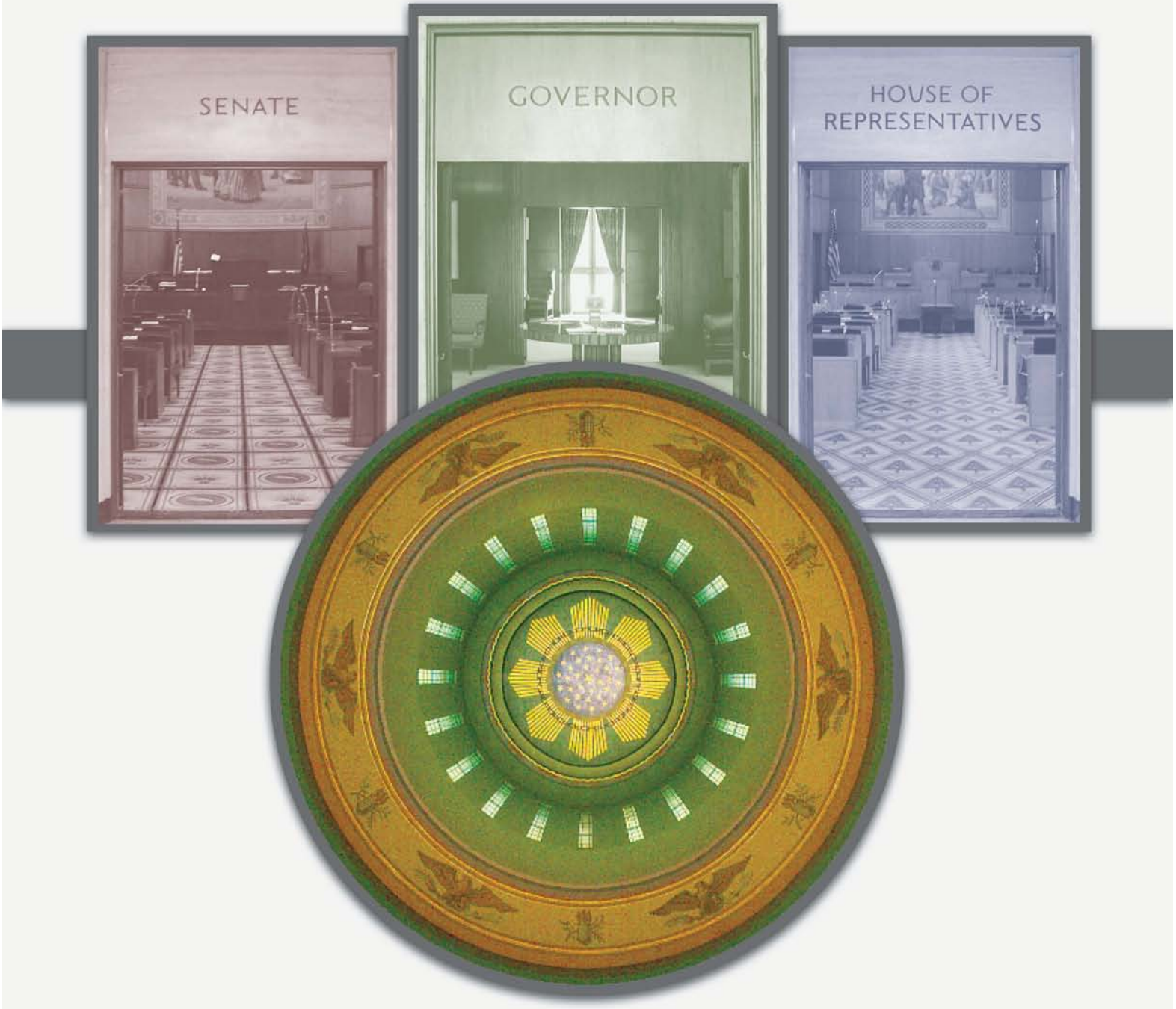
Oregon Legislative Assembly

SUMMARY OF LEGISLATION

2011



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Agriculture and Natural Resources

House Bill 2122

Regulating the importation of firewood

House Bill 2122 stipulates that a person may not transport or sell firewood into or within Oregon for personal use, sale or delivery to a destination in this state unless it was harvested in Oregon, Idaho or Washington; or the firewood has been treated and labeled in a manner prescribed by the Oregon Department of Agriculture (ODA). The measure requires that firewood transported or sold in Oregon that was harvested from outside of Oregon, Idaho or Washington must provide documentation that it has been treated in the manner prescribed by ODA. A person selling firewood that has been harvested from a source outside of Oregon, Idaho or Washington must maintain records, certificates or other documents required by ODA. The Act stipulates that if firewood is harvested from a quarantine area in Oregon, Washington or Idaho all harvesting, treating, transporting, supplying or selling must be performed in conformance with the quarantine. House Bill 2122 sets a civil penalty not to exceed $10,000 for a violation of ODA rules and deposits civil penalties into the Invasive Species Control Account. The measure applies to firewood that is transported or sold on or after January 1, 2013.

Invasive pests and pathogens are a threat to the health of trees in forests and urban areas. Other states, including Washington and Idaho, have implemented education and outreach programs to help reduce the threat of invasive species associated with firewood.

Effective date: June 21, 2011

House Bill 2159

Revising the slow pay/no pay program

House Bill 2159 changes the "slow pay/no pay" program by establishing a standardized format and default terms for production contracts between agricultural grass seed producers and seed dealers. It establishes an alternative to the standard contract for contracts authenticated before planting, which includes a 40 percent payment by March 15, and a final payment date. The measure also establishes remedies for nonperformance and for price disputes and regulations to deal with seeds that do not meet a contract's quality specifications. The measure allows the Oregon Department of Agriculture to deny a license to a seed dealer based on an owner or manager's previous or current status of exercising substantial control over a seed dealer company that previously had a license suspended or revoked.

The "slow pay/no pay" program was enacted by the Legislature in 2001 (ORS 576.727), with the intent of addressing delayed contract payments by grass seed dealers to Oregon grass seed growers. Many grass seed production contracts were deemed unenforceable because they did not contain a set payment date or sale price.

Effective date: June 16, 2011

House Bill 2175

Feeding wildlife

House Bill 2175 permits officers to issue written notifications to any person deliberately putting out food, garbage or other attractants for the purpose of luring or enticing bears, cougars, coyotes or wolves.

The measure requires the person receiving the notification to cease and to remove any attractant as directed.

House Bill 2175 does not apply to activities related to agricultural, ranching or forestry operations or feeding with the State Fish and Wildlife Director's approval under specified circumstances. It was requested by the Lincoln County District Attorney's Office after black bears caused damage to several neighbors of a woman who repeatedly fed the bears on her property.

Effective date: June 9, 2011

House Bill 2336

Farm direct marketer exemption from state license requirements for food establishments

House Bill 2336 exempts agricultural producers selling specific agricultural products directly to the general public (farm direct marketers) from state laws regulating produce dealers and food establishments. In order to be eligible for the exemption, a farm direct marketer must have annual sales of fruit-based syrups, preserves, jams, fruits and vegetables of less than $20,000; be producer-processed, acidic foods; and must be labeled with ingredients and the address of the producer. The measure requires that certain products be labeled: "This product is homemade and is not prepared in an inspected food establishment." House Bill 2336 authorizes the Oregon Department of Agriculture (ODA) to require farm direct marketers, or the spaces used by farm direct marketers, to be licensed if they fail to comply with ODA rules for keeping clean, healthful and sanitary conditions.

Those who market and sell their own unprocessed produce at farmers' markets were not previously required to be licensed because farmers' markets were not considered "food establishments" under ORS 616.706. However, in another statute (ORS 616.695), ODA expressed uncertainty as to whether farmers' markets met the definition of a food establishment. House Bill 2336 was the result of a work group established by the 2010 House Interim Committee on Agriculture, Natural Resources, and Rural Communities, to address the need for clarification as to whether and how farmers' markets ought to be regulated.

Effective date: January 1, 2012

House Bill 2800

Farm-to-school grant fund

House Bill 2800 allows school districts to apply for a grant from the Oregon Department of Education (ODE) for the reimbursement for costs incurred to purchase Oregon food products and to fund certain educational activities. The measure requires that 87.5 percent of grant moneys be used for reimbursements and 12.5 percent for educational activities. The measure places certain requirements on the type of costs to purchase Oregon food products that can be reimbursed through the grants, and on the amount. It also requires ODE to consult with the Oregon Department of Agriculture (ODA) to develop rules and standards for the grants and to determine grant recipients and award amounts. The measure further requires that at least three grants be awarded per biennium and limits the amount of administrative expenses for ODE and ODA to no more than two percent of all moneys received by the departments for the grant program. The Act allocates $2 million from the Administrative Services Economic Development Fund to be allocated to ODA; amounts will then be

transferred to ODE for reimbursement of expenses and distribution of grants.

"Farm-to-school" programs enable schools to offer fresh, locally-sourced products in their cafeterias, and to design corresponding hands-on curricula that may include farm visits, gardening, cooking, composting, and recycling. These programs aim to promote mutually beneficial educational and economic development by focusing on children's long-term health habits and academic achievement while supporting local farmers and food processors, both big and small.

Effective date: August 2, 2011

House Bill 2872

Exemption for slaughter of 1,000 poultry from state license requirements for food establishments

House Bill 2872 exempts a person who slaughters not more than 1,000 poultry for human consumption from state food establishment license requirements, if the poultry is free of disease, raised by the person from two weeks of age, and slaughtered in a facility owned by the person that meets state requirements. House Bill 2872 requires the person utilizing the exemption to maintain records and allow for inspection of both the facility and the records.

The measure exists alongside the federal Poultry Products Inspection Act (PPIA Section 464(c)(4)) and corresponding regulations that exempt from inspection requirements poultry growers who slaughter no more than 1,000 healthy birds in a calendar year for human consumption. To avoid inspection under the federal Act, the grower may only buy or sell poultry products produced from birds raised by the grower, the slaughter must follow sanitary practices for human food, the producer must keep records, and products must not enter commerce.

Effective date: May 19, 2011

House Bill 2947

Regulating the sale of adulterated honey

House Bill 2947 requires the Oregon Department of Agriculture (ODA) to adopt rules pursuant to ORS 616.205 to 616.385 (regulating the sale of adulterated, misbranded, or imitation foods) to establish identification standards, quality requirements, and labeling requirements for honey sold in Oregon.

There are over 300 unique varieties of honey produced in the United States. Honey differs in flavor and color depending upon the floral source of the nectar extracted by the bee. ODA has adopted rules relating to types and grades of honey, including standards and definitions for density, grades, color, tolerance, and labeling, but Oregon law does not currently regulate honey pursuant to ORS.616.205 to 616.385, which relate to the sale of adulterated, misbranded, or imitation foods. House Bill 2947 follows action taken in 2001 by the Codex Alimentarius Commission (established by the World Health Organization and the Food and Agriculture Organization of the United Nations), adopting standards and definitions applicable to honey.

Effective date: January 1, 2012

House Bill 3280

Establishing wineries on Exclusive Farm Use land

House Bill 3280 modifies state law governing the siting of wineries on land zoned for exclusive farm use (EFU land) and the uses allowed at such wineries. The Act limits the provision of certain services at such wineries to no more than 25 days of private events in a year. These provisions sunset on January 1, 2014.

