it is impractical to move the shipwreck to dry dock. The measure applies to vessels in Oregon's waters, including all navigable and non-navigable natural waterways and the portion of the Pacific Ocean out to three miles from shore.

Effective date: May 25, 2007

Senate Bill 450

Authorization of rangeland protection associations

SB 450 allows rangeland owners to form organizations to protect rangeland from fire when their property is outside of a forest protection district. The measure allows the State Forester to enter into cooperative agreements or contract with rangeland protection associations to protect rangeland from fire and authorizes the State Forester to assist such associations with training, acquisition of firefighting equipment and provision of liability insurance.

The Ironside Rangeland Fire Protection Association, formed in 1964, is a volunteer program that provides rangeland fire protection services on private rangeland property in Malheur County. From 1998 to 2006, seven additional volunteer rangeland fire protection associations were formed in eastern Oregon. Currently, there is no fire protection program for private rangeland property except for these volunteer groups. Without preventive measures, fires that start on private rangeland can escalate and spread to publicly-owned properties.

Effective date: July 17, 2007

Senate Bill 514

Establishing property tax special assessment program for voluntary conservation easements

SB 514 establishes a special property tax assessment program for land that is subject to a voluntary conservation easement, allowing land presently subject to farm use or forestland special assessments to be transferred to a conservation easement special assessment without paying additional property tax. The measure provides a process for property owners to apply with the county assessor. A designated fee of \$250 may be assessed to cover administrative expenses of the program. The measure includes provisions for certifying compliance with the terms of a conservation easement every three years or more frequently if requested by the county assessor, as well as for disqualification or reinstatement of a conservation easement.

Under current law, property owners who wish to designate a portion of their property for conservation may lose a farm or forestland special property tax assessment on that portion of their property if the easement precludes the owner from engaging in farming or harvesting of timber. In such cases, the property owner must

pay property tax at a higher rate and may be required to pay back taxes if the property is disqualified from a farm use or forest land special assessment designation.

Effective date: January 1, 2008

Senate Bill 790

Establishing a moratorium on leasing territorial sea for resource exploration

SB 790 establishes a moratorium on leasing for purposes of exploration, development or production of oil, gas or sulfur in Oregon's territorial sea except if the Governor determines that an oil embargo is substantially affecting the supply of oil to the United States. Exemptions are provided for scientific research, academic research or geologic survey activities. The moratorium sunsets on January 2, 2010. A previous moratorium on oil and gas exploration in Oregon's territorial sea expired in 1995. The territorial sea extends from the shore to three miles off shore.

Effective date: January 1, 2008

Senate Bill 1011

Also included in the Land Use Chapter

Designation of rural reserves outside urban growth boundaries

SB 1011 authorizes county and metropolitan service districts to enter into an intergovernmental agreement to designate rural reserves not included in urban growth boundaries (UGB). The measure directs the Land Conservation and Development Commission (LCDC), in consultation with the Department of Agriculture (ODA), to adopt by goal or rule a process and criteria for designating rural reserves. Rural reserves are defined as land reserved to provide long-term protection for agriculture and natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains. Urban reserves include lands outside a UGB that provide future expansion over a long-term period and the cost-effective provision of public facilities and services when the land is included in the UGB.

The measure sets criteria for designating rural reserves which cannot be re-designated as an urban reserve until the end of the urban reserve planning period, 40 to 50

years after designation of rural reserves. In addition, SB 1011 creates an alternative process for a county or metropolitan service district to designate urban reserves, specifying that urban and rural reserves are to be designated concurrently through agreements between a metropolitan service district and a county.

Metro launched a New Look at Regional Choice planning program in 2006 to broadly re-examine current implementation of the region's long-range plan, the 2040 Growth Concept. The population of the Portland region is expected to grow by more than one million people over the next 25 years. One component of the New Look program focused on balancing regional agricultural land needs with the protection of natural resources and the creation of new urban areas. Facilitating the designation of both urban reserves to accommodate future urbanization and rural reserves to identify areas that will not be urbanized emerged as priority objectives from Metro's regional planning effort.

Effective date: June 28, 2007

House Bill 2068

Membership of Invasive Species Council

An invasive species is a non-native species whose introduction causes, or is likely to cause, harm to human health, the economy, or the environment. An invasive species can be a plant, animal, or any other biologically viable species that enters an ecosystem beyond its native range. The Oregon Invasive Species Council was established in 2001 to conduct a coordinated and comprehensive effort to keep invasive species out of Oregon and to eliminate, reduce, or mitigate the impacts of invasive species already established in Oregon. The council is comprised of twelve members, including four ex-officio voting members representing the Department of Agriculture, Department of Fish and Wildlife, Portland State University Center for Lakes and Reservoirs, and Oregon Sea Grant. Each of these members appoints two additional council members.

HB 2068 adds the State Forester as a voting, ex-officio member of the Invasive Species Council. The measure further stipulates that the five ex-officio members of the council are to collectively appoint the eight additional members of the council.

Effective date: January 1, 2008

House Bill 2097

Split-use leasing of instream water rights

The 2001 Legislative Assembly authorized the split season lease of all or a portion of a water right for use instream. This authorization allows the use of both the existing water right and the leased, instream right during the same season or calendar year, provided the uses are not concurrent and holders of the water right measures and reports their use to the Water Resources Department. HB 2097 extends the sunset for this program from its current ending date of January 2, 2008 to January 2, 2014.

Effective date: January 1, 2008

House Bill 2098

Extension of irrigation seasons

Under current law, the Water Resources Commission may extend, by order, the irrigation season of a sub-basin beyond the period established by adjudication, administrative rule, or by conditions imposed on a water right permit or certificate. The request to extend a season must come from the Department of Agriculture. In order to approve a request, the commission must find that water is available during the period of the proposed extension and that water use during the extended season will not impair instream flows necessary to protect aquatic resources or the maintenance of water quality standards. HB 2098 requires that an extension of an irrigation season be made by rule, rather than by order.

Effective date: January 1, 2008

House Bill 2101

Fees collected by Water Resources Department

The review and processing of new water right applications and transfers has become increasingly complex with limited water supplies and competing demands. The Water Resources Department receives approximately 450 new water right applications and 300 transfer applications each year. HB 2101 creates new fees and increases the amount of certain existing fees collected by the Water Resources Department to assist in providing the required review of applications and transfers.

Effective date: June 1, 2007

House Bill 2114

Stewardship Agreement Grant Fund

The Forest Stewardship Program was established to encourage landowners to exceed regulatory requirements in order to conserve, restore and improve water quality and fish and wildlife habitat. HB 2114 adds incentives to encourage participation in the program. The measure establishes a Stewardship Agreement Grant Fund and specifies that monies from the Flexible Incentives Account may be used to fund stewardship agreement activities. The bill further authorizes the Department of Agriculture and the State Board of Forestry to make a determination, individually or jointly, on the applicability of rules to a landowner with a stewardship plan. Landowners may be required to comply with regulations adopted subsequently upon a clear showing of significant threat to the public health or welfare, to fish and wildlife habitat, or to water quality.

Effective date: January 1, 2008

House Bill 2210

Also included in the Environment and Energy Chapter

Biofuel blending standards and tax credits for biofuel raw materials

HB 2210 allows tax credits for agricultural producers and collectors of biofuel raw materials, including forest or agriculture-sourced woody biomass, oil seed crops, grain crops, grass or wheat straw and animal rendering byproducts, used to produce fuel in Oregon. The measure allows a tax credit for consumers who purchase fuels blended at 85 percent ethanol or 99 percent biodiesel for use in alternative fuel vehicles and for consumers who purchase biofuel for home heating. HB 2210 expands local property tax exemptions for energy production facilities that produce ethanol and biofuel. The tax credits sunset on January 1, 2013.

HB 2210 also requires the Department of Agriculture to monitor biodiesel and ethanol production capacity in Oregon and to initiate minimum fuel blending standards statewide for biodiesel and ethanol. Those standards are to require retail sellers of gasoline to sell only gasoline that contains at least 10 percent ethanol within three months after Oregon production of ethanol reaches 40 million gallons per year. Retail sellers of diesel will be required to sell only diesel that contains at least two percent biodiesel within three months after production

of biodiesel in the state, using feedstocks from Oregon, Washington and Idaho, reaches five million gallons annualized for at least three months. Retail sellers of diesel will be required to sell only diesel that contains at least five percent biodiesel within three months after production of biodiesel in the state, using feedstocks from Oregon, Washington and Idaho, reaches 15 million gallons annualized for at least three months.

Effective date: September 27, 2007

House Bill 2289

Standards for noxious weed seed in wild bird feed

Recent studies have shown serious levels of viable noxious weed seed contamination in bird seed. HB 2289 authorizes the Oregon Department of Agriculture to adopt rules establishing maximum permissible amounts of noxious weed seeds in wild bird feed.

There are nearly 100 different plant species in Oregon classified as noxious weeds. 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, 2008

House Bill 2445

Payments to landowners for public access to land

ORS 105.682 provides immunity from liability to landowners who allow public access for recreation, provided the owner does not charge for permission to use the land. There has been uncertainty over whether a landowner who accepts payment from a public body for access is still protected by the liability shield. The Department of Fish and Wildlife currently administers two programs that pay landowners to allow public access.

HB 2445 clarifies that moneys received from a public body in return for granting public access is not considered charging admission and therefore does not affect a landowner's immunity from liability.

Effective date: June 12, 2007

House Bill 2617

Licensing multiple food businesses at a single facility

Currently, the Department of Agriculture is authorized to issue a license to only one person at a particular food processing establishment or facility. This limitation can be cumbersome for a small start-up business that would like to share a facility with an existing operation because the new entity is only allowed to conduct business under the original license and cannot market products or promote itself using its own label. HB 2617 allows the department to license multiple businesses of the same license type, such as bakeries or meat processors, to produce or market their products from a single location or facility.

Effective Date: January 1, 2008

House Bill 2723

Also included in the Land Use Chapter

Validation of illegally created lots

The Department of Land Conservation and Development and others report that parcels of land have been sold in Oregon without the buyer's knowledge that the parcel was not lawfully established. In some cases, land may have been divided to create a separate tax account, but is not otherwise a legal subdivision. In other cases, local governments have granted building permits on unlawfully established lots without proof of legal land division, thereby reinforcing the appearance to prospective buyers that the lot is a legal parcel. Purchasers of these illegally divided lots are unable to receive the building and other permits necessary to use or develop their land.

HB 2723 establishes a process by which a county or city may validate, and an owner may record, an established unit of land that was unlawfully created by a previous owner on or before January 1, 2007. The measure limits the creation of future illegal lots by prohibiting recording of a fee title without inclusion of evidence that the land division is lawful. Additionally, HB 2723 requires property sellers to disclose, if known, whether a unit of land being transferred has been lawfully established.

Effective date: January 1, 2008

House Bill 2971

Authority to appoint agents to hunt black bears or cougars

Current law allows the use of bait or one or more dogs to hunt or pursue black bears or cougars by employees or agents of county, state or federal agencies while acting in their official capacity. According to the Department of Justice, the Department of Fish and Wildlife (ODFW) lacks clear statutory authorization to hire agents to hunt or pursue black bears or cougars with dogs. HB 2971 authorizes ODFW to appoint persons to act as agents for this purpose and requires such hunts or pursuits to comply with the black bear management plan and cougar management plan adopted by rule by the Fish and Wildlife Commission and prohibits agents from engaging in any other hunting or pursuit while acting on the behalf of ODFW.

Ballot Measure 18, enacted by the voters in November 1994, banned the use of dogs and bait pits in the hunting of bears and cougars. Current law includes exceptions for federal, state, and county agents acting in their official capacity.

Effective date: January 1, 2008

House Bill 2973

Implementing recommendations of the Smoke Management Review Committee

The Oregon Smoke Management Plan was developed as a voluntary program in 1969 and adopted as a regulatory program by the State Forester and the Environmental Quality Commission in 1972. The overall purpose of the plan is to keep smoke generated by prescribed burning on forestland from being carried to specific designated areas and other areas sensitive to smoke. The plan applies to state, federal and private forestland in Oregon, and currently includes mandatory smoke management constraints for burning in western Oregon, the Deschutes National Forest, the Mt. Hood National Forest and the federal forestlands in the Blue Mountains of northeast Oregon. Voluntary programs are in effect in the Klamath Falls and Lakeview areas. Monthly accomplishment reports are required for the remaining forestlands in eastern Oregon.

A Smoke Management Review Committee was established in 2002 to make recommendations to the State

Forester about the adequacy of the plan. In 2005, the committee made 39 recommendations to improve the air quality and the Smoke Management Plan. HB 2973 makes changes to the forest smoke management program to implement some of those recommendations.

Effective date: May 30, 2007

House Bill 2992

Dividing resource land for parks, open space or conservation

State law authorizes the governing body of a county or its designee to approve a proposed division of land in a farm use zone for the purpose of allowing a provider of public parks or open space or a nonprofit land conservation organization to purchase at least one of the resulting parcels. HB 2992 authorizes similar divisions in forest and mixed farm and forest zones if one parcel is to be sold to a provider of public parks or open space or nonprofit land conservation organization and the remaining parcel is large enough to support a dwelling.

Effective date: January 1, 2008

House Bill 3043

Civil penalties for violating reforestation requirements

The Oregon Forest Practices Act (FPA) requires reforestation, including site preparation, to begin within 12 months after the completion of harvest and to be completed by the end of the second planting season after the completion of harvest. By the end of the fifth growing season, a minimum number of healthy, free-to-grow, conifer or suitable hardwood seedlings must be established per acre and be well-distributed over the area. Violations of reforestation requirements under the FPA are subject to citation and order to reforest. Once a citation is issued, a civil or criminal penalty may be processed. Currently, ORS 527.685 limits the penalty to no more than \$5,000 per violation.

In some cases, the existing civil penalty authority under the FPA has not been a sufficient incentive to promote timely reforestation, and, if left undone, reforestation may no longer be a viable option due to the high cost of treating competing vegetation. HB 3043 authorizes the State Forester to impose a civil penalty in an amount equal to the estimated cost of reforestation for violation of the reforestation requirements in the FPA.

Effective date: January 1, 2008

House Bill 3044

Increased fees and taxes for rural fire suppression

The Oregon Fire Land Protection Fund (OFLPF) was created by the Legislative Assembly in 1960 as a mechanism for landowners to pay for the costs of fighting wildfires that are beyond the capability of local district protection efforts. Revenues for the OFLPF are provided by an assessment on forestland ownership, a surcharge on improved lots, and a forest products harvest tax. The Emergency Fire Cost Committee supervises and controls the distribution of monies from the fund, with an aim to balance protection costs to forest landowners from region to region. HB 3044 increases the Emergency Fire Cost Committee fees and the forest products harvest tax for fire suppression purposes.

Effective date: September 27, 2007

House Joint Memorial 5

Urging Congress to pass legislation to reauthorize and extend Secure Rural Schools and Community Self-Determination Act of 2000

Historically, Congress has shared revenue generated from federal forestlands with local governments in recognition of the fact that federal ownership of forestlands deprives counties of revenue they would have received had the land been privately owned. The practice is also an acknowledgment that counties provide services that benefit federal forestland. In response to declining timber harvests on federal forests, Congress enacted the Secure Rural Schools and Community Self-Determination Act of 2000 to stabilize payments to counties for schools and roads and to improve forest ecosystems.

HJM 5 urges Congress to extend the Secure Rural Schools and Community Self-Determination Act of 2000 through federal fiscal year 2016 and to fund the Act with a mandatory, continuing appropriation.

Filed with Secretary of State May 24, 2007

House Joint Memorial 12

Urging Congress to allow Forest Service and Bureau of Land Management to enter into 15-year contracts for biomass removal from federal forests

The Oregon Department of Forestry defines biomass as woody materials that lack commercial value, such as trees with a diameter of less than six inches and the tops of larger trees. Governor Kulongoski adopted the Renewable Energy Action Plan in 2005, which recommended the increased use of forest biomass as a source of energy. In a 2007 report, the Department of Forestry's Biomass Work Group concluded that the lack of a predictable supply of biomass has proved to be a major obstacle in attracting private investment in biomass energy facilities.

HJM 12 urges Congress to allow the U.S. Forest Service and Bureau of Land Management to enter into 15-year contracts for the removal of biomass from forests controlled by the federal government.

Filed with Secretary of State June 20, 2007

LEGISLATION NOT ENACTED

Senate Bill 98

Managing working forests to generate revenue for student assistance

SB 98 would have authorized the State Forester to acquire and manage property for long-term timber harvest for the purpose of generating revenue to assist students attending institutions in the Oregon University System. The State Forester would also manage the acquired forestland for other uses such as recreation, fish and wildlife habitat protection, and water quality protection. All of the revenue generated through the sale of timber, grants, and gifts was to be deposited into a Working Forest Revenue Fund, of which the net revenue (minus certain expenses) would be deposited into a Working Forest Higher Education Fund. As monies became available in the Working Forest Revenue Fund, 90 percent would be transferred to the Higher Education Fund and 10 percent would be transferred to the counties where the working forest was located.

The measure would have established a Working Forest Revenue Bond Fund within the State Treasury and set the conditions for issuing and managing working forest revenue bonds. The measure also authorized the State Forester to distribute payments in lieu of property taxes to the counties in which working forests were located.

Senate Bill 600

Requiring a statewide water supply assessment

SB 600 would have directed the Water Resources Department (WRD) to conduct a statewide water supply and conservation opportunities assessment by July 1, 2009. The study was to identify challenges in ensuring sufficient water supplies to meet existing and future beneficial uses and provide data that was to be used for prioritizing future water storage and conservation projects. One directive for the study was to identify periods when water would be available for withdrawal from the Columbia River for possible use in Oregon.

Additionally, the water supply and conservation study was to include development of a program for community-based water supply planning to provide incentive funding to communities that developed strategies to meet their long-term water supply needs. The WRD was directed to assess the benefits of two community-based projects initiated by the Confederated Tribes of the Umatilla Indian Reservation, located in the Umatilla and Walla Walla river basins.

House Bill 2288

Also included in the Human Services Chapter

Establishing the Oregon Food Policy Council

In 2004, the Oregon Hunger Relief Task Force issued the "Act to End Hunger: 40 Ways in Five Years to Make a Difference" Report. One recommendation in the report was the creation of a statewide food policy council to assess statewide needs, propose solutions and provide coordination among local food policy councils. HB 2288 would have established the Oregon Food Policy Council in the Department of Agriculture and directed the council to review state and local food systems for the purpose of recommending improvements to the linkage between food producers, consumers and policy makers. The measure directed the council to work with the department to encourage the streamlining of regional food purchasing, delivery policies, and practices that authorize and encourage public institutions to give

preference to regionally produced foods. The council was designated to sunset on January 2, 2012.

House Bill 2564

Measurement of water use

In 2000, the Water Resources Commission adopted the Strategic Water Measurement Plan, which focuses on water diversions that have the greatest effect on stream-flows in areas with the greatest needs for fish. In a joint effort with the Department of Fish and Wildlife, the Water Resources Department (WRD) identified “high priority watersheds” on the basis of potential for both flow and fish restoration. The WRD then developed a statewide inventory of significant diversions, defined as those located in high-priority watersheds that are either already required to measure through a water right condition or that are authorized to withdraw more than five cubic feet per second (cfs), or a combination of more than .25 cfs and more than 10 percent of the lowest monthly 50 percent exceedance flow of the stream. WRD has identified 2,418 significant diversions in 293 high priority watersheds.

HB 2564 would have authorized WRD to implement the Strategic Water Measurement Plan. The measure amended current law to authorize the Water Resources Commission to require reporting of measurement information by water right owners already required to install a measuring device. A grant program to provide funds to water right owners for the acquisition and installation of measurement devices and stream gauging stations was to be established in the Oregon Watershed Enhancement Board.

House Bill 2566

Exempt uses of groundwater

Some uses of water in Oregon, referred to as “exempt uses,” are not required to apply for a water right from the Water Resources Department. Current statute (ORS 537.545) provides for seven exempt groundwater uses: stock watering; lawn or non-commercial garden watering of not more than one-half acre; single or group domestic purposes not exceeding 15,000 gallons per day (gpd); single industrial or commercial purposes not exceeding 15,000 gpd; down-hole heat exchange uses; watering school grounds of 10 acres or less of schools located within a critical groundwater area; and certain land applications associated with water reuse and confined

animal feeding operations. Wells supplying water for exempt groundwater uses must comply with Oregon’s minimum well construction standards for the construction, maintenance, and abandonment of any well.

HB 2566 would have lowered the volume allowance for single domestic exempt groundwater use from 15,000 gpd to 5,000 gpd. The measure established a \$250 recording fee for certain exempt groundwater uses and directed that revenues generated from the fee be used to conduct groundwater studies and monitoring. The Water Resources Commission was authorized to require by rule permits for exempt groundwater uses in groundwater limited and critical groundwater areas. The provisions of the measure would have been applicable to the use of exempt groundwater that began after its effective date.

In addition, the measure would have established a Task Force on Exempt Uses to identify areas where groundwater management problems exist, study whether restrictions on exempt wells or additional groundwater measurement would improve groundwater management problems, and identify available financial resources to support increased measurement and increased study of Oregon’s groundwater resources.

House Bill 3437

Prohibiting possession of exotic animals

Currently, state law defines “exotic animal” as including any member of the family felidae (felines), except the domestic cat; non-human primates; wolves; non-wolf members of the family canidae not indigenous to Oregon, except the domestic dog; and any bear, except the black bear. HB 3437 would have added the order crocodylia (crocodiles, alligators and caimans) to the list of exotic animals in state law.

HB 3437 would also have begun phasing out the state permitting program for exotic animals. Currently, ORS 609.319 prohibits any person from keeping an exotic animal without a state permit. Additionally, the measure would have prohibited any person from keeping an exotic animal unless a permit was obtained from the Oregon Department of Agriculture prior to the effective date of the measure. This permit requirement did not apply to wildlife rehabilitation centers, facilities operated under a valid license or research facility registration issued by the United States Department of Agriculture, an exotic animal protection organization, a law enforce-

ment agency, a licensed veterinary hospital or clinic, or a wildlife sanctuary. The measure also exempted educational facilities that house members of the order crocodylia at the request of the state or local government.

House Bill 3512

Also included in the Labor and Employment Chapter

Establishing Task Force on Agricultural Workforce Needs

Oregon's agricultural industry relies on agricultural labor to produce a wide variety of crops. HB 3512 would have established a Task Force on Agricultural Workforce Needs to study the current supply and demand for agricultural labor, state and federal laws that address or affect the supply of agricultural labor, and state and federal funds available to address the needs of farm workers and their families. The task force was also directed to study the efficacy of the H-2A guest worker visa program for temporary agricultural workers.

House Bill 3525

Appropriation of Columbia River water

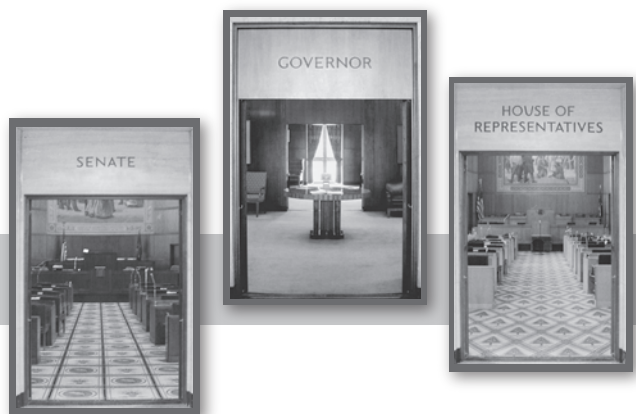
HB 3525 would have directed the Water Resources Department (WRD) to issue permits to appropriate 500,000 acre-feet per year of water from the Upper Columbia River (above the Bonneville Dam) as follows: 195,000 acre-feet per year for use in lieu of ground water to which the permit holder has a legal right in a critical groundwater area, or for use in recharging or replenishing groundwater in a critical groundwater area; 300,000 acre-feet per year to support business development projects by individuals certified by WRD as capable of using best management practices in the use of water; and 5,000 acre-feet per year to existing municipal water corporations to augment municipal water supplies.

The measure would also have directed WRD to charge an annual fee of \$10 per acre-foot for water appropriated to support business development and prohibited charging a fee for water appropriated for other described uses, stipulated that the fees be deposited in the Columbia River Water Account and continuously appropriated to WRD for administrative costs and the creation of in-stream water conservation projects with Tribes whose reservation or trust lands include the Columbia River or the Columbia basin.

Business and Consumer Affairs

- Economic Development
- Telecommunication and Utilities

2007 SUMMARY OF LEGISLATION



Senate Bill 91

Notifying Construction Contractors Board of management changes

SB 91 requires licensed contractors to notify the Construction Contractors Board (CCB) of changes to the names or addresses of owners, officers, managers, members, trustees, or responsible managing individuals. If the applicant for a contractor's license is a trust, the measure requires the names of trustees on the application. Construction contractor licenses are issued to business entities such as partnerships, corporations, and limited liability companies (LLCs). Partnerships and corporations are currently required, by law, to notify the board of any changes in partners or corporate officers, but does not extend the requirement to LLCs or other forms of ownership such as joint ventures or trusts. The CCB indicates that most new licensees are issued to LLCs.

Effective date: January 1, 2008

Senate Bill 116

Restrictions on motor vehicle towing companies

SB 116 prohibits towing companies from doing certain practices such as: towing without notifying the vehicle's owner or operator; charging more than the disclosed price; soliciting for business at or within 1,000 feet of a motor vehicle accident unless the tower tows the vehicle pursuant to a prior agreement between the tower and a vehicle road service company; requiring the vehicle owner or operator to not dispute the tow, the validity or amount of charges, or the vehicle's post-towing condition as a condition of releasing a vehicle or personal property located in the vehicle; holding a towed motor vehicle for more than 24 hours without taking an inventory of all visible personal property and holding the personal property in the motor vehicle in a secure manner; accepting cash as a method of payment for towing services unless the tower provides exact change no later than the end of the business day following the payment; or failing to provide the owner an opportunity to obtain personal property from the towed vehicle without a fee if it is of an emergency nature, such as credit cards and checkbooks or prescription medicine.

The measure also outlines required information to be included in the towing notice. Furthermore, a towing notice need not be delivered if the vehicle is towed from

a parking facility where clearly readable signs regarding towing are located in each parking stall or entrance to the parking facility or towed under a pre-negotiated payment agreement between the tower and a vehicle road service company or an insurance company, or if the tower is hired or otherwise engaged by an agency taking custody of an abandoned vehicle or a vehicle that is constituting a hazard or is hired or otherwise engaged by a business entity at the request of the owner or operator to tow the vehicle.

The Attorney General is authorized to enforce most provisions under the state's Unlawful Trade Practices Act, in which civil penalties of up to \$25,000 per violation can be pursued in state court, and is also authorized to adopt rules to implement the measure's provisions.

Effective date: January 1, 2008

Senate Bill 118

Protection of consumers from unconscionably excessive prices

SB 118 authorizes the Governor to address potential price gouging by determining an "abnormal disruption of the market" either through a proclamation or by an emergency declaration if any human-created or natural event or circumstance causes essential consumer goods or services to be unavailable. Essential goods or services are defined as items that are purchased primarily for personal purposes and are necessary for the health, safety, or welfare of consumers. Examples include residential construction materials and labor, food, water, fuel, and shelter for payment.

Once an abnormal disruption of the market is declared, wholesalers and merchants are prohibited from charging an "unconscionably excessive price" for essential goods and services, defined as 15 percent above the price immediately prior to the disruption. The declaration automatically expires after 30 days unless the Governor imposes a 30-day extension or either the Governor or the Legislative Assembly terminates the declaration.

The measure exempts state, local, and special governments, as well as public and electric utilities from the definition of a wholesaler or merchant. Violations are punishable as unlawful trade practices by the Attorney General but not subject to private right of action.

Effective date: May 30, 2007

Senate Bill 431

Regulation of involuntary towing of vehicles

SB 431 prohibits the towing of a tenant's vehicle without notice unless the vehicle blocks or prevents access by emergency vehicles or entry to the premises, or is unlawfully parked in a space reserved for persons with disabilities. A tenant's vehicle can be towed if it violates a prominently posted parking prohibition or is parked in an area not intended for motor vehicles, such as a sidewalk or lawn, or is parked in a tenant's space without a parking tag or a space assigned to another tenant.

The measure outlines procedures for a landlord to tow a vehicle without prior notice, describes rules regarding guest parking, and prohibits towing an inoperable vehicle without 72 hour notice or towing a vehicle for expired registration. Landlords are required to display signs that provide contact information for any hired towing companies.

Effective date: January 1, 2008

Senate Bill 492

Regulation of boxing and mixed martial arts

SB 492 authorizes the regulation of professional and amateur mixed martial arts events, including licensing of competitors, managers, and promoters and restricting matches to competitors who are at least 18 years of age. The measure changes the name of the Oregon State Boxing and Wrestling Commission to the Oregon State Athletic Commission, establishes the Athletic Commission Medical Advisory Committee, and requires the assignment of medical personnel to each boxing or mixed martial arts event. The measure increases maximum civil penalty authority from \$2,500 to \$100,000.

In mixed martial arts, the combatants use a combination of wrestling, boxing, and martial arts moves to render an opponent unable to continue the match. These events are also commonly referred to as ultimate fighting or cage fighting. The Oregon Boxing and Wrestling Commission regulated ring sporting events but previously lacked clear statutory authority to regulate mixed martial arts, in particular the growing number of amateur events.

Effective date: June 25, 2007

Senate Bill 583

Enhancing protections against consumer identity theft

SB 583 establishes the Oregon Consumer Identity Theft Protection Act, which provides Oregonians with additional protections for preventing identity theft. Under the measure, businesses and government entities are required to notify consumers, as quickly as possible, if a data security breach has occurred, and are required to quickly notify consumer reporting agencies if the security breach affects more than 1,000 consumers. Consumers can place a security freeze on their credit report through a written or secure electronic request to a consumer reporting agency, which must take effect no later than five business days after receiving the consumer's request, proper identification, and the fee (if applicable). If consumers wish their credit report to be accessed for a specific period of time while the freeze is in effect, or to remove the freeze, the request must be carried through within three business days after receiving the consumer's proper identification, unique personal identification number, or password provided by the reporting agency, the time period for which the freeze is to be lifted, and any applicable fees. The reporting agency cannot set fees for more than \$10, and may not impose a fee on a customer who is a victim of identity theft.

SB 583 also outlines the responsibilities of consumer reporting agencies with regard to freezing a credit report, such as when the agency can temporarily lift or remove a freeze, the entities that are not required to place a security freeze, and the prohibition of changing certain information in the consumer's report. Unless specifically provided by law, a consumer's social security number may not be printed on any materials not requested by the consumer, on a card required for accessing products or services, or publicly posted or displayed unless redacted. Furthermore, any person that owns, maintains, or otherwise possesses data that includes a consumer's personal information must develop, implement, and maintain reasonable safeguards to protect the security, confidentiality, and integrity of personal information.

The Department of Consumer and Business Services is authorized to enforce and make rules to regulate SB 583 provisions, including assessing penalties of not more than \$1,000 for every violation, but the maximum penalty for any occurrence shall not exceed \$500,000.

Effective date: October 1, 2007

Senate Bill 645

Tracking and return of lost and stolen shopping carts

SB 645 establishes a standard, but optional, ordinance for local governments to follow regarding the theft or desertion of shopping carts. If any cities adopt the ordinance, store owners can establish a coordinated statewide toll-free number and business notice system for reporting the location of abandoned carts to speed their retrieval.

Removal of a shopping cart from the store premises is considered theft under current law. The posted notice requirements in SB 645 are intended as a means of deterrence instead of a means to increase prosecutions.

Effective date: January 1, 2008

Senate Bill 684

Regulation of going out of business sales

SB 684 establishes the regulation of “going out of business” sales by requiring businesses to file a notice of intent with the Secretary of State before the sale can begin and to post a copy of the filing at the location where the sale is being conducted. If the sale is related to a bankruptcy, receivership, or other court-ordered action, the order or judgment may be posted in lieu of the filing. Out of business sales are limited to a duration of 90 days, and cannot be extended past the date listed on the notice. A person who has conducted a going out of business sale may not conduct another going out of business sale for a period of one year after the ending date of the sale listed on the notice of intent.

The measure also outlines additional provisions a business must follow when conducting the sale. It also allows for a private action by an individual to enjoin a sale as a “sham sale,” in which the sale is conducted with the intent to continue the same or a similar business in the same location or in the same relevant market, but is represented as being conducted due to the closing of the business.

A going out of business sale does not include a sale conducted by a bankruptcy trustee or a court-appointed receiver.

Effective date: July 17, 2007

Senate Bill 748

Authorizing out-of-state accountants and firms to practice public accountancy in Oregon

The Board of Accountancy currently authorizes certified public accountants (CPAs) whose principal place of business is in another state to practice in Oregon. Out-of-state accountants seeking to serve clients in Oregon must pay a \$100 annual fee and notify the board, and may be required to register with the Board of Tax Practitioners.

SB 748 allows active CPAs and public accounting firms licensed and based in other states to prepare, advise, or assist in the preparation of tax returns for Oregon residents or businesses for a fee without authorization by the Board of Accountancy or registration with the Oregon Board of Tax Practitioners.

Effective date: January 1, 2008

House Bill 2111

Designating responsible managing individuals for construction contractors

HB 2111 requires a construction contracting business owner or the designee claiming status as a “responsible managing individual” to actually exercise management and supervisory authority over construction activities of the business. For a construction business to be licensed under current law, a responsible managing individual must be designated and the person must pass a competency test. In some cases, however, the designated individual does not actually exercise supervisory authority over the given company. HB 2111 authorizes the Construction Contractors Board to ensure that the individual taking the required test exercises managerial authority and meets competency requirements necessary for maintaining a construction contracting business.

Effective date: January 1, 2008

House Bill 2163

Fire safety standards for cigarettes

HB 2163 allows for the sale or distribution, within Oregon only, of cigarettes that have been determined to have “reduced ignition propensity.” The measure establishes the methodology by which a cigarette variety may meet

the established fire safety performance standard, and allows a cigarette variety that has been certified prior to the measure's effective date of the measure as compliant with New York State fire safety standards to be sold or distributed without additional certification. Cigarettes offered for sale or distribution that are not certified or are illegally marked as being certified can be immediately seized and be subject to forfeiture. Funds that are recovered from imposed civil penalties are appropriated for use by the State Fire Marshall for fire safety, enforcement, and fire prevention programs.

Oregon was the first state in the country to consider establishing safety standards for cigarettes when the 1979 Legislative Assembly passed a memorial asking Congress to create and enforce safety standards.

Effective date: April 17, 2007

House Bill 2171

Regulation of wine shipments

In *Granholm v. Heald* (2005), the United States Supreme Court ruled that a state cannot enact laws blocking out-of-state wineries from shipping directly to customers in that state, while simultaneously allowing wineries to ship within the state. Many states are amending their laws governing direct wine shipments in response to the court case.

HB 2171 directs the Oregon Liquor Control Commission (OLCC) to issue direct shipper permits only to winery associations and to persons who possess a valid license, either in Oregon or another state, to manufacture wine or cider. Furthermore, HB 2171 establishes violations for those who knowingly or negligently deliver wine or cider to minors or who sell or ship wine directly to Oregon residents without a permit. The measure also requires permit holders to submit a monthly report to the OLCC regarding all shipments made to Oregon residents during the preceding month, and allows the agency to suspend or revoke a permit if the holder fails to comply with the measure's provisions.

Effective date: September 27, 2007

House Bill 2202

Limits on fees charged by check-cashing businesses

HB 2202 establishes limits on fees charged by check-cashing businesses, which are used by individuals who

do not have bank accounts. Fees for checks issued by federal, state or the local government may be up to \$5 or two percent of the face value of the check, whichever is greater; for checks from other cities or states or payroll checks, fees are limited to \$5 or three percent of the face value of the check whichever is greater; and fees for other payment instruments may be up to \$5 or 10 percent of the payment instrument. In all cases, fees are limited to \$100.

HB 2202 also establishes regulations for licensing check-cashing businesses. The measure does not apply to banks and credit unions.

Effective date: June 12, 2007

House Bill 2203

Restrictions on payday loans originating out-of-state

HB 2203 is a continuation and clarification of SB 1105 (2006 Special Session), which limited interest rates for short-term payday loans. HB 2203 extends the state's payday lending laws to include all payday loans made to Oregon residents, including Internet-based lenders and loans originating from out-of-state institutions. In addition, the Department of Consumer and Business Services is allowed to implement, and require payday and title loan companies to participate in, a statewide lender database to ensure compliance with the rollover and seven-day wait limitations applicable to these loans.

Effective date: June 19, 2007

House Bill 2204

Restrictions on car title loans

HB 2204 mirrors the regulation of car title lenders to SB 1105 (2006 Special Session), which regulates payday loan lenders. HB 2204 limits interest charged by title lenders to an annual rate of 36 percent and allows a maximum one-time origination fee of \$10 per \$100 of the loan amount. In addition, HB 2204 limits title loans to a minimum term of 31 days and stipulates that a lender may only renew a title loan twice. Lenders are also prohibited from making a new loan within seven days of the expiration of the previous title loan.

Effective date: July 1, 2007

House Bill 2222

Employer safety committees

Current law requires all employers with 11 or more employees, as well as some employers with ten or fewer employees that have high employee days missed rates or high workers' compensation premium rates, to establish safety committees. The purpose of the safety committees is to bring workers and management together in a non-adversarial, cooperative effort to promote safety and health in the workplace, and to assist the employer by making recommendations for change. Committees vary in size, depending on the size of the organization, but are comprised of equal numbers of employer and employee representatives.

Because the requirement for small employers to form safety committees is based on injury rates and insurance rates for each business compared to their respective industries, it is often difficult for small employers to determine whether the requirement applies to them. HB 2222 revises the requirements for employers to form safety committees by requiring the Department of Consumer and Business Services to adopt rules for the establishment of safety committees and/or holding safety meetings. All employers, regardless of size, will be required to establish a safety committee or hold safety meetings. The availability of alternate forms of safety committees and meetings is designed to meet the needs of small employers, agricultural employers, and employers with mobile or multiple worksites.

Effective date: January 1, 2008

House Bill 2405

Expansion of electronic permitting systems

SB 713 (2003) authorized the Department of Consumer and Business Services to identify the resources necessary to develop a statewide electronic permit system for all building inspection program permits by jurisdictions throughout Oregon. The "e-permitting" project was first targeted for the Portland Tri-County region, with other jurisdictions being invited to participate after the passage of HB 3097 (2005), which also authorized the Building Codes Division to plan for additional implementation stages of statewide interoperability.

HB 2405 expands the e-permitting system to all municipalities administering and enforcing building inspection

programs and adds electronic submission of plans for review to the current pilot system. The measure allows the Building Codes Division to develop uniform building code information standards for municipalities administering and enforcing building inspection programs.

The e-permitting system is funded by a surcharge on permit fees or, if the applicant chooses to pay an hourly rate instead of purchasing a permit, by a surcharge based upon the total hourly charges. The department may adopt rules to waive a portion of the surcharge if it is determined that the amount collected exceeds the actual cost of developing and administering the system. The e-permitting system has been structured to be implemented and sustainable with a four percent surcharge over the next 10 years, with a pledge that no rate changes will be made without stakeholder involvement and support.

Effective date: May 2, 2007

House Bill 2513

Restrictions on gift cards that diminish in value over time

HB 2513 prohibits the issuance of a gift card that expires or diminishes in face value over time or is unused. Exceptions are made for cards that explicitly state in ten point print type that the card expires on a given date and that the card is part of a promotion, award, or loyalty program in which the card recipient does not provide consideration for the card; the card is used for charitable or non-profit fundraising; the card is issued at a cost below face value or for no consideration; and the gift card does not expire until at least thirty days after issuance.

Effective date: January 1, 2008

House Bill 2677

Self-distribution permits for out-of-state wineries

HB 2677 establishes procedures for the Oregon Liquor Control Commission (OLCC) to issue self-distribution permits to out-of-state wineries as well as the current allowance of issuing permits to Oregon-based wineries.

The measure establishes that self-distribution permit holders may only sell wine or cider that they directly produce to the OLCC or to retailers approved to receive

shipments. Both the permit holder and the retailer are responsible for maintaining records pertaining to shipments and deliveries. The permit holder is also responsible for paying privilege taxes and following other statutes relating to wineries and the wine industry.

Retailers are required to make monthly reports on the amount of wine received from permit holders, while full or limited on-premises licensees, such as bars and restaurants, are exempt from reporting deliveries of less than two cases of wine from an individual permit holder.

Effective date: January 1, 2008

House Bill 2871

Regulation of consumer finance and title loans

Oregon had a 36 percent cap on consumer loan interest rates until the 1981 Legislative Session, when the cap was eliminated. Interest rate limits were re-established through the enactment of SB 1105 (2006 Special Session), which limited the interest rate of short-term payday loans to 36 percent plus an origination fee of \$10 per \$100 of the loan's amount.

HB 2871 modifies provisions implemented through the enactment of SB 1105 by adding the regulation of consumer finance and title loans of \$50,000 or less. Under the measure, the annual percentage rate on a consumer finance loan is limited to 30 percent above the Federal Reserve discount rate. As with payday loans, title loan interest rates are limited to an annual percentage rate of 36 percent, and lenders can charge a one-time origination fee of \$10 per \$100 of the loan's amount. The measure limits origination fees for both title loans and payday loans to a maximum of \$30.

The Department of Consumer and Business Services, which is responsible for regulating consumer loan and short-term personal loan licensees, establishes the official interest rate limit on consumer loans on an annual basis. The department may adopt rules for providing clarity to licensees, lenders, and other stakeholders, which may include, but are not limited to, establishing loan forms, terms, charges and fees.

The 36 percent interest rate limit is the same as Oregon's current rate cap on pawnbrokers, and mirrors federal legislation recently enacted on consumer loans to all active duty military members and their families.

Effective date: July 1, 2007

House Bill 3386

Establishing regulation of vehicle protection product warranties

HB 3386 establishes the regulation of vehicle protection product warranties in Oregon. A vehicle protection product is designed to prevent loss or damage to a vehicle due to theft, and either has a warranty that comes with the product or an extended warranty that can be purchased at the time of sale. Examples of warranties include the replacement of a defective product or guaranteeing a fixed amount of reimbursable expenses if the vehicle is not recovered within an established time period.

The measure establishes regulatory guidelines to follow in establishing the system and requirements for warrantors, such as including requiring warrantors to ensure that certain information and disclosures are included in the information provided to the consumer at the time of sale, such as: the warrantor's contact information; methods of establishing a warranty claim and whether there are any restrictions governing the transferability or cancellation of the warranty; purchasing reimbursement insurance which protects the consumer in case the warrantor fails in its obligations to the consumer; and maintaining accurate accounts and making records available to the Department of Consumer and Business Services (DCBS) for inspection.

HB 3386 also establishes protections for the consumer, such as prohibiting advertising or literature with false or misleading statements and using terms relating to the insurance industry in a warrantor's business name to prevent possible misrepresentation that a warranty is an insurance policy. Violations of the measure's provisions can be prosecuted under Oregon's Unlawful Trade Practices Act.

DCBS is directed to maintain a list of registered vehicle protection product warrantors, adopt rules relating to the registration process, and set the required renewal or registration fee at a rate sufficient to pay administrative and enforcement expenses as well as to implement and enforce the measure's provisions.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

Senate Bill 965

Establishes standards for nontraditional home loans

SB 965 would have established standards for nontraditional home loans in Oregon and provided explicit enforcement and penalty authority for violations. The measure would not have prohibited any particular type of loan or limited charges or rates, but would have required analysis of a borrower's ability to repay the loan beyond its introductory rates and would have codified other standards covering terms, underwriting, risk management practices, and consumer notification for certain higher risk loans.

House Bill 2205

Distinguishing consumer finance loans from short-term payday/title loans

HB 2205 would have codified the rules that were adopted by the Department of Consumer and Business Services in December 2006 to provide distinctions between consumer finance loans and short-term payday or title loans. The measure also would have required a consumer finance licensee to have 90 percent of loans longer than six months underwritten and amortized.

HB 2205 was designed to ensure the intent of SB 1105 (2006 Special Session), which limits interest rates for short-term payday loans. Since SB 1105 was enacted, some lenders have been applying for conventional lending licenses to evade the payday loan regulations.

ECONOMIC DEVELOPMENT

Senate Bill 151

Extension and evaluation of the enterprise zone program

SB 151 extends the sunset date for the Oregon Enterprise Zone Program from June 30, 2009 to June 30, 2013. The measure directs the Legislative Revenue Officer and an interim House committee on revenue or economic development to evaluate the performance of enterprise zones and related tax incentives. The measure also provides for a property tax exemption until June 30, 2016 for buildings on property transferred between an eligible business and a public body in a city with population between 2,500 and 5,500 within a county with a population between 6,000 and 9,000; this particular exemption applies to the emergency State Lottery database and archives center in Burns.

Oregon's enterprise zones are designated by the Oregon Economic and Community Development Department and sponsored by city, county, port, or tribal governments. Once a zone is established, if an eligible business locates or expands within the zone, it is exempt for three to five years from property taxes that would otherwise be assessed on new plants and equipment. The property may also be exempt from taxation during construction. Enterprise zones terminate after ten years, but the sponsor may re-apply to the department for re-designation. The area of the zone must meet certain economic hardship criteria based on unemployment or median income as established in state law. Eligible businesses must typically increase employment and maintain employment levels during the exemption period and meet other conditions of the local sponsor and state program.

Effective date: January 1, 2008

Senate Bill 350

Statutory revisions related to Economic and Community Development Commission

The 2005 Legislative Assembly directed the Economic and Community Development Commission and Department, through a budget note, to review and rec-

ommend changes to update, streamline, and bring consistency to statutes covering economic development programs. The recommendations incorporated in SB 350 include administrative provisions, consolidation and renaming of funds, the addition of two members to the commission, and the elimination of specific statutes establishing the Ports Division and the International Trade Commission, which can be established by administrative rule or by an executive order of the Governor.

Other provisions of SB 350 include: increasing the percentage of the Brownfields Redevelopment Fund that can be awarded to liable parties; requiring additional reporting from the Small Business Development Center Network; increasing grant awards under the Ports Planning and Marketing Fund; requiring ports to develop a strategic plan for funding; increasing the maximum loan amount from the Economic Development Loan Fund; establishing the Industry Outreach Fund to finance industry-related development activities; removing the 200-employee limit for a business to be eligible for funding from the Credit Enhancement Fund; and authorizing the Director of the Department of State Lands to withdraw mitigation bank credits by a public benefit corporation or public body at the request of a mitigation bank sponsor.

Effective date: July 17, 2007

TELECOMMUNICATIONS AND UTILITIES

Senate Bill 117

Expansion of Oregon's "no call" program

SB 117 reinstates Oregon's "no-call" program and expands it to include wireless telephone numbers. The measure allows the Oregon Department of Justice to designate the National Do Not Call Registry instead of operating a separate state registry and reinstates authority for investigation, enforcement, and civil penalties under the Oregon Unlawful Trade Practices Act. The Oregon no-call telephone solicitation program was enacted in 1999, but the law was preempted by a similar federal law in 2003. Callers seeking to be on the state no-call registry are currently referred to the federal registry process.

Because the Federal Trade Commission and the Federal Communications Commission have to prioritize their enforcement, they focus on operators that are national in scope or are otherwise federal priorities, resulting in little enforcement affecting Oregon. The Oregon Attorney General can currently bring action under federal law in federal court, but the additional costs are prohibitive and there is no provision for recovery of enforcement costs. The authority provided by SB 117 allows the Attorney General to rely on the established processes under the Unlawful Trade Practices Act, including investigation of complaints, initial warnings, and assurances of voluntary compliance prior to undertaking penalty action.

Effective date: June 18, 2007

Senate Bill 443

Purchase of investor-owned utilities by public corporations

SB 443 sets the conditions and a process for establishing a public corporation to negotiate for acquiring an investor-owned utility if purchase of a controlling interest in the utility is proposed. The conditions require agreement of the utility, customers, the Public Utility Commission (PUC), and local governments in the service area. Cities and counties in the service area are allowed to form an acquisition review committee upon notification of a proposed purchase of 50 percent

or more of the voting shares of a utility.

The measure provides for gubernatorial appointment of a Community Power Board and details the rights and responsibilities of the public corporation, including the authority to issue revenue bonds. In addition, SB 443 specifies that if the purchase is made, the utility is to be regulated as a consumer-owned utility and that Oregon Community Power would have access to Bonneville Power Administration power, but not at the expense of any community utility.

The stated intent of SB 443 is not to prevent private acquisition of an investor-owned utility, but to have a mechanism in place to evaluate purchase proposals and the authority to proceed with negotiations for public acquisition and bond issuance if that is deemed by ratepayers, the utility, the PUC, and the public purchaser to be the best option for ratepayers and the public. In 2005, Congress repealed the Public Utility Holding Company Act (PUHCA), which limited who could invest in utilities. Repeal of PUHCA made it more likely that outside investors could purchase interest in local utilities. Proposals for acquisitions or large-scale mergers increased, including some involving non-utility investment firms. An example is Texas Pacific Group's proposed purchase of Portland General Electric in 2005, which was turned down by the PUC.

Effective date: July 17, 2007

Senate Bill 461

Low-income electric bill payment assistance

SB 461 increases the total statewide amount collected on retail investor-owned residential and commercial electric bills that is used to fund the state's low-income energy assistance program, known as Oregon Energy Assistance. The measure specifies that the total collected statewide for 2008 will be \$15 million, an increase from the current statewide total of \$10 million. Individual assessments will not rise in years after 2008, but SB 461 allows the total amount collected statewide to increase based on load growth for commercial customers and increases in the number of residential customers.

The Oregon Housing and Community Services Department administers the Oregon Energy Assistance program, as well as a federal assistance program, through local community action agencies. Income eligibility for the receipt of federal and state funds is 60 percent of

the state median income. According to the department, the Oregon program served 22,514 households in Fiscal Year 2006, with an average benefit of \$321. Portland General Electric and PacifiCorp are the only utilities affected by the assessment requirement, and the current monthly charge set by the Public Utility Commission is 33 cents for residential customers and three cents per kilowatt hour for businesses.

Effective date: July 27, 2007

Senate Bill 863

Restrictions on automatic dialing and announcing devices

SB 863 prohibits telephone calls placed by automatic dialing and announcing devices to fire, law enforcement, and emergency agencies, health care facilities, and no-call list subscribers. The measure establishes exceptions for automated calls to no-call list subscribers: the caller has an established business relationship with the subscriber; the caller is regulated under the federal Fair Debt Collection Practices Act; the caller represents a public safety or law enforcement agency; or the caller represents a school district and the subscriber is a school employee, student, or a student's parent, guardian or family member.

Automated calls can only be made between 9:00 am and 9:00 pm, and the device must disconnect within ten seconds after the call is ended. SB 863 establishes that violations are enforceable under Oregon's Unlawful Trade Practices Act, with civil penalties of up to \$5,000 per violation.

Effective date: January 1, 2008

House Bill 2053

Calculation of fees paid to Public Utility Commission

Public utility and telecommunications providers are required by law to pay a fee to the Public Utility Commission to help defray the cost of regulation and contribute to matching funds required to implement the Department of Transportation's Track Improvement and Rehabilitation Program (ORS 824.058). HB 2053 returns the calculation of the amount electric utilities submit to the commission from one based on metered kilowatt-hour throughput back to a gross revenue fee of no

more than 0.25 percent, which was the formula applied before 1999 and is consistent with the other regulated industries that pay fees to the commission.

HB 2053 also caps wholesale sales at no more than one-fourth of one percent of the utility's revenues from retail customers.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

Senate Bill 136

Establishing the Oregon Wireless Interoperability Network Department

In 2005, the Legislative Assembly created the State Interoperability Executive Council (SIEC) with the passage of HB 2101. The council is charged with improving wireless interoperability between agencies, researching and evaluating the best practices for the purchase of equipment and sharing of communications infrastructure, fostering cooperation, improving communications between state, federal and local agencies, and serving as the central coordinating body for developing policy recommendations.

SB 136 would have established the Oregon Wireless Interoperability Network Department (OWIN) and transferred the SIEC from the Office of Emergency Management to the Department of State Police (OSP). A related measure, SB 5549, appropriated \$9 million to OSP for the OWIN project. The funds are to be used to assist in funding any further costs for the OWIN project for the 2007-09 biennium upon review by the Legislative Assembly.

House Bill 2621

Authorizing telephone companies to set rates on certain services

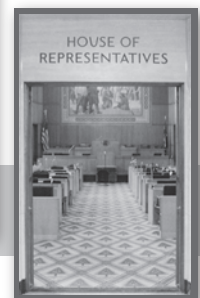
HB 2621 would have reduced the level of regulation on Oregon's traditional telephone companies by allowing them to set their own rates on all but basic phone service. Examples of items that would have been de-regulated under the measure include custom calling features such as call waiting and caller ID and bundled pack-

ages for multiple services such as traditional telephone, Internet, and cellular phone coverage. The measure would have maintained the commission's regulation for a customer's first residential or business telephone line, but allowed providers to request a increase on the commission's established price caps no sooner than three years after the measure's effective date.

Under the measure, the PUC would have been permitted to revoke an exemption for deregulation if it is determined that the service is not subject to effective competition. HB 2621 would have maintained existing consumer protections established in statute, such as giving customers the availability of basic telephone service without purchasing additional services or add-on features. It also kept the PUC's existing service quality requirements on customer service issues, such as call handling times and repair and installation intervals, and allowed the commission to investigate and address complaints related to all voice telephone services, including wireless, cable, and voice-over-the-Internet Protocol (VOIP).

Children and Families

2007 SUMMARY OF LEGISLATION



Senate Bill 408

Termination of Parental Rights

SB 408 prohibits the Department of Human Services (DHS) from filing a petition to terminate parental rights only if a court has previously approved a permanency plan for the child that calls for adoption. One of the grounds for termination of parental rights is that the child has been in substitute care for 15 of the last 22 months. DHS is required to develop a permanency plan for every child under the jurisdiction of the court on a dependency matter. This plan may involve steps to reunify the child with his or her family, or it may set steps to terminate parental rights and move toward adoption. The court reviews these plans every six months

Effective date: January 1, 2008

Senate Bill 409

Court rulings on the placement of children

SB 409 allows a court to direct the Department of Human Services (DHS) to place a child with parents, relatives or another foster care provider. A court may take jurisdiction of an individual under the age of 18 if the child's welfare is being endangered, or the child has been neglected, abandoned or subjected to abuse. If the child is removed from the home, the court usually awards custody to the Children, Adults and Families Division of DHS.

Effective date: January 1, 2008

Senate Bill 410

Sensitive review committee convened by Department of Human Services

SB 410 establishes the process and procedure for the Director of the Department of Human Services (DHS) to convene a sensitive review committee for the purpose of reviewing the actions and conduct of the department. The measure authorizes the Senate President or the Speaker of the House to request that the director convene a sensitive review committee. If the director appoints a committee in response to such a request, the President and Speaker may then appoint at least one member from their respective chambers and must make reasonable efforts to ensure balanced representation on the committee. Finally, SB 410 requires that a sensitive review committee be impaneled at the request of the Leg-

islative Assembly report back to the Legislative Assembly no less than 180 days after the request.

Effective date: January 1, 2008

Senate Bill 412

Notifications related to reports of child abuse

SB 412 requires the Department of Human Services (DHS), when it receives a report that a child in substitute care may have been abused, to notify the child's attorney, the child's parents, the child's court-appointed special advocate (CASA), and the parents' attorneys unless notification might interfere with an investigation or would jeopardize the child's safety. The measure prohibits DHS from disclosing the name or address of the person making the report of abuse.

Effective date: January 1, 2008

Senate Bill 413

Department of Human Services report to Legislative Assembly regarding foster placement

SB 413 requires the Department of Human Services to submit a report to the appropriate legislative committee dealing with child welfare matters on or before November 1 of each even-numbered year. The report is to include the number of children in foster care; the number of children that have been in more than one foster care placement; the number of placements each child has had with more than one placement; the percentage of children placed apart from siblings; the number of placement changes by foster children; the number and percentage of children placed with relatives; and the department's Status of Children in Oregon's Child Protection System annual report.

Effective date: January 1, 2008

Senate Bill 414

Placement of children with relatives

SB 414 requires the Department of Human Services (DHS) to make diligent efforts to place siblings together when the siblings are removed from the home and placed in foster care, residential care or group care, unless such a placement is not in the best interest of the children. The measure defines "sibling" as one of two or more children related by blood or adoption through

a common legal parent or related through the marriage of the children's legal or biological parents. SB 414 recognizes as a matter of state policy the importance of a child's relationship with parents, siblings and other relatives.

SB 414 also requires a court to make written findings when a child is removed from the home concerning whether DHS made reasonable (diligent) efforts to place the child with a relative. A court may order visitation by the ward's parents and siblings with the child or children removed from the home and placed in foster care. The measure also requires DHS to report to the court: a list of all schools the child has attended since the child has been in guardianship or legal custody of DHS, the length of time in each school and for a child 14 years or older, the number of high school credits the child or ward has earned; a list of dates of face-to-face contacts the assigned case worker has had with the child since the child has been in guardianship or custody of DHS; and a list of the visits the child has had with parent and sibling(s) since the child has been in the guardianship or custody of DHS.

Effective date: January 1, 2008

Senate Bill 480

Also included in the Transportation Chapter

Use of child safety systems in motor vehicles

SB 480 requires children under one year of age, and those who weigh 20 pounds or less, to be properly secured with a child safety system in a rear-facing position when riding in a motor vehicle. The measure also requires children who weigh over 40 pounds to ride in a booster seat until they are eight years of age or four feet nine inches in height.

At least one study has shown that motor vehicle accidents are the leading cause of unintentional injury and death of Oregon children ages 1-14 years. Other studies have shown that children are safest when properly buckled in the back seat of a motor vehicle, and when using a booster seat if they are not tall enough for the shoulder straps to fit properly.

The federal government provides grants to states that enact a booster seat requirement for children who are four feet nine inches or shorter.

Effective date: July 1, 2007

House Bill 2469

Modification of public assistance program (Temporary Assistance for Needy Families Program) for families with dependent children

HB 2469 modifies the Temporary Assistance for Needy Families (TANF) Program to meet federal requirements under the Deficit Reduction Act of 2005 (DRA). Provisions of the measure include describing work activities for job opportunity and basic skills program; requiring screening, assessment and case planning; identifying special provisions for participants with disabilities; extending program exemption to six months for parents of newborns; authorization of sanctions for failing to comply with case plan in program; changing the time limit for total lifetime TANF benefits to 60 months; requiring the Department of Human Services (DHS) to allow pass-through of a portion of child support payments; adding TANF recipients to list of individuals rebuttably presumed to be unable to pay child support; and authorizing DHS to recover the adult portion of TANF payments from retroactive Supplemental Security Income payments.

The TANF Program provides cash assistance to low income families with children while they strive to become self-sufficient. The goal of the program is to utilize employment and community resources to reduce the number of families living in poverty. To qualify for TANF, families must have very few assets and little or no income. The current maximum monthly benefit for a family of three is \$503. Many families in the TANF program must participate in the JOBS for Oregon's Future employment and training program, which helps them prepare for and find work. Clients may also receive help with problems relating to housing, child care, alcohol or drug abuse, domestic-violence and other factors that affect family stability. In addition, DHS helps clients obtain child support from absent parents.

Effective date: October 1, 2007

House Bill 2810

Extension of tax credit for contributions to Child Care Division

Currently, a credit against personal income and corporate excise and income taxes is allowed for certified contributions made to the Child Care Division (CCD) of the Oregon Employment Department. The total value

of credit certifications may not exceed \$500,000 per calendar year. If a deduction for the contribution is made in determining federal taxes, the deducted amount must be added back to Oregon taxable income to claim the credit. The credit has a four-year carry forward.

HB 2810 extends the sunset date on the tax credit for contributions to the CCD from January 1, 2009 to January 1, 2013, extends the refundability of the earned income credit through the 2013 tax year and sets a sunset date for the entire credit of January 1, 2014.

Effective date: January 1, 2008

House Bill 3113

Investigating oral reports of alleged child abuse at child care facilities

HB 3113 specifies duties of the Department of Human Services (DHS) and law enforcement agencies in investigating an oral report of alleged child abuse at child care facilities. It directs DHS and law enforcement agencies to jointly determine their roles and responsibilities in the investigation of alleged child abuse at child care facilities and to each make reports to the Child Care Division (CCD) of the Oregon Employment Department.

Child care facilities in Oregon are registered and licensed by the CCD of the Employment Department. The Child Protective Services (CPS) Division of DHS is mandated to investigate child abuse reports and to protect children from abuse and neglect within their own families or foster care homes. CCD certifies approximately 1,000 child care centers and 250 certified family homes through a process that includes a criminal history check of all staff, annual announced and unannounced inspections by division staff, and compliance with local sanitary and fire regulations. Centers care for more than 13 children, usually in a facility designed for that purpose, certified family homes care for up to 12 children, including the provider's own children, in a single family dwelling. CCD also registers approximately 5,000 family child care businesses. These providers are registered for two years at a time and can care for up to 10 children, including the family's children, in their own home.

Effective date: January 1, 2008

House Bill 3328

Procedures for child abuse investigations

HB 3328, also known as "Karly's Law," requires that any child displaying suspicious physical injuries during a child abuse investigation is to be seen by a doctor who is able to assess the injuries within 48 hours of the time the investigators observe the injuries. Children are allowed to see their own family physician or pediatrician if a physician trained in child abuse assessment is not available within 48 hours. In addition, the measure outlines procedures for taking and sharing photographs obtained during child abuse investigations. HB 3328 also requires county multi-disciplinary teams (MDTs) to identify physicians, nurse practitioners and physician's assistants qualified to conduct medical assessments of potentially inflicted injuries. The measure establishes a process for review of child abuse-related fatalities of children known to the agency.

The Department of Justice (DOJ), in concurrence with county MDTs, is to report to the Legislative Assembly on the progress of the implementation of Karly's Law during the 2008 interim and is to include information on any policy or fiscal barriers to identifying qualified medical professionals to conduct medical assessments. Furthermore, the measure mandates a Critical Incident Response Team be convened to review any child fatality due to abuse or neglect when the victim had previously been a subject of a child abuse investigation.

Effective date: June 27, 2007

LEGISLATION NOT ENACTED

House Bill 3555

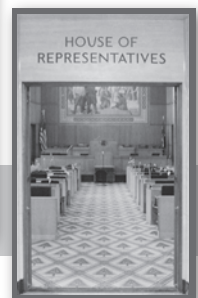
Creates Task Force on Prevention of Shaken Baby Syndrome

House Bill 3555 would have created a Task Force on Prevention of Shaken Baby Syndrome. The task force would have been staffed by Oregon Health and Science University (OHSU). The measure would also have created the Shaken Baby Syndrome Fund within the State Treasury; fund moneys were to be directed to OHSU.

Shaken Baby Syndrome is a type of traumatic brain injury inflicted when a baby is violently shaken. The large, heavy head and weak neck muscles of human infants make them particularly susceptible to brain injury when shaken, as it can result in the brain being battered against the inside of the skull. Injuries ranging from hearing loss to death can result. Shaken baby injuries are most common in children younger than two years of age, but have been documented in children up to age five.

Education

2007 SUMMARY OF LEGISLATION



Senate Bill 318

Use of grant moneys from the School Improvement Fund

SB 318 changes the activities for which a school district can use grants from the School Improvement Fund and authorizes education service districts to receive such grants. The measure specifies that the distribution of grants is to be equal to all qualifying districts. Activities for which grants can be used include offering full-day kindergarten programs; reducing class size, particularly in kindergarten through grade 3; mentoring and retaining teachers; providing vocational education programs; and decreasing the student achievement gap. A budget note included in HB 5021, the School Improvement Fund budget, calls for school districts to identify targeted grant areas in Continuous Improvement Plans that are required to be submitted to the Department of Education (ODE).

The School Improvement Fund was established in 2001 and received funding for one year. It was instituted as a grant program to school districts administered by ODE and targeted toward increased student achievement.

Effective date: July 1, 2007

Senate Bill 334

Revising the Oregon Opportunity Grant program

SB 334 changes the Oregon Opportunity Grant, the state's primary student financial aid program. Originally instituted as the Oregon Need Grant in 1971, the Oregon Opportunity Grant program is administered by the Oregon Student Assistance Commission and funded by the General Fund, lottery revenues, federal and other funds. It has provided grants to Oregon public and private universities and to Oregon community colleges for student aid to qualified Oregon students attending these institutions.

SB 334 requires the Commission to change the calculation of grant amounts from the previous method that was based upon the cost of attendance, but did not vary by income level. The program is designed to bridge the student's financial contribution combined with the financial contributions of the student's family and the federal government to reach the total cost of education. Grants awarded under the new program assume that the student bears the primary responsibility for paying

for college, whether it is through student loans, working, or finding other sources of grants or scholarships. The Commission will calculate grant amounts so that awards are equal to the difference between the determination of education costs (including living expenses, tuition, and fees) and the student's ability to pay. The student's ability to pay, known as the "student share," is based on an amount that is equal for all students attending a particular institution and an amount that varies with the student's financial resources, the "family share," and qualification for federal student aid, the "federal share." As a result, award amounts will vary by income level and family size, instead of just varying by the institution attended.

Effective date: July 1, 2007

Senate Bill 365

Requiring information on cost and availability of textbooks

SB 365 requires publishers of college textbooks to provide information about the cost and availability of textbooks to faculty members and academic departments responsible for choosing course materials at Oregon institutions of higher education. It also requires college textbooks publishers who sell textbook "bundles" to offer Oregon institutions of higher education and adopters of course materials the option of purchasing components of textbook bundles separately. Textbook bundles are defined as textbooks that are packaged together with other supplemental course materials and are sold for one price. Textbooks that are unusable without the supplemental course materials and materials that cannot be sold separately due to an existing third-party contractual agreement are not considered textbook bundles.

Fourteen other states considered legislation similar to SB 365 or legislation to study textbook costs in 2007.

Effective date: January 1, 2008

Senate Bill 384

Prohibits payment to school administrators for duties not performed

In 2005, news stories highlighted large compensation packages, so called "golden parachutes," received by administrators once they completed employment with school districts. SB 766, which failed to pass during

the 2005 Legislative Session, would have limited the amount of salary and benefits those school districts, education service districts, or public charter schools could pay an administrator at the end of their contract.

SB 384 incorporates certain provisions contained in SB 766 (2005) by prohibiting school districts, education service districts, and public charter schools from entering into contracts with administrators providing compensation for work not performed. It also prohibits an administrator, in the year following termination of his or her contract, from purchasing district property or using district property differently than a member of the public. The measure further allows school districts, education service districts, and public charter schools to enter into contracts with administrators for health benefits beyond employment period under certain circumstances.

Effective date: June 11, 2007

Senate Bill 517

Anabolic steroids and school district employees

SB 517 prohibits school district employees from knowingly selling, marketing, distributing, endorsing, or suggesting students' usage of anabolic steroids or other performance-enhancing substances. The measure does not contain penalties for violators of the statute, but directs the Department of Education to work with voluntary organizations approved to administer interscholastic activities, such as the Oregon Student Athletic Association, to develop an education program to prevent the use of anabolic steroids and performance-enhancing substances and include such information in health and physical education curriculum. School district employees who are coaches or athletic directors are required to attend workshops on anabolic steroid abuse and prevention strategies for use of performance-enhancing substances once every four years.

Anabolic steroids, synthetic chemicals based on the structure and pharmacology of testosterone, were originally developed in the 1930s to help rebuild and prevent breakdown of tissue in individuals suffering from debilitating diseases. Their popularity with athletes exists due to the muscle development and physical performance enhancements they provide. Anabolic steroids are typically available only by prescription. The 2003 Monitoring the Future Study conducted by the University of Michigan indicated that approximately 3.5 percent of

American high school students have used illegal anabolic steroids at least once by grade twelve. The same study found that 45 percent of all 12th graders did not believe taking steroids posed a great risk.

Effective date: June 13, 2007

House Bill 2263

Abolition of Certificate of Initial Mastery and Certificate of Advanced Mastery

HB 2263 abolishes the Certificate of Initial Mastery (CIM) and Certificate of Advanced Mastery (CAM) and abolishes certain programs of the Oregon Educational Act for the 21st Century. The CIM and CAM were originally included as part of the Act that was adopted in 1991. However, the exact requirements and implementation dates were changed and/or delayed during successive legislative sessions. In addition to eliminating the CIM and CAM, the measure adds elements to local district continuous improvement plans and requires the Superintendent of Public Instruction (Superintendent) to assign each school a rating that identifies it as outstanding, satisfactory, or in need of improvement. It directs the Department of Education (ODE) to design and implement a system of progressive interventions for schools and school districts that do not demonstrate improvement. In addition, the measure modifies provisions relating to Oregon Report Card and allows school districts to prepare budgets annually or biennially.

HB 2263 also directs ODE to contract with a nonprofit entity to administer a nationally-normed assessment to all students in grade 10 for the purpose of predicting success on college entrance exams. The measure authorizes ODE to expend up to \$550,000 that would otherwise go to education service districts, from the State School Fund each fiscal year for the contract. The measure allows the contractor to waive the assessment for specific groups of students and permits individual students to request that the assessment be waived.

Finally, HB 2263 establishes separate, governor-appointed boards of directors for the Oregon School for the Deaf and the Oregon School for the Blind. The boards are required to conduct a comprehensive review of their respective school's policies and procedures, make recommendations to the Superintendent on the hiring of the school director and budget and funding requests, and adopt master plans for their respective schools. Either board may appeal certain decisions by

the Superintendent to the State Board of Education, retroactive to January 1, 2007.

Since 1971, the Superintendent and ODE have been charged with providing education services for children who are deaf and/or blind. During the first half of 2007, Oregon's School for the Blind and School for the Deaf were the subject of numerous media reports. In a highly publicized incident at the end of December 2006, the director of the School for the Deaf was dismissed by the Superintendent. Additionally, ODE issued a report recommending that the campuses for the two schools be combined; the Superintendent subsequently accepted the recommendation.

Effective date: July 1, 2007

House Bill 2574

Modifications to beginning teacher and administrator mentoring program

HB 2574 modifies the beginning teacher and administrator mentoring program, adds required qualifications for mentors, and specifies training for mentors. Additionally, the measure increases the amount of grants-in-aid per teacher or administrator that a school district may receive and allows the Department of Education (ODE) to accept contributions for the purposes of program evaluation. The ODE budget bill, HB 5019, appropriates \$5 million for the mentoring program, the first funding for the program in over 10 years.

Effective date: January 1, 2008

House Bill 2637

Prohibiting cyberbullying

HB 2637 requires school districts to adopt policies prohibiting cyberbullying, which is defined as the use of an electronic communication device to harass, intimidate or bully. The measure adds cyberbullying to provisions relating to school district policies on harassment, intimidation or bullying. ORS 339.351 defines "harassment, intimidation or bullying" as "any act that substantially interferes with a student's educational benefits, opportunities or performance, that takes place on or immediately adjacent to school grounds, at any school-sponsored activity, on school-provided transportation or at any official school bus stop," and that either harms a student or a student's property, knowingly places a stu-

dent in reasonable fear of physical harm, or creates a "hostile educational environment."

Effective date: July 1, 2007

House Bill 2650

Also included in the Health Care Chapter

Specifies minimum standards for food and beverages sold in schools

A number of states have revised and strengthened their school nutrition policies in response to increased childhood obesity and diabetes rates. Many states have adopted laws or regulations that establish nutrition standards for foods sold in vending machines, at fundraisers, in school stores, as ala carte items (foods sold individually in the cafeteria) and other foods sold outside of federally-funded school meals. Additionally, the Child Nutrition and Women Infant Children (WIC) Reauthorization Act of 2004 required that all school districts with a federally-funded school meals program develop and implement wellness policies that address nutrition and physical activity by the beginning of the 2006-2007 school year.

HB 2650 establishes nutritional standards for entrées, snack items, and beverages for Oregon school districts. The standards for entrée and snack items prepared on-site and sold ala carte apply beginning in the 2009-2010 school year. All other such food items are subject to the new standards as of the 2008-2009 school year. The measure also identifies acceptable beverages to be sold based on grade levels in the school. HB 2650 specifies that the nutritional standards apply to items sold during the regular or extended school day but not to items sold at events where adults are a significant part of the audience. Additionally, the new standards do not apply to food and beverages sold under federal school lunch or breakfast programs. The measure allows school district boards to adopt more restrictive standards.

Effective date: July 1, 2007

House Bill 2729

Oregon Student Assistance Commission mentoring programs

HB 2729 authorizes the Oregon Student Assistance Commission (OSAC) to establish the Access to Student Assistance Programs in Reach of Everyone (ASPIRE)

program to provide mentoring and resources that help students access education and training beyond high school. In addition, the measure establishes the ASPIRE Program Fund and continuously appropriates moneys in the fund to OSAC for ASPIRE.

ASPIRE is an OSAC program that has been funded by foundations and grants that is geared to boost the number of high school students who attend post-secondary education through an increase in the number of Oregon students seeking and receiving scholarships and financial aid. ASPIRE's objectives include helping high schools recruit volunteer mentors, training those volunteers to provide mentoring to help secondary students access education and training beyond high school, and educating students and families about financial aid options.

Effective date: July 1, 2007

House Bill 2823

Honorary degrees for individuals interned during World War II

HB 2823 allows Oregon post-secondary institutions to grant requests from individuals who were students at a state post-secondary institution in 1942, and who did not graduate from the institution because they were ordered to an internment camp during World War II, for an honorary post-secondary degree from the institution they attended in 1942. The measure also allows a representative of a deceased person who meets the criteria to request an honorary degree on behalf of the deceased person. The concept for HB 2823 was originally proposed by Andy Kiyuna, a Japanese-American student at Oregon State University.

Effective date: January 1, 2008

House Bill 2848

Awarding of modified diplomas and alternative certificates

HB 2848 requires the award of a modified diploma to a student who does not otherwise meet general graduation requirements if the student meets rules devised by the State Board of Education. Currently, school districts may choose to issue modified diplomas, but they are not required to do so. The measure also requires the award of an alternative certificate to any student who meets

requirements established by the school district or public charter school. It allows a student with either a modified diploma or an alternative certificate the option of participating in graduation ceremonies. HB 2848 also requires school districts to issue a document of successful completion of program requirements to students with individualized education plans.

Effective date: July 1, 2007

House Bill 3141

Mandatory physical education for primary and secondary students

HB 3141 requires students in kindergarten through grade 8 to participate in physical education (PE) for the entire school year. Beginning with the 2017-2018 school year, students in kindergarten through grade 5 will be required to participate in 150 minutes of physical activity each week, while students in grade 6 through grade 8 will be required to participate in 225 minutes of physical activity each week. Additionally, the Oregon Department of Education (ODE) is required to collect data on the amount of PE provided to kindergarten through grade 8 students and directed to award grants to districts to meet the PE participation requirements. HB 3141 allocates \$140,000 from the State School Fund for the collection of data on PE participation and \$860,000 from the State School Fund for grants to school districts and public charter schools.

In addition, HB 3141 establishes a District Best Business Practices Advisory Committee to advise ODE in developing a system for auditing the business practices of school districts. The audits are to be conducted on a voluntary basis through a contract with the Secretary of State. These provisions, originally included in SB 47 (2007), are the result of a 2005 audit that determined that Oregon schools spend significantly more per student than the national average on support services. HB 3141 provides \$800,000 from the State School Fund to ODE for auditing the business practices of school districts.

Furthermore, HB 3141 creates an 11-member Education System Design Team, to be funded by moneys appropriated from the General Fund to the Office of the Governor. The Design Team is directed to work with the Quality Education Commission, the Post-Secondary Quality Education Commission established by the Governor, and workgroups created by the Joint Boards of Education to design a legislative system to review a

comprehensive prekindergarten through higher education budget and policy presentation. In collaboration with the Office of the Governor and workgroups created by the Joint Boards of Education, the Design Team will design and recommend methods of financially supporting an education system with specified goals. HB 3141 provides \$200,000 from the State School Fund to the Office of the Governor for staffing the Education System Design Team.

HB 3141 directs ODE to establish a program to increase the number of speech-language pathologists and speech-language pathology assistants in Oregon and establishes a Speech-Language Pathologist Training Fund in the State Treasury separate from the General Fund. HB 3141 also allocates \$350,000 from the State School Fund to ODE for the Talented and Gifted (TAG) program, \$150,000 from the State School Fund for staffing the Quality Education Commission, \$5.2 million from the State School Fund for the Youth Corrections Education Program, and \$1.8 million from the State School Fund for the Oregon Virtual School District Fund.

Effective date: July 1, 2007

LEGISLATION NOT ENACTED

Senate Bill 392

Compulsory school attendance beginning at age six

SB 392 would have lowered the minimum age for required school attendance from seven years of age to six years of age. The measure required the State Board of Education to establish procedures for parents to seek an exemption from required school attendance for their child prior to the age of seven.

Currently, eight states mandate school participation at age five, 24 states at age six, 16 states (including Oregon) at age seven, and two states mandate school participation beginning at age eight.

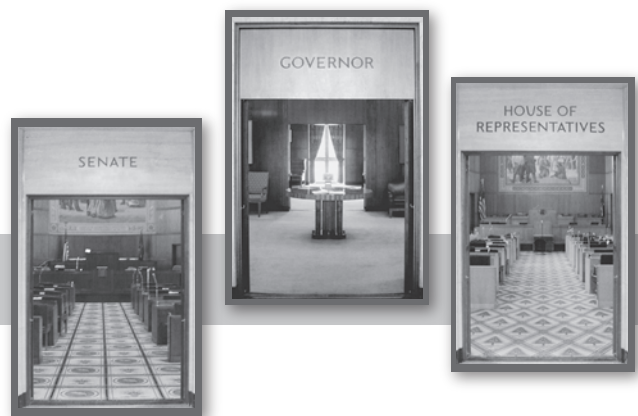
Senate Bill 621

Increases staff licensure requirements for charter schools

SB 621 would have increased the percentage of teachers and administrators in new charter schools required to be licensed by the Teacher Standards and Practices Commission (Commission) from 50 percent to 65 percent. Existing charter schools have been permitted to have 50 percent or less of their teachers and administrative staff licensed. The measure also authorized the Commission to suspend or revoke the registration of or otherwise discipline a registered charter school teacher in the same manner as a licensed teacher. That provision, along with a requirement that public charter school administrators be registered and subject to Commission discipline, was adopted in SB 214.

Environment and Energy

2007 SUMMARY OF LEGISLATION



Senate Bill 235

Also included in the Agriculture and Natural Resources Chapter

Enforcement of agricultural air quality laws, creating Task Force on Dairy Air Quality

SB 235 requires the Environmental Quality Commission and Department of Agriculture (ODA) to enter into a memorandum of understanding that addresses the department's administration and enforcement of air quality laws relating to agricultural operations necessary to comply with the federal Clean Air Act. The measure authorizes ODA to perform any function of the Department of Environmental Quality (DEQ) that relates to air quality including, but not limited to, issuing permits, establishing fees, entering and inspecting premises, and assessing civil penalties. Certain agricultural operations are exempt from the air quality regulations.

SB 235 also creates a Task Force on Dairy Air Quality to study emission of air contaminants from large dairy operations and evaluate available alternatives for reducing emissions. The task force is to present its findings to DEQ and ODA by July 1, 2008, and the agencies are to jointly report on dairy air quality to an appropriate interim legislative committee by October 1, 2008.

Since the beginning of Oregon's air quality program in the 1960s, state law has exempted from regulation all agricultural operations except for field burning in the Willamette Valley. Because the federal Clean Air Act does not provide an exemption for agricultural operations, there is inconsistency between state and federal law. In the fall of 2005, several environmental groups petitioned the U.S. Environmental Protection Agency (EPA) to revoke its approval of Oregon's air quality permitting program because of this inconsistency between state and federal law. EPA agreed with the petitioners and directed the state to address the problem. Failure to come into compliance with the federal Clean Air Act could result in the revocation of Oregon's delegated authority to administer the Clean Air Act and could require businesses to obtain permits directly from EPA.

Effective date: July 17, 2007

Senate Bill 420

Creates the Environmental Justice Task Force

SB 420 creates a 12 member Environmental Justice

Task Force, to be appointed by the Governor and supported through the Governor's Office. The duties of the task force include submission of an annual report to the Governor that identifies environmental justice concerns and the progress of state agencies toward achieving the goals established by the task force. The measure directs state agencies to report annually to the task force and to assist the task force in its work, including taking steps to ensure that persons affected by decisions of natural resource agencies have a direct voice in those decisions.

Environmental justice issues have generally been defined to include problems that have a disproportionately negative impact on minority and low-income communities. During the past 15 years, limited-duration advisory committees on environmental justice issues were created by Governor Barbara Roberts and Governor John Kitzhaber. The Department of Environmental Quality and Oregon Health Division have also examined these issues.

Effective date: January 1, 2008

Senate Bill 643

Creates the Shipping Transport of Aquatic Invasive Species Task Force

SB 643 creates the Shipping Transport of Aquatic Invasive Species Task Force to study and make recommendations for combating the introduction of aquatic non-indigenous species associated with shipping-related transport into waters of the state. The measure also broadens the definition of "cargo vessel" to include non-self-propelled vessels that are equipped with ballast water. The Department of Environmental Quality (DEQ) budget creates a new position to work on ballast water regulation and to help staff the task force. The task force sunsets on the convening date of the next regular biennial legislative session.