The measure also establishes a new, larger category of winery as a permitted use on EFU land. In addition to the uses allowed at smaller wineries, these wineries are permitted to sell wine that is not produced in conjunction with the winery and to operate a restaurant in which food is prepared for consumption on the premises of the winery. A restaurant that is either open to the public for more than 25 days a year or that provides for private events more than 25 days a year is required to obtain a permit from local government.

House Bill 3280 also establishes that a lawfully established use or structure that exists at a winery on the effective date of the Act, including events and activities that exceed the income limit imposed by ORS 215.452, may be continued, altered, restored or replaced.

A winery may be established as an outright permitted use on EFU land if specific thresholds are met for vineyard acreage and gallons of wine produced. (Under current law, a winery producing less than 50,000 gallons from a vineyard of at least 15 acres or a winery producing less than 100,000 gallons from a vineyard of at least 40 acres is an outright permitted use on EFU land.) These wineries are currently authorized to sell items directly related to the sale and promotion of wine including food from a limited service restaurant.

Effective date: August 2, 2011

House Bill 3399

Mandatory aquatic invasive species check stations

Recreational and commercial watercrafts can carry quagga/zebra mussels, New Zealand mudsnails, and other invasive aquatic species that can cause economic and environmental damage to ecosystems and water delivery systems. A zebra mussel was recently discovered on a watercraft in the southern part of Oregon. In 2009, House Bill 2220 established the Aquatic Invasive Species Prevention Program which authorized the Oregon Department of Fish and Wildlife (ODFW), Marine Board (Board), or Oregon Department of Agriculture (ODA) to establish voluntary check points to inspect watercraft for aquatic invasive species.

House Bill 3399 authorizes ODFW, the Board, or ODA to require a person transporting a recreational or commercial watercraft to stop at a check station to inspect for aquatic invasive species in order prevent and limit the spread of aquatic invasive species. House Bill 3399 authorizes ODFW, the Board or ODA to decontaminate or recommend decontamination. A person transporting a recreational or commercial watercraft, who stops at a check station for inspection and who cooperates in the decontamination process, is not subject to criminal sanctions for possessing or transporting an aquatic invasive species. House Bill 3399 establishes that a person

who fails to stop and submit to an inspection commits a Class D violation.

Effective date: August 2, 2011

House Bill 3465

Guest ranches

In 1997, the Oregon Legislative Assembly first authorized the establishment of guest ranches in exclusive farm use zones as a way to provide the public with an opportunity to stay on a ranch and to allow ranchers to generate supplemental income. Between 1998 and 2007, 11 guest ranches were developed; since that time, several have been converted to bed and breakfasts or are no longer in operation.

Current law requires that guest ranches be on a minimum of 160 acres of actively-managed ranch land that contains cattle, sheep, horses or bison, and allow passive recreational activities (such as hunting, fishing, hiking, biking, horseback riding, and swimming), but not intensively-developed recreational facilities, such as a golf course. Thus far, the smallest guest ranch has been approved on a 160-acre ranch and the largest on a ranch over 10,000 acres.

House Bill 3465 allows the development of a guest ranch on property containing approximately 5,000 acres that is in common ownership and is located in township 17 south, range 31 east and township17 south, range 32 east in Grant County. A guest ranch developed, at the specified location, is subject to the approval of a master plan submitted to Grant County. The development area may contain up to 575 units of overnight accommodations including lodging units, cabins, townhomes and fractional ownership. In addition, the guest ranch would be permitted to include: restaurants, meeting facilities and commercial uses; developed recreational facilities including tennis courts, spa equestrian facilities, swimming pool and bicycle path. The measure prohibits the guest ranch from including sites for new residential dwellings unless otherwise permitted under existing law or developed for the use of the employees of the guest ranch.

Effective date: August 2, 2011

House Bill 3560

Wolf depredation compensation and financial assistance grant program

House Bill 3560 requires the Oregon Department of Agriculture (ODA) to establish and implement a wolf depredation compensation and financial assistance grant program. The program will provide grants to assist counties in implementing programs to prevent wolf depredation and compensate ranchers when wolf depredation occurs. The grant program will use moneys in the Wolf Management Compensation and Proactive Trust Fund established in House Bill 3560.

A county may qualify for a grant if it establishes a program to compensate persons who suffer loss or injury to livestock or working dogs due to wolf depredation; provide financial assistance to persons who implement livestock management techniques or nonlethal wolf deterrence techniques designed to discourage wolf depredation of livestock; establish a process for a person applying for compensation to provide evidence of loss or injury to livestock or working dogs due to wolf depredation and an estimate of the potential cost of the livestock management techniques or nonlethal wolf deterrence techniques

designed to discourage wolf depredation; establish a county advisory committee to oversee the county program; and contribute at least 10 percent of the cost of their wolf depredation prevention and compensation programs.

In 2010, there were at least 14 adult wolves known to be residing in Oregon. In 2005, the Oregon Fish and Wildlife Commission adopted a Wolf Conservation and Management Plan to "ensure the conservation of gray wolves as required by Oregon law while protecting the social and economic interests of all Oregonians." The plan includes provisions for monitoring and managing populations, developing education and communication programs, and responding to wolf interactions with wildlife, humans, and livestock.

Effective date: August 2, 2011

House Bill 3657

Commercial fishing fees

House Bill 3657 reduces nonresident commercial-fishing fees to no more than $50 more than resident fees.

Under current statute, nonresident commercial fishing fees are more than double residential fees, some as much as eight times higher, a possible violation of the equal protection clause (14th Amendment) of the U.S. Constitution. A lawsuit is said to be pending.

Effective date: July 6, 2011

Senate Bill 58

Transfer of Natural Heritage Plan and Program

Senate Bill 58 transfers oversight of the Natural Areas Plan and Program from the Department of State Lands and the State Land Board to the Oregon Parks and Recreation Department (OPRD) and the Parks and Recreation Commission. The measure also abolishes the Natural Heritage Advisory Council and authorizes the Parks Director to appoint a natural areas advisory committee to aid and advise in the performance and function of the natural areas program.

The Oregon Natural Heritage Program (ORNHP) is a cooperative interagency effort to identify Oregon's plant, animal, and plant community resources. The program is designed to voluntarily establish natural areas in Oregon and to manage the Rare and Endangered Invertebrate Program and the Oregon Natural Heritage Databank.

Effective date: January 1, 2012

Senate Bill 342

Parks and Natural Resources Fund (Ballot Measure 76 – 2010)

Senate Bill 342 revises statutes that govern the use of lottery money that is constitutionally directed to the acquisition, management and protection of parks and recreation resources and the restoration and protection of native fish and wildlife, watersheds and water quality.

Ballot Measure 76, approved by voters in 2010, amended the Oregon Constitution to continue the dedication of 15 percent of

lottery fund revenues to the Parks and Natural Resources Fund. The ballot measure replaced Ballot Measure 66 (1998), which originally authorized the use of lottery funds for similar purposes.

Effective date: July 21, 2011

Senate Bill 805

Egg-laying hens

Senate Bill 805 prohibits the confinement of egg-laying hens in an enclosure that does not comply with rules adopted by the Oregon Department of Agriculture (ODA). ODA is directed to adopt rules regulating the manner in which egg-laying hens may be confined and stipulates that the rules must be designed to promote humane welfare standards, be effective in protecting consumers from food-borne pathogens, and require enclosures constructed or acquired before January 1, 2012, to meet standards equivalent to the requirements for certification established in the United Egg Producers' Animal Husbandry Guidelines for U.S. Egg Laying Flocks. Hen enclosures that are constructed or acquired on or after January 1, 2012, must meet, or be convertible into, enclosures that meet standards for certification of enriched colony facility systems established in American Humane Association's (AHA) farm animal welfare certification program. Effective January 1, 2017, the measure prohibits rules authorizing the confinement of egg-laying hens in enclosures that provide less than 116.3 square inches of individually usable floor space per hen. The measure establishes housing system conversion goals for both January 1, 2020, and January 1, 2023. Effective January 1, 2026, ODA is directed to adopt rules requiring that enclosures meet standards equivalent to requirements for certification of enriched colony facility systems established in the AHA's farm animal welfare certification program.

There are three common housing systems for egg-laying hens in commercial use: cages, free-range and barns. A majority of laying hens in the United States are confined in cages that provide approximately 67 square inches of space per bird.

Effective date: June 17, 2011

Senate Bill 806

Xeriscaping

Senate Bill 806 allows a commercial or industrial property owner or occupant to install xeriscaping on landscaped portions of property not otherwise set aside to comply with local government rules regarding stormwater management, preservation of natural habitat or tree canopy, or control of invasive plant species.

Xeriscaping is a landscaping technique that is focused on conserving or eliminating the need for water by utilizing native and drought-tolerant plants. The rationale behind xeriscaping is to decrease the consumption of water for maintenance, increasing the amount of water for other domestic and community uses, and reducing the time and effort spent on landscape maintenance.

Effective date: January 1, 2012

Senate Bill 862

Woody biomass

Senate Bill 862 authorizes the Department of Forestry to enter into contracts to supply woody biomass from state forestlands as

needed to facilitate development of projects, including bioenergy projects. The State Forester is directed to assess the types of available woody biomass and to serve as an information resource for persons seeking to use woody biomass for energy development.

Woody biomass is material from trees and woody plants that is a byproduct of other activities such as timber harvesting or fuel reduction. Woody biomass is used in recycled wood materials or converted into biofuels to provide a source of renewable energy.

Effective date: January 1, 2012

Senate Bill 924

Wildlife law violations

Senate Bill 924 establishes fines for specific violations of wildlife laws or rules. The measure requires that the Oregon Department of Fish and Wildlife and Oregon State Police report to the Legislative Assembly on the measure's effects by January 1, 2014.

The state's wildlife laws are intended to protect and enhance the long term health and equitable utilization of Oregon's fish and wildlife resources and the habitat on which they depend.

Effective date: June 23, 2011

LEGISLATION NOT ENACTED

House Bill 2001

Defining the phrase" secure the greatest permanent value"

House Bill 2001 would have established that in ORS 530.050 the phrase "secure the greatest permanent value" meant to ensure that lands and forests were managed primarily for timber production in order to produce revenue for counties, schools and local taxing districts. The measure would have required the State Forester to manage state forests, common school lands and the Elliot State Forest so as to secure the greatest permanent value.

The Oregon Constitution provides management authority and policy direction for Common School Forest Lands (CSFL), which occur primarily in the Elliott State Forest. The Oregon Department of Forestry (ODF) manages CSFL under the 2005 CSFL Management Agreement with the State Land Board and the Department of State Lands. The State Forester manages other types of state-owned forestland, under authority and direction of the Board of Forestry (the Board) to secure the greatest permanent value of these lands to the State. In 1998, the Board defined the term "greatest permanent value" in administrative rule (OAR 629-035-0020). The Board approved a forest management plan, consistent with the rule, for northwest Oregon in 2001. In April 2010, the Board approved revised forest management plans for the same planning area.