Ballast water discharged from shipping vessels is a primary pathway for the introduction of aquatic invasive species. There is concern that if left unchecked, non-indigenous aquatic species could negatively impact Oregon's natural systems and damage water-dependent infrastructure, as has occurred in the Great Lakes region with the proliferation of zebra mussels.

Currently, Oregon ballast water law differs from Washington State relating to ballast water treatment systems. There is a potential for conflict to arise in shared waters,

such as the Columbia River. Congruity of ballast water regulation with anticipated new federal regulations and neighboring states will be one of the topics considered by the task force.

The 2001 Legislative Assembly enacted SB 895, which prohibited the discharge of ballast water into waters of the state and directed DEQ to establish a task force on ballast water. The Legislative Assembly reauthorized the Ballast Water Task Force in 2003 and 2005.

Effective date: January 1, 2008

Senate Bill 707

Expansion of Oregon's Bottle Bill, creation of the Bottle Bill Task Force

Oregon's landmark "Bottle Bill" was passed in 1971 as a means to reduce litter and increase recycling. Since its inception, the number and types of single-serving beverage containers have proliferated, with many remaining outside the jurisdiction of the original Bottle Bill.

SB 707 expands application of the five-cent beverage container deposit to water and flavored water beverage containers. The measure defines water and flavored water to mean any beverage identified as a type of water on the product label. Cartons, foil pouches, drink boxes and containers greater than three fluid liters are excluded from a deposit. The measure creates special conditions for small dealers occupying a space of less than 5,000 square feet to refuse to accept beverage containers of a type, size and brand that the dealer does not sell and to limit the number of beverage containers that can be redeemed to a maximum of 50 containers per person per day. Additionally, a dealer must post conditions when they may refuse to accept empty beverage containers. Manufacturers, distributors and importers are liable to dealers or redemption centers for failure to pay the refund value or to collect containers or face treble the damages.

SB 707 also creates a nine-member Bottle Bill Task Force to study beverage container collection and refund matters, including: establishing redemption centers; expanding the list of beverage containers subject to a deposit; increasing the refund value; limiting redemption of beverage containers purchased out of state; and collecting and utilizing the refund value of unredeemed beverage containers. The task force is to report to the Legislative Assembly by November 1, 2008.

Effective date: June 7, 2007

Senate Bill 737

Requires study of discharges of persistent pollutants by local governments

SB 737 directs the Department of Environmental Quality (DEQ) to conduct a study of persistent pollutants discharged by municipalities or special districts that hold National Pollutant Discharge Elimination System (NPDES) permits and to report the results of the study to the appropriate interim committee of the Legislative Assembly by June 1, 2010. The study will include: a priority listing of persistent pollutants that have documented harmful effects on the health and well being of humans, fish or wildlife; identification of individual point, non-point and legacy sources of persistent pollutants; and an evaluation and assessment of source reduction and technological control measures that can reduce the discharge of persistent pollutants into waters of the state.

DEQ is directed to report to the Legislative Assembly by June 9, 2009, on the priority list of persistent pollutants. After June 1, 2009, DEQ is to report any additions or deletions from the persistent pollutants priority list. The department is authorized to impose a surcharge on NPDES permits issued to municipalities or special districts to defray the cost of conducting the study. These moneys will be deposited into the Persistent Pollution Control Account. By July 1, 2011, each municipal or special district permittee must submit a plan for reducing persistent pollutants listed on the department's priority list. As a condition of receiving a new or renewed NPDES permit, permittees must submit to DEQ a persistent pollutant reduction implementation plan that the department will incorporate into the permit. The measure allows DEQ to apply to circuit court to compel compliance with rules adopted by the Environmental Quality Commission to implement the program.

NPDES permits are issued and regulated by DEQ under authority delegated by the federal Clean Water Act. These permits limit the amount of pollutants that can safely enter surface water without jeopardizing water quality and the beneficial uses of public waters. Pollutant limits are based on established state water quality standards.

Effective date: June 28, 2007

Senate Bill 838

Energy renewable portfolio standards

SB 838, Oregon's Renewable Energy Act, requires the Oregon Department of Energy (ODE) to create a renewable energy portfolio standard under which electric utilities are required to derive 25 percent of their annual retail electricity sales from renewable energy resources by the year 2025. The measure requires large electric facilities with sales to retail customers of three percent or greater to comply with the renewable energy standard and establishes a phase in schedule for compliance at five percent increments by 2011, 2015, 2020 and 2025. Small electric utilities with sales of electricity to retail customers that are 1.5 percent, but less than three percent of all electricity sold, must meet an alternate renewable energy standard of ten percent renewable energy resources by the year 2025. Electric utilities with less than 1.5 percent of retail electric sales are exempt from the standard.

In addition, SB 838 defines qualifying renewable electric energy facilities as those in existence or having expanded or improved efficiency on or after January 1, 1995. Eligible renewable energy resources include electricity generated from wind, solar, wave, geothermal, certain allowable biomass and new hydro power sources. The ODE may approve additional renewable energy sources by rule; however, petroleum, natural gas, coal and nuclear fusion are explicitly prohibited.

Electric utilities can alternatively meet the renewable portfolio standard by using renewable energy certificates or by making alternative compliance payments. If the cost of compliance with the standard exceeds four percent of the utility's annual revenue requirement for the compliance year, the utility is exempt from compliance with the renewable portfolio standard for that year. Electric utilities are allowed to charge a retail electricity green power rate when a significant portion of the electricity is derived from renewable energy resources above the requirements of the renewable portfolio standard. Some provisions governing public utility districts are revised to facilitate the acquisition of renewable energy resources.

The Public Utility Commission may impose a penalty on noncompliant electric utilities or electric service suppliers. State agencies are directed to establish policies and procedures to promote small-scale (20 megawatts or less), community-based renewable energy projects.

In addition, ODE is directed to periodically evaluate the number of new jobs created in the renewable energy sector including the average wage and benefit package. The measure also modifies and extends until January 1, 2026, the public purpose charge collected from retail customers to fund renewable energy and weatherization projects.

The concept for an Oregon renewable energy standard came as a central recommendation in the 2005 report of the Global Warming Advisory Group and was further developed by a 32-member Renewable Energy Workgroup appointed by Governor Kulongoski. The aim of the Renewable Energy Act is to promote research and development of new renewable energy sources, to decrease Oregon's reliance on fossil fuels and increase use of renewable energy sources and to accelerate the state's transition to a more reliable and affordable energy system.

Effective date: June 6, 2007

Senate Bill 875

Classifying ocean wave energy as renewable energy

Ocean wave energy is a developing renewable energy technology that utilizes mechanical devices to convert energy from ocean surface motion or from pressure fluctuations below the surface to produce electricity. SB 875 clarifies that ocean wave energy is to be treated as a renewable energy for purposes of tax incentives. The measure further provides a financial assurance mechanism to ensure that abandoned ocean wave energy devices are properly removed from the ocean by allowing developers a variety of options to provide for removal in case of abandonment, which is modeled after the process for decommissioning solid waste facilities.

Ocean wave energy devices are scheduled to be tested off the Oregon coast in 2007.

Effective date: September 27, 2007

House Bill 2118

Fees for underground injection control program

The federal government began the Underground Injection Control (UIC) Program in 1974 as part of the Safe Drinking Water Act to prevent contamination of freshwater supplies by underground injection control systems. In 1984, the Department of Environmental

Quality (DEQ) assumed primary enforcement responsibility for the UIC program and 45,500 registered UICs in Oregon, most of which are stormwater drywells. State funding for the UIC program was eliminated in previous biennia, and federal funding provided by the U.S. Environmental Protection Agency supported less than one full-time staff person to administer the UIC program in Oregon.

HB 2118 authorizes the Environmental Quality Commission to establish fees for the underground injection control program and directs that the fees be deposited in the Subsurface Injection Fluids Account. Moneys in the account are to be continuously appropriated to DEQ to fund UIC program administration.

Effective date: June 4, 2007

House Bill 2172

Regulation of diesel engine emissions

HB 2172 directs the Environmental Quality Commission (EQC) to establish a goal to reduce the risk of cancer from diesel engine emissions to no more than one case per million by 2017 and to substantially reduce risks to school children by 2013. The measure also establishes a Clean Diesel Engine Fund to provide grants and loans to assist owners to repower or retrofit diesel engines, to scrap older diesel engines, and to fund administration of the clean diesel program. The program dedicates 75 percent of funds available until June 30, 2010, to repower or retrofit vehicles used primarily in Oregon. Furthermore, HB 2172 allows a tax credit of up to 25 percent of the cost for repowering or 50 percent of the cost for retrofitting a diesel engine and extends the existing tax credit for new low-emission truck engines for engine model years through 2011. The total annual credits for repower and retrofit are limited to \$3 million, and the total amount of credits for purchase of diesel engines is limited to \$500,000 per year. Tax credits apply to tax years beginning on or after January 1, 2008 and sunset January 2, 2018.

Effective date: September 27, 2007

House Bill 2210

Also included in the Agriculture and Natural Resources Chapter

Biofuel blending standards and tax credits for biofuel raw materials

HB 2210 allows tax credits for agricultural producers and collectors of biofuel raw materials, including forest or agriculture-sourced woody biomass, oil seed crops, grain crops, grass or wheat straw and animal rendering byproducts, used to produce fuel in Oregon. The measure allows a tax credit for consumers who purchase fuels blended at 85 percent ethanol or 99 percent biodiesel for use in alternative fuel vehicles and for consumers who purchase biofuel for home heating. HB 2210 expands local property tax exemptions for energy production facilities that produce ethanol and biofuel. The tax credits sunset on January 1, 2013.

HB 2210 also requires the Department of Agriculture to monitor biodiesel and ethanol production capacity in Oregon and to initiate minimum fuel blending standards statewide for biodiesel and ethanol. Those standards are to require retail sellers of gasoline to sell only gasoline that contains at least 10 percent ethanol within three months after Oregon production of ethanol reaches 40 million gallons per year. Retail sellers of diesel will be required to sell only diesel that contains at least two percent biodiesel within three months after production of biodiesel in the state, using feedstocks from Oregon, Washington and Idaho, reaches five million gallons annualized for at least three months. Retail sellers of diesel will be required to sell only diesel that contains at least five percent biodiesel within three months after production of biodiesel in the state, using feedstocks from Oregon, Washington and Idaho, reaches 15 million gallons annualized for at least three months.

Effective date: September 27, 2007

House Bill 2620

Inclusion of solar energy technologies in public buildings

According to the Department of Energy, solar energy systems work well in Oregon, as even western Oregon receives as much solar energy as the national average. Solar energy systems include passive solar space heating; building architecture that emphasizes use of daylight, proper window placement and thermal storage (such as flooring materials that absorb and store radiant

heat); solar domestic water heating systems; and solar electric power systems that generate electricity.

HB 2620 requires public improvement contracts using state funds for construction or major renovation of public buildings to include at least 1.5 percent of the total contract price for inclusion of appropriate solar energy technology. The measure directs the Department of Energy to develop the necessary forms and to report to the Legislative Assembly in 2009 and 2011 on the use of solar energy technology in construction, reconstruction or major renovation of public buildings.

Effective date: January 1, 2008

House Bill 2626

Recycling of electronic devices

Computer monitors, central processing units and keyboards have printed circuit boards that contain toxic metals. Burning electronic equipment or depositing it in landfills can release toxins, threatening human health and the environment. Most of these devices can be refurbished for reuse or recycled to recover valuable metals and other materials for reuse.

HB 2626 establishes a statewide system for recycling electronic devices such as computers, monitors, and televisions with a screen larger than four inches diagonally. The measure prohibits landfill disposal of such devices.

Additionally, HB 2626 requires manufacturers to register and pay a fee to the Department of Environmental Quality (DEQ) for participation in a manufacturer program or DEQ state contractor program for recycling electronic devices; provides convenient urban and rural collection sites; and specifies that no fees are to be charged for collecting electronic devices from households, small businesses, and small nonprofit organizations or anyone giving seven or fewer devices at a time. HB 2626 also prohibits retailers from selling products of manufacturers not registered with DEQ and requires manufacturers to provide for environmentally sound management practices in the collection, transport and recycling of electronic devices.

Effective date: June 7, 2007

House Bill 2760

Also included in the Land Use Chapter

Revised procedures for island annexations

Currently, statute (ORS 222.750) allows for annexation of land by a city without the consent of the landowner in cases where the land to be annexed is surrounded entirely by the city boundaries or by a combination of city boundaries, ocean shore, stream, lake, bay, other body of water, or public right of way previously annexed by the city. This process, commonly referred to as “island annexation,” is subject to referendum.

HB 2760 revises the island annexation provisions in ORS 222.750 by stipulating that with the exception of Interstate Highway I-5, no more than 25 percent of the corporate boundary of the parcel to be annexed may consist of public right of way. HB 2760 requires a city to notify property owners and hold at least one public hearing in the area to be annexed, and requires that annexation be phased in, taking effect three to 10 years after proclamation of annexation. However, the annexation takes effect immediately in the event of transfer of ownership of the parcel.

Effective date: June 27, 2007

House Bill 2925

Regulation of wave energy hydroelectric projects

HB 2925 exempts wave energy projects generating five megawatts or less located in Oregon’s territorial sea from provisions regulating hydroelectric projects if a license is not required under the Federal Power Act. Generally, the Water Resources Department (WRD) is the lead permitting authority over hydroelectric projects in the state, including wave energy projects. In that role, WRD coordinates resource issues with other state agencies as part of the process. HB 2925 exempts wave energy projects from that authority if the project is located in the state’s territorial sea, generates five megawatts or less, and a license under the Federal Power Act is not required.

Federal jurisdiction is not asserted unless a project connects to and delivers electricity to the power grid. Currently, federal jurisdiction is yet to be determined, since both the Federal Energy Regulatory Commission and the U.S. Department of Interior are both claiming jurisdiction over emerging wave energy technologies. HB 2925 allows university research to continue by testing

wave energy devices off the Oregon coast without connecting to the grid. (See also SB 875)

Effective date: May 30, 2007

House Bill 3543

Creating the Oregon Global Warming Commission

HB 3543 establishes several goals relating to climate change. The measure requires halting the growth of, and beginning the reduction of, greenhouse gas emissions in Oregon by 2010, achieving greenhouse gas levels 10 percent below 1990 levels by 2020; and by 2050 achieving levels 75 percent below 1990 levels. HB 3543 creates an Oregon Global Warming Commission to coordinate state and local efforts to reduce greenhouse gas emissions; to examine greenhouse gas cap-and-trade systems, including a statewide carbon cap-and-trade system; and to report progress toward commission goals biennially to the Legislative Assembly. The measure also creates the Oregon Climate Change Research Institute within the Department of Higher Education, designating Oregon State University as the administrative entity for the institute.

Effective date: August 7, 2007

LEGISLATION NOT ENACTED

Senate Bill 20

Prohibits aerial pesticide application near schools

SB 20 would have prohibited a pesticide applicator from aerial spraying a pesticide within one mile of school property during the academic year or within one mile of a road that services a school property during the morning and afternoon commute times. For hand or backpack pesticide applicators, the prohibition from applying pesticide would have been limited to within one-half mile of school property or within one-half mile of roads that service schools during the morning and afternoon commute. The measure directed the Department of Agriculture to adopt rules to regulate the commercial application of pesticides within five miles of school property except for forestland owners who have filed a written plan under the Oregon Forest Practices Act

or spraying for vector control purposes in a quarantine area. The Attorney General, an individual or a school district would have been authorized to bring action to enforce this pesticide application prohibition.

Senate Bill 338

Regulation of solid fuel burning devices

SB 338 would have expanded air quality provisions relating to solid fuel burning devices to include any device that burns wood, coal, or other nongaseous or non-liquid fuels and would have prohibited burning certain materials like rubber, paint, chemicals or animal carcasses in a solid fuel burning devices, fireplace or trash burner. The measure prohibited the sale of solid fuel burning devices that did not meet current certification standards and required that noncompliant devices be removed upon sale of a residence. Exemptions were provided for low-income persons who heat solely with solid fuel burning devices; also exempt were wood burning pellet stoves, unless the device was located in an area designated as non-attainment for particulates. The measure stipulated that a question regarding woodstove or fireplace insert certification be added to the residential property seller's disclosure statement.

In addition, SB 338 would have created a Residential Solid Fuel Heating Air Quality Improvement Fund to provide grants, loans or other subsidies for the replacement or removal of solid fuel burning devices that were not certified on or after July 1, 1986. All penalty moneys recovered by the Department of Environmental Quality (DEQ) were to be credited to the fund, up to a limit of \$400,000; additional penalty moneys above the cap were to be credited to the General Fund. In areas of the state where a program is required under the federal Clean Air Act, the Environmental Quality Commission was authorized to adopt rules and DEQ was required to implement a program if local government has failed to do so.

Senate Bill 576

Certification of construction of high performance buildings

SB 576 would have directed the Department of Energy (ODE), in cooperation with the Department of Administrative Services, to adopt a high performance building certification program, and required large facility projects to be designed to meet the program certification

standards. The measure applied to capital construction project larger than 10,000 square feet owned, leased or operated by a public body and in which the value of state government financial participation is more than \$4 million. Exceptions were granted if it was determined that the high performance standards were not practicable and ODE made other design and construction criteria appropriate for the project. Affordable housing projects were exempted from the measure's provisions.

Other provisions of SB 576 included the creation of a High Performance Building Advisory Committee to make recommendations on a training process for design team members and on the evaluation of energy performance facilities; an annual report on the energy performance of large facility projects to the Governor and to the appropriate legislative interim committees; and directing an interim legislative committee to conduct an audit of the high performance building program and report its findings by December 1, 2012.

Senate Bill 949

Establishes a Cellulosic Ethanol Demonstration Plant Project Fund

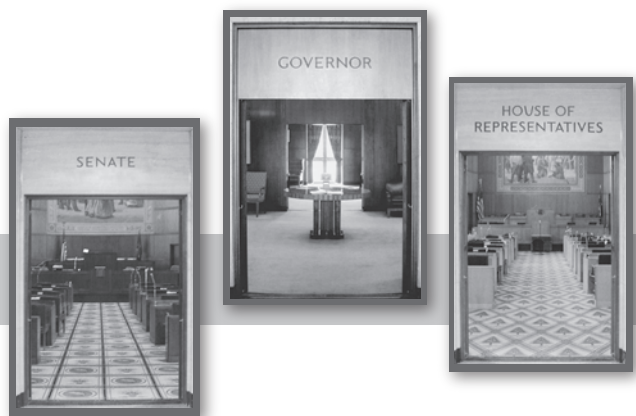
SB 949 would have authorized the issuance of lottery bonds to establish a Cellulosic Ethanol Demonstration Plant Project Fund. Moneys from the fund were to be appropriated to the Oregon Department of Energy (ODE) to provide grants and loans to private companies located in Oregon for the purpose of conducting feasibility studies regarding the development necessary to construct cellulosic ethanol demonstration plants. The aggregate principal amount of lottery bonds issued was limited to \$2 million. Additionally, ODE was to establish a grant application process and loan repayment conditions under the measure.

Cellulosic ethanol is produced from cellulose fibers in wood, wheat straw and various feed stocks. Cellulose is considered a better source for ethanol production than corn because the net yield of energy is higher than corn-based ethanol as it is currently produced. There is also concern that an increased demand for corn could raise the cost of certain food products and of livestock production.

Government

- Elections and Ethics
- Emergencies and Disasters
- General Government
- Legislative Reform and Capitol Renovation
- Public Employees Retirement Systems (PERS)

2007 SUMMARY OF LEGISLATION



ELECTIONS AND ETHICS

Senate Bill 10

Revising government ethics laws

In 1974, voters approved the establishment of statutes relating to the financial ethics and reporting by public officials. Provisions in ORS Chapter 244 and related statutes have generally prohibited the use of office for financial gain, required filing of statements of economic interest, required disclosure of conflicts of interest, provided procedures for enforcement of violations, and provided sanctions for violations.

SB 10 makes numerous changes to government ethics laws. The measure establishes a funding system for the Oregon Government Ethics Commission, assessing state agencies and local government entities proportionate amounts to provide funding for activities of the commission. It requires quarterly filing of expenditure statements by lobbyists and directs the commission to make the statements publicly available on the Internet. The measure increases penalties from \$1,000 to \$5,000 for violations of lobbying or government ethics law. Former legislators are prohibited by the measure from lobbying during the first regular session they are no longer a member of the Legislative Assembly. The measure sets a monetary limit of \$50 on gifts received by public officials from people with legislative or administrative interests, and exempts public officials subject to the Oregon Code of Judicial Conduct from gift limits. Public officials are authorized by the measure to establish a legal expense trust fund to defray certain legal expenses with approval of the commission.

Effective date: July 31, 2007

House Bill 2080

Extending the deadline for returning ballots following an emergency declaration

HB 2080 allows the Governor, upon request by the Secretary of State, to extend the deadline for the return of ballots in any state, county, city or district election by up to seven days after a proclamation declaring an emergency. The Secretary of State is authorized to make such a request following consultation with affected county clerks and determining that it would be impossible or impracticable for voters to return their ballots or for officials to tally results. The measure also prohibits

county clerks in the state to order a tally from any vote tally machine in the election until the date and time by which ballots must be returned is set by the Governor.

Effective date: May 30, 2007

House Bill 2082

Amending provisions related to election initiative and referendum petitions

Since 1902, the Oregon Constitution has provided voters with two methods of directly affecting changes to Oregon law and the Oregon Constitution: the initiative and the referendum. The initiative process gives direct legislative power to the voters to enact new laws, change existing laws, or amend the Oregon Constitution.

Provisions of HB 2082 modify how signatures are gathered and verified for initiative, referendum or recall petitions. Under the measure, signature gatherers will need to register with the Secretary of State and complete a training program. The Secretary of State is required to prepare templates of cover sheets and signature sheets for each initiative, referendum or recall petition. The measure also increases the number of signatures required to sponsor a prospective petition to be initiated. Signatures may not be counted if the signature sheet is not certified by the circulator. Signatures gathered on initiative or referendum petitions for the November 2008 election must be filed with the Secretary of State by January 4, 2008; however, petitioners are allowed to submit additional signatures after that date under the new rules.

Effective date: July 31, 2007

House Bill 2595

Comprehensive government ethics revisions

The 2005 Legislative Assembly provided funding to the Oregon Law Commission to conduct a comprehensive ethics review and to prepare legislative recommendations to address lobbying, campaign finance, and funding of the administration of Oregon's government ethics laws. HB 2595 implements recommendations of the Oregon Law Commission's Government Ethics Work Group on the organization and structure of the Government Standards and Practices Commission, violations, and penalties, as well as the generation and use of advisory opinions. The measure also renames the GSPC to be the Oregon Government Ethics Commission.

Effective date: July 31, 2007

LEGISLATION NOT ENACTED

Senate Bill 630

Open primary elections

SB 630 would have established “open primary” elections allowing voters to vote for any candidate for U.S. Senator, Representative in Congress, Governor, Secretary of State, State Treasurer, Attorney General, state Senator, state Representative and any partisan state, county, city or district office without regard to the political affiliation, or lack thereof, of the candidate or voter. The two candidates receiving the highest number of votes during the primary election would have been nominated to the general election. If one candidate received more than 50 percent of the vote in the primary, that candidate would be the sole candidate on the general election ballot with the option to write-in a different candidate. All candidates would have been listed on the primary election ballot without reference to their political affiliation, or lack thereof. All registered voters would have been sent identical ballots, without regard to their political affiliation, and would have been allowed to vote for any candidate.

House Bill 2060

Establishes the Commission on Legislative Campaign Finance Reform

HB 2060 would have created an eleven-member Commission on Legislative Campaign Finance Reform to make recommendations on separating policy decisions from campaign contributions, restraining legislative campaign spending, shifting legislative campaigning away from fundraising and toward discussion of issues, decreasing dependence on contributions from special interests, and preserving bipartisan issue resolution. The recommendation for formation of the Campaign Finance Commission was made in the final report of the Public Commission on the Oregon Legislature, which was created by SB 1084 (2005).

House Bill 2761

Instant runoff voting for local candidate elections

HB 2761 would have authorized cities, counties, and metropolitan service districts to use an instant-runoff voting system for local candidate elections. The measure required the instant-runoff system to provide electors the opportunity to designate first, second and third choices, transferring second and third choices to remaining candidates as each lowest-vote candidate was eliminated, in turn, until one candidate had a majority of votes.

EMERGENCIES AND DISASTERS

Senate Bill 1002

Coordination of search and rescue operations

Governor Kulongoski signed Executive Order 07-01 on January 19, 2007, creating the Search and Rescue Task Force. The task force was directed to review Oregon law, administrative rules and related policies pertaining to search and rescue operations. SB 1002 incorporates the recommendations of the Search and Rescue Task Force. Furthermore, the measure defines the chain of command during search and rescue incidents based on the National Incident Management System, provides statutory authority for a Missing Persons Civil Investigatory Subpoena for use only in the search for a missing person, and includes search and rescue volunteers who are approved by the county sheriff or the Office of Emergency Management in the provisions for leaves of absence from employment for volunteer duty.

Effective date: January 1, 2008

House Bill 2370

Transferring Office of Emergency Management to Oregon Military Department

Prior to the passage of HB 2370, the Office of Emergency Management (OEM) operated within the Department of State Police (OSP) and was the emergency management agency for the State of Oregon. HB 2370 transfers OEM and all related unexpended balances of amounts authorized to be expended to the Oregon Military Department. The measure also transfers responsibility for the State Interoperability Executive Council from OEM to OSP. HB 2370 also prohibits government seizure of firearms from individuals in lawful possession of weapons during a state of emergency.

Effective date: July 3, 2007

LEGISLATION NOT ENACTED

Senate Bill 1038

Disaster planning and coordination

SB 1038 would have required the University of Oregon, the Department of Geology and Mineral Industries, the Land Conservation and Development Commission, Oregon State University, and the Office of Emergency Management, in conjunction with Oregon's coastal communities, to develop plans for mitigating the effects of a catastrophic disaster and for recovery and reconstruction efforts following such a disaster. Due to the potential fiscal impact the Joint Committee on Emergency Preparedness and Ocean Policy directed the Office of Emergency Management to convene a work group to determine the status of Oregon county recovery resources in the event of a natural disaster, and directed the work group to present a report for the Interim Committee on Emergency Preparedness no later than October 2007.

Senate Joint Resolution 6

Proposing revision of Oregon Constitution relating to responses to catastrophic disasters

ORS 401.055 through ORS 401.155 and 401.335 include the powers of the Governor during emergency situations. Article V, section 12 of the Oregon Constitution authorizes the Governor to convene the Legislative Assembly in Special Session in response to extraordinary events. In such an event, the Constitution further stipulates that the Legislative Assembly must convene at the State Capitol and that two-thirds of each chamber's membership is required for a quorum.

SJR 6 would have defined the types of catastrophic disasters for which the Governor was to immediately convene a special legislative session, would have allowed the Legislative Assembly to meet outside of the State Capitol, and would have allowed legislators unable to be physically present to participate through electronic means. In addition, the resolution revised the definition of a quorum as two-thirds of those members that could attend, and would have restricted legislation to be considered solely to that related to the catastrophic

disaster. SJR 6 would have also granted the Governor the authority to use any moneys in a reserve fund not dedicated to a specific purpose.

House Bill 2509

Electronic signaling devices on Mount Hood

HB 2509 would have required individuals or groups ascending above 10,000 feet on Mount Hood to carry a two-way signaling device (such as a radio, satellite phone or cell phone) and one of the following: a global positioning system receiver, a personal locator beacon transmitter, a mountain locator unit, or other comparable device.

Currently, Oregon law does not require climbers to pay for rescue efforts on their behalf unless they were negligent, failed to take basic steps to keep themselves safe, or violated applicable law (ORS 401.590). Every year, a number of hikers and climbers become lost or involved in accidents on mountains in Oregon. A recent example that received national attention was the plight of three climbers who set out on December 7, 2006 to scale the north face climbing route to the summit of Mount Hood. The climbers were reported missing on December 10; following a lengthy search that was hampered by inclement weather on the mountain, one of the climbers was found dead in a snow cave on December 17; to date the other two members of the party remain missing.

The cost of search and rescue operations varies from case to case. Hood River County estimated the cost of the December 2006 operation at between \$5,000 and \$6,000 per day.

House Bill 3570

Also included in the Transportation Chapter

Motor vehicle locator services

HB 3570 would have allowed law enforcement agencies to request that a motor vehicle locator service provider give the location of a motor vehicle if a search warrant had been issued; the owner of the vehicle consented; the law enforcement agency believed that a life-threatening emergency existed and the location of the vehicle was necessary to prevent harm, render aid, or locate missing persons; or the law enforcement agency believed that a crime had been, was being, or was about to be committed. Through the use of global positioning system (GPS) satellites and cellular technology, the location of motor vehicles so-equipped can be readily determined. Many newer car models come equipped with onboard GPS equipment.

GENERAL GOVERNMENT

Senate Bill 665

Authorizes development of a speedway theme park in Morrow County

SB 1094 (2005) authorized future development of a major motor speedway and related facilities on rural land in Morrow County. SB 665 authorizes development of a “speedway theme park,” 250 road course garage units (residential units not intended for overnight use), and 100 units of transient lodging with concurrent development of the motor speedway in Morrow County. SB 665 also authorizes expansion of the site after racing on the speedway becomes sanctioned by the National Association for Stock Car Auto Racing (NASCAR).

Effective date: July 17, 2007

House Bill 2066

Sister State Committees

SB 16 (2001) provided for the establishment of sister state committees to interact in relationships with other governments with which the State of Oregon has formal relationships. Oregon currently has sister state relationships with four states: Fujian Province, People’s Republic of China (1984); Taiwan Provincial Government, Republic of China (1985); Toyama Prefecture, Japan (1991); and Jeollanam-do Province, Republic of Korea (1996). The Legislative Assembly also maintains a sister relationship with Honduras (1991) and the Parliament of the German State of Lower Saxony (1991). Sister state committees participate in travel and receive delegations, exchange information, and work jointly on projects.

Currently only one sister state committee has been formed, the Fujian Sister State Committee, comprised of 19 members. The Senate President and Speaker of the House serve as co-chairs, and are assigned by law as co-chairs of all sister state committees.

HB 2066 creates a single, 19-member Sister State Committee. The committee is charged with fulfilling the duties to all entities with which Oregon has a sister state relationship and establishes in statute the Fujian Sister State Committee as separate from the Sister State Committee

created by the measure and maintains the committee’s current membership. The Sister State Committee’s co-chairs are appointed by the Senate President and Speaker of the House, with the remaining members to include two senators and two House members.

Effective date: January 1, 2008

House Bill 2140

Streamlining public contracting code

Oregon’s Public Contracting Code (ORS chapters 279 A, B, and C) took effect on March 1, 2005 and was a complete revision of outdated public contracting law. The Department of Administrative Services collaborated with the Department of Justice to collect suggested technical amendments and other law improvement proposals for the code. The first group of technical amendments was enacted through the passage of HB 2215 (2005).

HB 2140 makes further technical amendments and improvements to make the code operate more efficiently and to streamline the public contracting process. Examples include exempting certain entities from the Public Contracting Code and clarifying which projects and contracts of the Department of Fish and Wildlife, the Department of Aviation, the Department of Housing and Community Services, the Department of Corrections, and the Military Department are subject to the Public Contracting Code. Additionally, HB 2140 provides for emergency procurement of construction services that are not public improvements and permits a contracting agency or a state agency to identify pilot projects for which the agency intends to use an alternate contracting method.

Furthermore, HB 2140 clarifies prevailing wage rate law with regard to how it is applied to mixed use (commercial-residential) projects and developments relying upon public-private financing arrangements. The measure creates a “bright line” for a project to be considered as a “public work” if more than \$750,000 in public funds are used or if 25 percent or more of the completed project’s square footage will be occupied or used by a public agency. The measure also exempts residential housing construction projects that are privately owned and predominantly provides affordable housing (60 percent or more of the project’s residences) if the project serves occupants whose incomes are no greater than 60 percent of the area median income, or if the occupants are own-

ers, whose incomes are no greater than 80 percent of the area median income. HB 2140 also establishes mechanisms for the Bureau of Labor and Industries Commissioner to follow in determining whether a public works project should be divided into more than one contract, and requires the commissioner, upon request, to determine whether a proposed project is subject to prevailing wage requirements.

Effective date: July 1, 2007

House Bill 2447

Designates Korean American Day

The first Korean immigrants arrived in the United States on January 13, 1903. Congress passed a resolution in 2005 recognizing January 13 as Korean American Day, and several states, including California and Georgia, have also passed resolutions recognizing Korean American Day. HB 2447 declares January 13 to be Korean American Day in Oregon and directs the Governor to issue a yearly proclamation calling upon Oregonians to celebrate the contributions of Korean Americans.

HB 2447 also creates a Korean American Day Commission, consisting of nine members appointed by the Governor. The commission is charged with promoting, organizing, and coordinating Korean American Day celebrations. Members are prohibited from receiving compensation or payment of expenses for service on the commission. The commission sunsets on January 2, 2016.

Effective date: January 1, 2007

House Bill 2583

Indemnity between Oregon public and out-of-state entities

Public entities in Oregon, including cities, counties, special districts, commissions, authorities, state agencies, and Oregon Health and Science University, may enter into interstate cooperation agreements. These agreements do not relieve the public entity of legal obligations or responsibilities, and all such agreements must be submitted to the Attorney General prior to taking effect. Under interstate cooperative agreements, public entities may expend funds and sell or otherwise transfer personnel or services to an entity in another state.

HB 2583 allows a public entity entering into an interstate cooperative agreement to include, as part of that agreement, a requirement that the entity in the other state indemnify the Oregon entity against any tort claims or demands arising out of alleged acts or omissions occurring during performance of an action in the other state.

Effective date: January 1, 2008

House Bill 2702

State agency documents produced in plain language

HB 2702 directs the Governor to designate a state agency as responsible for developing a plan to ensure that written documents produced by state agencies conform to plain language standards. These standards include using everyday words that convey meanings clearly and directly; using present tense and active voice; using short, simple sentences; defining only those words that cannot be properly explained or qualified in the text of the document; using type of a readable size; and using layout and spacing that separate the paragraphs and sections of the document from one another.

Efforts to institute a plain language standard have been undertaken in the State of Washington as a result of Governor Chris Gregoire's Executive Order 05-03.

Effective date: May 17, 2007

House Bill 3120

Processing and delivery of marriage forms

Prior to passage of HB 3120, there were statutory conflicts related to the deadline for submitting marriage documents to county clerks. ORS chapter 432 required submission within 10 days, while ORS chapter 106 specified a one-month timeframe. HB 3120 requires delivery of a completed marriage application, license, and record to the Center for Health Statistics. The person solemnizing a marriage is required to deliver a marriage license application, license, and record of marriage to the county clerk within ten days after marriage ceremony. The measure also allows county clerks to design and issue commemorative the marriage certificates.

HB 3120 also permits either party entering into a marriage to retain their surname, change their surname to the surname of the other party, or hyphenate a combination of the surnames. Six other states – Georgia, Ha-

waii, Iowa, Massachusetts, New York, and North Dakota – allow a man to change his name through marriage in the same way that a woman can. Prior to the passage of HB 3120, if a man wanted to take the surname of his wife or have a hyphenated surname, he would have required a court judgment to do so.

Effective date: January 1, 2008

House Bill 3538

Authorizes creation of heritage districts

House Bill 3538 allows for the creation of heritage districts as local service districts. A heritage district may be formed by joint action of two or more counties and is governed by an elected board that is empowered to assess, levy, and collect taxes to pay costs of acquiring, constructing, altering, operating, and maintaining heritage sites and structures; to establish and maintain heritage society programs; and to issue limited general obligation bonds.

Effective date: January 1, 2008

House Joint Memorial 6

Urging Congress to support establishment of Ice Age Floods National Geologic Trail

At the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwestern region of the United States. After passing through the Columbia River Gorge, the flood backed up into Oregon's Willamette Valley, covering the current site of Portland with 300 feet of water and reached as far south as Eugene. The floods are responsible for shaping many of Oregon's unique landscape features.

HJM 6 urges Congress to support the establishment of an Ice Age Floods National Geologic Trail, and declares that the establishment of such a trail would benefit local economies. Both houses of Congress have considered legislation to establish an Ice Age Floods National Geologic Trail.

Filed with Secretary of State May 11, 2007

LEGISLATION NOT ENACTED

Senate Bill 560

Expansion of presumption of occupational disease list

Current Workers' Compensation law establishes a "presumption" for certain occupational diseases for firefighters, including diseases of the lungs or respiratory tract, hypertension or cardiovascular-renal disease. In order to qualify for the presumption, a firefighter must have completed five or more years of work and taken a physical examination upon employment. Once the presumption is established, the burden is on the employer to prove that the disease is not work related.

SB 560 would have added brain cancer, colon cancer, stomach cancer, multiple myeloma, and non-Hodgkin's lymphoma to the current presumption list.

House Bill 2618

Requirements for approved apprenticeship training agents

HB 2618 would have prohibited a public agency from entering into a public works contract in excess of \$750,000 unless the contractor and subcontractors were approved training agents. The measure also required that registered apprentices must perform at least 15 percent of the total work on any public contract or individual subcontract which exceeded \$750,000, and for contractors and subcontractors to file certified apprenticeship utilization statements with the public agency.

Exceptions were to be made if the contractor or subcontractors were not an approved training agent because a local joint committee or program for the apprenticeable occupations used by the employer does not exist in Oregon. The Bureau of Labor and Industries would have had the authority to approve exceptions, inspection contractor records for compliance, and to assess penalties for violations.

Registered apprentices are individuals who participate in the state's apprenticeship training program. In order for them to advance to journey-level status, they must complete a minimum of 2,000 hours of on-the-job supervised training. Registered apprentices often meet

this requirement by working for employers certified by local joint committees as proficient in training apprentices to state standards.

House Bill 2681

Prohibits state agencies from hiring or contracting with undocumented workers

HB 2681 would have prohibited state agencies from employing or entering into a contract with an undocumented worker. The measure required prospective contractors, prior to being awarded a public contract, to provide proof that they do not employ undocumented workers. Public contracts for services would have been required to include provisions prohibiting contractors from employing undocumented workers or hiring subcontractors that knowingly hire undocumented workers to perform work under the contract. The Economic and Community Development Commission, the Economic and Community Development Department and any financial institution that contracts with the commission or department to make loans or grants would have been prohibited from making any loan or grant to a person that knowingly employs an undocumented worker to perform work funded by the loan or grant.

House Bill 3099

Also included in the Health Care Chapter

Water supplier fluoridation in communities of 10,000 or more persons

HB 3099 would have required that water suppliers serving more than 10,000 persons add fluoride to drinking water in amounts and in a manner prescribed by the Department of Human Services (DHS). The measure authorized DHS to temporarily exempt a water supplier serving more than 10,000 persons from this requirement until the department could determine whether the water supplier had the sufficient funds to purchase the fluoridation equipment from a source other than fees, taxes, or charges charged by the water supplier to the supplier's ratepayers, shareholders, local taxpayers, or bondholders.

House Joint Memorial 9

Also included in the Veterans Chapter

Urging President and Congress of United States not to increase numbers of troops in Iraq and to withdraw troops from Iraq and redeploy troops not later than first quarter of fiscal year 2008

HJM 9 would have urged the President to begin withdrawing United States forces from Iraq as soon as possible, but not later than December 2007. The resolution also urged Congress to pass legislation prohibiting the President from increasing the number of troops in Iraq and urged the President to obtain explicit approval from Congress before sending more American troops to Iraq.

LEGISLATIVE REFORM AND CAPITOL RENOVATION

Senate Bill 5

Quorums for legislative committees

Membership of several joint legislative committees is established in statute, with the President of the Senate and Speaker of the House appointing legislators from their respective chambers to the committees. Presently, most committee rules define a quorum to be a majority of appointed members and also require the affirmative vote of a majority of appointed members for action.

SB 5 establishes in statute that a majority of House members and a majority of Senate members is a quorum for the Joint Committee on Ways and Means, Joint Legislative Committee on Information Management and Technology, Legislative Counsel Committee, Legislative Administration Committee, and the committee for issuing the education funding report pursuant to Article VIII section 8 of the Oregon Constitution. An affirmative vote of a majority of House members and a majority of Senate members on each previously mentioned committee is required to take action.

Effective date: January 1, 2008

Senate Bill 371

Increasing membership of the Legislative Emergency Board

SB 371 increases the membership of the Emergency Board from 17 to 20 members by adding one House member and two Senate members, bringing the committee to an even 10 members of the House and 10 members of the Senate. The measure also establishes that a quorum for action of the Emergency Board is a majority of House members and a majority of Senate members, and action requires the affirmative vote of a majority of members from each chamber.

Effective date: June 27, 2007

Senate Bill 456

Salaries of judges and legislators

Recently, the Task Force for Judicial Excellence was formed to address judicial compensation in Oregon. Members included, among others, attorneys and business leaders. The task force findings included that judges in Oregon are paid salaries near the bottom of all states; that Oregon judges are paid less than first-year associate lawyers in Portland's top law firms; that Oregon judges are paid less than many public lawyers and less than many other public officials; and that Oregon judges have not received a salary increase since 2002.