House Bill 2337

Pilot program allowing for the use of dogs to hunt cougars

In 1994, Oregon voters passed Measure 18 prohibiting the use of dogs to hunt cougars except for cougar management by certain government employees. The Oregon Department of Fish and Wildlife (ODFW) updated its Cougar Management Plan in 2006 to guide management actions, through 2011, of the estimated 5,700 cougars in Oregon in accordance with the law. The plan included actions to reduce conflicts with humans, pets and livestock while maintaining recreational hunting and viewing opportunities.

House Bill 2337 would have authorized ODFW to adopt rules to create a pilot program allowing a person to use one or more dogs to hunt cougars. The measure stipulated rules be adopted to ensure that all hunts and pursuits are: designed to reduce cougar conflicts; reflective of cougar population data; and designed to generate data necessary for ODFW to satisfy reporting requirements. House Bill 2337 required that a person using dogs to hunt cougars have valid permits and tags.

The measure would have allowed a county to request inclusion in the pilot program by: adopting a resolution requesting inclusion; documenting the need by identifying the extent of cougar conflicts; and demonstrating that existing cougar management actions have not been sufficient.

House Bill 2873

Fish passage – inconduit hydroelectric project

House Bill 2873 would have exempted hydroelectric projects that are exempt from federal regulation and located within existing artificial delivery systems from requirements for fish screens, bypass devices or fish passages, provided the projects do not create a change in stream conditions that adversely affect fish.

With some exceptions, state law requires any person owning or operating an artificial obstruction of waters that are inhabited, or historically inhabited, by native migratory fish, to provide a passage for those fish.

House Bill 3109

Ecosystem services

House Bill 3109 would have established state policy to conserve ecosystems, both through state regulatory compliance and incentives to private landowners and encouragement to state agencies and local governments to adopt programs having market-based approaches to conserve such ecosystems. The bill directed the Governor's Office to review federal, state, and local conservation plans that could affect ecosystem services, to propose a process for aligning those plans, and to recommend objectives for enhancing and maintaining ecosystem services. The Institute for Natural Resources was directed to provide public and private entities with information to assist in development of public domain integrated ecosystem services methodologies. The bill would have allowed state and local governments to permit credits for compensatory mitigation and water quality credit trading.

The term “ecosystem services” refers to the collective set of benefits that derive from natural ecosystems. These benefits include both products, such as clean drinking water, and processes, such as the decomposition of wastes. The 2009 Legislative Assembly passed into law Senate Bill 513, which included several provisions relating to ecosystem services and which established a work group on ecosystem services markets.

House Bill 3562

Authorization to take a gray wolf in certain situations

House Bill 3562 would have allowed the taking of a gray wolf in defense of a person's life or the life of another person.

In 2005, the Oregon Fish and Wildlife Commission adopted a Wolf Conservation and Management Plan to “ensure the conservation of gray wolves as required by Oregon law while protecting the social and economic interests of all Oregonians.” The plan includes provisions for monitoring and managing populations, developing education and communication programs, and responding to wolf interactions with wildlife, humans, and livestock. The Oregon Department of Fish and Wildlife has confirmed that there are two breeding pairs and a minimum of 23 wolves in Oregon.

House Bill 3615

Piloting a regional method to amend comprehensive land use plans

House Bill 3615 would have allowed Jackson, Josephine and Douglas counties to petition the Land Conservation Development Commission (Commission) to establish regional definitions of “agricultural land” or “forest land” for purposes of statewide land use planning goals. The counties would have had to enter into an intergovernmental agreement in advance of petitioning; the Commission would have been required to conduct at least one public hearing in each affected county; and it would have permitted concerned counties to amend their comprehensive plans and zoning map designations.

In 1973, the Legislative Assembly passed Senate Bill 100, establishing the Commission to adopt state land use goals, and the Department of Land Conservation and Development to assist the Commission and local governments with implementation. Senate Bill 100 also directed local governments to adopt and implement comprehensive plans in accordance with the statewide goals. Comprehensive plans include various land inventories and technical information, along with plan policies and implementation measures.

Senate Bill 163

Appointment of State Marine Director

Senate Bill 163 would have authorized the Governor to appoint the Director of the Oregon State Marine Board. Under current law (ORS 830.135), the Director is appointed by the members of the Board.

The Oregon State Marine Board, established in 1959, is the state’s recreational boating agency, dedicated to safety, education and access. The Board utilizes revenues from the marine fuel tax and title and registration fees to provide for boating safety educational programs, marine law enforcement and improved boating facilities. The Board titles and registers over 195,000 recreational vessels, and also registers outfitters and guides and licenses ocean charter boats.

Senate Bill 668

Commercial fishing

Senate Bill 668 would have limited to three the number of permits that could be held and used simultaneously by a canner of food fish, a wholesale fish dealer, a fish buyer, or an individual taking or assisting in the taking of food fish for commercial purposes. A person holding more than three permits would have been required to transfer them, except to relatives or any person with a financial interest in the person's activities connected to the permits. The permits could also have been renewed, but not used, in excess of three; however, any permits not transferred by December 31, 2013, would have been nonrenewable.

Oregon law requires commercial boat licenses for any boat, vessel or floating craft used in taking of food fish or shellfish for commercial purposes, except for clams and crayfish. In some cases, restricted fishery permits are required in addition to a Commercial Fishing Boar License to participate in certain fisheries. The permits are transferable and may be bought and sold by vessel owners, provided the transaction is approved and recorded by the Oregon Department of Fish and Wildlife.

Business and Commerce

House Bill 2254

Streamlining business registration statutes

House Bill 2254 updates the state's business registration processes and requirements. Each of the measure's provisions was requested by members of the business community, such as allowing a business to more easily update registration information during its first year of existence. The measure also streamlines statutes authorizing the conversion of a corporation into or out of Oregon, allows a dissolved corporation to adopt a merger plan, and allows the Secretary of State to waive the requirement that a limited liability company, limited liability partnership, limited partnership, corporation, or business trust apply for reinstatement within five years after dissolution if the company shows its continued existence as an active concern.

The Corporation Division in the Office of the Secretary of State is responsible for the administration of business filings, such as corporation and other business entities, and those that are related to the Uniform Commercial Code, as well as operating the state's notaries public system.

Effective date: May 27, 2011

House Bill 2633

Licensure for crush licensees

House Bill 2633 clarifies the privileges of winery licensees, particularly to distinguish custom crush customers. In order to hold a winery license, the licensee must possess, at a bonded premise within Oregon, a federal Alcohol Tobacco Tax and Trade Bureau (TTB) Basic Permit, or possess a TTB Basic Permit and have a written contract with a winery that authorizes the winery to produce a brand of wine or cider that is under the licensee's control. If a winery licensee does not possess a TTB Basic Permit at a bonded premise within Oregon, the privileges are extended only to wine and cider brands that are under the licensee's control, as defined by the measure.

The Oregon Liquor Control Commission (OLCC) grants winery licenses to commercial entities that principally produce wine or cider in the state, to allow them to import, bottle, produce, blend, store, transport, or export wine or cider; sell wine or cider at wholesale; and sell wine or cider at the retail level at up to three locations. New business models emerged, such as "custom crush customers" who did not produce any wine themselves but contracted with a bonded winery to process grapes and produce wine for them, with the custom crush customer retaining rights to the brand. The OLCC granted winery licenses to custom crush operations, despite the lack of on-site production and a basic permit from the TTB, which wineries are also required to possess. In so doing, some custom crush operations possessed wholesale and retail privileges, creating some confusion between these types of businesses and producing wineries, as well as traditionally-modeled specialty retailers and distributors.

Effective date: January 1, 2012

House Bill 2700

Removal-fill permitting program process

House Bill 2700 establishes that when a permit is issued to a person that proposes removal or fill activities for the construction or maintenance of a linear facility, and they are not the landowner or acting on behalf of the landowner, they may not conduct such

activities on that property until they obtain one of the following: the landowner's consent; the right, title or interest with respect to the property that is sufficient to undertake the removal or fill activity; or a court order or judgment that authorizes such use of the property. The Department of State Lands (DSL) must also notify all landowners whose land is identified in the application, and landowners whose land is adjacent to the property of a landowner whose land is identified in the permit application, when the permit application process is deemed complete. The measure does not change current statutory review standards that DSL must use for linear projects.

House Bill 2700 restores the definition of a removal-fill permit applicant to also include "a person that proposes a removal or fill activity for construction or maintenance of a linear facility," which was deleted in 2001 via the enactment of Senate Bill 529 (2001). The measure also defines "linear facility."

Oregon's removal-fill law (ORS 196.795-990) requires people who plan to remove or fill material in "waters of the state," as defined in statute, to apply for and obtain a permit from DSL. The purpose of the 1967 law is to protect public navigation, fishery and recreational uses of the waters. ORS 196.825 currently requires an applicant for a permit to be a "landowner or person authorized by a landowner to conduct a removal or fill activity." The law applies to all landowners, including private individuals and public agencies.

Effective date: June 16, 2011

House Bill 2770

Business Ombudsman feasibility study

House Bill 2770 directs the Business Development Department (Business Oregon) to explore the feasibility of establishing a Business Ombudsman's position within state government and maintaining information for small businesses on a website, in consultation with the Governor's office and other state agencies. The measure requires the Department to report its findings to the Legislative Assembly no later than the convening date of the 2013 regular session.

Effective date: January 1, 2012

House Bill 2868

Licensure for temporary restaurants

House Bill 2868 is the result of a work group that included representatives from local government, state health, farmers markets, and the Department of Agriculture. The measure establishes a licensure system for two types of temporary or single-event restaurants: intermittent and seasonal. An intermittent temporary license permits operation for 30 days, and seasonal for 90 days. Licensure requires inspection by a local health department and provides for a number of exceptions.

Over the past few years, there has been tremendous growth in the number of temporary restaurants at locations such as farmers markets and amateur sporting events and the current regulatory framework is not entirely applicable to how many of them function.

Effective date: January 1, 2012

House Bill 3111

Animals abandoned at veterinary facilities

Under current law, a lien is automatically attached to a dog or cat when the owner takes it to a veterinary facility. If the veterinarian claims a lien for any unpaid costs related to care of the animal, the practice must retain the animal for at least 15 days after the lien attaches and before the foreclosure process can begin. The foreclosure ends with the sale of the animal.

House Bill 3111 establishes alternatives to the lien process when an animal is abandoned at a veterinary facility. An unclaimed animal may be placed with a rescue shelter or be adopted, or euthanized in cases where placement or adoption are not reasonable.

Effective date: January 1, 2012

House Bill 3124

Gray machine work group

House Bill 3124 directs the Oregon State Police to establish a work group during the Legislative Assembly's 2011-2012 interim, to develop recommendations for implementing a process for certifying that amusement devices placed in bars and restaurants that are licensed by the Oregon Liquor Control Commission are not gray machines. The work group is to be operated in collaboration with the Oregon State Lottery Commission, and is to be comprised of a representative from both agencies, as well as a representative from the amusement device manufacturing industry, an amusement device distributor, and a full or limited-on-premises licensee that is also a video lottery game retailer. The work group's recommendations must be reported to an interim legislative committee related to criminal justice on or before July 1, 2012.

A "gray machine" is a type of device that gets its name because it provides a casino-style game that cannot legally pay out winnings but instead awards credits to the player for further play. Exemptions are established for personal home computers, Oregon Lottery machines, slot machines, and authorized devices that are used at trade shows or for demonstrative purposes, or for training and testing by the Oregon State Police.

Effective date: June 16, 2011

House Bill 3247

"One Stop Shop for Oregon Business" web portal

House Bill 3247 directs Oregon's Business Registration Information Center to create, maintain, and update a "One Stop Shop for Oregon Business" web portal, to provide a variety of information, services and resources related to starting, expanding, relocating, and operating businesses in Oregon.

One of the Secretary of State's key functions, delegated to its Corporation Division, is to keep track of businesses that are authorized to transact business in Oregon, as well as other public business records. The Corporation Division also houses the Business Registration Information Center, which provides information to new and existing businesses about Oregon's business registration requirements.

Effective date: August 2, 2011

Senate Bill 36

Conditions to approve Oregon Liquor Control Commission licenses

Senate Bill 36 expands the types of convictions that the Oregon Liquor Control Commission (OLCC) may consider when approving or denying an application for a liquor license.

Anyone who manufactures distributes, or sells alcoholic beverages in Oregon must be licensed by the OLCC. The reasons that an application for a liquor license may be denied are outlined in ORS 471.313.

Effective date: January 1, 2012

Senate Bill 149

Oregon Racing Commission license fees

Senate Bill 149 removes the statutory limit of $10 per year on fees for licenses issued by the Oregon Racing Commission and allows the Commission to adopt rules for establishing fees. The measure requires the Commission to review the amount of fees charged for similar licenses in other states before the fees can be changed, and also allows the Commission to prorate an established license fee.

The license classes include owners, trainers, jockeys, and vendors. Employees and officers of Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs also have their own licensing class. Beyond the statutory limit on license fees, the Commission is authorized to charge a $2 per year add-on fee for additional licenses. The fee rate has not been increased in 31 years.

Effective date: January 1, 2012

Senate Bill 219

Oregon Business Retention and Expansion Program

Senate Bill 219 establishes the Oregon Business Retention and Expansion Program. Under the Program, successful applicants may enter into an agreement with Business Oregon (Oregon Business Development Department) for a forgivable loan to expand operations and increase hiring. Eligible businesses must have at least 150 employees and plan to hire at least 50 new full-time employees whose average compensation meets specified levels. The business must operate in a traded sector industry and cannot be a retailer. Business Oregon is responsible for establishing and administering the program, in consultation with the Department of Revenue. The Director of Business Oregon is allowed to transfer up to $4 million of moneys available to the Strategic Reserve Fund to the new program during the 2011-13 biennium. The measure applies to tax years beginning on or after January 1, 2012, and before January 1, 2022.

Effective date: June 28, 2011

Senate Bill 259

Prohibits indemnification provisions in transportation contracts

Senate Bill 259 voids provisions in motor carrier transportation contracts that indemnify a party to the contract against liability for death, personal injury, or property damage caused by the acts of the other party. A motor carrier transportation contract is any written agreement for the transportation of personal property for compensation or hire; entry on real property

for the purpose of packing, loading, unloading or transporting personal property for compensation or hire; or any service incidental to such activity including storage for compensation or hire.

The inclusion of indemnification provisions in transportation contracts is becoming more common, allowing larger companies to use their market power to gain favorable terms. There are 28 states that have passed anti-indemnification provisions, and 12 states were considering such legislation in 2011. Both California and Washington prohibit indemnification provisions in transportation contracts.

Effective date: May 27, 2011

Senate Bill 444

Home brewer competitions

Senate Bill 444 clarifies Oregon law related to creating beer, wine, and fermented fruit juice in one's home. The measure allows for the making, keeping, storage, or transportation of homemade beer, wine or fermented fruit juice, and also allows someone to provide assistance to another person in the making of such beverages.

In 2010, the Department of Justice issued a legal opinion, requested by the Oregon Liquor Control Commission, regarding the legality of licensees conducting a home brewed beer competition and event on their licensed premises. The opinion concluded that under current statute, home brewers without a license were restricted to brewing only within the confines of their home. Senate Bill 444 clarifies that home brewers may transport their beverages and engage in competitions.

Effective date: March 28, 2011

Senate Bill 485

Oregon Real Estate Agency may issue cease and desist orders

Senate Bill 485 allows the Oregon Real Estate Agency (Agency) to issue cease and desist orders, and clarifies the process available to persons who have received such an order. Orders must include a statement of facts constituting the violation, a directive to the recipient commanding them to cease and desist from committing the violation, an effective date, and a notice to the recipient informing them they have the right to request a hearing. The order becomes effective 30 days after issuance if no hearing is requested.

Generally, if an individual wishes to assist someone with buying or selling real estate for a fee, or wishes to manage rental real estate for someone else for a fee, they must first obtain a license to do so from the Oregon Real Estate Agency. Current law allows the Agency to issue administrative orders and impose civil penalties for those who are practicing real estate activities without a license, but the Agency does not have statutory enforcement authority.

Effective date: June 28, 2011

Senate Bill 669

Advertising of alcoholic liquor

Senate Bill 669 expands the types of retail licensees that may sell advertising to alcohol manufacturers and wholesalers. Under current law, the only retail licensees that meet the established criteria to sell advertising to liquor manufacturers and wholesalers are the Rose Garden and the Memorial Coliseum. In practice however,

advertising is also being sold by smaller venues. Requirements that the advertising can only be purchased in connection with events held on licensed premises and that the licensee must serve other brands of alcoholic beverages beyond the brands advertised at the event, remain in effect.

Effective date: January 1, 2012

Senate Bill 766

Siting of industrial uses

Senate Bill 766 establishes the Economic Recovery Review Council (Council) as an independent body that reports directly to the Governor. It authorizes the Council to perform expedited site reviews for proposed industrial development projects that have statewide significance and exempts such reviews from the Land Use Board of Appeals.

Senate Bill 766 requires the Council to designate at least five and not more than 15 regionally significant industrial areas. It allows expedited permitting of industrial uses in regionally significant industrial areas if the new or expanded use does not require a change to a statewide planning goal, an acknowledged comprehensive plan or a land use regulation.

Effective date: June 28, 2011

Senate Bill 935

Increased value of tools of the trade exemption

Senate Bill 935 increases the exemption value for tools of the trade to $5,000.

Oregon law provides that when a judgment is executed, certain property of the debtor is exempt, including up to a specified dollar value of tools, implements, and other items related to one's profession and ability to earn a living. The exemption was originally set in 1981 at $750. It was increased to $3,000 in 1993.

Effective date: May 19, 2011

Senate Bill 944

Minimum amount requirements for liquor purchases

Senate Bill 944 directs that the Oregon Liquor Control Commission (OLCC) may not require on-premise sales license holders to purchase distilled liquor containers in multiple quantities at one time, provided the single unit requested is valued at $30 or more. (On-premise sales license holders, including bars, taverns and restaurants, purchase the spirits they serve from OLCC's state liquor stores.) The measure provides for this minimum threshold to increase with the applicable consumer price index. Other requirements include that the item be a special order, available from a U.S. distributor, and that the item be ordered in 750 milliliter containers if available in that size.

The OLCC is the state entity responsible for overseeing the sale and distribution of packaged distilled spirits, which are disbursed statewide from a distribution center in Portland and sold in 242 retail liquor stores operated by contracted agents. The agency licenses qualified individuals and businesses to sell and serve alcohol, issuing licenses to private businesses such as grocery stores to sell packaged beer and wine, as well as restaurants, bars and taverns

to sell beer, wine and distilled spirits by the glass.

Effective date: January 1, 2012

Senate Bill 961

Construction agreement provisions that waive rights of subrogation, indemnity or contribution

Senate Bill 961 clarifies ORS 30.140 by requiring each party identified in a construction contract to be responsible for the ramifications and costs of its own negligence. The measure also maintains and clarifies the statute's current exemptions, including a waiver of subrogation, indemnity or contribution in a real property lease or rental agreement between a landlord and tenant or a personal property lease or rental agreement.

Prior to the enactment of ORS 30.140, many construction agreements between owners and/or general contractors and subcontractors included a clause making the subcontractor liable not only for its own negligence, but for the negligence of the general contractor as well. ORS 30.140 voided such indemnity clauses: construction agreements and insurance endorsements were intended to be valid to the extent they indemnified and insured against a general contractor's liability *arising from* a subcontractor's fault. The statute's intent was further clarified by the Oregon Supreme Court in *Walsh Construction Co. v. Mutual of Enumclaw* (338 Or. 1, 104 P.3d 1146 (2005)); however, it is possible the statute is still being misinterpreted, as overly-broad indemnity clauses still exist in some construction contracts.

Effective date: June 23, 2011

Senate Bill 967

Calculation of income taxes into utility rates

Senate Bill 967 repeals the provisions of Senate Bill 408 (2005) while maintaining its intent of balancing the interests of utility customers and a utility's investors by setting fair, just, and reasonable rates. Depending on how a utility is structured, the measure requires the Public Utility Commission (PUC) to take into account both current and deferred income taxes, tax liabilities, tax credits, taxpaying history of parent companies, and other matters or benefits as appropriate, to protect the public interest during its ratemaking proceedings. The measure also effects whether and how information that is provided by utilities during the ratemaking process may be obtained or used.

In an attempt to close the gap between the amount of taxes collected from utility customers and what is actually paid to state, federal, and local governments, Senate Bill 408 required public utilities to file an annual tax report with the PUC. Within 90 days after receiving the report, the PUC was required to review the report and determine whether the amount of taxes assessed to ratepayers differed from the amount of taxes actually paid to units of government. If a difference existed, the utility was required to implement an automatic adjustment clause, to provide for rate increases or decreases, or both, reflecting changes in costs incurred or revenues earned by the utility. The provisions of Senate Bill 408 affected four regulated electric and gas utilities in Oregon: Portland General Electric, PacifiCorp, NW Natural, and Avista.

Effective date: May 24, 2011

LEGISLATION NOT ENACTED

House Bill 2167

Film tax credit cap

House Bill 2167 sought to cap the Film Tax Credit at per-project amount that was yet to be determined, with total reimbursements to local filmmakers from the Oregon Production Investment Fund capped at $500,000 per fiscal year.

The Oregon Production Investment Fund was created to accept money from various sources to reimburse film makers for projects in Oregon, and the Film Tax Credit has been used as an incentive to encourage the film industry. During the 2011 legislative session, two regular television series were filmed in Portland and these programs employed a litany of local talent and crew, as well as supporting local restaurants, hotels, and other service industries. Film projects also advertise Oregon generally to a national audience.

House Bill 2212

Relating to floral order facilitators

House Bill 2212 would have restricted the amount that floral order facilitators could charge for receiving orders and transferring them to another facilitator or direct floral order providers. The measure would also have required floral order facilitators to pay delivery charges and other amounts to direct providers of floral or plant arrangements within a reasonable time period.

Before modern technologies enabled customers to arrange remotely for flowers to be delivered almost anywhere, a customer made arrangements through a local florist and the local florist contacted a florist in the destination city to fill the customer's order. FTD (Florists' Transworld Delivery) was originally a group of 15 florists who agreed to fill each other's orders via telegraph. Today, the vast majority of orders are transferred between florists on proprietary data networks. A typical floral order pays 20 percent to the originator of the order, seven percent to a floral order facilitator, and 73 percent to the florist who actually fills the order. House Bill 2212 would have specified that 88 percent was due the florist completing the order, with the originator and the facilitator taking five and seven percent, respectively.