SB 456 and a related measure, SB 994, increase the salaries of Oregon's Supreme Court justices and the judges of the Oregon Court of Appeals, Oregon Circuit Court, and the Oregon Tax Court. The salaries are increased in two steps, once in July 2007 and once in July 2008. SB 456 also deletes provisions that had previously connected judicial salaries with those of members of the Oregon State Legislature.

Effective date: August 9, 2007

Senate Bill 632

Establishes State Capitol grounds as a state park

The State Capitol and Capitol Mall can be considered tourist attractions for the City of Salem and the state. SB 632 establishes the park areas surrounding the Capitol as State Capitol State Park and transfers maintenance and administration responsibilities from the Department of Administrative Services to the Oregon Parks and Recreation Department.

To the east and west of the capitol are two parks. Willson Park, is situated to the west and served historically as the focal point for the entrance to the original capitol building, becoming part of the capitol grounds in 1965. Willson Park is the setting for Waite Fountain, the Parade of Animals sculpture, a Liberty Bell replica, and a gazebo constructed in 1982. The capitol grounds to the east are known as East Park, extending from the Capitol to the Justice Department complex. East Park is distinguished by the presence of intact aspects of an early landscape design, "The Circuit Rider" cast bronze statue, and remnants of the classical fluted columns from the portico of the previous capitol.

The capitol entrance faces north to the Mall, and fea-

tures two adjacent blocks of tree-ringed parks and gardens, bordered by streets and flanked by state office buildings. The Oregon State Library, Public Service Building, and Department of Transportation, were designed to be stylistically compatible with the Capitol.

Effective date: January 1, 2008

Senate Bill 700

Reestablishes the Public Officials Compensation Commission

SB 700 reestablishes the Public Officials Compensation Commission and directs the commission to recommend salaries for legislators and other elective officers. The commission-recommended salaries must be included in the Governor's Recommended Budget and the Legislative Assembly is to consider the salary recommendations.

The commission was originally created by the Legislative Assembly in 1983 and was charged with making recommendations to the legislature regarding the salaries of elected officials. The terms of the last members of the original seven-member commission expired in August 2000. Membership of the new commission is increased from seven to eleven members, with six members to be registered voters selected at random by the Secretary of State.

Other states, including Washington, Delaware, Arizona, and Minnesota, have compensation commissions or councils that either set salaries or make recommendations for legislative consideration. In 2006, the Public Commission on the Oregon Legislature reviewed the structure and mandate of the Washington Citizens' Commission on Salaries for Elected Officials and recommended in a related measure, SB 50, that Oregon's compensation commission be revived, but that voters be asked in a third measure, SJR 1, to give the compensation commission the authority to set salaries without legislative or gubernatorial intervention.

Effective date: August 6, 2007

Senate Bill 967

Abolishes certain statutorily created legislative committees

Membership of several joint legislative committees

is established in statute, with the Senate President and Speaker of the House appointing legislators from their respective chambers to the committees. Notwithstanding these requirements, Legislative leadership has sometimes opted not to appoint the committees. SB 967 abolishes the joint legislative committees on water policy, transportation, trade and economic development, land use, and the Oregon Plan, and repeals related statutes.

Effective date: January 1, 2008

Senate Concurrent Resolution 1

Establishing deadlines for completion of legislative measures and date of adjournment sine die of regular session of Seventy-fourth Legislative Assembly

The Oregon Constitution requires that the Legislative Assembly meet biennially, but it also allows the convening of a session at other times when needed. The Public Commission on the Oregon Legislature, established by SB 1084 (2005), recommended that the Legislative Assembly set a new meeting time for the 2007 Legislative Session and hold a session in 2008 in order to experiment with annual sessions. The commission further recommended that the Legislative Assembly determine how and whether it is desirable to have annual sessions beginning in 2009.

SCR 1 established deadlines for managing legislative activity during the 2007 session. This cutoff calendar, in the form of a resolution approved by legislators, is not unlike what other states, including Washington, use to manage the length and activity of session. The resolution also prescribes that in January 2008 the 74th Legislative Assembly will call itself into special session. After the experiments with session timing and structure, voters may be asked to approve the addition of specific requirements into the Oregon Constitution.

Filed with the Secretary of State January 19, 2007

House Bill 5006

Capitol Restoration Project

In the late 1990s a series of health and safety issues were identified in the Oregon State Capitol wings, including defective water pipes, hazardous wiring conditions,

a lack of adequate electrical circuits, and substandard heating, ventilation and air conditioning (HVAC) capabilities. After development of an initial plan for replacing the piping, wiring and ceiling, it was determined that it would be most cost effective to address additional areas of concern in the wings as part of the same project. This plan was originally approved during the 2001 Legislative Session, but following a change in the economic climate, only the hearing room portion of the plan was completed. In 2006, the Public Commission on the Oregon Legislature reviewed the original plan and unanimously recommended proceeding with the Capitol Restoration Project.

The Capitol Restoration Project includes a complete renovation of the interior portions of the House and Senate wings, including the removal of corroded pipe that renders water undrinkable, miles of outdated and improperly installed computer cable, an electrical system not able to meet the load of modern office equipment, and an out-of-code fire alarm and fire suppression system.

HB 5006 establishes authority for planning and design and construction projects with costs over \$500,000. Included in the measure is a \$33.5 million allocation to renovate and upgrade the offices of the Legislative Assembly and some legislative staff in the Capitol. A related measure, SB 5549, allocates funding to the Legislative Administration Committee for planning, debt service and relocation costs of legislative and executive branch agencies during renovation of the Capitol. In SB 5522, the legislature also approved \$500,000 for development of a long term facilities plan for the capitol.

Effective date: July 3, 2007

PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

Senate Bill 342

Exempts nursing instructors from retirement benefit work restrictions

SB 342 adds registered nurses employed as full-time nursing instructors by public employers and instructors working for the Department of Public Safety Standards and Training to the list of PERS retirees who are exempt from current limitations on the number of hours they can work for a public employer without losing retirement benefits.

The general rule is that a retired public employee receiving PERS payments may work no more than 1,040 hours per calendar year and remain eligible for full benefits. However, there are numerous exceptions, typically based on the difficulty in filling vacant positions, such as police departments serving communities of fewer than 15,000 people.

Effective date: January 1, 2008

House Bill 2285

Accrual of retirement credits for PERS members

The 2003 Legislative Assembly enacted HB 2020, which brought major changes to the PERS, including the establishment of the Oregon Public Service Retirement Plan (OPSRP). Also known as “Tier Three,” OPSRP is a hybrid pension plan with two components: the Pension Program (defined benefit) and the Individual Account Program (defined contribution). State employees hired on or after August 29, 2003 are hired under OPSRP unless their membership was previously established in PERS.

Prior to passage of HB 2285, Tier One or Tier Two PERS members who had a six-month break in service automatically became a member of OPSRP for any subsequent employment upon rehire, unless they met one of the statutory exemptions, such as military service or serving as a legislator. HB 2285 repeals the break in service provisions of OPSRP.

HB 2285 also equalizes the accrual of retirement credit by OPSRP members by changing the retirement credit calculation to be the same as for Tier One and Tier Two members. Situations have arisen in which OPSRP members are considered full-time employees, but have not accumulated enough service hours under the current system to receive a full year of retirement credit.

Effective date: January 1, 2008

House Bill 2397

Rollover contributions to PERS

Currently, PERS is required to recover any improperly made payment, including overpayment of benefits, either through voluntary or involuntary means. Recovery may take the form of reducing benefit payments on a lump-sum or monthly basis, through a collection agency, or by other means available under applicable law. One recent instance requiring PERS members to return benefits stemmed from the settlement agreement for *City of Eugene v. Public Employees Retirement Board*, which required PERS to reallocate 1999 earnings to Tier One benefit recipient accounts at a lower amount. As a result, a financial obligation was created for some PERS retirees.

HB 2397 allows the PERS to accept rollover contributions for recovering benefits, such as for improperly made payments and overpayments, and directs PERS to establish administrative rules and procedures for determining whether a member can utilize rollover contributions as part of a payment arrangement.

One of the provisions of the federal Pension Protection Act of 2006 expanded the availability of rollover distributions for death beneficiaries. HB 2397 allows the beneficiaries of PERS members, except for spouses, to have death benefits distributed directly through a tax-free rollover to an individual retirement account or a subsequent employer retirement plan. Additionally, HB 2397 allows PERS members to buy back PERS benefits under certain circumstances.

Effective date: January 1, 2008

House Bill 2401

PERS benefits for telecommunicators

Current law requires members of PERS to work until age 55 to be eligible for retirement benefits. Exceptions

are made for police officers and firefighters, who may retire at age 50. HB 2401 allows telecommunicators to become eligible for PERS benefits after 25 years of service, with no cost of living allowance received until the member becomes 55 years old.

A telecommunicator is statutorily defined as an emergency telephone worker whose official duties are receiving information through a 9-1-1 emergency reporting system and either relaying it to public or private safety agencies or dispatching emergency equipment or personnel in response to such information, or as a public safety dispatcher whose primary duties are receiving, processing, and transmitting public safety information received through a 9-1-1 emergency reporting system.

Effective date: January 1, 2008

House Bill 2619

PERS accounts of legislators and legislative employees and reactivation of PERS accounts

There are currently a handful of groups that can purchase retirement credit for the PERS due to service performed prior to working for a PERS employer. Examples include public school teachers who worked in one or more states prior to working in an Oregon school district, and some members of the United States Armed Services who served prior to their employment. HB 2619 adds public safety officers to the list of those who can purchase retirement credit.

Under the measure, police officers can purchase a maximum credit for service of four years, and must pay a lump sum to the PERS Board for each year of retirement credit after it is verified that they meet the qualifications. HB 2619 specifies that the payment be in the amount determined by the board to represent the full cost to PERS for providing the retirement credit to the member, including all administrative costs incurred in processing the application, and that the member must complete these steps within 90 days of their effective retirement date.

In addition, HB 2619 exempts PERS retirees who work during a legislative session, either for the Legislative Assembly or Capitol security, from the current cap of the hours they can work without losing their retirement status. Generally, a retired PERS member may work no more than 1,040 hours per calendar year and maintain eligibility for full benefits. However, there are many exceptions, such as police departments in cities with a

population of less than 15,000 people. Exceptions are given based on the difficulty in filling the positions.

HB 2619 also allows a rehired PERS member to reactivate an inactive account.

Effective date: July 16, 2007

Health Care

2007 SUMMARY OF LEGISLATION



Senate Bill 3

Establishes the Oregon Healthy Kids Program

SB 3 creates the Oregon Healthy Kids Program (OHKP), which includes private health option to provide health care coverage to the children of Oregon. Implementation of SB 3 requires that SJR 4 be enacted into law, which requires voter approval at a special election, of an amendment to the Oregon Constitution establishing a new tobacco tax.

The intent of OHKP is to provide medical insurance coverage for uninsured children in Oregon younger than 19 years of age by expanding current eligibility through the state's Medicaid program or Children's Health Insurance Program (CHIP), both of which are administered by the Department of Human Services (DHS), and by offering a commercial insurance product through the Office of Private Health Partnerships (OPHP). OPHP approved (contract) benefit packages must be comparable to that offered by the Oregon Health Plan (OHP) and CHIP.

In addition, the measure makes a number of changes to current DHS and OPHP procedures, including: simplification of the Medicaid and CHIP application process; raising CHIP income eligibility from a maximum household income of 185 percent of the federal poverty level (FPL) to 200 percent of FPL; eliminating the household asset test; changing child enrollment in Medicaid from six to 12 months; directing OPHP to offer premium subsidies for the purchase of a Healthy Kids commercial insurance product for children in households with incomes above 200 percent of FPL up to 300 percent FPL; and allowing households with incomes above 300 percent to purchase the Healthy Kids commercial insurance product (no subsidies). Furthermore, the measure establishes the statewide OHKP Advice and Healthcare Access telephone lines.

Effective date: July 6, 2007

Senate Bill 4

Also included in the Labor and Employment Chapter

Declares a nursing workforce and nursing faculty shortage

SB 4 declares that there is a shortage of nurses and nursing faculty in Oregon, with the nursing shortage declaration to remain in effect until suspended by the Governor by executive order. The measure authorizes the

Oregon Center for Nursing and the Oregon Healthcare Workforce Institute to advise the State Workforce Investment Board, the Joint Boards of Education and other entities regarding education and workforce issues relating to nurses and to doctors, dentists, and allied health professionals, respectively. Additionally, the measure directs the center and institute to work together to develop comprehensive solutions to Oregon's healthcare workforce shortages.

Effective date: July 17, 2007

Senate Bill 8

Also included in the Insurance Chapter

Expanded insurance coverage for anticancer medication

SB 8 requires health benefit plans that include chemotherapy to cover orally-administered anticancer medication as part of the medical benefit.

The measure stipulates that oral chemotherapy is to be treated by health insurance companies equally to all other forms of chemotherapy. Intravenously-administered chemotherapy has been the standard treatment for advanced forms of cancer since its approval by the federal Food and Drug Administration in 1962. Most chemotherapy drugs cause tumors to shrink, but may also have serious side effects. Some research indicates that use of oral medication rather than intravenous chemotherapy results in a two-thirds reduction in hospital time and greater than 50 percent reduction in costly medical side effects. A patient treated with oral chemotherapy typically requires only eight hospital visits, compared to 30 visits if treated with standard chemotherapy.

Effective date: January 1, 2008

Senate Bill 183

Also included in the Insurance Chapter

Reinsurance program for medical professional liability insurance policies provided by State Accident Insurance Fund Corporation (SAIF)

SB 183 extends the Rural Medical Professional Liability Reinsurance Program through 2011. The measure redefines rural for the purposes of the program and extends the program to rural nurse practitioners and to physicians and nurse practitioners who obtain insurance through a health care facility in specified circumstances. Practitioners who receive the subsidy are

required to serve a certain percentage of Medicaid and Medicare patients. In addition, SB 183 specifies the maximum percentage of insurance premiums that will be reimbursed for practitioners in different specialties and determines the way in which the subsidies are to be distributed if there is not enough money in the program to provide the maximum subsidy to all qualifying practitioners. The largest subsidies are provided to physicians and nurse practitioners specializing in obstetrics and family physicians that provide obstetrical services, while other primary care practitioners qualify for larger subsidies than specialists.

The Rural Medical Professional Liability Reinsurance Program was created by the 2003 Legislative Assembly to provide rural physicians with state-funded subsidies of medical malpractice insurance premiums. The program was created in response to the significant increase in professional liability insurance premiums and the effects of rate increase on the availability of health care and providers in rural Oregon.

Effective date: June 25, 2007

Senate Bill 191

Also included in the Insurance Chapter

Allows Oregonians to participate in Long-Term Care Insurance Partnership Program

SB 191 modifies various statutes governing long-term care insurance to allow Oregonians to participate in the federal Long-Term Care Insurance Partnership Program (LTCIPP). LTCIPP became available to all states in 2007 following passage of the 2005 federal Deficit Reduction Act. The program was initiated to address the increasing cost of state Medicaid expenditures on long-term care services and to encourage the purchase of long-term care policies. It also allows states to disregard some of an applicant's assets when determining Medicaid eligibility, if the applicant purchased a long-term care insurance plan and exhausted the benefits, and allows states to exempt these assets from estate recovery after the beneficiary dies. Federal law sets minimum standards for all policies considered under the program, including numerous consumer protections, and SB 191 updates Oregon statutes to reflect these requirements.

In addition, SB 191 requires the Department of Consumer and Business Services to develop training requirements for insurance providers selling long-term care insurance. The measure directs the Department

of Human Services to submit an amendment request to the federal government to allow Oregon to participate in LTCIPP and, upon federal approval, alters state Medicaid statutes to allow the state to exclude long-term care benefits from Medicaid eligibility determination and estate recovery.

Effective date: June 20, 2007

Senate Bill 329

Establishing a framework for comprehensive health care reform

SB 329, referred to as the Healthy Oregon Act, establishes the framework for a comprehensive health care reform plan for the state and identifies a set of principles and goals to guide the reform process. The measure establishes the Oregon Health Fund, from which the program will be funded, and specifies possible sources of contributions and appropriates money to the fund. SB 329 also creates a board and five subcommittees to manage the fund. The Oregon Health Policy Commission, the Office of Oregon Health Policy and Research (OHPR), the Health Service Commission and the Medicaid Advisory Committee are directed to compile data and conduct research to inform the subcommittees. The measure directs the board and its federal subcommittee to examine and recommend exemptions from federal law that impede Oregon's ability to meet the goals of the Healthy Oregon Act and to request Oregon's congressional delegation to hold hearings on federal policies through the state and in Washington, D.C. The board is also to develop a comprehensive reform plan, based on recommendations of finance, delivery, benefits, and eligibility subcommittees, and to hold public hearings on the plan.

SB 329 specifies that the plan must ensure that all Oregon residents not covered by an insurance plan who are eligible for public benefits or given an exemption participate in the program, and allows all other Oregonian residents or persons whose primary employment is located in the state to choose to participate. The measure directs the board to provide an update to the Legislative Assembly in February 2008 and to present the finalized plan to the Governor, Speaker of the House and President of the Senate by October 1, 2008. OHPR is to develop a plan to evaluate the implementation and outcomes of the Healthy Oregon Act. The measure brings OHPR and the Oregon Prescription Drug Pro-

gram under the Department of Human Services and appropriates associated funds to the department.

The original version of SB 329 was the result of the work of the Senate Commission on Health Care Access and Affordability. The commission's proposal was based on the consensus that incremental change cannot solve Oregon's health care crisis and that comprehensive reform is required.

Effective date: June 28, 2007

Senate Bill 337

Reporting of professional negligence claims to health professional regulatory boards

SB 337 modifies provisions and requirements relating to notice of professional negligence claims to health professional regulatory boards and to subsequent actions of the boards. The measure specifies that reporting requirements continue to apply to a public body if it is substituted in place of insured as defendant in claim of alleged professional negligence. SB 337 specifies that when the Board of Medical Examiners (BME) receives a report of a claim, it is to post the report on the BME website if the claim results in judicial finding or admission of liability or a money judgment, award or settlement that involves a payment to the claimed; claims not meeting the specified conditions are not to be posted on the BME's website, but the information is to be made available to the public upon request. The measure also increases maximum civil penalties from not more than \$5,000 to not more than \$10,000 on health care facilities that fail to report official action regarding medical staff incompetence, unprofessional or dishonorable conduct, or impairment.

Effective date: July 17, 2007

Senate Bill 362

Expands the Oregon Prescription Drug Program

SB 362 expands the list of individuals and entities that may participate in the Oregon Prescription Drug Program (OPDP) to include those underinsured for prescription drugs, private entities and labor organizations. The measure also eliminates the requirement that applicants reapply annually and specifies that the Department of Administrative Services is not required to reissue prescription drug identification cards every year.

The OPDP, a bulk drug purchasing program, was established in 2003. The program makes prescription drugs available at the lowest possible cost to participants in the program by pooling purchasing power to negotiate competitive discounts from pharmacies. The program also maintains a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices. Originally, participation in the program was limited by age and income; however, Ballot Measure 44, approved by voters in 2006, opened the program to all Oregonians without prescription drug coverage. OPDP joined with Washington's prescription drug program in 2007 to form the Northwest Prescription Drug Consortium in order to increase the number of participants and in turn, the group's purchasing power.

Effective date: April 26, 2007

Senate Bill 426

Also included in the Insurance Chapter

Establishes the Oregon Educators Benefit Board

SB 426 creates a common insurance pool for school districts by establishing the Oregon Educators Benefit Board (OEBB). The OEBB is directed to contract for health, dental and other benefit plans for employees of most school districts and education service districts before October 1, 2008. After that time, districts are generally prohibited from offering benefit plans other than those provided by the board. The offered plans must be comparable in design to, and not more expensive than, benefit plans provided by districts immediately prior to purchase of Board-approved plans. Districts that are self-insured or have independent health trusts are not required to receive benefits through the OEBB if the premiums for their benefit plans are equal to or less than the premiums for comparable benefit plans provided by the board. Community college districts may also provide or contract for benefit plans other than those provided by OEBB.

Effective date: March 21, 2007

Senate Bill 491

Also included in the Insurance Chapter

Insurance coverage for bilateral cochlear implants

A cochlear implant is a small, complex electronic device that can help provide a sense of sound to a per-

son who is profoundly deaf or severely hard-of-hearing. Research demonstrates that some individuals with bilateral cochlear implants, one implant in each ear, have improved hearing of localized sounds and hearing speech in a noisy room than are individuals with a single implant.

SB 491 requires health insurers that provide coverage for cochlear implants to also provide coverage for bilateral cochlear implants. The measure specifies that a reasonable investigation for a claim for bilateral implants must include a recommendation from the treating physician supported by medical literature and findings. The provisions of SB 491 are exempt from the insurance mandate automatic repeal statute.

Effective date: January 1, 2008

Senate Bill 656

Authorizes optometrists to utilize anti-glaucoma medication

SB 656 allows an optometrist to treat a patient with anti-glaucoma medication. The optometrists must consult with an ophthalmologist if the glaucoma progresses despite the use of two medications, or more than two medications are required, or a secondary glaucoma develops. The measure establishes that optometrists, who prescribe pharmaceutical agents are to be held to the same liability standards as licensed physicians, and authorizes optometrists to remove superficial foreign bodies from the eye and its appendages. The measure also clarifies that a combination medication that contains two pharmacologic agents is considered one medication.

Glaucoma is a disease of the optic nerve that causes a loss of vision, usually in both eyes. This loss often begins with a subtle decrease in peripheral vision. If glaucoma is not diagnosed and treated, it may progress to loss of central vision and blindness. It is the leading cause of blindness in African-Americans.

Effective date: January 1, 2008

Senate Bill 958

In-home care agency statutory fees, inspections, and civil enforcement provisions

SB 958 eliminates the discretion of the Department of Human Services (DHS) to determine fees for the licensing of in-home care agencies, placing the annual fee structure for initial licensure, renewal, and change of ownership into statute. The measure directs DHS to conduct on-site inspections of each in-home care agency once every three years, as well as initial inspections for new agencies prior to services being rendered. In addition, SB 958 allows DHS to impose a civil penalty for failure to comply with selected provisions of Oregon law and grants the department the authority to commence a civil action to enjoin the operation of an in-home care agency when the agency is operated without a valid license or after the license has been revoked. DHS may recover attorney fees and court costs for any such action, with civil penalty revenues to be deposited into an account designed by the DHS to be used for expenses related to the administration of in-home care agencies.

Effective date: January 1, 2008

House Bill 2022

Also included in the Labor and Employment Chapter

Violence against hospital and surgical center employees

HB 2022 requires health care employers to address the issue of violence against employees who work in ambulatory surgical centers and hospitals. The measure mandates the adoption of a variety of prevention, mitigation and assessment programs.

Key provisions of the measure include requiring that health care employers assign a second staff member to accompany nurses that have been previously assaulted; establishing that nurses providing home health care services may refuse to treat a patient unless equipped with a communication device that permits the nurse to call for help; allowing nurses to take “reasonably necessary” actions in self-defense against violent patients; and requiring the Department of Consumer and Business Services to analyze nurse workplace violence data provided by health care employers and to report findings to the 75th Legislative Assembly no later than April 30, 2009.

During the 2006 interim, the House Task Force on Nurse Workplace Violence held hearings on the provisions of SB 572 (2005) and conducted work groups to address stakeholder concerns and to develop legislation similar to that enacted in Washington. HB 2022 includes all health care employees, not just nurses.

Effective date: July 1, 2007

House Bill 2185

Appointment of a Public Health Director

HB 2185 authorizes the Department of Human Services (DHS) Director to appoint a Public Health Director and outlines the duties of the Public Health Director position. DHS is directed to adopt temporary rules to implement sections of the measure and rules related to reportable diseases. Other provisions of HB 2185 include: providing immunity to individuals reporting diseases; extending the maximum duration for isolation and quarantine to 60 days; providing counsel for persons who cannot afford counsel; providing compensation for property taken; and directing state and local law enforcement to assist to the extent resources are available. The measure replaces the existing statutory term “impending public health crisis” with “public health emergency.” During a public health emergency, the Governor may take any action that may be necessary for the management of resources, or to protect the public.

Effective date: January 1, 2008

House Bill 2188

Access to immunization registries

HB 2188 expands the scope of the statewide immunization registry from a childhood registry to a lifetime registry. Oregon’s Immunization ALERT registry is a statewide childhood immunization information system that provides immunization information on all children in Oregon to assist health care providers to appropriately immunize all children under their care. Even if a child receives immunizations from more than one health care provider in Oregon, ALERT merges the immunization information from all providers to create a complete and current record on each child.

Currently the ALERT registry allows immunization information about children up to 18 years of age to be released to an authorized user without requiring a

signed release of information. HB 2188 changes the ALERT law to grant authorized users access to a person’s lifetime immunization record and changes access to ALERT from 1-18 years of age to 0-23 years of age. The measure also expands the list of those who may access the information within the registry to include legal guardians and post-secondary education institutions. Persons age 18 or older may request in writing that their immunization information be purged from the registry.

Effective date: January 1, 2008

House Bill 2213

Also included in the Insurance Chapter

Cost estimates for procedures covered by health benefit plan

The Insurance Division of the Department of Consumer and Business Services (DCBS) provides information to consumers to assist them in making decisions about procuring insurance. The division’s Consumer Advocacy Unit also provides general information and assists consumers with complaints against insurance companies and agents. Many such complaints are related to inability to get accurate information on out-of-pocket costs that the consumer will be responsible for following medical care.

HB 2213 requires insurers offering health benefit plans to establish procedures for providing reasonable estimates of costs for certain procedures or services to enrollees. The measure also requires insurers to provide to the DCBS Director, upon request, the insurer’s methodology for implementing the disclosure requirements.

Effective date: January 1, 2008

House Bill 2348

Also included in the Insurance Chapter

Health insurance coverage relating to the use of alcohol or controlled substances

HB 2348 requires individual health insurance policies, other than disability income policies, to provide coverage or reimbursement for expenses resulting from the medical treatment of injuries or illnesses caused by the policyholder’s use of alcohol or controlled substances to the same extent as injuries not caused by the use of drugs or alcohol.

Alcohol exclusion laws (known as Uniform Policy and Provision Laws or UPPL) were passed in the 1940s to discourage people from drinking alcoholic beverages and to insulate insurance companies from related injury claims. The belief was that people would be less likely to drive while impaired or intoxicated if insurance companies could deny medical payments or other claims associated with injuries linked to the consumption of alcoholic beverages. With the advancements of alcohol and drug treatment programs and the emerging evidence showing positive effects of brief intervention and initiation of treatment as part of the emergency care, proponents assert that this policy is an example of the disjunction between evidence-based medical care advances and third-party payment policies.

The National Association of Insurance Commissioners, which drafted the UPPL in 1947, voted unanimously in 2001 to amend the UPPL to repeal the Alcohol Exclusion Law.

Effective date: January 1, 2008

House Bill 2517

Also included in the Insurance Chapter

Health insurance coverage for orthotics and prosthetics

HB 2517 requires all health insurance policies (individual and group) to provide coverage for orthotic and prosthetic devices that are medically necessary and directs the Department of Consumer and Business Services to adopt and update rules that list the prosthetic and orthotic devices covered.

Currently, Oregon's larger insurers provide coverage for orthotic and prosthetic devices; however, other insurers have decreased, limited or eliminated orthotic and prosthetic device coverage from their policies. The measure specifies that devices "that are medically necessary to restore or maintain the ability to complete activities of daily living or essential job-related activities..." shall be covered by all health insurance policies.

Effective date: January 1, 2008

House Bill 2524

Establishes the Oregon Health Care Acquired Infection Reporting Program

HB 2524 requires health care facilities to collect data on the rates of infections acquired at health care facilities and establishes the Oregon Health Care Acquired Infection Reporting Program in the Office for Oregon Health Policy and Research (OHPR). The measure directs OHPR to adopt rules for the reporting program and establishes the 16-member Health Care Acquired Infection Advisory Committee, which is to develop and present recommendations to the OHPR Administrator. The measure also authorizes OHPR to assess civil penalties against any health care facility that fails to perform the directives; the penalties are determined by the severity of the violation and are not to exceed \$500 per day of violation. HB 2524 directs the OHPR Administrator to present an annual report to the Legislative Assembly and the public.

Effective date: July 27, 2007

House Bill 2650

Also included in the Education Chapter

Specifies minimum standards for food and beverages sold in schools

A number of states have revised and strengthened their school nutrition policies in response to increased childhood obesity and diabetes rates. Many states have adopted laws or regulations that establish nutrition standards for foods sold in vending machines, at fundraisers, in school stores, as ala carte items (foods sold individually in the cafeteria) and other foods sold outside of federally-funded school meals. Additionally, the Child Nutrition and Women, Infants and Children (WIC) Reauthorization Act of 2004 required that all school districts with a federally-funded school meals program develop and implement wellness policies that address nutrition and physical activity by the beginning of the 2006-2007 school year.

HB 2650 establishes nutritional standards for entrées, snack items, and beverages for Oregon school districts. The standards for entrée and snack items prepared on-site and sold ala carte apply beginning in the 2009-2010 school year. All other such food items are subject to the new standards as of the 2008-2009 school year. The measure also identifies acceptable beverages to be sold

based on grade levels in the school. HB 2650 specifies that the nutritional standards apply to items sold during the regular or extended school day but not to items sold at events where adults are a significant part of the audience. Additionally, the new standards do not apply to food and beverages sold under federal school lunch or breakfast programs. The measure allows school district boards to adopt more restrictive standards.

Effective date: July 1, 2007

House Bill 2700

Also included in the Insurance Chapter

Requires health benefit plans to pay for contraceptives

HB 2700 requires health benefit plans to cover prescription contraceptives and any procedures and medical services necessary to obtain a contraceptive prescription. Coverage for contraceptives may be subject to provisions of health benefit plans, including but not limited to, requirements for co-payments, deductibles and/or coinsurance.

Additionally, HB 2700 requires hospitals to provide “unbiased, medically and factually accurate written and oral information about emergency contraception” to victims of sexual assault, inform them of treatment options, and provide emergency contraception upon a victim’s request. The term “emergency contraception” is used to describe a method for preventing pregnancy after unprotected sex, sexual assault, or contraceptive failure and typically involves administering increased doses within 72 hours of sexual activity. If emergency contraception is requested by a victim of sexual assault (and if not medically contraindicated), the hospital also must immediately offer to provide the victim with emergency contraception.

The measure also directs the Department of Human Services to develop informational materials, prohibits public bodies from interfering with a consenting individual’s access to contraception, and contains a religious employer provision.

Many states have passed laws in recent years requiring health benefit plans to cover prescription contraception in the same manner as other covered prescriptions. These laws vary from state to state and apply only to insurance plans that are regulated by state law. According to a 2006 Kaiser Family Foundation report, 24 states have comprehensive contraception coverage mandates and nine others have adopted some requirements relat-

ing to contraception coverage. Six states have adopted legislation requiring emergency rooms to provide information about emergency contraception and to dispense emergency contraception upon request to sexual assault victims.

Effective date: January 1, 2008

House Bill 2867

Application of dental sealants and fluoride varnish

Currently, the Oregon Dental Practice Act requires a licensed dentist to assess a child for dental sealants prior to the application of the sealants. HB 2867 expands the current definition of dental hygiene to include the diagnosis, treatment and planning for dental services and the application of dental sealants and fluoride. In addition, the measure reduces the current educational requirement from 5,000 to 2,500 hours of supervised clinical practice within the previous five years before the dental hygienist can obtain a limited access permit (LAP). LAP dental hygienists are authorized to render all services within the scope of practice dental hygiene to certain underserved populations without the supervision of a dentist.

Furthermore, HB 2867 allows properly trained counselors and assistants to apply fluoride varnish to the teeth of children enrolled in or receiving dental services from the Women, Infants and Children (WIC) Program, Oregon pre-kindergarten program, or a federal Head Start grant program.

Effective date: June 12, 2007

House Bill 2918

Also included in the Insurance Chapter

Health benefit plan coverage of pervasive developmental disorders

HB 2918 requires health benefit plans cover the treatment of pervasive developmental disorders for children enrolled in the plan up to 18 years of age. Additionally, the measure specifies that treatment of a pervasive developmental disorder is subject to the same requirements of the plan that applies to physical illness, including copayments, coinsurance or deductibles. The measure also defines pervasive developmental disorder as a “neurological condition that includes Asperger’s syndrome, autism, developmental delay, developmen-

tal disability or mental retardation.” Furthermore, HB 2918 directs the Health Resources Commission to review current medical and behavioral health evidence on pervasive developmental disorders treatment and to submit a report of its findings to the Seventy-fifth Legislative Assembly.

Effective date: January 1, 2008

House Bill 2946

Health care delivery system pilot programs

There has been significant discussion of health care reform initiatives in response to factors such as an aging population, the shortage of health care workers, and an increasing number of underinsured or uninsured individuals. Much of the debate surrounds the increasing costs of the current health care delivery system.

HB 2946 directs the Department of Human Services to seek waiver approval from the Centers for Medicare and Medicaid Services to test alternative health delivery systems through one or more pilot programs. Currently, the Computerized Health Access Medical Practice (CHAMP) project, a public/private collaboration between Oregon Health and Science University (OHSU) and Lifecom, Inc., is using teams of health providers to care for patients with the aid of decision-support computer technology. The primary goals of the CHAMP project are: to reduce costs, enhance outcome quality, test customer service experience and test the utility of the decision-support technology. The measure sunsets on January 2, 2012.

Effective date: January 1, 2008

House Bill 2952

Also included in the Insurance Chapter

Reporting requirements for prepaid managed care health services organizations contracting with Department of Human Services

Currently, commercial insurers in Oregon must annually disclose executive salaries to the Insurance Division of the Department of Consumer and Business Services. Oregon Health Plan contractors are also required to file annual reports to the Division of Medical Assistance Programs. However, the administrative information submitted is aggregated and the administrative details, such as executive salaries, are not readily available or itemized.

HB 2952 requires prepaid managed care health services organizations to file annual financial reports with the Department of Human Services (DHS). The measure also requires the department to prescribe the reporting procedure to assess the financial condition of each prepaid managed care health services organization and specifies that each organization’s report must include financial information on its three highest executive salary and benefit packages. Furthermore, HB 2952 directs DHS to have the appropriate information prior to entering into a contract with a prepaid managed care health service organization.

Effective date: January 1, 2008

House Bill 3057

Hospital tax and managed care tax extension

In 2003, the Legislative Assembly enacted HB 2747, which created the Hospital Provider Tax, the Long Term Care Facility Tax, the Medicaid Managed Care Tax, and the Programs of All-inclusive Care for Elderly Persons (PACE) Tax. The taxes were intended to leverage federal Medicaid dollars to help fund the Oregon Health Plan. A key federal requirement is that any such tax be broad based and that there be winners and losers under the tax. Of the four taxes created, the PACE Tax did not meet the federal requirements (there is only one facility in Oregon, located in the Portland metro area) and was therefore never implemented.

Currently, the Hospital Tax rate is 0.82 percent of net revenue. The Long Term Care Facility Tax rate, based on the number of patient days, was initially \$8.25; it is intended to raise six percent of annual gross revenue of these facilities, so the assessment rate changes over time, and is currently \$13.73. One of the federal requirements is that the tax not exceed six percent of annual revenue; this maximum is reduced to 5.5 percent in 2008. The Medicaid Managed Care Tax rate is 5.8 percent of managed care premiums.

HB 3057 extends the Long Term Care Facility Tax sunset date from July 1, 2008 to July 1, 2014 and extends the repeal date from January 2, 2009 to January 2, 2015. The measure also extends the Hospital Tax and Medicaid Managed Care Tax sunset dates from January 1, 2008 to October 1, 2009 and repeal dates from January 2, 2010 to January 2, 2012. The measure also ensures that the hospital tax sunsets if the Medicaid Managed Care Tax no longer qualifies for federal matching funds.

It also removes language pertaining to the PACE Tax.

Other changes to the Hospital Tax include: (1) reducing the maximum tax rate from three percent to 1.5 percent; (2) allowing the Department of Human Services (DHS) to develop a schedule for collections for assessments for the calendar quarter ending September 30, 2009 that allows sufficient time to finalize all Medicaid cost settlements; (3) allowing DHS to write rules to identify criteria for late penalty assessments; (4) clarifying that Hospital Tax revenue is to be used for hospital services only and for increasing reimbursement rates above those in effect on February 29, 2004. Other changes to the Long Term Care Facilities Tax include: (1) clarifying that for the purpose of determining the assessment rate, gross revenue does not include hospital revenue or revenue from sources other than long term care facility operations; (2) clarifying the definition of 'Medicaid patient days' for purposes of applying the assessment rate; (3) clarifying that financial statements or revenue reports be used when establishing the assessment rate; (4) extending by three months the time DHS has to refund overpayments to taxpayers; (5) reducing the Medicaid reimbursement rate from the current 70th percentile of allowable costs to the 63rd percentile; (6) allowing DHS to reduce the effective assessment rate from six percent to 5.5 percent beginning January 1, 2008 to comply with federal law; and (7) removing the tax from the jurisdiction of the Oregon Tax Court. HB 3057 also clarifies that revenue from the Medicaid Managed Care Tax may not be used to replace other funding for the identified services.

Effective date: September 27, 2007

House Bill 3290

Hospital reporting of community benefits

Charity care services such as community health improvement activities (health screening and disease management), research, financial and in-kind contributions to the community, as well as losses attributable to Medicare, Medicaid and accounting for charity care, and losses related to publicly-funded health care programs like Medicaid, the State Children's Health Insurance Program (SCHIP) and Medicare are defined as community benefit activities. While many Oregon hospitals and health systems currently prepare a report to the community describing the services and benefits they provide, there are no statewide guidelines outlin-

ing what information should be collected or how it is to be presented.

HB 3290 requires the Administrator of the Office for Oregon Health Policy and Research (OHPR) to establish a community benefit reporting system for hospitals operating in Oregon, to produce a report containing data received, and to submit a copy of the report to the Governor, members of the Legislative Assembly and the public. The measure specifies that the information reported is to be based on cost rather than charges and that it be consistent with established national standards for hospital reporting. Additionally, HB 3290 establishes that non-compliance with the mandatory reporting is punishable by a civil penalty not to exceed \$500 per day per violation and authorizes OHPR to adopt rules and a schedule of penalties.

Effective date: January 1, 2008

House Bill 3486

Relating to diabetes

Diabetes is a disease in which the body does not produce or properly use insulin, which is a hormone that is needed to convert sugar, starches and other food into energy needed for daily life. The cause of diabetes remains a mystery, although both genetics and environmental factors, such as obesity and lack of exercise, appear to play roles. Approximately 20.8 million children and adults in the United States, or seven percent of the population, have diabetes, of whom 6.2 million, or nearly one-third, are unaware that they have the disease.

HB 3486 requires the Department of Human Services to develop by 2009 a strategic plan, in partnership with the Oregon Diabetes Coalition, the American Diabetes Association, and other interested parties, to start to slow the rate of diabetes caused by obesity and other environmental factors by 2010.

The measure also stipulates that barriers, methods, reviews and recommendations must be contained in the plan. HB 3486 sunsets January 2, 2016.

Effective date: July, 1, 2007

LEGISLATION NOT ENACTED

Senate Bill 27

Establishing a framework for comprehensive health care reform

SB 27, referred to as the Oregon Better Health Act, would have established a framework for comprehensive health care reform for the state and identified a set of principles and goals to guide reform efforts. The measure established the Oregon Health Trust Fund, which was to be used to pool the public funds currently spent on health care in Oregon. SB 27 would have also established the Oregon Better Health Design Board (Board) to develop the details of a comprehensive reform plan, with the ultimate goal of ensuring that every Oregonian would have access to a defined basic health care benefits package. The Board, in cooperation with the Health Services Commission and with input from the public, would have been responsible for determining what services would have been included in the benefits package. Subcommittees were to be assigned responsibility for developing recommendations on different aspects of the plan, including options to encourage healthy behaviors, effective and efficient health care delivery and financing mechanisms and addressing the rising cost of malpractice insurance.

In addition, SB 27 charged the Board with responsibility for developing a comprehensive plan based on the subcommittee recommendations and to hold public hearings on the plan. Upon approving a plan, the Governor was designated to present the plan to the next Legislative Assembly and Oregon's congressional delegation was to present the plan as the basis for national health reform and to request permission for the state to use Medicare and Medicaid dollars to fund associated pilot projects.

SB 27 was proposed by the Archimedes Movement and emerged from a process of public engagement involving physicians, nurses, hospital executives, insurance and health plan executives, employers, organized labor and over 7,000 individual consumers from across the state.

Senate Bill 34

Establishing an electronic prescription drug database

SB 34 would have required the State Board of Pharmacy to establish and maintain an electronic database to collect and store pharmacy records for controlled substances (Schedule II, III, and IV) dispensed to individuals throughout the state. The measure would have required pharmacies to report certain information to the Board within a week of dispensing a controlled substance and limited the conditions under which the Board could disclose data and the ways in which the data could be used. SB 34 asserted that providers would not be required to utilize information in the database when making prescribing decisions and established penalties for practitioners or pharmacists who misused the information. Additionally, the measure included a number of protections to ensure that patients were notified when their data was entered in the database or when a practitioner searched for their records. SB 34 would have created an Electronic Prescription Drug Database Advisory Commission to study issues related to the electronic prescription drug database and make recommendations to the Board.

In September 2006, The National Alliance for Model State Drug Laws issued a report that concluded that the presence of prescription drug monitoring programs (PDMP) reduce the supply of prescription pain relievers and stimulants, causing a decrease in the probability of abuse of these drugs. In addition, the report found that states with more proactive approaches to the regulation of controlled substances may be more effective. In 2001, the Board of Pharmacy received a grant through the Harold Rogers Prescription Drug Monitoring Program, established by Congress in 2001, to support states in the development and implementation of a controlled substance PDMP.

Senate Bill 160

Prior authorization requirement by Department of Human Services for payment of drugs not listed on Practitioner-Managed Prescription Drug Plan drug list

SB 160 would have allowed the Department of Human Services (DHS) to require prescribing practitioners to request prior authorization of payment before prescribing drugs not listed on Practitioner-Managed Prescription Drug Plan (PMPDP) drug list for Oregon Health

Plan clients receiving care on a fee-for-service basis. The PMPDP was established in 2001 and requires the Oregon Health Plan to maintain a plan drug list of the most effective drugs that can be obtained for enrollees at the best price. The list is developed using a public evidence-based review process. In 2003, the Legislative Assembly determined that DHS could not require practitioners to request prior authorization before prescribing pharmaceuticals not included on the list.

Senate Bill 162

Comprehensive emergency medical services coordination plan

The Emergency Medical Services and Trauma System (EMS/TS) develop and regulate systems that provide emergency care to victims of sudden illness or traumatic injury. The program is designed to ensure responders are fully qualified, that emergency vehicles are properly equipped, and that the emergency systems are functioning as designed. SB 162 would have revised the duties of the EMS/TS program and required development of a comprehensive state EMS plan focusing on systems of care for life-threatening illness and injury. In addition, SB 162 would have created an EMS/TS State Coordinating Council. The measure also included provisions mandating the creation of a comprehensive reporting and data management system, allowing for enhanced reimbursement to providers (subject to the availability of funds), and creating capability for an EMS strike team.

Senate Bill 326

Creates the Orthotics and Prosthetics Board of Examiners

SB 326 would have created an Orthotics and Prosthetics Board of Examiners (OPBE) within the Oregon Health Licensing Agency (OHLA) and would have required that people practicing orthotics or prosthetics be licensed as an orthotist, prosthetist, orthotist-prosthetist, orthotist assistant, or prosthetist assistant. The measure would have assigned specified responsibilities to both OPBE and OHLA in determining licensing requirements, evaluating applications and issuing licenses, resolving complaints and imposing discipline for violations of licensing requirements. People engaging in the practice of orthotics and prosthetics in Oregon are not currently regulated by the state. The Oregon Health Licensing

Agency was established by the Legislative Assembly in 1999 to protect Oregon citizens from harm by setting, communicating and enforcing uniform regulatory standards for multiple health and related professions.

Senate Bill 407

Also included in the Insurance Chapter

Requires health insurance plans to provide freedom of choice of all health care physicians

SB 407 would have required all health insurance plans to provide patient freedom of choice from among all health care physicians. The measure would have allowed health plans to require enrollees to select a primary care physician from among physicians, osteopaths, and chiropractors for medical services, from among dentists for dental services, and from among physicians and optometrists for vision services. In addition, SB 407 would have required insurance companies to cover clinically necessary health services provided by chiropractic physicians.

Senate Bill 519

Requires health insurers, and Department of Human Services to cover services performed using telemedicine

SB 519 would have required health benefit plans to provide reimbursement for a service performed by a health professional using telemedicine that would be reimbursed when performed in person. The measure defined telemedicine as using telecommunication technology to deliver health care, including but not limited to clinical diagnosis, clinical services and patient consultation, including the practice of medicine across state lines. Additionally, SB 519 directed the Department of Human Services to adopt rules setting reimbursement rates for telemedicine services performed by a health professional that can not be less than rates paid for comparable in-person health care services. The Department of Consumer and Business Services was to adopt rules to facilitate improved access to health care in medically-underserved areas and to improve patient access to health care specialists in geographic areas with a shortage of specialists.

Senate Bill 617

Establishing a traumatic brain injury registry system

SB 617 would have required the Department of Human Services (DHS) to establish a traumatic brain injury registry system and to collect data regarding traumatic brain injuries. The measure would have required health facilities, in which patients with brain injury were diagnosed or treated, to provide certain information to the registry. In addition, SB 617 would have allowed DHS to conduct studies of traumatic brain injury morbidity and mortality. The measure would have also required DHS to expand services available to victims of brain injury and their families, focusing on members of the military and veterans.

Over 8,000 Oregonians were discharged from the hospital with a primary diagnosis of traumatic brain injury between 1999 and 2002; roughly 2,900 Oregonians died from traumatic brain injury during the same period. Many soldiers returning from Iraq and Afghanistan have suffered traumatic brain injury.

Senate Bill 717

Appointment of scope of practice review committees

SB 717 would have directed the Department of Human Services (DHS) to contract with an institute to appoint and convene a scope of practice review committee. The measure specified the composition of the committee, duties and responsibilities of the institute and DHS, and issues to be considered by the scope of practice review committee. The committee was to follow statutory public meeting guidelines and submit a report with results of proposed change to the Legislative Assembly and Governor.

“Scope of practice” is a term used by licensing boards for medically-related fields that define the procedures, actions, and processes permitted for licensed individuals. Examples of professions with defined scope of practice include nursing, psychiatry, physical therapy, and emergency medical services. The scope of practice is limited to that which the individual has received education, clinical experience, and to which that individual has demonstrated competency.

Senate Bill 948

Revises certificate of need process

SB 948 would have revised the Certificate of Need (CN) process for health care facilities. The Department of Human Services (DHS) was to conduct health care assessments independent of receipt of a CN application and to establish health care planning commissions to seek input from “purchasers, consumers of health care and key constituencies” through a public hearing process. SB 948 stipulated that DHS would be required to issue an order for hospital related CN projects within 90 days of receipt of a completed application.

Oregon law requires that any new hospital or new skilled nursing or intermediate care service or facility obtain a certificate of need from the Health Systems Planning, DHS, prior to an offering or development. CN programs are regulatory programs designed to discourage unnecessary investment in health care facilities, technology, and services. The purpose of the CN program has been to promote access, ensure quality, and help control costs by limiting market entry to those facilities and services that are found to be needed, appropriately sponsored, and designed to promote quality and equitable access to care. The scope of review of Oregon’s CN program, established in 1971, is limited to new hospitals, including certain relocations and rebuildings, and new nursing facility services or facilities.

House Bill 2687

Insurance coverage for licensed counselors and family therapists

HB 2687 would have required health benefit plans to provide coverage for services rendered by licensed professional counselors (LPC) or licensed marriage and family therapists (LMFT) acting within their scope of practice if the plan covers services by other professionals providing the same or similar services. The measure also prohibited the use of the terms “licensed professional counselor” and “licensed marriage and family therapist” for marketing and advertising unless the individual is properly licensed by the state, increased the civil penalty for violations of LPC and LMFT licensing requirements, and directed the state licensing board to employ one or more persons to aid in investigating and enforcing licensing requirements.

HB 2687 would have been subject to provisions of

mental health parity statute (ORS 743.556), which was passed in the 2005 Legislative Session (SB 1).

There are approximately 1,800 licensed professional counselors and licensed marriage and family therapists in Oregon. LPCs assist individuals, couples or groups through a counseling relationship and must complete at least a two-year master's degree in counseling, psychology or a related field, gain three years of full-time supervised experience and pass a comprehensive national board examination. LMFTs identify and treat affective and behavioral conditions as symptoms of marriage and family relationship dysfunction and must complete at least a two-year master's degree and two years of supervised post-degree experience.

House Bill 2800

Prescriptive authority for licensed psychologists

HB 2800 would have established a formulary granting qualified psychologists authority to prescribe medicines to patients. Currently, New Mexico has granted medication-prescribing authority to psychologists. The intent was to improve access to mental health services for underserved populations in rural areas of the state. Besides physicians and dentists, New Mexico also gives prescribing authority to physician assistants, nurse practitioners, nurse midwives, nurse anesthetists, and "pharmacist clinicians."

Additionally, the measure would have established minimum educational qualifications, clinical experience and guidelines for qualified prescribing psychologists. HB 2800 also required the Board of Psychologist Examiners to develop policies regarding clinical experience and competencies, establish a subcommittee to oversee the certification of prescribing psychologists, and develop the formulary, disciplinary process and continuing education requirements.

House Bill 2801

Establishes the Human Stem Cell Research Committee

HB 2801 would have created the 13-member Human Stem Cell Research Committee in the Department of Human Services (DHS). The measure specified the committee membership, directed the committee to develop guidelines for human stem cell research in Oregon, and specified the timeline for guideline development. Additionally, HB 2801 directed the committee

to develop recommendations about the nature of, and method for, providing informed consent to human stem cell research and to submit a report to the Legislative Assembly, the Governor, and Oregon Health and Science University by April 1, 2009.

HB 2801 would have prohibited human eggs or sperm, donated for assisted reproduction, from being used to create stem cells for research purposes without donor consent and authorized DHS to impose penalties of up to \$10,000 for any violations.

House Bill 3088

Limits hospital billing charges to patients who are not enrolled in a public or private health benefit plan

Generally, the cost of hospital care is covered, in part, by Medicare, Medicaid, or a commercial insurance, with the patient often responsible for co-payments. Uninsured individuals are responsible for all costs. Hospitals typically provide charitable care for people who do not have health insurance or adequate resources. Some hospitals have specific policies on the amount an individual will be charged based on the patient's income as a percentage of the federal poverty level.

HB 3088 would have restricted hospital charges for services provided to patients that are not enrolled in a public or private health benefit plan, to no more than the amount the hospital receives in payment for the same service when a patient is enrolled in Medicare or in the hospital's highest-volume insurer. The measure would have allowed patients to claim treble damages and attorney fees if a hospital billed or attempted to collect charges in excess of the limit. Additionally, the measure limited provisions to families whose income is less than 350 percent of federal poverty guidelines and to medically-necessary services.

House Bill 3097

Creates the Primary Care Home Collaborative Demonstration Program

HB 3097 would have created the Primary Care Home Collaborative Demonstration Program, which would have awarded grants to create incentives to increase access to health care, test elements of primary care model, and support collaboratives that integrate primary care models with broader health systems. Other key components of the measure were: the measure specified ele-

ments that awards must contain and stipulated that no fewer than 20 grants were to be awarded; that grants be of different sizes and vary in populations served; and that no less than two grants be awarded to projects with specific rural care access goals.

The Department of Human Services (DHS) was to expand the knowledge base and dissemination of information from funded projects and to establish an advisory body for the program. In addition, the measure outlined requirements of grantees regarding application for grants, reporting, provider reimbursement, and outcomes, and encouraged grantees to pay or reimburse for nursing services within the program. Grantees would have been allowed to receive reimbursement from DHS for nursing services to medical assistance recipients and to collect and report data on services that were reimbursed; DHS was required to evaluate the impact of reimbursing nursing services on the Oregon Health Plan. The department was also to work with stakeholders to determine a methodology that would more accurately compensate an expanded role of nursing services in the primary care home model.

House Bill 3099

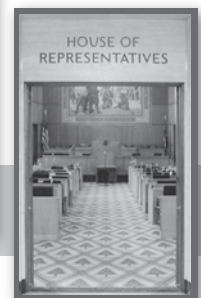
Also included in the General Government Chapter

Water supplier fluoridation in communities of 10,000 or more persons

HB 3099 would have required that water suppliers serving more than 10,000 persons add fluoride to drinking water in amounts and in a manner prescribed by the Department of Human Services (DHS). The measure authorized DHS to temporarily exempt a water supplier serving more than 10,000 persons from this requirement until the department could determine whether the water supplier had the sufficient funds to purchase the fluoridation equipment from a source other than fees, taxes, or charges charged by the water supplier to the supplier's ratepayers, shareholders, local taxpayers, or bondholders.

Housing

2007 SUMMARY OF LEGISLATION



Senate Bill 561

Protection of tenant rights under landlord-tenant law

SB 561 revises the Oregon Landlord Tenant Act to include a new process for tenants to repair minor habitability defects of up to \$300 and seek reimbursement from the landlord. The tenant can be reimbursed for such repairs if the landlord doesn't make the repair within seven days of receiving a written request from the tenant. The landlord can designate who can make the repair if it is reasonable and does not diminish the tenant's rights. Some repairs, such as for mold or asbestos removal, are not covered under the measure.

SB 561 also adds protections for victims of domestic violence, sexual assault or stalking by prohibiting landlords from terminating rental agreements or treating tenants differently because they are victims of domestic violence, sexual assault or stalking. Landlords can evict perpetrators of physical violence related to domestic violence, sexual assault or stalking against a household member who is a tenant, but cannot terminate the agreement of the other tenants in such cases. The measure further clarifies who can provide verification of the existence of domestic violence in order to allow a victim to break a lease and the forms of verification that can be used (i.e. restraining order or a police report), and also extends the length of time when the last incident of domestic violence must have occurred. The measure clarifies the definition of "domestic violence" to include family and household members and adds partners in a dating relationship.

Furthermore, SB 561 amends the forcible entry and detainer (FED) complaint form and process, which occurs when a tenant does not move out after receiving an eviction notice. The tenant's Social Security number is not used on the complaint form, and a landlord who files an FED can be required to pay the tenant's costs and legal fees up to and through the preliminary hearing even if the landlord dismisses the process before the hearing. The clock on legal fees will be stopped when the landlord notifies the tenant the action is being dismissed.

Effective date: January 1, 2008

House Bill 2096

Allows formation of nonprofit manufactured home cooperatives

HB 2096, otherwise known as the Manufactured Dwelling Park Nonprofit Cooperative Corporation Act, allows the current and future home owners of a manufactured dwelling park to form a nonprofit cooperative that would be eligible for existing housing loan and technical assistance programs.

HB 2096 authorizes the Oregon Housing and Community Services Department to provide second lien loans to cooperatives, makes loans from private lenders less risky by increasing the portion of a loan that may be guaranteed by the state, and allows the department to provide "gap" financing for amounts over what the private market typically loans. An issued program loan is to be based on a significant percentage of residents meeting low-income thresholds.

Cooperative members are prohibited from selling memberships or membership stock for more than the amount paid by all members, except if the price is adjusted for cost-of-living increases. If a manufactured dwelling park nonprofit cooperative dissolves, after all debts, liabilities and obligations are paid or taken care of, the cooperative must distribute its assets to one or more of the following: another manufactured dwelling park nonprofit cooperative; an organization organized for a public or charitable purpose; a religious corporation; the United States; the State of Oregon; a local government entity; a recognized local housing authority; or a 501(c)(3) organization.

HB 2096 also directs the Land Conservation and Development Commission to report to the 2009 Legislative Assembly on providing sites and streamlining land use requirements related to urban growth boundary expansion for affordable housing, including new manufactured home parks. The measure also revises the definition of "elderly" from 58 to 55 years of age and the definition of "a family of lower income" to be compliant with federal fair housing law.

Effective date: January 1, 2008

House Bill 2735

Procedures for closing rental residential properties

HB 2735 establishes procedures a mobile home park owner must follow when closing a facility. If a mobile home park is to be closed, the owner must notify the park residents in writing 365 days prior to the closure; if the mobile home park is being converted to a subdivision, the landlord may terminate a rental agreement by giving the tenant a written notice no less than 180 days before the termination date. Park owners must pay tenants between \$5,000 and \$9,000 for each space in which a rental agreement is terminated, depending on the size of the home, if the tenant gives 30 to 60 days notice before moving within the 365-day period. Owners are not required to pay a tenant if they do not provide adequate notice of moving, buy the space or lot on which their manufactured dwelling is located and do not move the dwelling, or sell the manufactured dwelling to a person who buys the space or lot. Tenants cannot be charged for abandoning their homes on site, but can be required to waive their rights relating to abandoned property.

Park owners are also required to include certain information in closure notices, such as how to appeal property tax assessments, and to send that information to homeowners, lien holders, and the Housing and Community Services Department. In addition, the measure maintains the current state tax credit for mobile home residents who are involuntarily moved due to a park closure, but reduces the maximum amount from \$10,000 or the actual cost of moving a mobile home to another facility, whichever is less, to a refundable credit of \$5,000 that is not dependent on whether the tenant moves the home. Information regarding the tax credit is required to be included in the closure notice.

The measure also establishes procedures owners must follow when a marina is shut down. If a marina tenant is given less than 180 days notice to vacate the premises, the marina owner must pay owners of floating homes the lesser amount of \$3,500 or moving and set up costs.

Local governments are prohibited from enforcing an ordinance, rule, or other local law regulating mobile home park closures after July 1, 2007, but can amend current laws, rules, or ordinances adopted before July 1, 2007 if the amendment increases the rights of park tenants to be equal to or greater than what is established under HB 2735. Furthermore, the measure establishes the Office of the Manufactured Dwelling Park Com-

munity Relations within the Housing and Community Services Department, and directs the office to adopt rules establishing a sample termination notice form for park residents and a sample form and instructions regarding how a park closure may allow the taxpayer to appeal a property tax assessment on their home.

The current income tax exemption on capital gains derived from selling a mobile home park to organizations such as a tenants' association or a facility purchase association is extended to January 1, 2008. The payment from the mobile home park owner is tax-exempt if it is paid between January 1, 2007 and January 1, 2013; the state tax credit sunsets on January 1, 2013.

Effective date: September 27, 2007

House Bill 3186

Eviction notices regarding condominium conversions

HB 3186 requires additional information to be included in an eviction notice relating to a condominium conversion, including the time available for the landlord to make an offer to sell and for the tenant to respond; information on financial assistance for purchasing the unit that may be available from a local governing body, the Housing and Community Services Department (HCS) or a regional housing center; contact information for the local regional housing center or, if no regional housing center exists, for HCS; and that the landlord cannot terminate the tenancy without cause if the termination would take effect before the end of the 120-day period or the 60-day period in which an offer to purchase the unit is in effect. Notices of conversion are to be delivered to the mayor of the city in which the condominium conversion is located, or the county commission or county court if the conversion is not located within a city's limits.

Additionally, the measure stipulates that the 120-day period begins when a valid notice is sent. A tenant, mayor, county commission, or county court can bring an action for injunctive relief to prevent the conversion until the landlord has complied with the notice requirement. Improvements or rehabilitation of general common elements in a conversion condominium unit during the 120-day period can only be conducted between 8:00 am and 7:00 pm and, unless the landlord and tenant agree, tenants are to have safe and ready access to and from their unit while the work takes place. If a landlord fails to provide access, a tenant can bring an action

against the landlord to recover the actual damages or one month's rent, whichever is greater.

HB 3186 also provides that if a landlord increases the rent in excess of either any scheduled increase outlined in the written rental agreement or the percentage increase in the Portland-Salem Consumer Price Index, a tenant can bring an action against the landlord to recover six times the unit's monthly rent, or twice the actual damages to the unit arising out of the termination, whichever is greater. A tenant can file an action against the landlord for similar amounts if the tenant received at 30-day "no cause" eviction notice instead of receiving a 120-day conversion notice.

Effective date: January 1, 2008

House Bill 3485

Authorizing creation of affordable housing covenants

HB 3485 addresses the issue of affordable housing by authorizing the creation of affordable housing covenants, defined as a non-possessory interest in real property that imposes limitations and obligations that encourage development and availability of low- and moderate-income housing. Property owners enter voluntarily into covenants in exchange for subsidy benefits, and the measure establishes the purpose of covenants as helping ensure adequate rental and owner-occupied affordable housing is available for low- and moderate-income households.

A covenant is to be recorded in the property owner's deed, mortgage, or other written instrument related to the property. Covenants can restrict the use of property for affordable housing as a condition for providing subsidies to low- and moderate-income individuals for the purposes of buying a home.

Currently, deed restrictions and affordability covenants occur in the marketplace, but there is nothing in statute that enables organizations to provide covenants to qualifying individuals and households.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

House Bill 3551

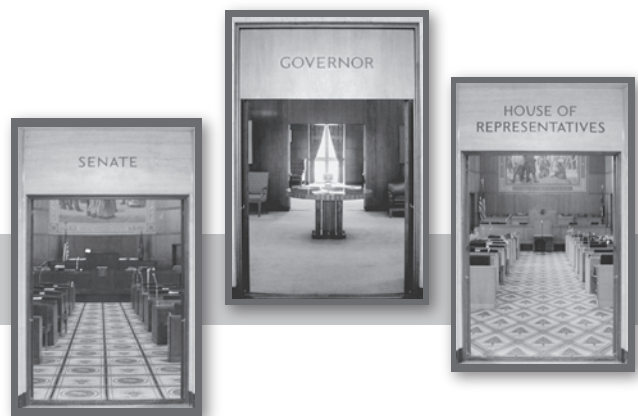
Fees for public programs for housing

HB 3551 would have imposed a \$15 fee on the document recording of deed and mortgage records. Moneys from the fee were to be transferred from county clerks to the Department of Housing and Community Services and distributed as follows: 76.75 percent of the moneys deposited in the Housing Development Account; 10 percent of the moneys deposited in the Emergency Housing Account; and 13.25 percent of the moneys deposited in the Home Ownership Assistance Account.

The department would have been responsible for establish rules that govern the allocation of funds to best meet critical housing needs and build organizational capacity of partners across the state, and that provide for equitable distribution of resources over time based on objective measures of need, including the number and percentage of low- and very-low income households.

Human Services

2007 SUMMARY OF LEGISLATION



Senate Bill 32

Requires Department of Human Services to disclose certain information regarding cremated remains in its possession

SB 32 allows the Department of Human Services to disclose to the public the name and the dates of birth and death of a person whose cremated remains are in the possession of the department. The purpose of disclosure is to give a family member the opportunity to claim the cremated remains for the purpose of interment or creation of a memorial for those persons whose remains are not claimed.

The Oregon State Hospital (OSH) is in possession of cremated remains of approximately 3,600 persons who died between 1914 and 1971 while in state custody and whose remains were never claimed by family members. The federal Health Insurance Portability and Accountability Act (HIPAA) and current state law prohibit OSH from disclosing the names of deceased patients, unless state law requires it. The HIPAA Privacy Rule permits a state agency to disclose protected health information when a state law mandates disclosure from that agency.

Effective date: March 29, 2007

Senate Bill 42

Around-the-clock duty staff in adult foster homes

SB 42 directs the Department of Human Services (DHS) to adopt rules that provide exceptions to requirements that all licensed adult foster homes have a live-in provider or substitute caregiver and that a provider or caregiver be on duty 24 hours per day. The measure enables residents of adult foster care facilities to be home alone for periods of time without direct supervision. DHS is directed to adopt standards that safeguard the health and safety of residents and that ensure the uninterrupted receipt of services to clients.

A provision commonly referred to as the “home alone” provision was added to the adult foster home statute in 1991. Under this provision, DHS had authority to grant exceptions allowing adult foster care residents to be home alone without 24-hour supervision. Following the reorganization and renaming of DHS divisions with the passage of HB 2294 (2001), an Attorney General opinion interpreting these changes determined that the home alone provision was no longer valid. SB 42

reinstates the “home alone” provision for adult foster care homes.

Effective date: April 4, 2007

Senate Bill 154

Provides that residence in residential program for primary purpose of receiving care, treatment, training or support due to disability or dependency is not subject to landlord-tenant laws

SB 154 allows group recovery homes to terminate the tenancy of an individual who has used or possessed alcohol or drugs within the preceding seven days without first going to court. The group home may seek assistance from law enforcement to expel the tenant with 24 hours notice. Proof of relapse can consist of observation of drug or alcohol use or possession, a failed drug or alcohol test, or a refusal to take a drug test requested by the group home. The group home must give the tenant written notice explaining the reasons for expulsion and a deadline for vacating the premises. Tenants can request an expedited court hearing if they believe that the removal was wrongful, and if the court finds that a group home misused the expulsion process, the tenant is entitled to at least three months rent and injunctive relief to regain possessions.

A landlord may give a tenant living in a drug-and alcohol-free residential facility a 48-hour eviction notice for consuming, possessing or sharing drugs or alcohol. The notice must state the violation and give the tenant 24-hours to fix the problem; if the action is corrected within that time, he or she may stay. A tenant who possesses, uses or shares drugs or alcohol again within six months after receiving a 48-hour notice, is subject to a 24-hour notice to move out without a 24-hour chance to fix the problem.

Effective date: January 1, 2008

House Bill 2128

Reauthorizing the Sexual Assault Victims’ Emergency Medical Response Fund

HB 2128 reauthorizes the Sexual Assault Victims’ Emergency (SAVE) Medical Response Fund by repealing the January 1, 2008 sunset date. At the request of the Attorney General’s Sexual Assault Task Force, the Legislative Assembly authorized the SAVE Fund in 2003

(SB 752). The fund, which receives no General Fund or county revenues, was established as a public-private partnership in March 2004. The goal of the fund is to encourage appropriate medical care for victims of sexual assault by providing stable, confidential means of payment for examinations, allowing victims to receive medical assessments and forensic evidence to be collected regardless of a victim's ability to pay. The Department of Justice reports that since its inception approximately \$81,000 has been donated to the fund from private citizens, hospitals and insurance companies. From March 2004 through December 2006, 1,315 victims of sexual assault received benefits under the SAVE Fund.

Effective date: April 9, 2007

House Bill 2154

Reimbursement for sexual assault medical assessments

HB 2154 limits the conditions under which the Department of Justice (DOJ) can deny reimbursement to medical providers for sexual assault forensic examinations. The measure specifies that payment for examinations cannot be denied in cases where victims have not reported the assault, are unsure about their desire to cooperate with a criminal investigation and prosecution, or when the victim's identity is not readily available. Additionally, HB 2154 requires law enforcement agencies that receive evidence collection kits, to preserve kits and any related evidence for six months and aligns current law with federal Food and Drug Administration requirements for prescriptions for victims under age 18.

HB 2154 was developed by the Attorney General's Sexual Assault Task Force (SATF). SATF was established in 1999 to assist victims of sexual assault and their families and to help law enforcement personnel. SATF consists of 48 members, including 12 agency representatives. DOJ asserts that HB 2154 will enable victims of rape to consider their options relating to proceeding with an investigation and prosecution, while offering the possibility of preserving some of the important and fragile evidence.

Effective date: June 1, 2007

House Bill 2312

Rights of mentally ill persons committed to the Department of Human Services

HB 2312 establishes that individuals who are committed to Department of Human Services (DHS) facilities have a right to be given daily access to fresh air and outdoors, unless such access would create a significant risk of harm to the person or others.

In 1967, Oregon enacted a set of rights for individuals involuntarily committed to the Oregon State Hospital. These rights, codified in ORS 426.385, set forth standards that a facility must honor when individuals are placed in the state's custody for involuntary mental health evaluation or treatment. Current rights include: reasonable access to telephones, sending and receiving mail, clothing, and access to a private storage area. Under ORS 192.515 and 192.517, the Oregon Advocacy Center (OAC) is the designated agency that protects and advocates for the rights of individuals with disabilities or mental illnesses. OAC has received complaints about the lack of access to fresh air and the outdoors. Under state and federal law, OAC has the right of access to records and facilities where individuals receive services and the OAC also monitors court proceedings governing the enforcement of patients' rights.

Effective date: January 1, 2008

House Bill 2313

Rights of persons committed to the Department of Human Services

HB 2313 establishes that individuals receiving state-funded community mental health or developmental disabilities services have a right to daily access to fresh air and outdoors. In addition, the measure requires facilities to post the name, address and telephone number of the Oregon Advocacy Center at treatment facilities.

HB 2313 is a companion measure to HB 2312.

Effective date: January 1, 2008

House Bill 2961

Creates the Domestic Violence Clinical Program Account

HB 2961 imposes \$10 filing fee for certain petitions and responses to petitions, including those for marital an-

nulment, dissolution and separation. Collected fees are deposited in a Domestic Violence Clinical Program Account, created by the measure, and used to fund education for victims of domestic violence, stalking or sexual assault. Account funds are to be allocated through the Department of Higher Education through grants to accredited institutions of higher education that provide civil legal services to victims of domestic violence. The higher education institutions currently eligible are the law schools at the University of Oregon, Willamette University and Lewis & Clark College.

Funds from fees can only be used for the purpose of funding clinical legal education programs that provide civil legal services to victims of domestic violence, stalking or sexual assault. In addition, the measure stipulates that clinical legal programs must operate in conjunction with at least one nonprofit service provider that serves victims of domestic violence, stalking or sexual assault. Distributions are limited to amounts that are proportional to the number of victims served by the particular program as compared to the total number of victims served by all programs in the preceding year.

The University of Oregon has operated a domestic violence program since 1999. The clinic is currently funded primarily through federal grants that are considered tenuous for the future. The fee proposed in HB 2961 is designed to help maintain the current clinic at the University of Oregon and help start similar clinics at other eligible law schools.

Effective date: January 1, 2008

House Bill 3067

Use of current population data for mental health allocations

HB 3067 requires the Department of Human Service (DHS) to use an annual formula rather than an annual allocation to allocate monies to counties for mental health and addiction services. The measure requires the formula use the most current population data available from Portland State University's Population Research Center to calculate payments.

Over the past four years, DHS has worked with community mental health programs from big and small counties to address the issue of funding allocation disparities in counties across the state. The "Kessler Formula" was developed to estimate the prevalence of mental illness

by considering several related factors, including county populations. A funding floor was set to ensure that less populous counties receive sufficient resources to offer programs in rural locations.

Effective date: June 13, 2007

LEGISLATION NOT ENACTED

House Bill 2288

Also included in the Agriculture and Natural Resources Chapter

Establishing the Oregon Food Policy Council

In 2004, the Oregon Hunger Relief Task Force issued the "Act to End Hunger: 40 Ways in Five Years to Make a Difference" Report. One recommendation in the report was the creation of a statewide food policy council to assess statewide needs, propose solutions and provide coordination among local food policy councils. HB 2288 would have established the Oregon Food Policy Council in the Department of Agriculture and directed the council to review state and local food systems for the purpose of recommending improvements to the linkage between food producers, consumers and policy makers. The measure directed the council to work with the department to encourage the streamlining of regional food purchasing, delivery policies, and practices that authorize and encourage public institutions to give preference to regionally produced foods. The council was designated to sunset on January 2, 2012.

House Bill 2464

Retention of earned income while maintaining eligibility for services for person with a developmental disability

HB 2464 would have directed the Department of Human Services (DHS) to adopt rules to allow a person with a developmental disability receiving services to retain more monthly earned income (up to \$320) while still maintaining eligibility for state medical assistance and placement in a residential setting. The measure required DHS to apply for a federal waiver and to submit a request for a federal Medicaid and Medicare waiver within 30 days of passage. It directed DHS to adopt the new rules on the day after receiving approval of its fed-

eral waiver request. In addition, DHS was to submit a progress report to the appropriate interim legislative committee no later than January 1, 2008, including information on the number of individuals who have increased retained income and the specific amounts they have retained.

Individuals with developmental disabilities currently pay earned income above \$65 toward the cost of services provided by DHS. According to DHS data, persons with disabilities and monthly incomes of more than \$65 paid in aggregate approximately \$134,000 toward the cost of their services during the month of September 2006. Fear of losing Medicaid is one of the greatest barriers cited by individuals with disabilities who want to maximize their employment and earnings potential and seek greater independence. HB 2464 contained a federal waiver component similar to those adopted in California, New York, Minnesota, Vermont and Wisconsin. Key provisions of the measure would not have taken effect until the day that the federal waiver was approved.

House Bill 3016

Establishes the Community Mental Health Housing Fund Board and Trust Account

HB 3016 would have created the Community Mental Health Housing Trust Account. The measure stipulated that five percent of the proceeds from the sale of the State Dammasch Hospital could be expended by the Department of Human Services (DHS) pursuant to ORS 426.508, with the remaining 95 percent of proceeds remaining in the account for perpetuity and accrued interest being used to support community mental health housing. Interest accruing in the account was to be used as follows: 70 percent solely for the development of housing for persons with chronic mental illness (as defined in ORS 426.495); and 30 percent for institutional housing. DHS was to adopt policies related to developing housing for the chronically mentally ill.

Additionally, HB 3016 would have created an eight-member Community Mental Health Housing Trust Account Board to advise DHS on management of the trust account, investment of trust monies, progress of projects funded from account, priorities for expenditures from account, grantee funding, distribution of housing within the Villebois community of Wilsonville, and potential integrated projects to be funded. DHS housing decisions involving persons with chronic mental illness would have been subject to the review and recommen-

dations of the board. DHS was designated to provide administrative support for the board.

House Bill 3139

Creates the General Assistance Program Fund

HB 3139 would have created the General Assistance Program Fund as part of the Treasury, separate and distinct from the General Fund. Interest earned by the General Assistance Program Fund was to be credited to the fund, and all moneys in the fund were to be continuously appropriated to the Department of Human Services and used solely to provide grants of general assistance under ORS 411.710 to 411.730.

Historically, the purpose of the General Assistance Program had been to help support residents of Oregon who have no source of income, have disabilities, and who are pursuing Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits. Recipients are provided with monthly cash assistance to enable them to meet their basic requirements for a standard of living compatible with decency and health, medical assistance to meet ongoing health needs and to pay for medical documentation necessary to establish eligibility for SSI or SSDI benefits, and case management services to assist in successfully qualifying for SSI or SSDI benefits. HB 3139 was designed to increase funding for the General Assistance Program, which has undergone a series of budget reductions since 2003.

House Bill 3252

Reporting employee data on receiving public assistance

HB 3252 would have required the Department of Human Services (DHS) to prepare a report listing the 40 employers doing business in the state with the greatest number of employees receiving medical assistance and food stamp benefits, the total number of employees for each employer, and whether the employer is unionized or non-unionized. DHS was to present an annual report to the Legislative Assembly by March 1, and was directed to make the report available on its website immediately thereafter.

Several states, including Hawaii, Illinois, Maine, Massachusetts and New Jersey, currently require state agencies to collect and report data on employers with employees who are beneficiaries of public assistance programs.

House Bill 3516

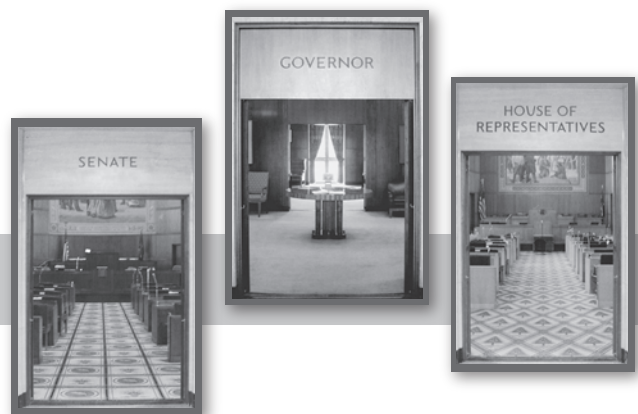
Verification of lawful presence in United States for applicants for assistance

HB 3516 would have required the Department of Human Services (DHS) and Department of Administrative Services (DAS) to work together to collect data and prepare a report on citizen and legal residence requirements for qualifying for public assistance programs operated by, or contracted for by, DHS. The report was to be presented to the Legislative Assembly by July 1, 2008. In addition, the measure defined public assistance as those services detailed in ORS 411.010, including Temporary Assistance for Needy Families (TANF), general assistance, medical assistance, assistance provided by the Oregon Supplemental Income Program, and benefits and services for persons with disabilities, publicly funded or government subsidized housing, food or nutrition programs, and unemployment benefits.

Insurance

- Health Care
- Motor Vehicle

2007 SUMMARY OF LEGISLATION



HEALTH CARE

Senate Bill 8

Also included in the Health Care Chapter

Expanded insurance coverage for anticancer medication

SB 8 requires health benefit plans that include chemotherapy to cover orally-administered anticancer medication as part of the medical benefit.

The measure stipulates that oral chemotherapy is to be treated by health insurance companies equally to all other forms of chemotherapy. Intravenously-administered chemotherapy has been the standard treatment for advanced forms of cancer since its approval by the federal Food and Drug Administration in 1962. Most chemotherapy drugs cause tumors to shrink, but may also have serious side effects. Some research indicates that use of oral medication rather than intravenous chemotherapy results in a two-thirds reduction in hospital time and greater than 50 percent reduction in costly medical side effects. A patient treated with oral chemotherapy typically requires only eight hospital visits, compared to 30 visits if treated with standard chemotherapy.

Effective date: January 1, 2008

Senate Bill 183

Also included in the Health Care Chapter

Reinsurance program for medical professional liability insurance policies provided by State Accident Insurance Fund Corporation (SAIF)

SB 183 extends the Rural Medical Professional Liability Reinsurance Program through 2011. The measure redefines rural for the purposes of the program and extends the program to rural nurse practitioners and to physicians and nurse practitioners who obtain insurance through a health care facility in specified circumstances. Practitioners who receive the subsidy are required to serve a certain percentage of Medicaid and Medicare patients. In addition, SB 183 specifies the maximum percentage of insurance premiums that will be reimbursed for practitioners in different specialties and determines the way in which the subsidies are to be distributed if there is not enough money in the program to provide the maximum subsidy to all qualifying practitioners. The largest subsidies are provided to physi-

cians and nurse practitioners specializing in obstetrics and family physicians that provide obstetrical services, while other primary care practitioners qualify for larger subsidies than specialists.

The Rural Medical Professional Liability Reinsurance Program was created by the 2003 Legislative Assembly to provide rural physicians with state-funded subsidies of medical malpractice insurance premiums. The program was created in response to the significant increase in professional liability insurance premiums and the effects of rate increase on the availability of health care and providers in rural Oregon.

Effective date: June 25, 2007

Senate Bill 191

Also included in the Health Care Chapter

Allows Oregonians to participate in Long-Term Care Insurance Partnership Program

SB 191 modifies various statutes governing long-term care insurance to allow Oregonians to participate in the federal Long Term Care Insurance Partnership Program (LTCIPP). LTCIPP became available to all states in 2007 following passage of the 2005 federal Deficit Reduction Act. The program was initiated to address the increasing cost of state Medicaid expenditures on long-term care services and to encourage the purchase of long-term care policies. It also allows states to disregard some of an applicant's assets when determining Medicaid eligibility, if the applicant purchased a long-term care insurance plan and exhausted the benefits, and allows states to exempt these assets from estate recovery after the beneficiary dies. Federal law sets minimum standards for all policies considered under the program, including numerous consumer protections, and SB 191 updates Oregon statutes to reflect these requirements.

In addition, SB 191 requires the Department of Consumer and Business Services to develop training requirements for insurance providers selling long-term care insurance. The measure directs the Department of Human Services to submit an amendment request to the federal government to allow Oregon to participate in LTCIPP and, upon federal approval, alters state Medicaid statutes to allow the state to exclude long-term care benefits from Medicaid eligibility determination and estate recovery.

Effective date: June 20, 2007

Senate Bill 426

Also included in the Health Care Chapter

Establishes the Oregon Educators Benefit Board

SB 426 creates a common insurance pool for school districts by establishing the Oregon Educators Benefit Board (OEBB). The OEBB is directed to contract for health, dental, and other benefit plans for employees of most school districts and education service districts before October 1, 2008. After that time, districts are generally prohibited from offering benefit plans other than those provided by the board. The offered plans must be comparable in design to, and not more expensive than, benefit plans provided by districts immediately prior to purchase of board-approved plans. Districts that are self-insured or have independent health trusts are not required to receive benefits through the OEBB if the premiums for their benefit plans are equal to or less than the premiums for comparable benefit plans provided by the board. Community college districts may also provide or contract for benefit plans other than those provided by OEBB.

Effective date: March 21, 2007

Senate Bill 491

Also included in the Health Care Chapter

Insurance coverage for bilateral cochlear implants

A cochlear implant is a small, complex electronic device that can help provide a sense of sound to a person who is profoundly deaf or severely hard-of-hearing. Research demonstrates that some individuals with bilateral cochlear implants, one implant in each ear, have improved hearing of localized sounds and hearing speech in a noisy room than are individuals with a single implant.

SB 491 requires health insurers that provide coverage for cochlear implants to also provide coverage for bilateral cochlear implants. The measure specifies that a reasonable investigation for a claim for bilateral implants must include a recommendation from the treating physician supported by medical literature and findings.

The provisions of SB 491 are exempt from the insurance mandate automatic repeal statute.