The measure was vetoed on June 13, 2011.

Governor's Veto Message

I am returning Enrolled House Bill 2212 unsigned and disapproved.

HB 2212 prohibits floral order facilitators from receiving or charging consideration for individual orders, with certain exceptions. In summary, the bill limits the price that a floral order facilitator can receive for consideration to a specified percentage of the overall amount paid by the consumer, depending on whether the facilitator receives the order from a direct provider or from another floral order facilitator.

The bill has a commendable goal which I fully support: protecting Oregon flower shop owners from uncertain or exorbitant pricing from floral order facilitators. Unfortunately, HB 2212 has several constitutional implications – none of which were raised by opponents to this legislation during the public hearing process.

First, this measure impacts commerce that occurs entirely outside the borders of Oregon, and thereby runs afoul of the Dormant Commerce Clause in Article I, Section 8 of the United States Constitution. Second, the bill's limitations on the consideration to be paid affects private contracts between floral order facilitators and their members, which likely violates the Contracts Clause of the Oregon and United States Constitutions.

Because a court would likely find Enrolled House Bill 2212 to be unconstitutional, I am returning it unsigned and disapproved.

I want to make it clear, however, that the issue this bill was introduced to address still remains. Therefore, I am committed to convening a work group in the interim to consider alternative approaches to important issues raised by this bill, and I look forward to including interested legislators in that process.

House Bill 2716

Local limits on density of establishments selling alcohol

House Bill 2716 would have allowed cities and counties to adopt limits on the number of establishments that could be licensed by the Oregon Liquor Control Commission (OLCC) within a city or county, or within a specific area within a city or county. The measure allowed for separate limits for on-site sales, off-site sales, and brewpubs, and would have required OLCC to maintain a waiting list of applicants that had been denied a due to such limits.

The OLCC does not currently have the discretion to refuse to issue a license so long an applicant meets the minimum requirements.

Senate Bill 434

Alcoholic energy drinks

Senate Bill 434 would have prohibited licensees of the Oregon Liquor Control Commission (OLCC) from manufacturing, importing, storing, delivering, distributing, or selling alcoholic beverages containing caffeine or other substances that are commonly thought to boost energy.

Health officials have been concerned for years about alcoholic energy drinks, but in November of 2010, the hospitalization of 23 college students in New Jersey and nine college students in Washington after consuming alcoholic energy drinks prompted the U.S. Food and Drug Administration to warn four companies that the caffeine in their malt beverages was an unsafe food additive. The OLCC adopted a temporary rule that prohibited the sale of seven alcoholic energy drinks made by the four companies.

Senate Bill 438

Warehousing and transportation of wine

Senate Bill 438 would have authorized off-premise sales licensees to store wine at licensed premises for transport to other licensed premises for retail sale. The bill was amended to create a central warehousing license that would have allowed chain stores and cooperatives to gain the advantages of central warehousing of wine.

Liquor sales in Oregon are regulated under a three-tier system that creates separate roles and responsibilities for manufacturers, wholesalers, and retailers. The statute gives each type of licensee specific, limited

privileges. The three-tier model is intended to prevent abuses that were experienced in the past that resulted, in part, from manufacturers having control over retail stores, leading to reduced competition and high consumption.

Since 1986, the Oregon Liquor Control Commission (OLCC) has allowed Grocery Outlet to have wine delivered to its warehouse by a distributer. The warehouse then fills orders received from its franchises throughout Oregon and directly transports the wine to the stores for retail sale in a consignment fashion. This legislation would have given Grocery Outlet statutory authority to continue this practice. A dispute between OLCC and Grocery Outlet over the warehousing of wine that began in 2007 resulted in Grocery Outlet taking OLCC to court. The case is currently in the Court of Appeals.

Senate Bill 506

Family leave for death of a family member

Senate Bill 506 would have allowed employees of firms covered under the Oregon Family Leave Act to take family leave after the death of a family member. The measure limited the period of such leave to two weeks, and required that the leave be counted toward the employee's total period of authorized family leave.

The OFLA was enacted by the Legislative Assembly in 1995. The current law requires employers of 25 or more employees to provide their workers with job-protected leave of up to 12 weeks to care for themselves or a family member in cases of illness, injury, childbirth, and adoption.

Senate Bill 507

Requiring multifamily dwellings to have television antennas

Senate Bill 507 would have imposed a building code requirement that new construction or rehabilitation of multifamily housing include a television antenna capable of delivering the signal to each rental unit at no charge to the renter. The bill would also have modified the landlord-tenant law to require that landlords of multifamily housing provide dwelling units with television antenna access. These requirements would have been phased-in over a ten-year period. A dwelling unit lacking the required access would have been considered uninhabitable.

Since the digital conversion, over-the-air broadcasts are no longer readily receivable by stand-alone televisions, or televisions with built-in tuners, depending on the location, construction and orientation of a given building, the surrounding geography and landscape, and the equipment being used; and for renters in particular, the difficulty may be compounded if they are not permitted to install an exterior antenna.

Senate Bill 890

Relating to a contractor's relations with subcontractors under a public contract

Current law requires public contracts to contain provisions directing contractors to promptly pay all persons supplying the contractor and all persons performing work for the contract, as well as to pay all contributions due to the Industrial Accident Fund and to the Department of Revenue for withholding.

Senate Bill 890 would have revised the statutory requirements for prompt payment of subcontractors and suppliers by first-tier contractors under public contracts. The measure stipulated that public contracts were to specify that payment was to be made no later than 30 days after a request was submitted for payment. Exceptions were provided in cases where there was a good faith dispute or where the contractor could not pay due to not having received payment from the contracting agency. Violations could have resulted in damages for breach of contract or debarment of the contractor.

Senate Bill 930

Grow Oregon

Senate Bill 930 would have established a regional pilot program, Grow Oregon, for the delivery of marketing and technical assistance to emerging-growth businesses, as defined by the measure. The Oregon Business Development Department (Department) would have entered into contracts as necessary to develop and implement the pilot based on the finding of the Task Force on Stage Two Business Development and Economic Gardening. Businesses seeking assistance would have applied to the Department and, if they met the criteria, received services for free or for a reasonable fee.

"Economic gardening" is an economic development model pioneered by the city of Littleton, Colorado, which prioritizes support for existing companies in a given community over recruitment of outside business. Generally it takes the form of connecting entrepreneurs to resources, encouraging the development of essential infrastructure, and providing entrepreneurs with information.

Consumer Protection

House Bill 2499

Relating to appraisal management companies

House Bill 2499 transfers the regulatory oversight of appraisal management companies (AMCs) from the Department of Consumer and Business Services to the Appraiser Certification and Licensure Board (the Board), in conformity with federal law. The measure also revises the dispute resolution process that was created by House Bill 3624 (2010) and replaces that measure's requirement for biennial audits of AMCs with authorization for the Board to adopt rules regarding audits. An additional member is also added to the Board to represent AMCs.

An appraisal management company is a business entity that administers a network of certified and licensed real estate appraisers to fulfill assignments on behalf of mortgage lending institutions and other entities. Regulation of AMCs began with enactment of House Bill 3624 (2010), which took effect January 1, 2011. That measure located regulatory oversight with DCBS; however, federal legislation since enacted, requires states to oversee AMCs through the same entity that oversees the activities of real estate appraisers. In Oregon, this is the Appraiser Certification and Licensure Board.

Effective date: June 21, 2011

House Bill 2916

Prohibiting lenders from seeking satisfaction of residual debt after a short sale

A short sale is a real estate transaction approved by a lender where proceeds fall short of satisfying the balance owed on a loan. Short sales occur when a borrower cannot pay the mortgage on a property, and the property does not timely sell at an asking price that will satisfy the debt. A lender can decide that selling the property at a loss is better than proceeding with foreclosure. Short sales avoid the process and fees associated with foreclosure.

House Bill 2916 prohibits lenders from seeking satisfaction of residual debt after a short sale, if they have reported to the Internal Revenue Service and provided evidence to the borrower that all or some of the residual debt has been canceled or written-off.

Effective date: June 23, 2011

Senate Bill 177

Regulating credit union operations

Senate Bill 177 makes several changes to statutes related to credit unions. The measure revises the requirement that a credit union's board of directors meet monthly with a requirement that the board meet at least ten times per calendar year, provided that those meetings occur in different calendar months. The measure also replaces the allowance for appointment of a credit manager in lieu of a credit committee with an allowance for creation of a chief credit officer. It also revises language regulating the conditions under which a credit union

may make loans to the president or chief executive officer of the institution. It further specifies how credit unions may invest funds that are not loaned to members, including provisions that allow investment of up to five percent of assets in two categories: stocks, membership units or other ownership interests in, or loans to, corporations; and loans to national or state credit union associations or corporations of which the credit union is a member. Senate Bill 177 also specifies that mergers between Oregon credit unions and credit unions chartered out-of-state may occur in a manner similar to that of mergers between two Oregon-chartered credit unions, and outlines a process for objecting members to have their views disseminated to other credit union members.

Credit unions are cooperative financial institutions that are owned and controlled by members and operated for the purpose of promoting thrift, providing credit at reasonable rates and providing other financial services to members. Credit unions in Oregon are regulated under ORS chapter 723.

Effective date: January 1, 2012

Senate Bill 292

Free offers to consumers

Senate Bill 292 is the product of a work group that sought to address the aggressive marketing effects of promotional and free trial offers. It prohibits making free offers to consumers unless the seller provides the following: clear information on all goods and services that consumers will receive and be required to pay for; the cost they will incur; how they might reject the offer; a statement of obligation if the offer is accepted; specifically-identified cancellation procedures and timelines; and the customer's right to receive a credit on returned or rejected goods or services. Infractions are designated as violation of the Oregon Unlawful Trade Practices Act.

Promotional and free trial offers can be beneficial to consumers in that they allow them to try a particular good or service at a reduced or no cost. Such offers, however, can also lead to problems in cases where the consumer is not aware of all of the terms and conditions. This can result when companies making legitimate offers simply fail to disclose all the terms in such a way that the consumer can make an informed decision; but also when a seller is actively seeking to deceive a consumer, in order to receive as much payment as possible before the consumer cancels. Examples include post-transaction marketing (where a consumer believes they are completing an original transaction, but they are engaged in a separate, follow-up transaction); data pass (where an original seller passes account information, including credit card information, on to a second entity); and free-to-pay conversions (that initially provide a free supply of a product, only to transition automatically into a paying subscription or membership). These practices are especially problematic for consumers when combined with cumbersome or nonexistent cancellation processes.

Effective date: January 1, 2012

Senate Bill 487

Unlawful consumer charging practices

Senate Bill 487 makes it unlawful to offer automatic renewal or continuous service to an Oregon consumer that includes any of the following: failure to present the terms of automatic renewal; charging the consumer

without first obtaining affirmative consent; and failure to provide acknowledgement of the automatic renewal in a form that can be retained by the consumer. If a contract is offered without satisfying these requirements, any product provided to the consumer as part of the arrangement is deemed an unconditional gift. A number of exemptions are provided in the measure, primarily for services provided by persons regulated by the state or federal government.