Effective date: January 1, 2008

House Bill 2213

Also included in the Health Care Chapter

Cost estimates for procedures covered by health benefit plan

The Insurance Division of the Department of Consumer and Business Services (DCBS) provides information to consumers to assist them in making decisions about procuring insurance. The division's Consumer Advocacy Unit also provides general information and assists consumers with complaints against insurance companies and agents. Many such complaints are related to inability to get accurate information on out-of-pocket costs that the consumer will be responsible for following medical care.

HB 2213 requires insurers offering health benefit plans to establish procedures for providing reasonable estimates of costs for certain procedures or services to enrollees. The measure also requires insurers to provide to the DCBS Director, upon request, the insurer's methodology for implementing the disclosure requirements.

Effective date: January 1, 2008

House Bill 2348

Also included in the Health Care Chapter

Health insurance coverage relating to the use of alcohol or controlled substances

HB 2348 requires individual health insurance policies, other than disability income policies, to provide coverage or reimbursement for expenses resulting from the medical treatment of injuries or illnesses caused by the policyholder's use of alcohol or controlled substances to the same extent as injuries not caused by the use of drugs or alcohol.

Alcohol exclusion laws (known as Uniform Policy and Provision Laws or UPPL) were passed in the 1940s to discourage people from drinking alcoholic beverages and to insulate insurance companies from related injury claims. The belief was that people would be less likely to drive while impaired or intoxicated if insurance companies could deny medical payments or other claims associated with injuries linked to the consumption of alcoholic beverages. With the advancements of alcohol and drug treatment programs and the emerging evidence showing positive effects of brief intervention and initiation of treatment as part of the emergency

care, proponents assert that this policy is an example of the disjunction between evidence-based medical care advances and third-party payment policies.

The National Association of Insurance Commissioners, which drafted the UPPL in 1947, voted unanimously in 2001 to amend the UPPL to repeal the Alcohol Exclusion Law.

Effective date: January 1, 2008

House Bill 2517

Also included in the Health Care Chapter

Health insurance coverage for orthotics and prosthetics

HB 2517 requires all health insurance policies (individual and group) to provide coverage for orthotic and prosthetic devices that are medically necessary and directs the Department of Consumer and Business Services to adopt and update rules that list the prosthetic and orthotic devices covered.

Currently, Oregon's larger insurers provide coverage for orthotic and prosthetic devices; however, other insurers have decreased, limited or eliminated orthotic and prosthetic device coverage from their policies. The measure specifies that devices "that are medically necessary to restore or maintain the ability to complete activities of daily living or essential job-related activities..." shall be covered by all health insurance policies.

Effective date: January 1, 2008

House Bill 2700

Also included in the Health Care Chapter

Requires health benefit plans to pay for contraceptives

HB 2700 requires health benefit plans to cover prescription contraceptives and any procedures and medical services necessary to obtain a contraceptive prescription. Coverage for contraceptives may be subject to provisions of health benefit plans, including but not limited to, requirements for co-payments, deductibles and/or coinsurance.

Additionally, HB 2700 requires hospitals to provide "unbiased, medically and factually accurate written and oral information about emergency contraception" to victims of sexual assault, inform them of treatment options, and provide emergency contraception upon a

victim's request. The term "emergency contraception" is used to describe a method for preventing pregnancy after unprotected sex, sexual assault, or contraceptive failure and typically involves administering increased doses within 72 hours of sexual activity. If emergency contraception is requested by a victim of sexual assault (and if not medically contraindicated), the hospital also must immediately offer to provide the victim with emergency contraception.

The measure also directs the Department of Human Services to develop informational materials, prohibits public bodies from interfering with a consenting individual's access to contraception, and contains a religious employer provision.

Many states have passed laws in recent years requiring health benefit plans to cover prescription contraception in the same manner as other covered prescriptions. These laws vary from state to state and apply only to insurance plans that are regulated by state law. According to a 2006 Kaiser Family Foundation report, 24 states have comprehensive contraception coverage mandates and nine others have adopted some requirements relating to contraception coverage. Six states have adopted legislation requiring emergency rooms to provide information about emergency contraception and to dispense emergency contraception upon request to sexual assault victims.

Effective date: January 1, 2008

House Bill 2918

Also included in the Health Care Chapter

Health benefit plan coverage of pervasive developmental disorders

HB 2918 requires health benefit plans cover the treatment of pervasive developmental disorders for children enrolled in the plan up to 18 years of age. Additionally, the measure specifies that treatment of a pervasive developmental disorder is subject to the same requirements of the plan that applies to physical illness, including copayments, coinsurance or deductibles. The measure also defines pervasive developmental disorder as a "neurological condition that includes Asperger's syndrome, autism, developmental delay, developmental disability or mental retardation." Furthermore, HB 2918 directs the Health Resources Commission to review current medical and behavioral health evidence on pervasive developmental disorders treatment and to

submit a report of its findings to the Seventy-fifth Legislative Assembly.

Effective date: January 1, 2008

House Bill 2952

Also included in the Health Care Chapter

Reporting requirements for prepaid managed care health services organizations contracting with Department of Human Services

Currently, commercial insurers in Oregon must annually disclose executive salaries to the Insurance Division of the Department of Consumer and Business Services. Oregon Health Plan contractors are also required to file annual reports to the Division of Medical Assistance Programs. However, the administrative information submitted is aggregated and the administrative details such as executive salaries, are not readily available or itemized.

HB 2952 requires prepaid managed care health services organizations to file annual financial reports with the Department of Human Services (DHS). The measure also requires the department to prescribe the reporting procedure to assess the financial condition of each prepaid managed care health services organization and specifies that each organization's report must include financial information on its three highest executive salary and benefit packages. Furthermore, HB 2952 directs DHS to have the appropriate information prior to entering into a contract with a prepaid managed care health service organization.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

Senate Bill 407

Also included in the Health Care Chapter

Requires health insurance plans to provide freedom of choice of all health care physicians

SB 407 would have required all health insurance plans to provide patient freedom of choice from among all health care physicians. The measure would have allowed health plans to require enrollees to select a primary care physician from among physicians, osteopaths, and chiropractors for medical services, from among dentists for dental services, and from among physicians and optometrists for vision services. In addition, SB 407 would have required insurance companies to cover clinically necessary health services provided by chiropractic physicians.

MOTOR VEHICLE

Senate Bill 523

Rights of motor vehicle liability insurance policyholders

SB 523 requires motor vehicle insurance companies to inform a policyholder of their right to select a repair shop of their own choice before providing them with a recommendation on which repair shops to use and prohibits insurers from limiting the cost of repairs based on the policyholder's choice of repair shop.

If a policyholder chooses to use a repair shop recommended by their insurance company, the insurer is required to provide a written notice within three business days stating that the vehicle will be repaired to its pre-loss condition at no cost outside what is stated in the policy or otherwise allowed by law.

Effective date: January 1, 2008

House Bill 3086

Required provisions for motor vehicle liability insurance policies

HB 3086 establishes that motor vehicle liability insurance policies must include liability coverage for each family member of the policyholder who resides in the same household as the insured in an amount equal to that purchased by the policyholder. In addition, the measure stipulates that an insurer must pay uninsured/underinsured coverage to a policyholder up to the limits of the policy, regardless of the liability limits in the Oregon Tort Claims Act.

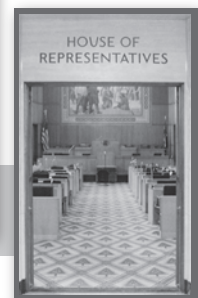
HB 3086 changes the current practice of a "family member/household" exclusion to be contained in a vehicle insurance policy, which provides that the insurer will not make any payment to a family member who resides in the same household as a policyholder beyond the minimum liability coverage required by the Oregon Financial Responsibility Law.

Effective date: January 1, 2008

Judiciary

- Civil
- Criminal

2007 SUMMARY OF LEGISLATION



CIVIL

Senate Bill 2

Prohibits discrimination on the basis of sexual orientation

SB 2 adds “sexual orientation” to several statutes that prohibit discrimination based on certain characteristics, such as religion, age, race, color, sex, national origin and marital status. The measure defines “sexual orientation” to mean an individual’s actual or perceived heterosexuality, homosexuality, bisexuality or gender identity, regardless of whether the individual’s gender identity, appearance, expression or behavior differs from those traditionally associated with the individual’s sex at birth. It establishes that an individual may not discriminate based on another’s sexual orientation with regard to, among other things, employment, housing, public accommodations, public services, public education, adult foster homes and foster parenting. The measure contains an exception for churches and other religious institutions that have a “bona fide” religious belief about sexual orientation where the employment, housing or use of facilities in question is closely connected with, or related to, the primary purposes of the church or institution, and is not connected with a commercial or business activity that has no necessary relationship to the institution or the institution’s primary purpose. Employers also may enforce dress codes if they provide reasonable accommodations when necessitated by the health and safety needs of the individual.

SB 2, also known as the Oregon Equality Act, is the product of the Governor’s Task Force on Equality in Oregon, which was established in February 2006 by Executive Order No. 06-03. The Governor charged the task force to study whether statutory changes were necessary to guarantee that Oregonians are protected from discrimination in employment, housing, public accommodations and other opportunities, regardless of sexual orientation or gender identity. The task force recommended several changes to Oregon anti-discrimination law, many of which are included in SB 2.

Effective date: January 1, 2008

Senate Bill 248

Also included in the Labor and Employment Chapter

Enforceability of noncompetition agreements

Under common law, contracts in restraint of trade generally are unenforceable; however, agreements that are in partial restraint of trade, such as noncompetition agreements, may be enforceable if they are limited in their application to a reasonable period of time and territory, and the employer has a legitimate interest which is entitled to protection.

SB 248 defines the permissible scope of noncompetition agreements, establishing that both noncompetition agreements and employee arbitration agreements are voidable unless the employer informs the employee of the agreement’s requirements in a written employment offer received by the employee at least two weeks before the first day of employment or the agreement is entered into upon a bona fide advancement of the employee.

SB 248 creates additional requirements for noncompetition agreements, including that the employee: earn a salary that exceeds the median family income for a family of four; is an administrative, professional or executive employee who is exempt from minimum wage and overtime laws; and has access to trade secrets or other competitively-sensitive confidential information. In addition, the maximum term of any agreement may be no more than two years. In cases in which a noncompetition agreement is voidable because the employee lacks the requisite salary or responsibility, the employer still may enforce the agreement if it pays the employee either 50 percent of his or her salary, or 50 percent of the median family income for a four-person family. In such a case, the employer still must have a “protectable interest,” i.e., the employee must have access to trade secrets or other competitively sensitive confidential information.

SB 248 also provides a special exception for employers that are in the business of broadcasting, establishing that a broadcaster has a “protectable interest” in its on-air talent if it expends resources equal to or exceeding 10 percent of the employee’s annual salary to train or publicly promote the employee and agrees to provide the employee, during the period of enforcement, the greater of 50 percent of the employee’s annual gross base salary at the time of termination or 50 percent of the median family income for a four-person family. In addition, the measure exempts from its provisions agreements not to

solicit an employer's customers or employees.

Effective date: January 1, 2008

Senate Bill 257

Designates variable annuities as securities

SB 257 establishes that "variable annuities" are securities under the Oregon Securities Law. An annuity is a contract between an individual and an insurance company, in which the individual agrees to make a lump-sum payment or series of payments to the insurer, and the insurer agrees to make periodic payments to the individual beginning immediately or at some future date. Annuities can be fixed or variable; in a fixed annuity the insurance company guarantees the individual a minimum rate of interest and future payment, while in a variable annuity the individual can choose to invest the purchase payments in a range of investment options, such as mutual funds. The rate of return on a variable annuity therefore depends on the performance of the investment options. Even though the Federal Securities and Exchange Commission considers variable annuities to be securities, ORS 59.015(19)(b) had provided that, for purposes of the Oregon Securities Law, neither fixed nor variable annuities are securities. SB 257 designates variable annuities as securities, but stipulates that annuities that pay a fixed sum of money are not.

Effective date: January 1, 2008

Senate Bill 571

Also included in the Labor and Employment Chapter

Limitations against smoking in public places

Subject to a number of exceptions, Oregon presently restricts the ability to smoke in public places and places of employment, each of these terms is defined by reference to an "enclosed area" with certain characteristics. SB 571 expands this prohibition by making three key definitional changes: "enclosed areas" can be three-sided rather than needing to be enclosed on all sides and can involve "permanent or temporary walls" as opposed to "solid" walls; "place of employment" also includes work vehicles, meeting rooms, elevators and stairways; and "public place" now includes "any enclosed area open to the public" (there used to be several exceptions). The measure also prohibits persons from smoking within 10 feet of the entrance, exit, open window, or ventilation intake of any public place or place of employment.

In addition to these changes, SB 571 also eliminates many existing exceptions to the rule that an employer must provide a smoke-free workplace. Under existing law, these exceptions include, but are not limited to, certain tobacco stores, bars, restaurants, bingo halls, bowling alleys and lounges. All existing exceptions are eliminated and replaced by four exceptions: up to 25 percent of hotel rooms may be designated as smoking rooms; smoking of noncommercial tobacco products for ceremonial purposes under the federal American Indian Religious Freedom Act; smoke shops (as defined by the bill); and cigar bars that generated at least \$5,000 in revenue from cigar sales in 2006.

SB 571 also diverts civil fines collected by the Department of Human Services (DHS) for noncompliance from the General Fund to the Tobacco Use Reduction Account, and increases the potential penalty against a non-compliant employer from a maximum of \$50/day to \$500/day and from a maximum of \$1,000 in a 30-day period to \$2,000 in a 30-day period. Finally, SB 571 repeals ORS 433.863, which limits a local government's ability to prohibit smoking, and ORS 433.865, which allows DHS to waive the smoking prohibitions in certain circumstances.

Effective date: January 1, 2009

Senate Bill 671

Release of public records

SB 671 requires a public body to release a condensed version of factual information that would otherwise be exempt under the attorney-client privilege without waiving the attorney-client privilege. The measure allows a person seeking to inspect records, but who instead receives a condensed version, to petition for a review of the denial. SB 671 requires the judge, Attorney General, or district attorney reviewing the denial to compare the records to which access was denied to the condensed version to determine if the condensed version adequately describes these records.

ORS 192.420 presumes that the public has a right to inspect and copy all public records, unless a specific exemption allows the public body not to disclose. Oregon law, ORS 40.225 (Or. Evid. Code 503), recognizes that a client of an attorney has the right to prevent the attorney from disclosing confidential communications to third parties. This is more commonly known as "attorney-client" privilege and has its roots deep in the history of

American and English common law.

The right of the public to inspect public records and the attorney-client privilege met head on in the matter of *Klamath County School District v. Teamey* (2006). The Klamath County School District received a complaint from county residents concerning mismanagement and misconduct by district employees. The district sent a copy of the allegations to an attorney who had represented the district in the past, asking for advice, the attorney responded that in order to properly advise them, he would have to investigate and would need to hire an auditor and an investigator. The District asked him to do so and he did. The auditor and investigator reported back to him and he forwarded the reports to the District. The two reports were not made public. The District issued a press release stating that the District purchasing procedures were being reviewed and strengthened. As to wrong doing, the press release stated none existed. Mr. Bert Teamey sought to obtain copies of these two reports. The District refused on the grounds that this information was privileged communication under the attorney-client privilege. The Oregon Court of Appeals agreed and the Oregon Supreme Court upheld this opinion when it refused to review the Court of Appeals decision.

Effective date: June 20, 2007

Senate Bill 694

Creates violation of restrictive confinement of a pregnant pig

SB 694 designates as a Class A violation the “restrictive confinement of a pregnant pig.” A person commits the violation by confining a pregnant pig for more than 12 hours in any 24-hour period in a manner that prevents the pregnant pig from either lying down and fully extending its limbs or turning around freely (defined as being able “to turn in a complete circle without an impediment, including a tether, and without touching any side of the enclosure”).

The measure provides specific exceptions for a pregnant pig that is being transported; part of a rodeo or state or county fair; being slaughtered; part of lawful research; being examined by a veterinarian; or in the seven-day period before the pig farrows (gives birth). SB 694 applies to the confinement of pigs after January 1, 2012.

Effective date: January 1, 2012

Senate Bill 1017

Reporting of aggravated animal abuse

SB 1017 relates to the reporting of the crime of aggravated animal abuse and the link between animal abuse and child abuse, based on studies that suggest that persons who abuse animals are also likely to abuse children.

ORS 167.322 details the Class C felony of aggravated animal abuse. The offense involves either the malicious killing or intentional torture of an animal. Under ORS 686.455, a veterinarian is required to report suspected aggravated animal abuse to a law enforcement agency anytime the veterinarian has come into contact with either the animal or the person suspected of committing the abuse. ORS 686.465 provides civil and criminal immunity for any veterinarian who in good faith makes such a report.

SB 1017 expands the authority to report such suspected abuse without fear of lawsuits or prosecution from veterinarians only to include any “public or private official.” However, while veterinarians are required to report aggravated animal abuse, reporting by public or private officials is discretionary. If the official chooses to report, then the official does not face litigation. Nothing happens to the official for declining to report.

In SB 1017 the term “public or private official” mirrors the definition of “public or private official” in the child abuse reporting statute [ORS 419B.005(3)]. It includes, in part, physicians, dentists, school employees, peace officers, clergy, optometrists, social workers, attorneys, firefighters and members of the Legislative Assembly. Public and private officials presently are obligated to report child abuse under ORS 419B.010; failure to do so is a Class A violation. SB 1017 includes no penalty provision for officials who choose not to report aggravated animal abuse.

Effective date: January 1, 2008

House Bill 2007

Providing for the creation of domestic partnerships

HB 2007 creates domestic partnerships, which are civil contracts entered into by two qualified adults of the same sex, at least one of whom is an Oregon resident. The measure describes the eligibility, procedure and fees for the creation of a domestic partnership, and establishes that domestic partners have the same respon-

sibilities, privileges, immunities, rights and benefits of married couples and, if applicable, divorced couples.

Additionally, HB 2007 requires Oregon circuit courts to hear disputes relating to domestic partnerships, such as actions for dissolution, annulment or legal separation, so long as the partnership was created and filed in Oregon.

Effective date: January 1, 2008

House Bill 2324

Adjudicating cases that are moot but may be repeatable

HB 2324 enacts the “capable of repetition but evading review” exception to the “mootness” doctrine. It provides that if a party had the right to initiate a lawsuit that alleges that a governmental act was either unconstitutional or otherwise contrary to law, and the action became moot while the lawsuit was pending, the party may continue to litigate the action if the controversy is capable of repetition but might evade judicial review.

The measure concerns the power of courts to consider controversies when the plaintiff does not have a personal stake in the litigation. As a general matter, courts only hear “justiciable” controversies where the plaintiff must have “standing” to bring the action, as in cases where the plaintiff suffered an injury from the challenged action or is otherwise qualified to seek judicial review of particular conduct. Such lawsuits must present a controversy that is “ripe” and not “moot,” terms referring to the timing of a lawsuit; a lawsuit is not “ripe” if it is brought too soon and is “moot” if it is brought too late. For example, if a plaintiff seeks to challenge an agency’s failure to issue a permit, the action might not be ripe if the party files the action before the agency has issued a final decision on the matter. By contrast, if a plaintiff challenges a governmental act precluding him or her from participating in a political event, the action would be moot if the event took place before the court could decide the controversy.

The federal courts, as well as every state in the union, recognize an exception to the mootness doctrine for controversies that come up repeatedly, but cannot be reviewed by appellate courts if a strict mootness standard were to apply. This is called the “capable of repetition but evading review” doctrine. In *Yancy v. Shatzer*, 337 Or 345 (2004), however, the Oregon Supreme Court

ruled that the judicial power granted by Article VII, sec. 1 of the Oregon Constitution does not include the power to hear cases that are capable of repetition but might evade review. Two years later, however, the Court decided *Kellas v. Department of Corrections*, 341 Or 471 (2006), in which it ruled that the Legislative Assembly may authorize individuals to sue the government, even when the individual does not have a personal stake in the litigation that would qualify as an independent basis for standing.

HB 2324 is a response to the Yancy and Kellas opinions, providing that if a party had the right to challenge a governmental act, but the action became moot while the lawsuit was pending, the party has the authority to continue the lawsuit if the court determines that the controversy is capable of repetition but might evade judicial review. The measure allows individuals who had a concrete interest in a lawsuit to continue to litigate a claim, even if mooted by intervening events, if doing so is in the public interest.

Effective date: January 1, 2008

House Bill 2345

Eliminates foreseeability as defense in dog bite cases

HB 2345 establishes that, in an action arising from an injury caused by a dog, the plaintiff is not required to prove that the dog owner should have foreseen that the dog would cause the injury, and the owner may not assert as a defense that the dog bite was not foreseeable. The measure applies to claims for economic damages only, and expressly preserves “any other defense that may be available to the owner,” such as that the dog was provoked.

A person who owns a domestic animal that is abnormally dangerous is strictly liable for the harm caused by the animal. For all other domestic animals, however, an owner is liable only if he or she was negligent in failing to prevent the harm. The Court of Appeals has ruled that, in this context, negligence is determined by evaluating whether it was foreseeable that the dog might cause the injury. This has been referred to as the “one free bite” rule. HB 2345 eliminates that for claims for economic damages.

Effective date: January 1, 2008

House Bill 2826

Environmentally responsible corporations

A principle of corporate law is that corporations must act in the best interests of their owners (i.e., the shareholders). Courts and some commentators from other jurisdictions have interpreted this principle as requiring corporations to act in a manner that maximizes corporate profits, even if the result is that the corporation fails to act in an environmentally responsible manner. HB 2826 expressly permits a corporation to adopt a provision in its articles of incorporation that authorizes or directs the corporation to conduct its business in an environmentally and socially responsible manner.

Effective date: January 1, 2008

House Bill 3279

Freedom of speech rights of high school journalists

HB 3279 establishes that public high school and college student journalists have the right to exercise freedom of speech and press in school-sponsored media. It allows student journalists to determine the content of school-sponsored media, unless it is: libelous or slanderous; constitutes an unwarranted invasion of privacy; violates federal or state statutes, rules or regulations or state common law; or might create a clear and present danger of the commission of unlawful acts on or off school premises, the violation of school policies, or the material and substantial disruption of the orderly operation of the school. In addition, the measure authorizes students to bring civil actions for \$100 in damages, injunctive or declaratory relief, for violations of the Act, the First Amendment or Article 1, sec. 8 of the Oregon Constitution.

An often-quoted principle of constitutional law is that students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker v. Des Moines Independent Community School District* (1969). The Supreme Court has determined that schools have legitimate interests in deterring disruptive forces within the school and ensuring that students do not interfere with the school’s basic educational mission, thus the expressive rights of students are not the same as the rights of adults in other settings. See, e.g., *Hazelwood School District v. Kuhlmeier* (1988); see also *Ali Jamshidnejad v. Central Curry School District* (2005). In addition, schools may “dissociate” themselves from

student expression – put differently, not “promote” particular speech – if their actions are reasonably related to a legitimate educational concern.

HB 3279 limits a school’s authority to exercise editorial control over school-sponsored media.

Effective date: July 1, 2007

LEGISLATION NOT ENACTED

Senate Bill 280

Increased liability limits for public bodies

SB 280 would have increased the liability limits for public bodies in the Oregon Tort Claims Act. The measure involved the concept of “state sovereign immunity,” which is an artifact of the rule that the English King could not be sued in his own courts. The doctrine was adopted in the Oregon Territory and was the law at the time of statehood; however, Article IV, section 24 of the Oregon Constitution gives the Legislative Assembly the power to waive sovereign immunity. In 1967, the Legislative Assembly waived immunity for public bodies in the Tort Claims Act, allowing negligence claims for up to \$50,000.

ORS 30.265 stipulates that the “sole cause of action for any tort of officers, employees or agents of a public body acting within the scope of their employment or duties and eligible for representation and indemnification . . . shall be an action against the public body only.” ORS 30.270 then places the following limits on liability for actions against public bodies: \$50,000 for property damage; \$100,000 for “special damages” (economic damages) and \$100,000 of “general damages” (non-economic damages); \$500,000 per accident or occurrence; and no punitive damages. SB 280 would have increased these limits.

CRIMINAL

Senate Bill 351

Procedures for investigating missing persons

SB 351 requires Oregon law enforcement agencies to have written policies regarding missing persons and to have specific procedures for investigating missing persons. It allows the agency receiving the report to request information concerning the missing person, including the person's name and any alternative names, date of birth, physical description, blood type, driver license number, social security number, a recent photograph, a description of the person's clothing, and the person's telephone numbers and e-mail addresses.

SB 351 requires an agency to forward a DNA sample obtained in missing persons' cases to the Oregon State Police. The medical examiner is required to make reasonable efforts to promptly identify human remains following procedures consistent with standards of the National Association of Medical Examiners. The measure excludes from the term "unidentified human remains" any human remains that are part of an archaeological site or suspected of being Native American. SB 351 allows an individual, or his or her estate, to request the destruction of his or her or the decedent's DNA. A law enforcement agency must accept a missing person's DNA if a person who has been reported missing has not been located within thirty days.

Effective date: January 1, 2008

Senate Bill 578

Creates crimes of involuntary servitude and human trafficking

SB 578 creates the crime of subjecting another person to involuntary servitude in the first and second degree with first degree, set as a Class B felony, and second degree as a Class C felony, and also creates the crime of trafficking in persons and sets the penalty as a Class B felony.

The crime of involuntary servitude in the first degree is committed if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by causing or threatening to cause the death of or serious physical injury to a person, or physically restraining or threatening to physically restrain a

person. Involuntary servitude in the second degree is committed if the person knowingly and without lawful authority forces or attempts to force the other person to engage in services by abusing or threatening to abuse the law or legal process; destroying, concealing, removing, confiscating or possessing an actual or purported passport or immigration document or another actual or purported government identification document of a person; threatening to report a person to a government agency for the purpose of arrest or deportation; threatening to collect an unlawful debt; or instilling in the other person a fear that the actor will withhold from the other person the necessities of life, including but not limited to lodging, food and clothing. Trafficking is defined as recruiting, enticing, harboring, transporting, providing, or obtaining by any means, or attempting to do such with another person knowing that the other person will be subjected to involuntary servitude; or benefiting financially or receiving something of value from participation in a venture that involves an act prohibited by the measure's provisions.

Victims are allowed to seek restitution from a convicted defendant for the gross income or value to the defendant of the victim's labor or services or the value of the victim's labor or services computed using the Oregon minimum wage and overtime provisions of the Fair Labor Standards Act. The measure also allows a victim to raise the defense of duress when the victim was forced to commit a crime.

A related measure, SB 578, adds the crimes of involuntary servitude and human trafficking to Oregon's racketeering statute. It also allows for commencement of a civil action six years, rather than two years, after conduct constituting human trafficking occurred and creates a civil cause of action for damages against the person involved in trafficking.

Effective date, July 17, 2007

Senate Bill 1042

Requires city approval to site a casino

SB 1042 prohibits locating a casino in a city without the approval of the electors of that city. The measure exempts tribal casinos operated pursuant to the Indian Gaming Regulatory Act and federal regulations.

Article XV, Section 4(12) of the Oregon Constitution prohibits casinos from operating in Oregon. Casino

gaming by Tribes is permitted as an economic development tool supported by federal policy and statutes related to Indian self-determination. However, federal law, pursuant to the Indian Gaming Regulatory Act enacted in 1988, allows tribal operation of casinos in states that allow gambling, as Oregon does with its lottery.

Effective date: June 28, 2007

Senate Joint Resolution 18

Also included in Legislative Referral Chapter

Revision of constitutional provisions related to forfeiture

SJR 18 proposes to amend Section 10, Article XV of the Constitution of the State of Oregon, the “Oregon Property Protection Act of 2000” (limitations of civil forfeiture of property by the State of Oregon). If enacted by the voters of Oregon, it will clarify that the property forfeited: constitutes the proceeds of the crime for which the claimant has been convicted; was instrumental in committing or facilitating the crime for which the claimant has been convicted; constitutes proceeds of one or more other crimes similar to the crime for which the claimant was convicted; and was instrumental in committing or facilitating one or more other crimes similar to the crime for which the claimant was convicted.

SJR 18 allows forfeiture without conviction of the claimant if the forfeiting agency proves the property constitutes proceeds or instrumentality of crime committed by another person and the claimant took the property with the intent to defeat forfeiture of the property, or the claimant knew or should have known that the property constituted proceeds or instrumentality of criminal conduct, or the claimant acquiesced in the criminal conduct in that the person knew of the criminal conduct and failed to take reasonable action to terminate the criminal conduct. SJR 18 will set the standard of proof for civil forfeiture as the preponderance of the evidence if the property subject to forfeiture is personal property and clear and convincing evidence if the property is real property. It places the burden of proof on the person claiming cash, weapons or negotiable instruments if these items were found in close proximity to controlled substances of instrumentalities of criminal conduct.

SJR 18 allows state and local law enforcement to obtain shared proceeds from the U.S. Department of Justice resulting from the state or local law enforcements participation in a federal forfeiture. The measure requires

that when the property being forfeited in a criminal forfeiture constitutes proceeds of one or more other similar crimes that the claimant be notified in writing of those similar crimes and has an opportunity to challenge the seizure. Finally, SJR 18 allows forfeiture without criminal conviction when the property is an abused or neglected animal.

SJR 18 was referred to the voters for the May 2008 election.

Filed with the Secretary of State June 25, 2007

House Bill 2333

Exceptions to sex offender registration requirements

HB 2333 relieves certain persons convicted of third degree rape, third-degree sodomy, third degree sexual abuse, contributing to the delinquency of a minor, sexual misconduct, or the “attempt” versions of any of these crimes, of the need to register as a sex offender. To qualify, the following conditions must be met: the offender is less than five years older than the victim; the victim’s lack of consent was solely due to age; the victim was at least 14 years of age; and the offender had no prior adult or juvenile conviction for an offense listed ORS 181.594(4), which encompasses most sex-related crimes.

HB 2333 also sets forth the appropriate processes for determining whether persons are covered by the provisions of the measure. For persons who have already been convicted of a sex crime and are presently required to report, a person who believes that he or she is covered by the measure must file a motion and an affidavit of eligibility with the circuit court in the appropriate county. If the district attorney agrees, the court then enters an order relieving the person of the reporting obligation; if the district attorney disagrees, the parties conduct an evidentiary hearing based on a preponderance of the evidence standard. In cases involving evidentiary hearings the burden of proof is on state.

For future convictions, if the parties disagree, the court makes the determination of whether reporting is required based on the preponderance of the evidence standard, with the burden of proof again resting with the state.

Effective date: January 1, 2008

House Bill 2342

Providing false personal information to peace officers

It is not uncommon for persons facing arrest or citation by police officers to lie about the person's name, address, or date of birth. Typically, the false name is not evidently false, such as "Donald Duck" or "Donald Trump" but rather the name of a sibling or friend. Such misinformation can lead to confusion and complications.

ORS 162.385 makes it a Class A misdemeanor to provide a false name, address or date of birth to a peace officer attempting to cite the person for a violation, misdemeanor or certain felony or when the officer is attempting to arrest the person on a previously issued arrest warrant. The present statute does not encompass situations when the officer intends to arrest the person based on probable cause (rather than merely citing the person) or when there is a bench warrant (issued by a judge after the person fails to make a court appearance on a pending case) or a probation warrant (issued on the recommendation of a person's probation officer for noncompliance with probation conditions) rather than an arrest warrant.

HB 2342 amends ORS 162.385 to encompass bench warrants, probation warrants and arrest warrants. It does not include probable cause arrests. Providing false information to an officer is an impeachable offense, meaning that a defendant with a prior conviction for providing false information can have that conviction used against him if he testifies at a future trial.

Effective date: January 1, 2008

House Bill 2651

Recording conversations without knowledge of participants

Current law (ORS 165.540) makes it a Class A misdemeanor for a person to record conversations without the knowledge of all participants. There are certain exceptions, including but not limited to jail conversations and the recording of any conversation during a felony that endangers human life. HB 2651 adds a new exception for a "law enforcement officer" if the officer is in uniform, displaying a badge and operating a vehicle-mounted video camera that records the scene around a police vehicle for the duration of an event that began as an effort to enforce a traffic or vehicle law. Many of-

ficers use video recording devices in their police vehicles in connection with traffic stops. Although officers tell the subject of the stop that their conversation is being recorded, it is possible during a lengthy traffic stop that other persons might enter the video camera's area and be recorded without their knowledge; HB 2651 prevents officers from being criminally liable for such actions. Similarly, HB 2651 provides immunity for officers under ORS 165.540 to the extent the officer utilizes a taser device, the newest of which automatically record events upon deployment. It is impractical for officers to obtain consent of persons prior to recording in such circumstances.

Relating to DUIs (driving under the influence of intoxicants), HB 2651 prevents a person with a prior felony DUII conviction in Oregon or elsewhere from participating in Oregon's diversion program. It also clarifies language regarding what out-of-state DUII convictions count against a person in Oregon.

Furthermore, HB 2651 corrects an unintended consequence legislation passed earlier in the 2007 Legislative Session at the request of the Department of Justice that may have inadvertently removed a minimum bail of \$50,000 requirement for certain Ballot Measure 11 offenses. HB 2651 restores this minimum requirement.

Effective date: January 1, 2008

House Bill 2740

Enhances penalties for accidents relating to driving under the influence of intoxicants

HB 2740 creates the crime of aggravated vehicular homicide and expands the existing crimes of first degree manslaughter and first degree assault to apply to situations involving persons who drive under the influence of intoxicants (DUII) and who kill or seriously injury someone having done the same previously. The new crime of aggravated vehicular homicide, a Class A felony, occurs when a person operates a vehicle while under the influence of intoxicants resulting in the death of another person and the driver has previously been convicted of being responsible for a death while driving under the influence. The crime carries a mandatory minimum sentence of 12 years in prison.

In addition, HB 2740 expands the existing crime of manslaughter in the first degree statute, which carries a mandatory minimum sentence of 120 months, to in-

clude situations where a person drives under the influence of intoxicants and kills someone and the person has either a prior conviction for assault involving driving a vehicle under the influence or the person has three previous convictions for DUII in Oregon or elsewhere within the past 10 years.

Finally, HB 2740 expands the crime of first degree assault to include circumstances when a person drives under the influence of intoxicants and seriously injures someone and the person has either: three previous DUIIs in Oregon or the statutory counterpart in other states within the prior 10 years; or a prior conviction for manslaughter (first or second degree), criminally negligent homicide, or assault (first, second or third degree) and the victim's death or serious physical injury in the prior case resulted from the defendant's driving a vehicle.

In all cases, the defendant has an affirmative defense if the prior conviction did not involve the defendant being under the influence of intoxicants.

Effective date: January 1, 2008

House Bill 2843

Furnishing sexually explicit materials to children

HB 2843 creates the crimes of furnishing sexually explicit material to a child, a Class A misdemeanor, and luring a minor, a Class C felony. Furnishing sexually explicit material to a child under age 13 consists of intentionally furnishing a child with, or permitting a child to view, sexually explicit material that the defendant knows is sexually explicit material. "Sexually explicit material" includes visual images of: masturbation or sexual intercourse; genital to genital, oral to genital, anal to genital or oral to anal contact; or the penetration of the vagina or rectum by an object. The measure provides the following exceptions: museum/school/library employees acting in the scope of employment; if the materials are for sex/art education or treatment and are furnished by a parent/guardian/educator or treatment provider; if the sexually explicit material is an incidental part of a nonoffending whole and serves some purpose other than titillation; if the defendant had reasonable cause to believe that the victim is not a child; or if the defendant was less than three years older than the victim. It is not an affirmative defense if the victim is actually a law enforcement officer posing as a child.

Luring a minor under age 18 is committed when the defendant furnishes to or uses with a minor a visual representation, verbal description, or narrative account of sexual conduct for the purpose of arousing or satisfying the sexual desires of the defendant or to induce the minor to engage in sexual conduct. HB 2843 provides similar exceptions to those for furnishing explicit material to a child. The definition of sexual conduct is the same as for "sexually explicit material" except that conduct also includes touching of the genitals, pubic areas, buttocks or female breasts.

Neither of the crimes created by HB 2843 require registration as a sex offender.

Effective date: January 1, 2008

House Bill 3314

Vehicular contact with vulnerable user of a public way

HB 3314 increases the penalty for careless driving when the driver causes physical injury or death to a vulnerable user of a public way. The measure defines "vulnerable user of a public way" as a pedestrian, a person riding an animal, a highway worker, or a person operating any of the following on a public way, crosswalk or shoulder of a highway: a farm vehicle without an enclosed shell; a skateboard; roller skates; in-line skates; a scooter; or a bicycle.

As part of the sentence, HB 3314 suspends the person's driving privileges and imposes a fine of up to \$12,500, as well as requiring the offender to complete a traffic safety course and perform between 100 to 200 hours of community service related to driver improvement.

However, HB 3314 allows the court to dismiss the penalties imposed if the person has completed driver education and community service.

Effective date: January 1, 2008

House Bill 3515

Online sexual corruption of children

HB 3515 creates the crimes of online sexual corruption of a child in the second and first degrees. Online sexual corruption of a child under 16 years of age in the second degree, a Class C felony, involves a defendant age 18 years or older knowingly using an online communication to solicit a child to engage in sexual contact

or sexually explicit conduct and offering or agreeing to physically meet with the child for the purpose of arousing the sexual desires of themselves or another person. “Sexual contact” and “sexually explicit conduct” have the same definitions as existing Oregon law. There is no defense if the “child” is actually a law enforcement officer or someone working at the direction of a law enforcement officer.

Online sexual corruption of a child in the first degree, a Class B felony, involves second degree online sexual corruption plus taking a substantial step toward physically meeting with or encountering the child. As is the case with second degree online sexual corruption, there is no defense if the “child” is actually a law enforcement officer or someone working at the direction of a law enforcement officer.

The primary difference between second and first degree online sexual corruption is that, for second degree corruption, the defendant merely needs to suggest an actual meeting or encounter in an email or chat room message. For first degree corruption, the defendant actually physically goes to the meeting spot or attempts to encounter the child physically. Conviction for either offense requires registering as a sex offender.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

House Bill 3553

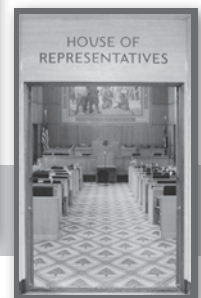
Creates crimes of involuntary servitude and human trafficking

HB 3553 would have created the crime of subjecting a person to involuntary servitude, sexual servitude of a minor, and human trafficking. The measure established the maximum fines and sentences for each crime, and expanded the definition of “economic damages” for purposes of victim restitution for crimes established in the measure.

HB 3553 would have permitted law enforcement agencies to apprehend a person based upon probable cause that they were in violation of immigration law, and would have required district attorneys to investigate the residency status of convicted persons and to take all reasonable steps to transfer custody of convicted aliens to the federal government.

Labor and Employment

2007 SUMMARY OF LEGISLATION



Senate Bill 4

Also included in the Health Care Chapter

Declares a nursing workforce and nursing faculty shortage

SB 4 declares that there is a shortage of nurses and nursing faculty in Oregon, with the nursing shortage declaration to remain in effect until suspended by the Governor by executive order. The measure authorizes the Oregon Center for Nursing and the Oregon Healthcare Workforce Institute to advise the State Workforce Investment Board, the Joint Boards of Education and other entities regarding education and workforce issues relating to nurses and to doctors, dentists, and allied health professionals, respectively. Additionally, the measure directs the center and institute to work together to develop comprehensive solutions to Oregon's healthcare workforce shortages.

Effective date: July 17, 2007

Senate Bill 248

Also included in the Judiciary Chapter

Enforceability of noncompetition agreements

Under common law, contracts in restraint of trade generally are unenforceable; however, agreements that are in partial restraint of trade, such as noncompetition agreements, may be enforceable if they are limited in their application to a reasonable period of time and territory, and the employer has a legitimate interest that is entitled to protection. SB 248 defines the permissible scope of noncompetition agreements, establishing that both noncompetition agreements and employee arbitration agreements are voidable unless the employer informs the employee of the agreement's requirements in a written employment offer received by the employee at least two weeks before the first day of employment or the agreement is entered into upon a bona fide advancement of the employee.

SB 248 creates additional requirements for noncompetition agreements, including that the employee: earn a salary that exceeds the median family income for a family of four; is an administrative, professional or executive employee who is exempt from minimum wage and overtime laws; and has access to trade secrets or other competitively-sensitive confidential information. In addition, the maximum term of any agreement may be no more than two years. In cases in which a noncompeti-

tion agreement is voidable because the employee lacks the requisite salary or responsibility, the employer still may enforce the agreement if it pays the employee either 50 percent of his or her salary, or 50 percent of the median family income for a four-person family. In such a case, the employer still must have a "protectable interest," i.e., the employee must have access to trade secrets or other competitively sensitive confidential information.