Several types of consumer contracts typically contain automatic renewal provisions, including cellular phone service, newspaper and magazine subscriptions, home alarm services, data backup services and cable television service. The automatic renewal provisions for such services conveniently allow automatic billing and continuation of the service without the customer's consent each time. In other situations however, where a consumer might not expect automatic renewal, it is not clear to them that they must take affirmative steps in order to cancel or discontinue a contract. Cancellation procedures can be confusing or onerous, and some customers who have had contracts renewed automatically without their affirmative consent have later faced aggressive collection efforts.

Effective date: January 1, 2012

Senate Bill 491

Residential dwellings in foreclosure

The Legislative Assembly enacted legislation in 2009 and 2010 designed to provide additional rights to tenants living in residential properties subject to foreclosure sale. Prior to passage of Senate Bill 952 (2009), once a property was foreclosed, tenants were given 30 days notice of the intent to remove them in preparation for sale. That measure granted tenants additional notice and provided for the return of prepaid rent and security deposits. The application of the notice requirements was further clarified with enactment of Senate Bill 2013 (2010).

Senate Bill 491 further modifies notice of foreclosure and termination of tenancy for residential dwellings by conforming state law with federal law until the federal law sunsets in 2014. Additional provisions include: a revised definition of "bona fide tenancy;" elimination of the requirement that tenants provide written evidence prior to qualifying for protection; a requirement that purchasers show proper notice was provided before proceeding with eviction; a requirement that purchasers provide notice within 30 days of the sale date that includes their name and contact information, as well as information about tenant rights; and clarification of applicability to dwellings subject to ORS chapter 90.

Effective date: September 21, 2011

Senate Bill 756

Gift cards

House Bill 2513 (2007) instituted the regulation of gift cards in Oregon. That measure defined a gift cards as "a prefunded record evidencing a promise that the issuer will provide goods and services to the owner of the record in the amount shown on the record" but does not include prepaid telephone calling cards, prepaid commercial mobile radio service, or gift cards usable with more than one seller of goods or services. House Bill 2513 (2009) also prohibited the sale of gift cards that have an expiration date, that diminish in value over time with lack of use, or that carry a fee related to the card. An exception was made

to allow a gift card to carry an expiration date if the card notes the expiration date in at least 10-point type, was sold for less than face value, and does not expire until at least 30 days after the date of sale.

Senate Bill 756 prohibits the sale of gift cards that cannot be redeemed for cash when the value is less than five dollars and when the card has been used to make at least one purchase. The measure exempts cards given for free or sold at a discount or as a donation or promotional offer, as well as cards issued by an entity that provides service subject to regulation by the federal Communications Act of 1934, and cards redeemed to an online account. The cash redemption may be collected only from the provider indicated on the card, regardless of where the card was obtained.

Effective date: January 1, 2012

LEGISLATION NOT ENACTED

House Bill 2088

Amusement rides and amusement devices

House Bill 2088 would have expanded the Department of Consumer and Business Service's (DCBS) oversight of amusement rides. It would also have expanded regulation to include rental amusement devices (i.e., "bounce houses"). The expanded program would have been funded through permit fees to allow DCBS to maintain the annual ride permits, require ride operators to submit annual event itineraries and to develop and maintain quality control programs, and maintain other provisions of the program. The measure would also have clarified current statute, requiring that the owner of an amusement ride or device not operate or allow another to operate the ride or device without first obtaining insurance, and that ride or device operators be trained to report any serious accidents or incidents caused by the ride or device.

Oregon amusement ride operators currently apply for annual operating permits with and the permits are issued by the DCBS' Building Codes Division (BCD). The permits are issued with the receipt of a $25 fee, proof of insurance coverage, and proof that the insurance carrier has inspected rides within the previous 90 days prior to the permit application; however, the BCD's role is limited to the clerical functions of collecting applications and issuing permits, with no authority to verify permit compliance or monitor ride safety.

Senate Bill 490

Relating to utilities in dwelling units

Senate Bill 490 would have required utility companies to provide written notice to each separate dwelling unit of a rental property at least 15 days in advance of discontinuation of service due to nonpayment by a landlord. The measure outlined the information that was to be provided to tenants, as well as limitations on what could be disclosed to tenants. Senate Bill 490 also provided a way for tenants to have service continued at least temporarily.

It is not uncommon for landlords to pay for utilities used by tenants. A rental agreement may allow a landlord to add a flat fee to the base rent, or to charge tenants on a pro rata basis, or to provide the utilities at no cost, as included in the rental amount. However, if a landlord fails to pay, tenants may simply find themselves without service, with no advance notice, and regardless of their

compliance with the terms of their rental agreement.

Senate Bill 679

Cellular telephones

Senate Bill 679 would have required cellular telephones sold, leased or otherwise offered to customers in Oregon to bear conspicuous warning labels affixed to both the front and back of the packaging, and also on the back of the devices themselves, stating that the device emits radio frequencies that have "nonthermal biological effects" for which no safety guidelines have yet been established. Failure to provide the required labeling would have been designated an unlawful trade practice.

Senate Bill 695

Containers made with Bisphenol A (BPA)

Senate Bill 695 would have prohibited the manufacture, distribution, and sale of child beverage containers and reusable bottles made or lined with bisphenol A (BPA) or certain BPA substitutes beginning on January 1, 2012. The Oregon Health Authority (OHA) would have been directed to approve and obtain for the Women, Infants and Children Program only infant formula in containers that did not leach BPA into formula above specified levels effective January 1, 2013. The measure would also have established an 11-member Oregon BPA-Free Advisory Group to report to 76th Legislative Assembly.

Bisphenol A (BPA) is a chemical used primarily in the production of polycarbonate plastics and epoxy resins. Polycarbonate plastics have many applications, including food and drink packaging, impact-resistant safety equipment, and medical devices. Epoxy resins are lacquers used to coat metal products such as food cans, bottle tops, and water supply pipes. Some dental sealants and composites may also contain BPA.

Senate Bill 719

Unlawful insurance practices

The 2010 Legislative Assembly enacted House Bill 3706, which placed loans and extensions of credit under the definition of "real estate, goods and services" covered by the Unlawful Trade Practices Act (UTPA). Senate Bill 719 would have added insurance under the same definition. The measure also would have specified that violations of the law prohibiting unfair claims settlements to be designated an unlawful trade practice. The Attorney General would have been prohibited from adopting rules respecting certain actions taken by prosecuting attorneys when the conduct subject to the action involved insurance until obtaining prior approval to do so from the Director of the Department of Consumer and Business Services. Finally, Senate Bill 719 would have indemnified persons transacting insurance on another's behalf from cost, loss or damages, including attorney fees, arising out of a claim, action or judgment for violation of ORS 746.230.

Senate Bill 826

Regulating mortgage loan servicers

Senate Bill 826 would have authorized Department of Consumer and Business Services (DCBS) to adopt rules to regulate the activities of mortgage brokers, mortgage bankers and mortgage loan servicers that are not currently subject to licensing under ORS 86A.095 – 96A.198. The Legislative Fiscal

Office estimated that the measure would have required approximately 100 companies currently doing business in Oregon to register with DCBS. The measure would have authorized DCBS to define by rule improper and fraudulent business practices in connection with loans made by mortgage loan servicers.

Mortgage bankers lend money to fund loans secured by interests in real estate and either sell or service the loans. Mortgage brokers sell real estate paper for themselves or for others, or accept funds from others to invest in real estate paper. Mortgage brokers also make or negotiate mortgage loans. Both mortgage bankers and mortgage brokers are regulated as mortgage lenders by DCBS under ORS 86A. Mortgage loan servicers are not currently regulated or required to register.

Senate Bill 827

Foreclosures of trust deeds

Senate Bill 827 would have permitted a grantor to record an affidavit stating that they requested a loan modification in accordance with law by the applicable deadlines. The measure designated failures to include the required modification with a notice of sale, or to comply with provisions governing loan modifications, or to record a required affidavit of compliance with loan modification requirements, as violations of the Unlawful Trade Practices Act. Trustees would have been required to send copies of the required affidavit to the Department of Justice for verification and recordkeeping. The measure also specified that trustees must either be residents of Oregon or have registered agents within the state that meet specified qualifications.

Foreclosure is the legal process by which a lender on a mortgage loan can initiate the sale of a property when the borrower defaults on the loan by failing to make the required payments. The number of foreclosures has increased dramatically nationwide during the past several years, due primarily to declining home values and high unemployment. Recent legislation in Oregon (House Bill 3630 – 2008) sought to help homeowners to avoid foreclosure by requiring lenders to provide written notice of the borrower's rights and options at least 120 days prior to a trustee sale; federal legislation also sought to help homeowners with loan modification, so that they might be able to make their mortgage payments.

Education

House Bill 2034

Revises apprenticeship regulations to conform with federal law

House Bill 2034 aligns current apprenticeship administration statutes with the revised regulations adopted by the United States Department of Labor, Employment and Training Administration (DOL, ETA).

Oregon and other states that administer registered apprenticeship programs, do so under an agreement with the DOL, ETA. In December 2008, revised apprenticeship regulations were implemented at the federal level to update labor standards, policies and procedures for the registration, cancellation, and deregulation of apprenticeship programs, apprenticeship agreements, and administering the National Apprenticeship System. Approved state apprenticeship agencies (SAAs) were given until December 29, 2010, to make conforming changes to state law, regulations and policies in order to maintain continued recognition. Oregon's Bureau of Labor and Industries (BOLI) was granted an extension in December 2010. If conforming changes had not been made, the DOL would not have recognized BOLI's apprenticeship and training division as a SAA and the enforcement of apprenticeship standards and programs in Oregon would have reverted to the DOL.

Effective date: May 27, 2011

House Bill 2117

Higher education degrees

Federal law requires that colleges receiving Title IV aid be formally authorized by name, not category. Currently, Oregon law authorizes regionally accredited nonprofit colleges as a category. House Bill 2117 amends statute to reflect the change in federal rule.

Effective date: January 1, 2012

House Bill 2221

Higher education scholarships for language proficiency

House Bill 2221 was originally introduced as House Bill 2756 in the 2009 Legislative Session, to propose the Oregon Roadmap to Language Excellence Scholarship (Scholarship) by the Center for Applied Second Languages at the University of Oregon. The intent of the Scholarship was to create conditions that would allow every Oregon graduate to be professionally proficient in English and functionally proficient in a second language by 2025; so that, as Oregon grew and attracted business, the Scholarship would support the development of a workforce that could function using more than one language.

House Bill 2221 was written to encourage student accountability for increased proficiency and compliance with Scholarship standards to demonstrate measurable gain. The measure provides that eligible languages must be natural, human-based languages, and excludes computer-based languages, musical notation and Esperanto. House Bill 2221 does not appropriate funds to the Oregon Student Assistance Commission (OSAC) for Scholarship administration in 2011, but creates a framework allowing for implementation at a later date. House Bill 2221 authorizes the OSAC to begin accepting donations and grants for the Scholarship, and directs both state and private funds to be deposited into the State

Treasury, Oregon Student Assistance Fund (Fund).

The measure authorizes OSAC to award Scholarships from the Fund to graduates of Oregon high schools attending post-secondary institutions in this state. Initial Scholarships of $2,000 may be awarded by OSAC, up to a maximum of $8,000 over four academic years to qualified students who demonstrate measurable gain in language proficiency. The measure provides that a reduced Scholarship of $500 less the amount received in a previous academic year may be granted to students not demonstrating measurable gain, and prohibits awarding a reduced Scholarship in consecutive academic years. Additionally, House Bill 2221 requires OSAC to adopt rules governing the administration of the Scholarship, language standards, assessment methods, and waiver requirements for student leaves of absence.

Effective date: January 1, 2012

House Bill 2301

Virtual charter school expansion

House Bill 2310 establishes that permission is not required from students' resident school districts in order for them to attend virtual charter schools unless more than three percent of the district's students are enrolled in virtual charter schools not sponsored by the district. (Previously, if a charter school offered any online courses as part of its curriculum, then 50 percent or more of its students had to be residents of the district sponsoring it.) In cases where the three percent cap has been exceeded, a student denied permission to attend a virtual charter school may appeal that decision to the State Board of Education, which must respond within 30 days.

The measure also requires teachers licensed by the Teacher Standards and Practices Commission (TSPC) and who are highly qualified (as described in the federal No Child Left Behind Act of 2001) to teach at least 95 percent of the instructional hours offered by virtual charter schools.

House Bill 2301 specifies degrees of separation required between virtual public charter schools, third-party entities providing educational services to them, and sponsoring school district boards. Additionally, the measure modifies the notice that virtual public charter schools must provide when students enroll or withdraw from school.

Effective date: August 2, 2011

House Bill 2353

Oregon National Career Readiness Certification Program

House Bill 2353 changes the name of the Oregon Career Readiness Certificate, to the Oregon *National* Career Readiness Certificate (NCRC). The NCRC program was created by House Bill 2398 (2009), and after the enactment of that measure, the body responsible for its implementation requested the name change. House Bill 2353 also expands the Department of Community College and Workforce Development's (CCWD) statutory authority to accommodate individuals living across state lines (in Washington and Idaho) who commute into Oregon for work.

The NCRC is nationally-recognized and requires states to register for the program. The program verifies individual foundational skills in applied math, reading for information, and locating information, and is used by employers, employees and job

applicants as a uniform measure, offering four levels of achievement (bronze, silver, gold, and platinum). House Bill 2353 also requires information about the program to be provided to school districts, community colleges and community college service districts, and requires reporting to CCWD on student use.

Effective date: May 27, 2011

House Bill 2728

Oregon 529 College Savings Network accounts

House Bill 2728 allows taxpayers to directly deposit all or a portion of their tax refund into a 529 College Savings Network account. Contributions credited to the account may only be made for the tax year in which the tax refund was issued. The measure establishes requirements for making direct deposits into a 529 plan, and creates conditions for voiding contributions. The measure applies to income tax refunds payable to taxpayers for tax years beginning on or after January 1, 2012.

Oregon 529 consists of two college savings plans, The Oregon College Savings Plan, and the MFS 529 Savings Plan. These plans allow for state and federal tax advantages, as well as flexibility in saving for college. As state-sponsored plans, they provide tax-advantage investments to help families save for the expense of higher education for designated beneficiaries. As of 2010, roughly $1.3 billion has been invested in 129,000 active accounts.

Effective date: September 21, 2011

House Bill 3042

Use of alcoholic beverages for educational purposes

House Bill 3042 was introduced at the request of Linn-Benton Community College in order to accommodate students between the ages of 18 and 20 enrolled in the Culinary Arts program, to allow them to participate in the supervised use of alcoholic beverages. Previously, underage students of the culinary arts and other food or beverage career programs such as viticulture, winemaking, enology, and brewery or restaurant management have not been allowed to participate fully in courses involving the consumption or possession of alcoholic beverages unless they were 21 or older.

Effective date: June 16, 2011

House Bill 3336

Allows military recruiters on college and university campuses equal to other employment agents

House Bill 3335 requires state community colleges, universities and the Oregon Health and Science University to allow members and agents of the Armed Forces of the United States to recruit on campus pursuant to the same rules and standards that exist for other employment recruitment activities.

In 2006, the United States Supreme Court unanimously upheld the Solomon Amendment, which states that, in order to receive federal money, colleges and universities must allow military recruiters on campus. The Oregon University System's practice are already consistent and the Oregon National Guard reports positive

reception at institutions of higher learning; the change in state law is made to conform with federal law and policy.

Effective date: January 1, 2012

House Bill 3362

Career and technical education revitalization

House Bill 3362 directs the Oregon Department of Education, the Department of Community Colleges and Workforce Development and the Bureau of Labor and Industries to collaborate on a statewide revitalization of career and technical education programs (CTE). The measure establishes the Career and Technical Education Revitalization Grant Program to fund enhanced collaboration between educational providers and employers, and facilitates the formation of charter schools with a CTE focus. It appropriates $2 million to jump start programs at ten schools, with the ultimate goal of a complete restoration of CTE programs in the next ten years.

House Bill 3362 is designed to strengthen CTE programs by fostering partnerships between public schools, community colleges, universities, businesses and unions, according to the recommendations of the Career and Technical Education Task Force created by House Bill 2732 (2009).

Effective date: August 2, 2011

House Bill 3418

Task Force on Higher Education Student and Institutional Success

House Bill 3418 establishes the Task Force on Student and Institutional Success (Task Force) to study the differences between institutions and their missions, as well as college completion rates, remediation and funding models. (In Oregon, state institutions of higher education receive funding based on student enrollment and full-time employment (FTE) numbers.) The Task Force will also determine metrics for monitoring student and institutional success. The measure also instructs the Task Force to analyze best practices and models for student and institutional success; observe barriers to success; study methods for acquisition of basic skills and career preparation; and examine alternative funding options.

The Task Force is directed to submit a report to a legislative committee by October 1, 2012, and sunsets upon convening of the 2013 regular session of the Legislative Assembly.

Effective date: July 20, 2011

House Bill 3471

Tuition waivers for foster youth

House Bill 3471 requires state institutions of higher education, community colleges and the Oregon Health and Science University to waive undergraduate tuition and fees for current or former foster children under 25 years of age. The tuition and fee waiver covers costs remaining after all federal financial aid, scholarships and Oregon Opportunity Grants have been applied and is intended to replace the expected family contribution to college expenses. Students are eligible to receive the waiver for up to the equivalent of four academic years, within three years after foster care ends or they complete high school. They are also required to complete 30 hours of community

service in the prior academic year in order to qualify for the waiver.

The Oregon Student Assistance Commission (OSAC) will administer the waiver and determine the amount of student, family, federal and state contributions to college costs. The measure also directs OSAC to adopt rules to prioritize current and former foster youth for purposes of awarding the Oregon Opportunity Grant.

According to the Department of Human Services (DHS), the State of Oregon currently supports nearly 8,700 foster children. In 2002, DHS and OSAC entered into a partnership to implement and track scholarships for foster youth. Since that time, an increase of nearly 750 percent in the number of foster youth applying for scholarships has been noted. Foster youth are pursuing a range of post-secondary and training options.

Effective date: January 1, 2012

House Bill 3474

Education career preparation and development

House Bill 3474 creates the Educator Preparation and Improvement Fund (Fund) to be administered by the Teacher Standards and Practices Commission (TSPC). The Fund is to be used to advance university and district partnerships that respond to changes in Oregon PK-12 education; collaboration around delivery models that provide effective professional preparation; Oregon's educator workforce needs; dissemination of research and best practices that address the needs of Oregon schools; focused collaboration around initiatives that support student success and post-secondary achievement; and efforts to meet national accreditation standards.

House Bill 3474 also changes the name of the Professional Organizations Certification Fund to the National Board Certification Fund and directs TSPC to support teachers and administrators seeking to complete the training necessary to attain national certification. The measure directs TSPC to collaborate with the Oregon Department of Education (ODE) to create a comprehensive leadership development system designed to strengthen the capacity of administrators to improve education in the state's public schools. Finally, the measure directs both TSCP and ODE to work with the Oregon Coalition for Quality Teaching and Learning to propose uniform guidelines for performance evaluation measures for teachers that align with updated national teaching standards; to report to the Legislative Assembly on the status of the proposal no later than January 1, 2012; and to implement the use of the new standards statewide for the 2012-2013 school year.

House Bill 3474 is the result of the Task Force on Education Career Preparation and Development that was created by legislation in 2010.

Effective date: July 6, 2011

House Bill 3521

Transfer Student Bill of Rights and Responsibilities

House Bill 3521 directs the Joint Boards of Education to develop standards for the application of community college credits toward Bachelor's degree programs at other institutions of higher learning, to be known as the "Transfer Student Bill of Rights and Responsibilities."

Community colleges and universities serve a diverse population of students with changing educational needs and goals. A student's ability to transfer from a community college to another institution varies across the state, and data sharing between institutions is lacking. Transfer students may have difficulty accessing particular institutions, or may be required to complete an unnecessary class, or be required to repeat a class unnecessarily. These inconsistencies can increase their overall costs and the time required to complete their education. House Bill 3521 creates the process to begin developing greater uniformity.

Effective date: June 21, 2011

House Bill 3645

Expansion of charter school sponsorship

House Bill 3645 allows community colleges, institutions within the Oregon University System, and the Oregon Health and Sciences University to sponsor public charter schools. The measure provides that application for sponsorship must first be made to the school district in which the charter school intends to locate. If denied, the applicant may then apply to either the State Board of Education or a post-secondary institution for sponsorship. Sponsorship was previously limited to local school districts and the State Board of Education.

Effective date: January 1, 2012

House Bill 3681

Open enrollment

House Bill 3681 allows students to attend schools located in districts where they do not reside with the written consent of the district in which the school is located, and the approval of the student's resident school district will no longer be required. The measure also establishes deadlines and an application process.

Districts are not allowed to deny consent or give priority on the basis of race, religion, sex, sexual orientation, ethnicity, national origin, disability, terms of an individualized educational program, income level, proficiency in English, or athletic ability.

Effective date: January 1, 2012

Senate Bill 3

Replaces the term "retardation" with "intellectual disability"

Senate Bill 3 modifies terminology in education statutes, replacing "retardation" with "intellectual disability," and prohibits references to "retardation" in individualized education programs.

On October 6, 2010, President Obama signed Rosa's Law, which changed references to "mental retardation" in federal law, to "intellectual disability." Rosa's Law replicates a law adopted in the state of Maryland after the family of Rosa Marcellino, a nine year-old girl with Down syndrome.

Effective date: June 28, 2011

Senate Bill 22

School district curriculum, activities and programs for incarcerated youth

Senate Bill 22 requires that youth participating in a Youth Corrections Education Program (YCEP) or a Juvenile

Detention Education Program (YCEP) have access to the same curriculum as their peers, and instruction similar to what they would have experienced educationally, had they remained in their home school district.