SB 248 also provides a special exception for employers that are in the business of broadcasting, establishing that a broadcaster has a "protectable interest" in its on-air talent if it expends resources equal to or exceeding 10 percent of the employee's annual salary to train or publicly promote the employee and agrees to provide the employee, during the period of enforcement, the greater of 50 percent of the employee's annual gross base salary at the time of termination or 50 percent of the median family income for a four-person family. In addition, the measure exempts from its provisions agreements not to solicit an employer's customers or employees.

Effective date: January 1, 2008

Senate Bill 400

Includes safety and staffing issues in public collective bargaining

The Public Employee Collective Bargaining Act (PECBA), enacted during the 1973 Legislative Session, established the means for government employees to bargain with public employers. Under PECBA, safety issues were once considered under "other employment issues" as possible mandatory bargaining issues depending on a balancing test, determining whether parties are required to negotiate on a particular subject (mandatory) or the subject can be negotiated if parties agree to do so (permissive). SB 750 (1995) brought major changes to public collective bargaining law, including the use of the balancing test. Under the test's provisions, if a proposal is not considered mandatory, it need not be bargained and is only considered by an arbitrator if both parties agree for it to be bargained. Safety and staffing issues can only be bargained if they have a "direct and substantial effect on the on-the-job safety of employees."

SB 400 requires safety and staffing issues to be a bargaining issue if they relate to the safety of employees on the job. The measure amends the definition of "em-

ployment relations” under PECBA to include personnel who are currently prohibited by statute from striking, which include firefighters, police officers, guards at correctional institutions and mental health hospitals, and Oregon Youth Authority parole and probation officers.

Effective date: January 1, 2008

Senate Bill 571

Also included in the Judiciary Chapter

Limitations against smoking in public places

Subject to a number of exceptions, Oregon presently restricts the ability to smoke in public places and places of employment, each of these terms is defined by reference to an “enclosed area” with certain characteristics. SB 571 expands this prohibition by making three key definitional changes: “enclosed areas” can be three-sided rather than needing to be enclosed on all sides and can involve “permanent or temporary walls” as opposed to “solid” walls; “place of employment” also includes work vehicles, meeting rooms, elevators and stairways; and “public place” now includes “any enclosed area open to the public” (there used to be several exceptions). The measure also prohibits persons from smoking within 10 feet of the entrance, exit, open window, or ventilation intake of any public place or place of employment.

In addition to these changes, SB 571 also eliminates many existing exceptions to the rule that an employer must provide a smoke-free workplace. Under existing law, these exceptions include, but are not limited to, certain tobacco stores, bars, restaurants, bingo halls, bowling alleys and lounges. All existing exceptions are eliminated and replaced by four exceptions: up to 25 percent of hotel rooms may be designated as smoking rooms; smoking of noncommercial tobacco products for ceremonial purposes under the federal American Indian Religious Freedom Act; smoke shops (as defined by the bill); and cigar bars that generated at least \$5,000 in revenue from cigar sales in 2006.

SB 571 also diverts civil fines collected by the Department of Human Services (DHS) for noncompliance from the General Fund to the Tobacco Use Reduction Account, and increases the potential penalty against a non-compliant employer from a maximum of \$50/day to \$500/day and from a maximum of \$1,000 in a 30-day period to \$2,000 in a 30-day period. Finally, SB 571 repeals ORS 433.863, which limits a local government’s ability to prohibit smoking, and ORS 433.865, which al-

lows DHS to waive the smoking prohibitions in certain circumstances.

Effective date: January 1, 2009

Senate Bill 788

Representation of family child care providers in collective bargaining proceedings

SB 788 requires the Department of Administrative Services to represent the State of Oregon in collective bargaining negotiations with the American Federation of State, County, and Municipal Employees (AFSCME) and Service Employees International Union (SEIU) on behalf of child care providers. Child care providers will have rights as public employees for purposes of bargaining only, with the right for mediation and interest arbitration.

Executive Orders 05-10 and 06-04 recognize the right of child care providers to bargain through a union. Executive Order 05-10, signed on September 23, 2005, recognized AFSCME Council 75 as the representative of certified and registered child care providers after more than fifty percent of the eligible certified and registered family child care providers submitted authorization cards to the Employment Relations Board. Executive Order 06-04, signed on February 13, 2006, recognized SEIU Local 503 as the bargaining representative for subsidized child care providers who are neither certified nor registered after the providers submitted cards to the board.

Child care providers are prohibited in statute from striking.

Effective date: June 25, 2007

Senate Bill 858

Representation of adult foster care providers in collective bargaining proceedings

SB 858 gives adult foster care home providers the right to collectively bargain with the State of Oregon. The Department of Administrative Services is designated to represent the state in negotiations with State Employees International Union (SEIU) Local 503, which was identified in Executive Order 07-07 as the exclusive representative of adult foster care home providers.

An adult foster care home provider is a person who re-

ceives payments from the state for providing residential care for five or fewer elderly, physically-disabled, mentally ill or developmentally disabled adults in a home environment. There are approximately 2,600 providers in Oregon operating about 3,000 homes. Providers are paid through Medicaid.

Adult foster care home providers are considered public employees only for the purposes of collective bargaining and are not allowed to strike.

Effective date: January 1, 2008

Senate Bill 946

Unpaid leave from work for victims of sexual violence or stalking

SB 946 requires employers with six or more employees to grant unpaid leave to victims of domestic or sexual violence or stalking for purposes of obtaining legal or law enforcement help, medical attention, services of a domestic violence shelter or rape crisis center, psychological counseling, or relocation. An employee must provide reasonable advance notice of his or her intent to take leave unless providing a notice is not feasible. An employer can limit the amount of leave an eligible employee may take if the leave causes an undue hardship on the business, and can require employees to provide information which verifies that they or their minor child or dependent is a victim of domestic violence, sexual assault or stalking. Denying leave to an eligible employee or discharging, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regard to promotion, compensation or other terms, conditions or privileges of employment because the employee takes leave is considered an unlawful employment practice.

Employers are not required to provide paid leave to an eligible employee, but an employee may use paid leave such as accrued vacation leave for this purpose. Eligible employees must have worked an average of more than 25 hours per week for a covered employer for at least 180 days immediately before the date the employee takes leave, and be either a victim or the parent/guardian of a minor who is a victim of domestic violence, sexual assault or stalking.

Effective date: May 25, 2007

House Bill 2022

Also included in the Health Care Chapter

Violence against hospital and surgical center employees

HB 2022 requires health care employers to address the issue of violence against employees who work in ambulatory surgical centers and hospitals. The measure mandates the adoption of a variety of prevention, mitigation and assessment programs.

Key provisions of the measure include requiring that health care employers assign a second staff member to accompany nurses that have been previously assaulted; establishing that nurses providing home health care services may refuse to treat a patient unless equipped with a communication device that permits the nurse to call for help; allowing nurses to take “reasonably necessary” actions in self-defense against violent patients; and requiring the Department of Consumer and Business Services to analyze nurse workplace violence data provided by health care employers and to report findings to the 75th Legislative Assembly no later than April 30, 2009.

During the 2006 interim, the House Task Force on Nurse Workplace Violence held hearings on the provisions of SB 572 (2005) and conducted work groups to address stakeholder concerns and to develop legislation similar to that enacted in Washington. HB 2022 includes all health care employees, not just nurses.

Effective date: July 1, 2007

House Bill 2256

Authorizing alternative methods for paying employee wages

Oregon law currently does not recognize the use of paying workers via electronic tools such as debit cards. HB 2256 provides employers the means to offer alternative methods of paying an employee’s wages if both agree to the arrangement. The measure prohibits a fee being assessed on the card the employee uses to withdraw up to the full amount of their wages, and allows employees to choose to use another means of receiving their wages without incurring any cost.

Employees can choose another method of receiving their wages in the future by revoking the agreement, which can be accomplished by giving 30 days notice prior to

revocation. Seasonal farm or cannery workers who wish to revoke their agreement can do so either verbally or in writing; such revocations take effect within 10 days of the notice.

Effective date: January 1, 2008

House Bill 2372

Unpaid rest periods for breastfeeding and expressing milk

HB 2372 requires organizations with 25 or more employees to provide unpaid rest periods to employees to express milk for their own children unless doing so would cause undue hardship to the operation of the employer's business. Employers must make reasonable efforts to provide a private location where employees can express milk. Key provisions of the measure include: allowing employers to use single or multiple undue hardship factors to justify exemption from the requirements; requiring employees to give reasonable notice to employers of their intention to express milk in the workplace; excludes the topic of milk expressing from collective bargaining for school districts; provides a civil penalty provision for intentional violations; the creation of an advisory council to respond to a particular industry's request to address compliance difficulties; and specifies that sums collected as civil penalties be paid to the Department of Human Services (DHS) for the Breastfeeding Mother Friendly Employer Project after administrative and hearings costs.

In 2005, the Legislative Assembly enacted SB 618, giving employers the option of providing unpaid rest periods to employees to express milk. DHS implemented the Breastfeeding Mother Friendly Employer Project to encourage employers to support nursing mothers when they return to work and to provide employer support, free employer packets, and employer recognition.

HB 2372 requires employers to offer the rest periods that SB 618 made optional.

Effective date: January 1, 2008

House Bill 2460

Excludes Worker's Compensation injuries from family leave eligibility

HB 2460 clarifies the Oregon Family Leave Act (OFLA)

to reflect that family leave cannot be applied to an employee who cannot work due to a disabling compensable injury as stated on an accepted workers' compensation claim. An employee who refuses to accept light duty or modified employment that is suitable prior to becoming medically stationary may use family leave upon refusing the offer of employment without additional written or oral notice.

Effective date: January 1, 2008

House Bill 2485

Paid sick leave for employees taking family leave

HB 2485 amends the Oregon Family Leave Act (OFLA) to allow employees to use paid accrued sick leave when taking family leave and extends paid sick leave availability to all categories of job-protected family leave.

The accrual and use of sick leave, as well as vacation days, holidays, and other fringe benefits, is entirely a matter of employer policy. Oregon law does not require employers to provide employees with paid time off or with other employee benefits such as health insurance coverage. If employers do offer sick leave, vacation days, holiday time off, holiday pay, or other benefits, the employer is generally free to establish the rules regarding the employee's use of the benefits. Prior to the enactment of HB 2485, employees were entitled to use any accrued paid vacation for family leave. Employees who take leave to care for a newborn, newly adopted child, or newly placed foster child are entitled to use any accrued paid sick leave as well as vacation leave.

Effective date: January 1, 2008

House Bill 2537

Prohibits mass transit employees from striking

Current law prohibits firefighters, police officers, emergency telephone operators, and correctional officers from striking or recognizing a picket line of a labor organization.

HB 2537 adds employees of mass transit districts, transportation districts and municipal bus systems to those who may not use striking as a tool to resolve contract disputes with employers.

Transit strikes have been uncommon in Oregon. A one-day strike in 2006 involved union drivers against a

paratransit contractor (a contractor that provides transit services for disabled persons) for the Salem Area Mass Transit District. A 2005 strike by the Amalgamated Transit Union Local 757 against the Lane Transit District was the first in that district's history, involving 236 of the union's members and closing regular transit service, while paratransit services were maintained during the strike. The strike lasted a week and was concluded by a compromise contract following the use of a community mediation panel.

Effective date: June 26, 2007

House Bill 2622

Prohibits striking by certain Oregon Youth Authority employees

HB 2622 expands upon ORS 243.736 (strikes by certain emergency and public safety personnel) to add Oregon Youth Authority (OYA) employees who have custody, control, or supervision of youth offenders in OYA custody. The current list of workers prohibited from striking includes emergency telephone workers (9-1-1 operators), parole and probation officers who supervise adult offenders, police officers, firefighters, and guards at correctional institutions and mental health hospitals.

Employees affected by HB 2622 perform many of the same duties as parole and probation officers who supervise adult offenders. Examples of employees covered under the measure include juvenile parole and probation officers and case managers for youth who are under OYA custody and are responsible for supervising and coordinating case plans and services and working with offenders, their families and their communities.

Effective date: January 1, 2008

House Bill 2635

Expansion of members covered under the Oregon Family Leave Act

HB 2635 expands the list of family members covered under the Oregon Family Leave Act to include grandparents and grandchildren. The measure also designates as an unlawful employment practice the denial of family leave to an eligible employee or retaliation and/or discrimination against an individual for inquiring about or exercising their right to use family leave.

The current definition of "family member" under

the Oregon Family Leave Act includes an employee's spouse; a biological, adoptive or foster parent or child; a parent-in-law; or a person with whom the employee was or is in a relationship of in loco parentis.

Effective date: January 1, 2008

House Bill 2674

Timely payment to designated recipients of deductions withheld from wages

HB 2674 requires employers to pay the amount withheld from an employee's wages to the appropriate recipient within the established timeframe outlined in statute or the agreement, or within seven days after the deduction is made if a timeframe is not established. If an employer fails to properly forward the deduction, the Bureau of Labor and Industries can assess a civil penalty to the employer of up to \$1,000. Moneys collected as penalties will first be applied toward reimbursement of costs incurred in determining the violations, such as conducting hearings with the remaining funds being credited to the General Fund to be available for general governmental expenses.

Additionally, HB 2674 allows state agencies with an affiliated nonprofit organization, such as the Oregon State Capitol Foundation, to establish rules for state employees to make contributions via payroll deduction.

Effective date: January 1, 2008

House Bill 2756

Authority of medical service providers in workers' compensation system

HB 2756 was brought forward by the Workers' Compensation Management-Labor Advisory Committee (MLAC) as a result of a November 2006 evaluation study regarding the role of health care providers in the Oregon workers' compensation system. The measure modifies the timeframe for all health care providers defined as an attending physician from 30 to 60 days from the date of the first visit on the initial claim and from 12 to 18 visits, whichever comes first, and to allow podiatrists, naturopaths, and physician assistants to function as an attending physician. A medical service provider who is not qualified to be an attending physician may provide compensable medical service for a period of 30 days from the date of the first visit on

the initial claim. A chiropractor serving as an attending physician may authorize the payment of temporary disability benefits for a period not to exceed 30 days from the first visit on the initial claim, and a qualified attending physician (physician, osteopath, and oral and maxillofacial surgeon) that is serving as a worker's attending physician at the time of claim closure may make findings regarding the worker's impairment for the purpose of evaluating disability.

To ensure that health care providers understand the statutory changes that result from HB 2756, the Department of Consumer and Business Services is directed to develop informational materials regarding the Workers' Compensation system, and a medical service provider must review and certify that they have reviewed the informational materials prior to providing compensable medical services or authorizing temporary disability benefits.

Until the measure's enactment, only physicians, osteopaths, and oral and maxillofacial surgeons could function as attending physicians. Providers not designated by statute as an attending physician, such as naturopaths, podiatrists, and physician assistants, can provide compensable medical services for an injured worker without authorization for up to 30 days from the date of the occupational injury or illness or for 12 office visits, whichever comes first. Chiropractors may function as an attending physician for any 30-day or 12-visit period within a worker's initial claim, and are considered a non-attending provider once the worker exhausts the treatment limits.

Effective date: June 1, 2007

House Bill 2891

Certification of labor organizations by the Employment Relations Board

One of the functions of the Employment Relations Board is to conduct collective bargaining representation elections for public employees. HB 2891 changes the current election process by allowing what is known as "card check," in which a union collects signed "authorization cards" from more than 50 percent of the employees in a particular bargaining unit, to take the place of an election. Under the measure, employee(s) or the labor organization acting on behalf of the employees

can file a petition to organize via the card check process. If the board, which is responsible for investigating the petition, finds that the majority of the bargaining unit's employees have signed authorizations designating the labor organization as the employees' bargaining representative, and that no other labor organization is currently certified or recognized as the exclusive representative of any of the unit's employees, the board shall certify the organization as the exclusive representative. The current election process can still be used if 30 percent of the employees in the bargaining unit request an election within 14 days after a majority of workers have signed the authorization cards.

In developing guidelines and procedures for certifying a labor organization under the measure's provisions, the board must include model collective bargaining authorization language that may be used in making the designations described in the measure, such as wages, hours, and other working conditions of represented employees, and procedures to be used by the board to establish the authenticity of signed authorizations designating bargaining representatives.

Effective date: July 27, 2007

House Bill 3339

Eligibility for unemployment insurance during a lockout

Currently, employees locked out by employers in a single-employer bargaining unit are allowed to receive unemployment insurance (UI) benefits during a lockout, but cannot receive benefits if they are represented in a multi-employer unit and are locked out even though they are not directly participating in the dispute.

HB 3339 removes the additional qualifications of a lockout that disqualify an individual from applying for UI benefits, such as the lockout not being a result of a labor dispute between a multi-employer bargaining unit and an employer other than the employer that last employed the individual; that the recognized or certified bargaining agent has announced to the employer that individuals who are involved in the labor dispute are ready, willing, and able to work pending the negotiation of a new contract; and if the employer hires employees who are unable to work due to the lockout.

In addition, HB 3339 allows an individual to apply for UI benefits if the Director of the Employment Depart-

ment has been satisfactorily shown that the individual is unemployed due to a lockout, not participating in or financing or having a direct interest in the labor dispute which caused the individual's unemployment, and does not belong to a grade or class of workers participating in, financing, or with direct interest in the dispute.

The measure does not change current statute prohibiting employees who choose to strike from receiving UI benefits.

Effective date: January 1, 2008

House Bill 3362

Workers' compensation coverage for home care workers

The Home Care Commission was established with the passage of Ballot Measure 99 (2000). The nine-member commission is an independent public body appointed by the Governor, and one of its responsibilities is to serve as the employer of record for the purposes of collective bargaining for home care workers.

HB 3362 requires the Home Care Commission to select Workers' Compensation coverage on behalf of the Department of Human Services (DHS) clients who employ home care workers if the worker is paid by the state on behalf of the client. The measure also modifies statutory return-to-work provisions relating to temporary disability to allow a worker with modified employment needs to work for any client of DHS who employs a home care worker and allows the commission to terminate temporary disability benefits if modified employment is refused.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

Senate Bill 423

Employment discrimination because of medical use of marijuana

SB 423 would have prohibited an employer from discriminating against an individual with respect to hire or tenure or any term or condition of employment because the individual engages in medical use of marijuana outside of the workplace. The measure designated such discrimination as an unlawful employment practice.

Senate Bill 427

Revising membership structure of the Workers' Compensation Management-Labor Advisory Committee

SB 427 would have changed the membership of the Workers' Compensation Management-Labor Advisory Committee (MLAC) from the current makeup of five members from labor and five members from subject employers to 10 members, appointed as follows: one member who has received Workers' Compensation benefits; one employer from the private sector; one employee of a Workers' Compensation insurer; one member from a labor organization; one member of a self-insured employer organization; one member from the Oregon State Bar Workers' Compensation section who represents injured workers; one member from the Oregon State Bar Workers' Compensation section who represents employers; one public employee who is not in management; and two academic members who have researched workers compensation issues. In addition, the measure designated the Commissioner of the Bureau of Labor and Industries as an ex officio member along with the Director of the Department of Consumer and Business Services.

SB 427 would not have changed the appointment process or the mission of the committee.

Senate Bill 465

Medical Marijuana Act and drug-free workplaces

SB 465 would have stipulated that nothing in the Oregon Medical Marijuana Act may preclude an employer

from establishing or enforcing a policy to maintain a drug-free workforce. The measure provided that employers would not be required to accommodate the use of medical marijuana, regardless of where it is used, and that employers would not be required to 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 the use of marijuana to remain in the workplace.

Senate Bill 628

Prohibiting housing and employment discrimination based on arrest record

SB 628 would have prohibited employment and housing discrimination based on an individual's arrest record by expanding the list of unlawful employment practices and unlawful housing practices.

It is currently unlawful for an employer to refuse to hire or employ an individual, or to bar or discharge an individual from employment, due to their race, religion, color, sex, national origin, marital status or age or of any person with whom the individual associates, or because of a juvenile arrest record that has been expunged. It is also unlawful to discriminate in housing based on a person's race, color, sex, marital status, source of income, familial status, religion or national origin.

Senate Bill 780

Voting procedures of Workers' Compensation Management-Labor Advisory Committee

SB 780 would have required a majority vote of all members of the Workers' Compensation Management-Labor Advisory Committee (MLAC) before any findings and recommendations could be reported to the Legislative Assembly or Director of the Department of Consumer and Business Services. Currently, MLAC reports findings and recommendations to the Legislative Assembly and the DCBS Director as the committee considers appropriate.

Senate Bill 1035

Designating workplace harassment an unlawful employment practice

SB 1035 would have established harassment, intimidation or bullying as an unlawful employment

practice. "Harassment, intimidation or bullying" was defined as any persistent verbal or physical act of an employer or employee, unrelated to an employer's legitimate business interests, that a reasonable person would find threatening, intimidating, humiliating, hostile, or offensive.

Violations would have been remedied by a civil legal action but not enforcement by the Bureau of Labor and Industries.

House Bill 2206

Establishes the Skill Up Oregon Fund

HB 2206 would have established the Skill Up Oregon Fund in the State Treasury for the purpose of addressing the needs of transitional workers. The measure defined transitional workers as unemployed individuals, regardless of whether they receive unemployment insurance benefits, dislocated workers, and low-skilled workers.

Ten percent of the total monies within the fund were to be appropriated into the Apprenticeship Support Account, which is used by the State Apprenticeship and Training Council to award competitive grants to eligible programs. The remaining amount was to be used by the Department of Community Colleges and Workforce Development to allocate grants among local and regional workforce investment boards according to the size of the labor force, the unemployment rate, and the number of employers. Grants of up to \$3,000 each biennium were to be issued to eligible individuals for tuition, books, fees, support services and additional training after the individual becomes employed.

House Bill 2575

Creating Family Leave Benefits Insurance Program

HB 2575 would have created the Family Leave Benefits Insurance program to provide benefits to employees taking family leave under the Oregon Family Leave Act (OFLA). The measure would have required employees to pay premiums withheld from earnings, equivalent to one cent per hour worked up to 40 cents per week per employee, into a Family Leave Benefits Insurance Account, with the funds to be continuously appropriated to the Bureau of Labor and Industries (BOLI) to administer benefit claims. The requirement applied to organizations with 25 or more employees and outlined qualifications for benefits, created the violation of un-

lawful employment practice, and linked the Paid Family Leave Benefits Insurance Program to the state's Combined Payroll Tax Reporting System. Employees would have been allowed to file claims beginning in July 2009, with a voluntary employer opt-in in beginning in July 2010. HB 2575 also included a civil penalty provision and outlined BOLI's responsibilities.

Family leave benefits would have been payable only to the extent that moneys were available in the Family Leave Benefits Insurance Account for that purpose. Neither the state nor BOLI was to be liable for any amount in excess of this limit.

House Bill 2673

Rulemaking regarding overtime pay

Currently, an employer is required to pay an employee for all work performed in excess of 40 hours per week at the rate of not less than one and one-half times the regular rate of pay when computed without benefits of commissions, overrides, spiffs, bonuses, tips or similar benefits pursuant to statute. An administrative rule by the Bureau of Labor of Industries defines a "work week" to mean "any seven consecutive twenty four hour periods" as determined by the employer. Some businesses allow employees to work an alternative work week schedule such as four ten-hour days, but there is nothing currently in statute or administrative rule to address the issue of overtime for authorized work periods for more than eight hours per day.

HB 2673 would have required the Bureau of Labor and Industries to adopt rules to permit overtime pay for an employee who works beyond 10 hours in one day, as adopted in their workplace.

House Bill 2842

Establishing the Commission for the Products of Disabled Individuals

HB 2842 would have created a nine-member Commission for the Products of Disabled Individuals, the purpose of which would have been to set policies, standards, and guidelines for full implementation and administration of the Products of Disabled Individuals (PDIL) laws. The commission's membership was to include representatives from the Oregon Advocacy Center, the Oregon Council for Developmental Disabilities, and representatives of disabled individuals, for-profit private businesses, and labor organizations.

The Department of Administrative Services currently sets the state's procurement policy regarding products and services provided by qualified nonprofit agencies serving disabled individuals. Under HB 2842, the department would have been required to create rules subject to standards established by the commission.

House Bill 2892

Prohibiting the use of state funds or property for or against union organizing

HB 2892 would have established the State Financial Accountability Act. The measure would have prohibited state contracts, recipients of a grant of state funds, or employers conducting business on state property pursuant to a state government contract or concession agreement from using the funds or state property to assist, promote, or deter union organizing. State contractors would have been prohibited from taking adverse action against any individual for participating in any manner in proceedings or seeking to enforce the measure's provisions.

HB 2892 outlined exceptions, such as allowing a labor organization or its representatives access to the employer's facilities or property or when addressing a grievance or negotiating or administering a collective bargaining agreement. The measure's provisions would have been enforced by the Bureau of Labor and Industries (BOLI), which would have adopted administrative rules necessary to implement and administer compliance. The rules were to include reasonable requirements for those affected by the measure to maintain records sufficient to show that no state funds were used to assist, promote, or deter union organizing.

Furthermore, HB 2892 would have provided that civil actions could be filed by BOLI. Penalties were established as equal to triple the amount of any funds expended to assist, promote, or deter union organizing.

House Bill 2893

Prohibiting mandatory workplace communications to employee about employer's opinions

HB 2893 would have prohibited an employer from holding mandatory meetings or requiring communication to be read concerning the employer's opinion about religious or political matters, and from taking, or threatening to take, adverse employment action against

an employee for refusal to participate. Examples of such meetings include presentations regarding the merits against unionization or an employer's position on or against a ballot measure.

Additionally, HB 2893 would have established exemptions for religious organizations and political organizations that required its employees to attend an employer-sponsored meeting or participate in any communication with the employer or its representative for the primary purpose of communicating the employers' religious or political tenets or purposes. It also allowed information about religious or political matters to be communicated as required by law and executive or administrative personnel meetings to discuss issues related to the employer's business to take place.

The measure would have allowed employees to bring a civil action against an employer no later than 90 days after the date of the alleged violation, with a prevailing employee being rewarded all appropriate relief, such as back pay and re-establishment of benefits, and any other appropriate relief deemed necessary by the court "to make the employee whole." HB 2893 would not have limited the application of employees' rights related to participating in political activities.

House Bill 3509

Employment of individuals lawfully authorized to work in the United States

HB 3509 would have required recipients of economic development assistance from the Oregon Economic and Community Development Department to enter into signed agreements assuring that their employees are lawfully authorized to work in the United States. The measure would also have required recipients convicted of employing individuals not authorized to work in the United States to repay assistance previously received and prohibited from receiving economic development assistance for a period of five years.

House Bill 3512

Also included in the Agriculture and Natural Resources Chapter

Establishing Task Force on Agricultural Workforce Needs

Oregon's agricultural industry relies on agricultural labor to produce a wide variety of crops. HB 3512 would have established a Task Force on Agricultural Workforce Needs to study the current supply and demand for

agricultural labor, state and federal laws that address or affect the supply of agricultural labor, and state and federal funds available to address the needs of farm workers and their families. The task force was also directed to study the efficacy of the H-2A guest worker visa program for temporary agricultural workers.

House Bill 3514

Eliminating tax deductions for wages of undocumented workers

HB 3514 would have required employers to add to their federal taxable income for Oregon tax purposes any amounts claimed as deductions for wages paid to undocumented workers. Employers would have been affected by the measure after being made subject to criminal penalties or civil relief described in 8 U.S.C. 1324a(f), which pertains to knowingly hiring, recruiting or referring for a fee an unauthorized worker for employment, in a final proceeding or consent decree before a court of competent jurisdiction.

House Bill 3539

Accommodation of employee religious observances

HB 3539 would have required employers to allow employees to use vacation or other available leave for religious observances and to allow employees to wear religious clothing, take time off for a holy day, or to take time off for a religious observance if doing so did not impose undue hardship on the employer's business operation. "Undue hardship" is defined as an accommodation that would require significant difficulty or expense, including the consideration of safety requirements.

HB 3539 also established that a school district, education service district or public charter school does not commit an unlawful employment practice by prohibiting teachers from wearing religious dress while engaged in performing on-the-job duties.

House Joint Memorial 7

Urging Congress to pass Employee Free Choice Act

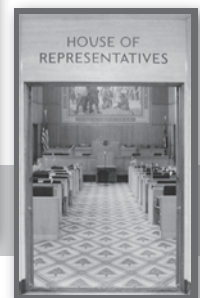
HJM 7 would have urged Congress to enact the Employee Free Choice Act "to protect and preserve for America's workers their freedom to choose for themselves whether or not to form a union."

The federal Employee Free Choice Act of 2007 (H.R. 800

and S. 1041) proposed to amend the current National Labor Relations Act to establish an efficient system for enabling employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and to allow certification of a union as a bargaining unit's representative if the National Labor Relations Board finds that the majority of employees have signed authorizations designating the union as its bargaining representative.

Land Use

2007 SUMMARY OF LEGISLATION



Senate Bill 336

Denial of residential development applications based on lack of school capacity

SB 336 allows a city or county to deny an application for residential development based on the lack of school capacity if three conditions are met prior to consideration of a residential development application: a school district has raised the lack of school capacity as an issue; the lack of school capacity is based on objective criteria developed as part of an adopted school facility plan; and the city or county considers other options to address the lack of school capacity. The measure applies only to school districts with an enrollment of over 2,500 students. Large school districts are to complete a school facilities plan within two years of the measure's effective date.

The 1993 Legislative Assembly enacted SB 908, which established a planning process to address the lack of school capacity in high-growth districts, defined as those with student enrollment of 5,000 or more and experiencing at least a six-percent increase during three of the most recent school years. In 1995 a provision was added prohibiting the consideration of school capacity as the sole basis for approval or denial of a residential development application, unless the application involves changes to a local government comprehensive plan or land use regulations.

SB 336 clarifies the planning process and relationship between large school districts and their planning jurisdictions, increases the number of districts subject to the planning provisions, and sets forth criteria by which lack of school capacity is to be considered in residential development applications.

Effective date: January 1, 2008

Senate Bill 417

Abolishment of Lane County Boundary Commission

The Legislative Assembly created three boundary commissions in 1969 with the goal of controlling fragmented service boundaries in Oregon's most populated areas. These commissions were authorized to approve boundary changes in existing governments and to approve creation of new governments. The three commissions, in Multnomah, Marion and Lane counties, were in place for four years prior to passage of Oregon's land-

mark land use legislation, SB 100 (1973). Determining that boundary commissions were a duplication of government, the Legislative Assembly disbanded the Marion County Boundary Commission in the mid-1980s; the Multnomah County Boundary Commission was removed from statute in 1999.

SB 417 abolishes the Lane County Boundary Commission and transfers funds, rights and obligations of the commission to Lane County.

Effective date: January 1, 2008

Senate Bill 1011

Also included in the Agriculture and Natural Resources Chapter

Designation of rural reserves outside urban growth boundaries

SB 1011 authorizes county and metropolitan service districts to enter into an intergovernmental agreement to designate rural reserves not included in urban growth boundaries (UGB). The measure directs the Land Conservation and Development Commission (LCDC), in consultation with the Department of Agriculture (ODA), to adopt, by goal or rule, a process and criteria for designating rural reserves. Rural reserves are defined as land reserved to provide long-term protection for agriculture and natural landscape features that limit urban development or help define appropriate natural boundaries of urbanization, including plant, fish and wildlife habitat, steep slopes and floodplains. Urban reserves include lands outside a UGB that provide future expansion over a long-term period and the cost-effective provision of public facilities and services when the land is included in the UGB.

The measure sets criteria for designating rural reserves which cannot be re-designated as an urban reserve until the end of the urban reserve planning period, 40 to 50 years after designation of rural reserves. In addition, SB 1011 creates an alternative process for a county or metropolitan service district to designate urban reserves, specifying that urban and rural reserves are to be designated concurrently through agreements between a metropolitan service district and a county.

Metro launched a New Look at Regional Choice planning program in 2006 to broadly re-examine current implementation of the region's long-range plan, the 2040 Growth Concept. The population of the Portland region is expected to grow by more than one million

people over the next 25 years. One component of the New Look program focused on balancing regional agricultural land needs with the protection of natural resources and the creation of new urban areas. Facilitating the designation of both urban reserves to accommodate future urbanization and rural reserves to identify areas that will not be urbanized emerged as priority objectives from Metro's regional planning effort.

Effective date: June 28, 2007

House Bill 2723

Also included in the Agriculture and Natural Resources Chapter

Validation of illegally created lots

The Department of Land Conservation and Development and others report that parcels of land have been sold in Oregon without the buyer's knowledge that the parcel was not lawfully established. In some cases, land may have been divided to create a separate tax account, but is not otherwise a legal subdivision. In other cases, local governments have granted building permits on unlawfully established lots without proof of legal land division, thereby reinforcing the appearance to prospective buyers that the lot is a legal parcel. Purchasers of these illegally divided lots are unable to receive the building and additional permits necessary to use or develop their land.

HB 2723 establishes a process by which a county or city may validate, and an owner may record, an established unit of land that was unlawfully created by a previous owner on or before January 1, 2007. The measure limits creation of future illegal lots by prohibiting recording of a fee title without inclusion of evidence that the land division is lawful. Additionally, HB 2723 requires property sellers to disclose, if known, whether a unit of land being transferred has been lawfully established.

Effective date: January 1, 2008

House Bill 2760

Also included in the Environment and Energy Chapter

Revised procedures for island annexations

Currently, statute (ORS 222.750) allows for annexation of land by a city without the consent of the landowner in cases where the land to be annexed is surrounded entirely by the city boundaries or by a combination of city boundaries, ocean shore, stream, lake, bay, other body

of water, or public right of way previously annexed by the city. This process, commonly referred to as "island annexation," is subject to referendum.

HB 2760 revises the island annexation provisions in ORS 222.750 by stipulating that with the exception of Interstate Highway I-5, no more than 25 percent of the corporate boundary of the parcel to be annexed may consist of public right of way. HB 2760 requires a city to notify property owners and hold at least one public hearing in the area to be annexed, and requires that annexation be phased in, taking effect three to 10 years after proclamation of annexation; however, the annexation takes effect immediately in the event of transfer of ownership of the parcel.

Effective date: June 27, 2007

House Bill 3337

Urban growth boundaries and buildable land supplies in Lane County

Certain large metropolitan areas in Oregon have a combined urban growth boundary (UGB) and a regional land use plan. These areas include Eugene/Springfield, Salem/Keizer and the Portland metropolitan area. Recently, there have been disagreements between Eugene and Springfield over the timetable for completing a buildable lands inventory, which is used to determine whether the regional UGB contains a 20-year supply of buildable land as required by ORS 197.296.

HB 3337 requires Eugene and Springfield to separately establish a UGB and demonstrate sufficient buildable lands with such boundary. This process is to begin no later than January 1, 2010.

Effective date: January 1, 2008

House Bill 3540

Also included in the Legislative Referral Chapter

Compensation for loss of value of private real property resulting from land use regulation relating to Ballot Measure 37 (2004)

Oregon's land use planning system was instituted by the Legislative Assembly with the passage of SB 100 (1973), subsequent adoption of land use planning goals by the Land Conservation and Development Commission, and adoption of local comprehensive plans that imple-

mented those goals. Ballot Measure 37 (2004) requires that governments pay financial compensation to a landowner if a regulation restricting the use of real property has resulted in a reduction of the value of the property; in lieu of compensation, the measure allows the government to waive enforcement of the regulation.

HB 3540 refers changes to Ballot Measure 37 to voters for their approval or rejection. Ballot Measure 49 will appear on the November 2007 ballot.

If passed, Ballot Measure 49 will replace the waiver system created by Ballot Measure 37 with compensation in the form of limited home site approvals; commercial and industrial uses will be disallowed. Individuals who have previously submitted claims under Ballot Measure 37 will be allowed to choose from three options: an express lane, which provides streamlined approval for up to three dwellings or partitions for dwellings; a conditional process that allows a landowner to develop up to ten home sites, provided that he/she can prove a loss of value equal to or greater than the value of the number of home sites sought; or claimants who believe they have established vested rights in their claim can seek to pursue their existing claim. Claimants will be provided with a period during which they can elect which of the three pathways to pursue. The development rights granted under the express and conditional options are fully transferable.

The measure provides guidelines regarding minimum and maximum lot size and where home sites may be placed on property. In addition, for land that is categorized as high-value farmland or in groundwater limited areas, claimants will be limited to the express lane pathway or, if only part of their land qualifies as high-value farmland, will be limited to developing the portion that is not high-value farmland.

Processing of claims under the framework created by the measure will be performed exclusively by the Department of Land Conservation and Development (DLCD), except in cases where the relevant regulations were created solely by a local government, in which case that government will be responsible for processing the claims. The measure will also create the position of Compensation and Conservation Ombudsman within DLCD to assist with and facilitate the filing and processing of claims.

Effective Date: Upon approval or rejection by voters of Ballot Measure 49 (November 2007)

House Bill 3546

Extension of time for review of demands for compensation by reason of land use regulations under Ballot Measure 37 (2004)

Ballot Measure 37 (2004) requires that governments pay financial compensation to a landowner if a regulation restricting the use of real property has resulted in a reduction of the value of the property; in lieu of compensation, the measure allows the government to waive enforcement of the regulation. The measure stipulated that individuals desiring compensation must file within two years of the effective date, which fell on December 4, 2006. Ballot Measure 37 also stipulated that governments must process claims within 180 days.

Following passage of Ballot Measure 37, the state received approximately 6,500 claims for compensation, while counties received approximately 7,000 claims (many claimants filed with both state and local governments). In each case, about half of the claims were received between November 1 and December 4. The state received more than 1,000 claims in a single day, December 1, 2006. State and county representatives reported that it was effectively impossible to review and process the large number of claims within the 180-day period specified by Ballot Measure 37.

HB 3546 extends the time period for state and local governments to complete processing of Ballot Measure 37 claims that were filed on or after November 1, 2006 from 180 days to 540 days.

Effective date: May 10, 2007

LEGISLATION NOT ENACTED

Senate Bill 30

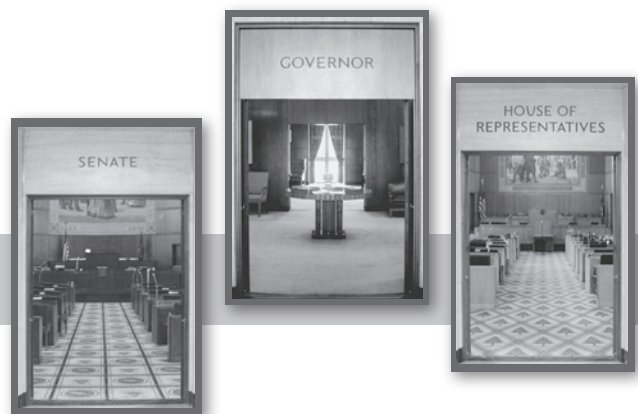
Prohibiting destination resorts in Metolius River Basin

SB 30 would have prohibited the siting of destination resorts within three miles of the Metolius River Basin, located west of Sisters in Jefferson County. The flow in the river comes from water that percolates underground through lava and emerges from springs located at the base of Black Butte.

Jefferson County conducted a land use process and created a resort zone which allowed for the establishment of destination resorts in the county near the Metolius River Basin. Several portions of that decision were pending before the Land Use Board of Appeals when SB 30 was introduced.

Legislative Referrals

2007 SUMMARY OF LEGISLATION



House Bill 2640

Establishes ballot titles, explanatory statements and financial impacts for legislative referrals

In HB 2640, the Legislative Assembly approved ballot titles, estimates of financial impact and explanatory statements for legislative referrals to be voted on in November 2007, May 2008 and November 2008 elections. These statements provide information about the effect each measure and are printed in the Voters' Pamphlet.

Effective date: July 9, 2007

NOVEMBER 2007 SPECIAL ELECTION

House Bill 3540

Also included in the Land Use Chapter

Compensation for loss of value of private real property resulting from land use regulation relating to Ballot Measure 37 (2004)

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of value equal to or greater than the value of the number of home sites sought; or claimants who believe they have established vested rights in their claim can seek to pursue their existing claim. Claimants will be provided with a period during which they can elect which of the three pathways to pursue. The development rights granted under the express and conditional options are fully transferable.

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Effective Date: Upon approval or rejection by voters of Ballot Measure 49 (November 2007)

Senate Joint Resolution 4

Proposing amendment to the Constitution relating to tobacco taxes

SJR 4 refers to voters, for approval or rejection at the November 2007 special election, a proposed amendment to the Oregon Constitution to establish a tobacco tax. The amendment increases the tobacco tax by 84.5 cents and 30 percent of whole price on other tobacco products. If approved, the amendment dedicates the raised revenue to children's healthcare programs, health care programs for low-income adults and other medically underserved Oregonians, and to tobacco use prevention and education.

The distribution of revenues generated by the tax is defined in SB 3 (2007.)

Filed with the Secretary of State on July 6, 2007

MAY 2008 PRIMARY ELECTION

House Joint Resolution 49

Proposing amendment to Oregon Constitution relating to granting crime victims remedy for violation of constitutional rights

House Joint Resolution 50

Proposing amendment to Oregon Constitution relating to granting crime victims mechanisms for enforcing constitutional right regarding pretrial release of defendant

In the November 5, 1996 general election, the voters approved Measure 40, a comprehensive series of amendments to Oregon's Bill of Rights, particularly as it relates to victims and criminal defendants before the courts of Oregon. The Oregon Supreme Court found Measure 40 unconstitutional in *Armatta v. Kitzhaber* (1998) on the grounds that it contained two or more amendments to the Constitution in violation of Article XVIII, section 1, of the Oregon Constitution.

After Armatta, the 1999 Legislative Assembly sent seven separate proposed amendments to the Oregon Constitution to the voters, four of which the voters approved. Two of those amendments, sections 42 and 43, Article I of the Constitution of Oregon, would be further amended by HJR 49 and HJR 50, respectively.

Section 42, Article I grants victims of crime specific rights. However, Section 42 explicitly states that it "does not create any cause of action for compensation or damages nor may it be used to invalidate an accusatory instrument, ruling of the court, conviction or adjudication or otherwise suspend or terminate any criminal or juvenile delinquency proceedings at any point after the case is commenced or on appeal."

Section 43, Article I gives victims the right to be reasonably protected from the criminal defendant or convicted criminal throughout the criminal justice process, and the right to have decisions by a court regarding pretrial release of a criminal defendant based upon the principle of reasonable protection of the victim and the public, as well as the likelihood that the criminal defendant will appear for trial.

HJR 49 and HJR 50, if approved by voters, would give a victim the right to assert a claim in a pending case or seek a writ of mandamus if no case is pending. The victim may request the assistance of the prosecuting attorney to assert the victim's rights; the prosecuting attorney then would have the discretion to assert or not assert the rights of the victim. HJR 49 and HJR 50 define "victim" as any person determined by either the court or the prosecuting attorney to have suffered direct financial, psychological or physical harm. Both provisions state the rights granted a victim do not suspend a criminal or juvenile delinquency proceeding if the suspension would violate a right of a defendant guaranteed by the Oregon Constitution as well as the Constitution of the United States. HJR 49 and HJR 50 allow the Legislative Assembly to enact laws further effectuating victims' right to seek redress under Section 42, Article I or Section 43, Article I of the Oregon Constitution.

Filed with the Secretary of State June 20, 2007

Senate Joint Resolution 18

Also included in the Judiciary Chapter

Proposing amendment to Oregon Constitution relating to civil forfeiture

SJR 18 proposes to amend Section 10, Article XV of the Constitution of the State of Oregon, the "Oregon Property Protection Act of 2000" (limitations of civil forfeiture of property by the State of Oregon). If enacted by the voters of Oregon, it will clarify that the property forfeited: constitutes the proceeds of the crime for which the claimant has been convicted; was instrumental in committing or facilitating the crime for which the claimant has been convicted; constitutes proceeds of one or more other crimes similar to the crime for which the claimant was convicted; and was instrumental in committing or facilitating one or more other crimes similar to the crime for which the claimant was convicted.

SJR 18 allows forfeiture without conviction of the claimant if the forfeiting agency proves the property constitutes proceeds or instrumentality of crime committed by another person and the claimant took the property with the intent to defeat forfeiture of the property, or the claimant knew or should have known that the property constituted proceeds or instrumentality of criminal conduct, or the claimant acquiesced in the criminal conduct in that the person knew of the criminal conduct and failed to take reasonable action to terminate the

criminal conduct. SJR 18 will set the standard of proof for civil forfeiture as the preponderance of the evidence if the property subject to forfeiture is personal property and clear and convincing evidence if the property is real property. It places the burden of proof on the person claiming cash, weapons or negotiable instruments if these items were found in close proximity to controlled substances of instrumentalities of criminal conduct.

SJR 18 allows state and local law enforcement to obtain shared proceeds from the U.S. Department of Justice resulting from the state or local law enforcements participation in a federal forfeiture. The measure requires that when the property being forfeited in a criminal forfeiture constitutes proceeds of one or more other similar crimes that the claimant be notified in writing of those similar crimes and has an opportunity to challenge the seizure. Finally, SJR 18 allows forfeiture without criminal conviction when the property is an abused or neglected animal.

Filed with the Secretary of State June 25, 2007

NOVEMBER 2008 GENERAL ELECTION

House Joint Resolution 4

Proposes amendment to the Oregon Constitution to delete reference to provisions regarding elector qualifications at school elections for qualifications of all electors

HJR 4 proposes to delete obsolete provisions in the Oregon Constitution relating to qualifications of electors (voters) for school district elections. Article VIII, section 6 of the Oregon Constitution was created after voters approved an initiative petition in November 1948. The section states that residents of a school district may vote in a school district election as long as they are at least 21 years old, have lived in the district for at least six months, and can read and write in English. A 1972 Oregon Attorney General opinion held that the six-month residency requirements in the constitution are unenforceable, based on the U.S. Supreme Court decision in *Dunn v. Blumstein*, 405 U.S. 330 (1972), which held a Tennessee one-year voter residency requirement unconstitutional. The 1972 Attorney General opinion also addressed the 21-year-old age and ability to read and

write English criteria for school district election voters, concluding that they are invalid, as well.

Filed with the Secretary of State June 25, 2007

House Joint Resolution 15

Proposes amendment to Oregon Constitution to modify the double majority requirement on local property tax measures

Current law requires both a majority approval and a majority turn out to approve a property tax measure voted on at any time other than the general election in November of even years. The “double majority” requirement for non-general election property tax measure was approved by voters in Ballot Measure 50 (May 1997). With voter approval of HJR 15, local property tax measures may be approved by a majority of voters regardless of turnout for elections.

Filed with the Secretary of State July 11, 2007

House Joint Resolution 31

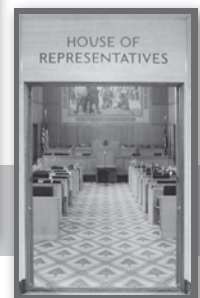
Proposes amendment to Oregon Constitution to change operative date of legislative reapportionment plan

Article IV, section 6 of the Oregon Constitution and ORS 188.010 prescribe deadlines, criteria, and responsibilities for redrawing legislative district boundaries after the Census. The next U.S. Census is scheduled for 2010, with legislative redistricting to be completed the following year. Under current law, when the new redistricting plan goes into effect, if more than one elected representative or senator resides in a district, one of those representatives or senators is temporarily assigned to another district. Upon voter approval of HJR 31, representatives and senators will continue to represent the districts from which they were elected for their full terms, and the new legislative districts will go into effect for the purpose of the primary and general elections.

Filed with the Secretary of State June 25, 2007

Transportation

2007 SUMMARY OF LEGISLATION



Senate Bill 101

Regulation of all-terrain vehicles

SB 101 phases in new permit and training requirements for Class I and Class III all-terrain vehicle (ATV) operators beginning with operators under the age of 16 in 2009. It applies requirements to all Class I (quad) and Class III (off-road motorcycle) operators by 2014, but provides an exemption for riders aged 16 or older who have at least five years experience and pass an equivalency exam. The measure requires operators under the age of 16 to be supervised by an adult with an operator permit and creates a Class C traffic violation of endangering a child's safety, if the child is under 16 years of age and operates the vehicle in violation of the requirements. Additionally, the measure raises the age from 12 to 16 for the existing violation of endangering a Class III ATV operator. The requirements and restrictions apply on public lands, as well as private lands that are open to the public as a result of funding from the ATV Account. SB 101 further requires Class I ATV operators to ride on appropriately-sized ATVs under guidelines that are to be set by the Department of Parks and Recreation. Exemptions are provided for ATVs used exclusively in farming, agricultural, forestry, or nursery operations and on land owned or leased by the owner of the vehicle.

Current requirements for ATV training vary by type of vehicle and age of the operator, but generally apply only to persons without a driver's license who are not supervised by a licensed adult. Training and supervision are currently required for off-road motorcycle operators between the ages of seven and twelve. The extension of training and permit requirements in SB 101 are in response to increasing injury and fatality statistics for ATV operators in Oregon. The Parks and Recreation Department intends to continue requiring youth rider training and to develop curriculum and testing for older operators, including on-line materials, as the provisions are phased in.

Effective date: January 1, 2008

Senate Bill 480

Also included in the Children and Families Chapter

Use of child safety systems in motor vehicles

SB 480 requires children under one year of age, and those who weigh 20 pounds or less, to be properly se-

cured with a child safety system in a rear-facing position when riding in a motor vehicle. The measure also requires children who weigh over 40 pounds to ride in a booster seat until they are eight years of age or four feet nine inches in height.

At least one study has shown that motor vehicle accidents are the leading cause of unintentional injury and death to Oregon children ages 1-14 years. Other studies have shown that children are safest when properly buckled in the back seat of a motor vehicle, and when using a booster seat if they are not tall enough for the shoulder straps to fit properly. The federal government provides grants to states that enact a booster seat requirement for children who are four feet nine inches or shorter.

Effective date: July 1, 2007

Senate Bill 566

Creating the Joint Interim Committee on Transportation

SB 566 creates the Joint Interim Committee on Transportation, consisting of five Senators and five House members, and directs the committee to evaluate funding resources to meet transportation needs and to evaluate the creation of regional transportation districts. The committee is to report to the Legislative Assembly by January 1, 2009. The measure also directs the Oregon Transportation Commission to determine how to maximize the return on investment for real property owned by the Department of Transportation and to study the highway system to identify projects ready for construction in the next two biennia that would reduce congestion, improve freight mobility, and enhance safety, or that are projects of statewide significance. The commission is to report its findings to the Joint Interim Transportation Committee by July 1, 2008.

SB 566 also moves forward the starting date for snow-park parking permit requirements each year from November 15 to November 1.

Effective date: January 1, 2008

Senate Bill 716

Designating wheelchair-only disabled parking spaces

SB 716 requires designation of at least one existing disabled parking space as "wheelchair only" in park-

ing lots with more than 100 total spaces and for one in eight van-accessible spaces to be designated as wheelchair only in parking lots with more than 500 spaces. Van-accessible spaces have an adjacent side-aisle to accommodate a side-opening van and/or wheelchair lift, but are not currently reserved for persons using wheelchairs. SB 716 does not increase the required number of van-accessible spaces, but requires at least one in every eight such spaces be designated for wheelchair users only. The new designation and additional signage are required under the measure only when a parking lot is constructed or repainted.

SB 716 directs the Department of Transportation to issue wheelchair-only parking placards to persons who qualify; display of the new placard is required in order to legally park in a wheelchair-only parking space. Current law requires local parking authorities to allow free and unlimited parking at metered parking for vehicles displaying disabled parking placards. SB 716 continues this requirement for holders of wheelchair-only placards and allows, but does not require, local authorities to offer free parking at meters for holders of other types of disabled placards.

Effective date: January 1, 2008

Senate Bill 789

Authorizing a share-the-road registration plate

Ten states currently offer “share-the-road” license plates to raise awareness of the presence of cyclists on the road and the additional precautions that drivers and cyclists can take to prevent accidents and save lives. The Department of Education also recently initiated a share-the-road public education campaign.

SB 789 authorizes a share-the-road license plate as a nonprofit group plate to raise awareness of the presence of bicycles on highways. It establishes a one-time \$10 surcharge for the plate and directs the revenue into accounts designated by the Bicycle Transportation Alliance and Cycle Oregon.

Effective date: January 1, 2008

Senate Bill 1022

Consolidation and update of highway tolling statutes

SB 1022 consolidates and updates highway tolling statutes and establishes the legal process for electronic toll-

ing and enforcement of toll collections, including use of photo-enforcement under specified conditions. The measure further creates sanctions for failure to pay tolls, including a civil penalty and refusal to renew a vehicle registration.

Oregon tolling statutes are contained in several chapters of the ORS, some of which are specific to certain projects. The statutes have not been amended since the 1920s, and some are outdated or inconsistent with other statutes or proposed practices and do not adequately address certain aspects of tolling, such as electronic tolling or enforcement.

Effective date: January 1, 2008

Senate Joint Resolution 15

Declaring legislative support of Columbia River Crossing Project

SJR 15 declares legislative support for the Columbia River Crossing Project replacing or otherwise improving transportation connections between Oregon and Washington in the Interstate 5 corridor. The resolution recognizes that the project will require strong partnerships among all levels of government, the private sector, and the citizens of Oregon and Washington. It declares the importance of various modes of transportation as well as the environment, businesses, and neighborhoods affected. It also declares support for the continuation of bi-state and bipartisan efforts in planning, coordinating, and funding the project, and for the cooperation of the federal government in providing funding and streamlining the regulatory process.

Filed with Secretary of State June 14, 2007

House Bill 2273

Regulation of outdoor advertising signs

HB 2273 requires the Department of Transportation to restructure the outdoor advertising sign program and creates a Sign Task Force. The Oregon Supreme Court ruled that certain provisions of the Oregon Motorist Information Act (OMIA), which governs billboard placement, unfairly limited free speech by implementing regulations based on sign content and was, therefore, unconstitutional. HB 2273 revises the OMIA such that regulation is instead based on whether the sign advertises a business open to the public located

at that site or whether compensation is received for sign display. If compensation is received or the sign advertises a business at a different location, then a state permit is necessary. All local requirements, such as setback distance from roads, are still required to be meet legal sign placement.

The Oregon sign permit bank and relocation credit systems, which cap the number of sign permits and allow those with permits to hold them without use, received extensive discussion resulting in creation of a Sign Task Force, consisting of 13 members including representatives of the billboard industry and those promoting scenic values. The task force is directed to examine the ownership and use of relocation credits, tri-vision sign requirements, emerging sign technologies, penalties for violations, and just compensation for required removal of outdoor advertising signs, and to make recommendations to an appropriate interim transportation committee by November 1, 2008.

Effective date: May 30, 2007

House Bill 2278

Funding for multimodal transportation projects

HB 2278, also known as Connect Oregon II, allows the issuance of lottery bonds of up to \$100 million for non-highway transportation projects funded from the Multimodal Transportation Fund, plus an additional amount established by the State Treasurer to pay bond-related costs. The Multimodal Transportation Fund finances loans and grants to public bodies and private entities for air, marine, rail and public transit projects. The measure reduces the allocation from 15 percent to 10 percent of net lottery proceeds to each of five state regions, as long as there are sufficient qualified projects in the region, with the remaining funds being distributed to projects most advantageous to Oregon's overall transportation system as determined by the Oregon Transportation Commission. Currently, the commission receives recommendations on applications from the Economic and Community Development regional offices, State Aviation Board, the Freight Advisory Committee, and the Public Transit Advisory Committee.

HB 2278 requires recipients of funds to pay two percent of the recipient's total project costs to finance a statewide multimodal transportation system study. Additionally, the measure modifies qualifications that

the Commission considers in selecting transportation projects to include whether the project connects elements of Oregon's transportation system, improves access to jobs and sources of labor, and results in an economic benefit to the state. Provisions of the measure sunset on July 1, 2013.

Effective date: July 31, 2007

House Bill 2466

Authorization to operate photo radar systems

HB 2466 authorizes the cities of Gladstone, Milwaukie and Oregon City to operate photo radar systems, at their own expense. The cities of Albany, Beaverton, Bend, Eugene, Medford, Portland and Tigard are already authorized to operate photo radar in their communities. The use of photo radar must comply with the following restrictions: photo radar systems may not be used for more than four hours per day in any one location; photo radar systems may not be used on controlled access highways; and photo radar systems may not be used unless a sign is posted announcing that photo radar is in use. Jurisdictions opting to use photo radar must conduct a process and outcome evaluation once each biennium describing the effect on traffic safety, degree of public acceptance and the process of administration.

In addition, HB 2466 authorizes the Department of Transportation to operate photo radar in highway work zones with a similar process and outcome evaluation to be reported to the Legislative Assembly. Under Oregon law, a "highway" means any public way (road, street, thoroughfare, etc.) used by the general public for vehicles. Use of photo radar remains prohibited on state highways.

Provisions of HB 2466 related to work zone photo radar use sunsets on December 31, 2014.

Effective date: January 1, 2008

House Bill 2567

Permits use of retractable studded tires

HB 2567 allows retractable studded tires to be treated as traction tires, thus allowing the use of protruding studs between November 1 and April 1. Retractable studded tires have recently been developed and patented by an Oregon resident. When activated from inside a vehicle, the technology releases a small amount of air from the

tire's main air chamber into a secondary chamber which extends the studs. Retraction can also be activated from inside the vehicle by releasing air from the secondary chamber. The ability to retract studs is expected to result in less road damage as drivers can deploy the studs only when road conditions warrant. Retractable stud tires are also usable throughout the year, provided studs remain retracted between April and October. Since the retractable studs are not lightweight, the measure allows tire dealers to sell tires equipped with non-lightweight studs if the studs are retractable.

As of June 2007, the retractable tire prototype has passed federal performance standards and is in the road testing phase.

Effective date: January 1, 2008

House Bill 2872

Operation of mobile communications devices by teen drivers

HB 2872 prohibits anyone under 18 years of age who holds a provisional driver license, special student driver permit or instruction driver permit, from using a mobile communication device while operating a motor vehicle on a public way used by the general public for vehicles. The measure applies to any wireless two-way communication device, including cell phones, text messaging, and citizen band radios.

According to a 2005 Insurance Institute for Highway Safety study, motorists who use cell phones while driving are four times more likely to be in a serious injury accident. In 1990, there were 4.3 million cell phones in use, compared to 231 million cell phones today. HB 2872 allows the use of a mobile communication device to summon emergency help if no other person in the vehicle is capable, or while engaging in farming or agricultural operations. Provisions of the measure are to be enforced as a secondary action when the young driver has been detained for another suspected traffic violation. The penalty for a violation is a fine of up to \$90.

Effective date: January 1, 2008

House Bill 2936

Failure to remove a vehicle from a highway following an accident

HB 2936 creates the offense of failure to remove a vehi-

cle from a highway following an accident. The measure applies only in cases when the driver does not suffer any apparent personal injury, or when the vehicle remains operable and does not require towing and can be safely driven to a designated shoulder or parking area.

HB 2936 also reduces the registration fee for motor homes 14 feet or shorter in length and increases the permit violation for failure to utilize a guide car when operating trucks with size and weight variance permits.

Effective date: January 1, 2008

House Bill 2982

Directs custom vehicle plate revenues to passenger rail program

HB 2982 redirects revenue collected from the issuance of custom vehicle registration plates to the Oregon passenger rail program. The fee for custom license plates is \$25 for each year of the vehicle's registration period, and the program generates about \$4.3 million each biennium. Since vehicle owners are not required to purchase custom plates, the fees are not part of the constitutionally-dedicated State Highway Fund. Oregon sponsors two daily round-trip passenger trains between Eugene and Portland with stops in Albany, Salem and Oregon City before continuing from Portland to Seattle and Vancouver, British Columbia. Oregon spends approximately \$9 million each biennium to support this passenger train service. The state of Washington pays for most other service between Portland and Vancouver, with Amtrak paying the remainder.

HB 2982 also reinstates the Department of Transportation's authority to collect custom license plate fees upon renewal, which was inadvertently removed during the 1999 Legislative Session. Renewal fees generate about 67 percent of the custom plate fee revenue being re-allocated to support the Amtrak Cascades train service between Eugene and Portland.

Effective date: July 1, 2007

House Bill 3161

Also included in the Veterans Chapter

Establishment of veterans' recognition license plate program

HB 3161 directs the Department of Transportation (ODOT) to establish a new composite veterans' recognition license plate program. The prior program re-

quired each veterans group to sell or renew at least 500 license plates per year to retain an active group plate. The measure allows both active and inactive veterans group plates to count toward the 500-plate requirement as one group. Existing veterans groups and Gold Star families, as well as any new veterans groups, will be able to use their unique decal or words on the veterans' plate to identify the specific veteran group. In addition, the measure allows inactive veterans groups to become active again by paying for plate manufacturing costs upfront, without incurring programming costs. A \$2.50 surcharge per plate for each year of registration is to be deposited into a fund designated by each veterans group; if no fund is designated, surcharge fee revenues are deposited with the Oregon Veterans' Home.

The use of a Gold Star on registration plates for family members of veterans killed in action dates back to the 1940s. At that time, a blue star was established as a symbol for families with active armed service members. A gold star designated families with service members who had been killed during active duty. HB 3161 allows gold star families to be eligible for a vehicle registration plate with a gold star decal on a veterans' background plate.

Effective date: January 1, 2008

LEGISLATION NOT ENACTED

Senate Bill 424

Compliance with the federal Real ID Act of 2005

Congress passed the Real ID Act (P.L. 109-13) in 2005, creating national standards for driver license and identification cards, including proof of legal presence in the United States, to ensure acceptable documents for security checks at airports and at federal facilities. Although states are not required to comply with the federal law, residents of states whose licensing does not meet the minimum standards by the May 2008 (or possible December 31, 2009 extension) deadline would not be able to use their state identification for federal purposes. The verification and sharing of information required by state agencies will depend on national databases, some of which are available and others of which are under development.

SB 424 would have required applicants to submit a

Social Security number and proof of legal presence in order to be eligible for an Oregon driver license, driver permit, or identification card. The measure would have applied at the time of initial license issuance, at every renewal, and when applying for replacement documents. It would have required the Oregon Department of Transportation (ODOT) to verify the submitted documents with the issuing agency and to determine by administrative rule which documents would be acceptable proof that a person is a citizen or otherwise legally present in the country in accordance with federal immigration laws. The measure would have provided for persons with only temporary authority to be in the U.S. to obtain temporary licenses.

SB 424 would also have prohibited Oregon agencies from spending funds to implement the federal Real ID Act unless sufficient federal funds were allocated to cover the state's estimated costs. It would have directed ODOT to analyze the costs of implementing the federal law and to compare those with the costs of funding citizen applications for passports. Additionally, the measure would have required the agency to provide reasonable security measures to protect individual privacy and to prevent unauthorized disclosure before issuing Real ID compliant identification.

House Bill 3570

Also included in the Government Chapter

Motor vehicle locator services

HB 3570 would have allowed law enforcement agencies to request that a motor vehicle locator service provider give the location of a motor vehicle in the following cases: a search warrant had been issued; the owner of the vehicle consented; the law enforcement agency believed that a life-threatening emergency existed and the location of the vehicle was necessary to prevent harm, render aid, or locate missing persons; or the law enforcement agency believed that a crime had been, was being, or was about to be committed. Through the use of global positioning system (GPS) satellites and cellular technology, the location of motor vehicles so-equipped can be readily determined. Many newer car models come equipped with onboard GPS equipment.

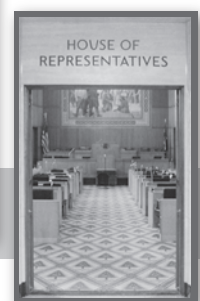
House Joint Memorial 11

Urging Congress to extend deadline and provide adequate funding for implementation of federal Real ID Act of 2005

HJM 11 urged Congress to: provide appropriations to cover implementation costs for the federal Real ID Act in Oregon and other states; provide an easily accessible and low-cost system to obtain required documents; extend the implementation deadline until states have sufficient time, after federal rules were approved, to determine state laws, administrative rules and practices necessary for implementation, and until privacy protections and safeguards were implemented; extend the United States Homeland Security's deadline for accepting non-compliant driver licenses, driver permits and identification cards to allow sufficient time to issue compliant documents to all Oregonians; and consider driver licenses, driver permits and identification cards compliant when states have come into substantial compliance.

Veterans

2007 SUMMARY OF LEGISLATION



Senate Bill 822

Hiring preferences for veterans seeking civil service positions

SB 822 requires public employers to provide preference to veterans and disabled veterans that complete the initial application screening and to appoint them to a civil service position if the results of their application examination are equal to or higher than the application examination results of a person that is not a veteran or disabled veteran. The measure permits veterans to use the preference more than once.

Effective date: June 20, 2007

Senate Joint Resolution 23

Designates Blue Star Memorial Highway Day

SJR 23 designates the Sunday before Veterans Day as Blue Star Memorial Highway Day to recognize and honor veterans and their families. The Blue Star Memorial Program was established in the early 1940s and, on November 11, 2000, Interstate 205 was officially named the Veterans Memorial Highway. A convoy travels the full length of the Interstate, beginning at the Clark County Fairgrounds, on the Sunday before Veterans Day to begin the holiday observance and raise awareness of the highway named in honor of all veterans.

Filed with the Secretary of State May 22, 2007

House Bill 2023

Property tax benefits for military personnel

Current law provides an exemption of up to \$60,000 of assessed value on the homestead of a member of the National Guard or military reserve forces who serves 178 days or more under Title 10 of the United States Code. Because of how the original legislation was written, however, the number of qualified applicants was severely limited. HB 2023 modifies the military service requirements for the homestead property tax exemption to allow military reservists and members of the National Guard who serve at least one of the 178 required days of service within the tax year for which the exemption is claimed to qualify. The exemption applies to all claims submitted on or after July 1, 2005, and may be submitted retroactively.

Effective date: September 27, 2007

House Bill 2026

Personal income tax exemption for active duty military personnel

HB 2026 extends the exemption of military compensation from personal income tax to include active duty service performed by the Oregon National Guard, military reservists or organized militia while away from home. The 2005 Legislative Assembly intended to exempt this income but the language used restricts the exemption to compensation associated with a change in status from Title 32 to Title 10 of the United States Code. HB 2026 modifies statutory language to allow active duty reservists serving in Oregon to qualify for the exemption.

Effective date: September 27, 2007

House Bill 3009

Development of a second Oregon Veterans' Home

The Oregon Veterans' Home, located in The Dalles, opened in the fall of 1997. The home has a capacity of 151 residents for long-term care, and is the only facility of its type in the state. HB 3009 allows for the development of a second Oregon Veterans' Home and removes the requirement to obtain a certificate of need, which is currently required in statute. Additionally, the measure allows veterans and the spouses of veterans to receive services at an Oregon Veterans' Home.

Effective date: June 27, 2007

House Bill 3161

Also included in the Transportation Chapter

Establishment of veterans' recognition license plate program

HB 3161 directs the Department of Transportation (ODOT) to establish a new composite veterans' recognition license plate program. The prior program required each veterans group to sell or renew at least 500 license plates per year to retain an active group plate. The measure allows both active and inactive veterans group plates to count toward the 500-plate requirement as one group. Existing veterans groups and Gold Star families, as well as any new groups, will be able to use their unique decal or words on the plate to identify the specific veteran group. In addition, the measure allows inactive veterans groups to become active again by pay-

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Effective date: January 1, 2008

House Bill 3201

Consolidates tax credits for veterans and physicians treating veterans

HB 3201 consolidates several measures relating to tax credits for veterans and physicians that provide care for veterans in the Oregon Veterans' Home. The measure increases the limit on the subtraction for active duty compensation earned in Oregon from \$3,000 to \$6,000 and creates a subtraction for income earned by approximately 45 employees of the Oregon Military Department for performing duties for their Oregon National Guard Youth Challenge Program, up to \$6,000 per year. In addition, HB 3201 creates a credit for physicians who provide medical care to residents of \$1,000 for every eight residents served, up to a maximum credit of \$5,000 if the physician misses no more than five percent of their scheduled visits.

Effective date: September 25, 2007

LEGISLATION NOT ENACTED

House Joint Memorial 9

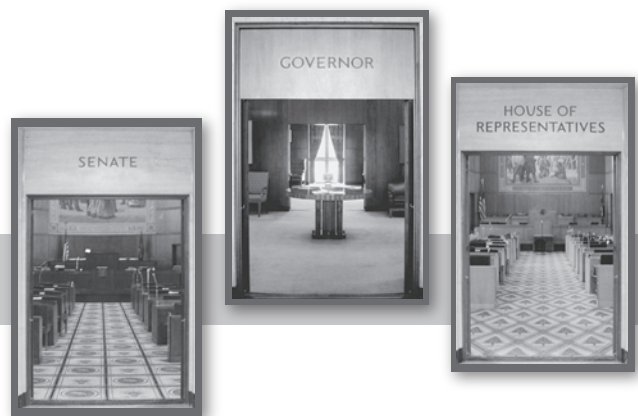
Also included in the General Government Chapter

Urging President and Congress of United States not to increase numbers of troops in Iraq and to withdraw troops from Iraq and redeploy troops not later than first quarter of fiscal year 2008

HJM 9 would have urged the President to begin withdrawing United States forces from Iraq as soon as possible, but not later than December 2007. The resolution also urged Congress to pass legislation prohibiting the President from increasing the number of troops in Iraq and urged the President to obtain explicit approval from Congress before sending more American troops to Iraq.

Measures Vetoed by the Governor

2007 SUMMARY OF LEGISLATION



Senate Bill 1039

Relating to state agency performance excellence

Currently, statute sets forth procedures and requirements for the state budgeting process. The

Legislative Fiscal Office works with state agencies to evaluate budget needs and monitor performance and implementation of legislative budgets and direction.

SB 1039 would have established the Committee on Performance Excellence. The measure authorized the committee to enter into performance excellence initiatives with state agencies and would have required the committee to make periodic public reports on achievement of performance excellence.

Governor's Veto Message

I am returning Enrolled Senate Bill 1039 unsigned and disapproved.

The Oregon Constitution, Article III, Sec. 1., Separation of powers, states:

"The powers of the Government shall be divided into three separate [sic] departments, the Legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these departments, shall exercise any of the functions of another, except as in this Constitution expressly provided. —" (emphasis added)

Senate Bill 1039 would create a permanent committee to oversee state agency performance and to assess performance "excellence." This committee would consist of eleven members from both the legislative and executive branches of government.

I applaud the goals of Senate Bill 1039. Government programs must be efficient, accountable and closely examined to ensure that the public's money is wisely spent and that Oregonians receive quality service from their government. Government accountability and customer service have been cornerstones of my administration.

My concerns with Senate Bill 1039 do not relate to the goals of the bill; rather, my concerns relate to the process of achieving those goals. As provided in Article III, Sec. 1 and Article V, Sec. 1., the Governor, as head of the Executive branch, is charged with responsibility for the administration of state government. The Governor is responsible for the performance and evaluation of state agency directors

and programs. My veto of Senate Bill 1039 is motivated by my respect for the separate and equally important roles that our Constitution assigns to the different branches of government.

The review and analysis of agency administration, including program performance measurements, can and must be accomplished by the executive branch in consultation with the other branches of government. I do not believe that creation of a new government entity which blurs the lines between the exercise of the constitutional functions of the different branches of government is the best or most effective way of accomplishing these important goals.

The recent transfer of performance measurement responsibility from the Oregon Progress Board to the Department of Administrative Service's (DAS) Office of Budget and Management provides a perfect opportunity to assure that the Legislature's goals in Senate Bill 1039 are accomplished without creating additional bureaucracy and violating the principle of separation of powers as set forth in the Oregon Constitution. I have directed DAS to review Senate Bill 1039 closely and to incorporate, where appropriate, the bill's intended outcomes and criteria into this new DAS process. I have also directed DAS to work closely with their counterparts in the Legislative Fiscal Office and the Judicial branch to better link performance measurements with the budget process.

Finally, I would like to thank the sponsors of Senate bill 1039 for their dedication to performance excellence and government accountability. These are important issues. Working together, we can assure that Oregonians enjoy efficient, responsive and accountable government.

Senate Bill 994 and Senate Bill 5549

Relating to state financial administration

SB 994 implements several statutory changes necessary to support the legislatively adopted budget, to clarify the application of statutes, and to modify provisions relating to the use of funds. SB 5549 appropriates General Fund moneys to the Emergency Board for general purpose and targeted special purpose appropriations, and makes other adjustments to individual agency budget and position authority.

The Governor chose to veto specific sections of SB 994 and SB 5549 related to a transfer of funds for the benefit of The Oregon Museum of Science and Industry

(OMSI) from public purpose charges collected from customers of Portland General Electric (PGE). Also vetoed were provisions related to a transfer of funds from the Emergency Communications Account to the General Fund and subsequent possible allocation of those funds by the Emergency Board to the Oregon Wireless Interoperability Network (OWIN).

Governor's Veto Message

*Under Article V, Sec. 15a of the Oregon Constitution, the governor of Oregon has the "power to veto single items in appropriation bills, * * * without thereby affecting any other provision of such bill." In accordance with Article V, Sec. 15a, I hereby disapprove and veto the following items of Enrolled Senate Bill 994 and Enrolled Senate Bill 5549, without affecting the remaining provisions of the bills:*

Senate Bill 994, Sections 2 and 3

Senate Bill 994, Section 5

Senate Bill 5549, Section 8

Senate Bill 5549, Section 16, subparagraph (2)

I have signed Senate Bill 994 and Senate Bill 5549 as to the remaining provisions of the bills and return the bills to you with this letter. On those bills, I have lined through the items I disapprove and veto.

Senate Bill 994 and Senate Bill 5549 are both "appropriation bills" that trigger my line item veto authority. Each bill appropriates money and each bill states in its title that it does so. Each of the provisions that I have vetoed is a "single item" within the bill that is distinct and severable. In making these observations, I do not intend to suggest that these are the only reasons or standards for making a "single item" determination under Article V, Sec. 15a or that these reasons are necessary in every instance. However, these reasons are more than sufficient in this particular circumstance.

The provisions of Senate Bill 994 and Senate Bill 5549 that I have vetoed related to two issues. The first issue is a transfer for the benefit of the Oregon Museum of Science and Industry (OMSI) in Sections 2 and 3 of Senate Bill 994 of \$4.6 million from public purpose charges collected from customers of Portland General Electric (PGE) and a related disappropriation in Section 16, subparagraph (2) of Senate Bill 5549 of \$1.5 million that had been previously appropriated for OMSI. The second issue is a transfer in Section 5 of Senate Bill 994 of \$9 million from the Emergency Communications Account to the General Fund and an appropriation in Section 8 of Senate Bill 5549 of \$9

million from the General Fund to the Emergency Board for possible allocation to the Oregon Wireless Interoperability Network. I will discuss each issue in turn.

The Public Purpose Charge Transfer and Appropriation

The public purpose charge is a three percent charge on customer bills of investor-owned electric utilities. This charge was enacted in 1999 as part of a bill deregulating aspects of the electricity market. When adopted by the Legislature, the intent of the public purpose charge was to fund new conservation and new renewable energy resources and low-income weatherization, with an emphasis on conservation and renewable resources. In addition, a portion of public purpose charge funds must be distributed for specific energy-related projects in schools and for low-income bill payment assistance. When the public purpose charge was enacted, the primary concern was that restructuring of the electricity industry would create disincentives for utility companies to invest in conservation and renewable resources. Public purpose dollars are not paid to the State Treasury. After these funds are collected by the utilities, they are transferred to the Energy Trust of Oregon for disbursement pursuant to the statute.

Sections 2 and 3 of Senate Bill 994 direct PGE to transfer \$4.6 million from public purpose charges collected from PGE customers to the Oregon Department of Energy ("DOE") to be used to assist OMSI with the repayment of a 1991 loan from DOE's Small Scale Local Energy Project Loan Program. The funds provided in Senate Bill 994 would be a match for a \$4.6 million payment from OMSI to resolve this longstanding loan arrangement with the state. It is critical to the future stability and success of OMSI to resolve the financial burden and uncertainty created by this outstanding loan.

Unfortunately, the use of public purpose charge funds for this purpose is inappropriate. Investment in energy conservation, the development of renewable energy resources and low-income weatherization and bill payment assistance are critically important to Oregon's future as a leader in the sustainability movement. Use of public purpose charge dollars for general governmental purposes is inconsistent with that effort and is a break in trust with electricity consumers and those who supported and enacted the public purpose charge. It is important that we maintain inviolable sideboards on the use of public purpose charge funds. The use of these funds required in Sections 2 and 3 of Senate Bill 994 is inconsistent with the purposes of the public purpose charge as established in statute. If left intact, this effort would undoubtedly result in lengthy and costly litigation.

Because I believe this use of the public purpose charge is inappropriate, I have made the difficult decision to line item veto Sections 2 and 3 of SB 994.

OMSI is a cultural gem for the State of Oregon. It is one of the premier museums of its kind in the country. I cannot say strongly enough that I support OMSI and that I support the use of state funds to keep OMSI strong, solvent and poised to continue its growth and leadership in Oregon's cultural, scientific and educational communities. That is why my proposed budget provided \$4.6 million for OMSI from the state general fund for this same purpose.

Although I am vetoing this item, I am pleased that legislative leadership, the co-chairs of the Ways and Means Committee, OMSI, PGE, the Energy Trust, the Citizens Utility Board, the League of Oregon Cities, the City of Portland, Associated Oregon Industries and other interested parties have been working together to craft a solution to OMSI's current financial difficulty. To that end, I have taken several steps within my authority to assist OMSI. First, I have also line item vetoed Section 16, subparagraph (2) of Senate Bill 5549. This provision would have disappropriated \$1.5 million from the DOE budget. The DOE budget, as enacted by the Legislature is Enrolled Senate Bill 5512, provides \$1.5 million to assist OMSI with its loan repayment obligation. After Senate Bill 994 included \$4.6 million for this purpose, the Legislature disappropriated this \$1.5 million from the DOE budget. My line item veto of Section 16, subparagraph (2) restores that \$1.5 million, which will be used by DOE to assist OMSI. Second, at my request, DOE will reduce the principal on OMSI's loan by \$400,000. Third, I will make \$400,000 available to OMSI from the Governor's Strategic Reserve Fund. In addition, because OMSI has not been making full debt service payments on this loan under an agreement between OMSI and DOE, interest has been accruing and held in abeyance by DOE. I have instructed DOE to write off this accrued interest, which is now approximately \$3 million. These actions will go a long way towards bridging the current gap in OMSI funding. Legislative leadership and the co-chairs of the Ways and Means Committee, OMSI and the other interested parties have been working together and will continue to work together collaboratively to bridge the remaining gap. I am very thankful for the hard work and commitments made by our partners in this effort. Together, we can assure the ongoing strength and viability of OMSI.

The Emergency Communications Account Transfer and E-Fund Appropriation

The Emergency Communications Account is funded by a

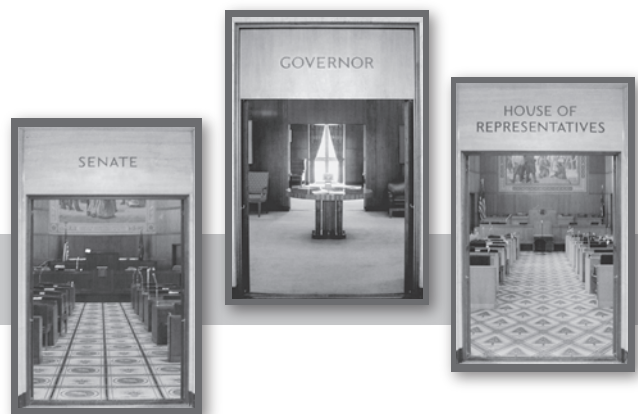
75-cent charge on customer's telecommunications bills to fund 9-1-1 communications services in counties throughout Oregon. Section 5 of Senate Bill 994 transfers \$9 million from the emergency Communications Account to the General Fund. Section 8 of Senate Bill 5549 then transfers \$9 million to the emergency Fund for possible allocation to the Oregon Wireless Interoperability Network (OWIN).

I have vetoed the transfer of \$9 million because it is important that funds collected from telecommunications customers for enhancements to the 9-1-1 emergency response system be used for the purposes established in the applicable statutes. In order to remain true to the intent of the Emergency Communications Account charge on telecommunications bills, I have line item vetoed the \$9 million transfer in Section 5 of Senate Bill 994 and the subsequent \$9 million transfer to the Emergency Fund contained in Section 8 of Senate Bill 5549.

The veto of this transfer is in no way meant to negate the continued investment in OWIN. OWIN holds the potential to enable public safety professionals from different state, local and federal agencies to reliably and instantaneously communicate with each other in the field – a goal that is still distressingly distant for too many Oregon communities. Providing interoperable communications to police, firefighters and other responders throughout the state is a critical need, but shifting revenue that is desperately needed for 9-1-1 services throughout Oregon is not the way to start funding OWIN.

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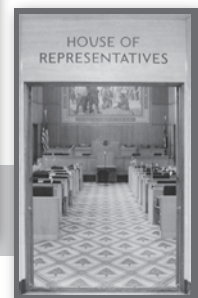
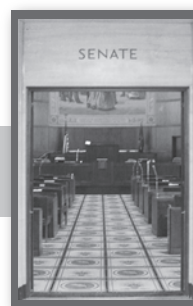
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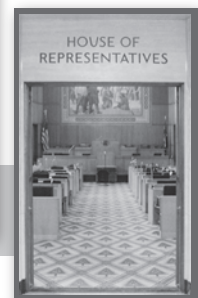
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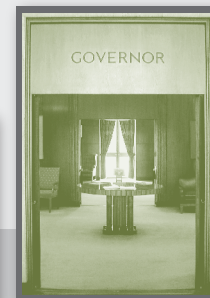
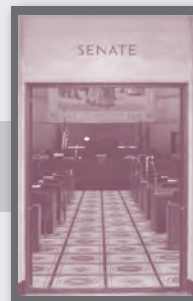
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