YCEPs and JDEPs are focused on youth who are detained pending a placement determination, detained for a crime, or adjudicated for a crime. There are ten YCEPs and fourteen JDEPs under contract with the Department of Education (ODE). Currently, ODE contracts with school districts and education service districts (ESDs) to provide educational services for YCEPs and JDEPs. The measure requires the State Board of Education to adopt rules and standards to be applied to the operations of YCEPs and JDEPs that allow a school district or ESDs under contract to award, modify, and extend high school diplomas and alternative certificates; implement an assessment system; administer a national assessment; participate in the Oregon Teacher Corps program; participate in the beginning teacher and administrator mentorship program; and receive funds under ORS chapter 329.

Offering opportunities and activities in home school districts acts as added incentive for detained and incarcerated youth to pursue their diploma, or otherwise further their education or training.

Effective date: July 1, 2011

Senate Bill 24

Eliminates alternative methods to satisfy high school graduation requirements

Senate Bill 24 clarifies the language and intent of ORS 329.451 as amended, by eliminating alternative methods students could use to satisfy mathematics or English credit requirements for high school graduation.

In 2005, ORS 329.451 was amended in such a way that, when read in conjunction with Oregon Administrative Rules applicable to high school graduation credits (OAR 581-022-1131), caused some confusion for school districts. Senate Bill 24 made modifications to alleviate the confusion.

Effective date: July 1, 2011

Senate Bill 26

Deletes optional registration for private schools

Senate Bill 26 eliminates the option for private elementary and secondary schools to register with the Department of Education (ODE). Under ORS 345.525, private elementary and secondary schools could register with ODE, and approximately 400 such registrations were received and processed by ODE annually. Registration provides no verification of the information or oversight of a private school, as they are outside ODE's public education mission.

Effective date: July 1, 2011

Senate Bill 242

Greater autonomy for the Oregon University System

Senate Bill 242 redefines the Oregon University System (OUS) as a public university system with greater independent authority to manage its affairs. The measure exempts OUS from many laws related to state agencies and ensures that tuition and accrued interest are expended on higher education rather than on other unrelated

state matters. The system is funded through a block grant budgeting process based on measurable education and research outcomes specified in a performance compact. The measure also creates the Higher Education Coordinating Commission (HECC) to develop state goals and accountability measures for Oregon universities and community colleges and strategies for achieving them. The functions of the Office of Degree Authorization are transferred to the HECC from the Oregon Student Assistance Commission, which becomes the Oregon Student Access Commission under the measure.

Senate Bill 242 is the result of a work group whose contributors included the State Board of Higher Education, OUS, university presidents, student and faculty groups, state and regional agencies, unions and business organizations and national higher education specialists.

Effective date: July 20, 2011

Senate Bill 248

Full-day kindergarten

Senate Bill 248 encourages school districts and public charter schools to provide full-day kindergarten by doubling the State School Fund distribution for kindergarten students attending full-day programs beginning with the 2015-2016 school year. Current distribution formulas fund kindergarten students at half the rate of students in grades one through eight, regardless of whether they attend half-day or full-day kindergarten programs. The measure specifies that students attending full-day kindergarten will be given full weight in the distribution formula, while those attending half-day programs will continue at the rate of half.

Senate Bill 248 is the result of recommendations made to the legislature by the Full-Day Kindergarten Implementation Committee which was formed by the Department of Education pursuant to Senate Bill 44 (2009).

Effective date: January 1, 2012

Senate Bill 250

Education service district reform

Senate Bill 250 allows school districts in Baker, Clatsop, Columbia, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill counties to withdraw from (and rejoin) education service districts (ESDs). A two-thirds vote of the school district board is necessary to affect withdrawal, and the measure establishes deadlines for the district to give required notice of its intent to do so, which must be timely acknowledged by the ESD. The measure also permits school districts that have not withdrawn from their local ESD to contract with a public entity for the provision of educational services if the school district determines that services provided by the ESD under a local service plan do not meet the district's needs.

Currently, ESDs are required to distribute 90% of districts' prorated share of the funds received for the provision of education services from the State School Fund distribution to school districts that have withdrawn from the ESD. School districts that have not withdrawn, but contract with other entities for the provision of education services, are eligible to receive from the ESD the lesser of the amount provided during the 2010-2011 fiscal year for the specific service or the percentage requested by the school district.

Senate Bill 250 also creates the Office of Regional Educational Services and the Regional Educational Services Account to be funded by 0.25 percent of the State School Fund distribution with a corresponding reduction in funds distributed to ESDs (from 4.75 percent to 4.5 percent).

Finally, the measure requires ESDs to produce annual reports related to their performance and finances and to submit information for publication on the Oregon transparency website comparable to that required of other state agencies.

Senate Bill 250 was one of a number of measures introduced in 2011 to address governance and financial issues with some education service districts that were exposed by audits and reported by local media.

Effective date: August 2, 2011

Senate Bill 253

Post-secondary education goals: 40-40-20

Senate Bill 253 revises the mission and purpose of post-secondary education in Oregon to meet numerical goals by 2025. These goals include that at least 40 percent of adult Oregonians earn a bachelor's degree or higher; at least 40 percent of adult Oregonians earn an associate's degree or post-secondary credential; and that the remaining 20 percent or less of all adult Oregonians earn a high school diploma, extended or modified high school diploma, or equivalent as their highest level of educational attainment.

The previous statutory mission of all higher education in Oregon was to enable students to extend prior educational experiences in order to reach their full potential as participating and contributing citizens by helping them develop scientific, professional and technological expertise, together with heightened intellectual, cultural and humane sensitivities and a sense of purpose; to create, collect, evaluate, store and pass on the body of knowledge necessary to educate future generations; and to provide appropriate instructional, research and public service programs to enrich the cultural life of Oregon and to support and maintain a healthy state economy.

Effective dates: January 1, 2012

Senate Bill 254

Supporting accelerated college credit programs

Senate Bill 254 establishes an Accelerated College Credit Account in the State Treasury to facilitate accelerated college credit programs, including dual or concurrent credit programs, two-plus-two, advanced placement and International Baccalaureate programs. The Department of Education is required to administer the grant awards to assist students in paying for college credits; supply training for teachers who will provide instruction in accelerated college credits at the secondary school level; and provide grant expenditures on classroom supplies in accelerated college credit programs. The measure also directs the Joint Boards of Education to develop statewide standards for dual credit programs.

Every community college district in Oregon must encourage high school students to start early on a college education pursuant to ORS 341.450; however, school districts can apply for and be granted waivers from this requirement. Many other states (twenty-nine, according to a National Alliance of Concurrent Enrollment Partnerships 2010 report) have adopted quality standards for

providers of dual and concurrent enrollment programs. By facilitating accelerated college credit programs, Senate Bill 254 supports seamless education through secondary and post-secondary collaborations.

Effective date: July 20, 2011

Senate Bill 275

Also included in the Veterans Chapter

Uniform college credit for military skills and training

Senate Bill 275 changes current law by requiring community colleges to establish and implement standards for consistent credit allocation for education and training obtained by a person while serving in the Armed Forces of the United States. It also requires that a community college give credit for education or training that meets those standards.

The Legislative Task Force on Veterans' Reintegration, established by Senate Bill 700 (2009), determined that college credit for a veteran's military education and training should be allocated consistently in Oregon universities, colleges, and community colleges. The Oregon University System generally uses the American Council on Education (ACE) guidelines to determine credit amounts for specific military training and education. The ACE system of credit allocation has not been uniformly applied at Oregon's community colleges, resulting in a variety of different credit allocations. ORS 341.533 allows, but does not require, community colleges to give Armed Forces personnel credit for military education and training.

Effective date: January 1, 2012

Senate Bill 290

Senate Bill 290 directs the State Board of Education, in consultation with the Teachers Standards and Practices Commission (TSPC), to adopt statewide core teaching standards. Core teaching standards must be: research-based; developed separately for teachers and administrators; able to be customized for each school district; included and used in all evaluations in the school district; and include multiple measures of student formative and summative proficiency and progress, including performance data of students, schools and school districts.

The National Education Association (NEA) and New Teacher Project (NTP) research on teacher assessment and professional development defines best practices. Studies assert that performance and core teaching standards require multiple measures of performance-based and team-based assessments that capture the complexities of today's teaching and learning. Evidence of student learning and other student outcomes is a fundamental component of the teacher learning and development process. Currently, TSPC is developing a set of performance measures based on national standards for pre-service (candidates prior to licensure); induction (educators in first two to three years of practice) and veteran teachers and administrators. Those national standards offer a framework for development of the standards sought to be obtained by this measure.

Effective date: July 1, 2011

Senate Bill 338

Also included in the Veterans Chapter

Tuition waivers for veterans' dependents

Senate Bill 338 establishes the Tuition Waivers for Veterans Task Force comprised of community college district presidents to address policy developments and ensure consistency in community college tuition waivers for children, spouses and surviving spouses of deceased or disabled veterans. The Task Force is directed to submit a report to the Legislative Assembly before the convening of the 2012 session.

Senate Bill 1066 (2008) allowed dependents of service members killed in action or dependents of 100 percent service-connected disabled veterans to attend college on a space-available basis at no cost. Senate Bill 1066 was amended to apply only to the Oregon University System after community college representatives indicated that tuition waivers would be implemented through policy provisions at the individual schools; however, Oregon community college waivers have not been consistently implemented throughout the community college system.

Effective date: June 1, 2011

Senate Bill 552

Governor as Superintendent of Public Instruction

Senate Bill 552 designates the Governor as Superintendent of Public Instruction upon expiration of the term of the current Superintendent (or if the office becomes vacant). The measure directs the Governor to appoint a Deputy Superintendent subject to Senate confirmation and specifies the qualifications for the position.

The Oregon Constitution originally designated the Governor as Superintendent of Public Instruction but also granted authority to the Legislative Assembly to enact provisions for an elected Superintendent (Article I, Section VIII (1859)). In the opinion of Oregon's Attorney General, #8248 issued in 1977, eliminating the elected office via legislation is constitutional.

Effective date: August 5, 2011

Senate Bill 560

Revises the school district improvement plan filing requirements

Senate Bill 560 modifies the filing requirements for local school district continuous improvement plans by permitting the Department of Education (ODE) to require a school district to report substantial changes or additions made to the plan or to certify that self-evaluations were conducted and that the plan did not receive substantial changes or additions.

School districts and schools are required to conduct self-evaluations, update their local district continuous improvement plans on a biennial basis, and submit full written reports to ODE. Improvement plan reports serve as tools of evaluation and direction, yet their preparation and submission to ODE in large volume at regular intervals can be an arduous and repetitive burden on schools, districts and ODE. Modification of the filing requirements reduces costs, staff time and unnecessary paperwork for districts, and permits more tailored flexibility while still holding districts accountable and meeting federal standards.

Effective date: January 1, 2013

Senate Bill 670

Teacher eligibility for federal loan forgiveness programs

Senate Bill 670 reclassifies a "secondary school" as one that offers instructions in grades 6 through 12 or kindergarten through 12 if the teacher is employed to teach any grade from grade 6 through 12, for purposes of federal loan forgiveness programs offered to teachers.

The federal Teacher Loan Forgiveness Program is intended to encourage individuals to enter and continue in the teaching profession. Under the program, individuals who teach full time for five consecutive academic years in elementary and secondary schools that serve low-income families and meet other qualifications may be eligible for forgiveness of some of the principal and interest on their education loans. Oregon middle school teachers who applied were not eligible because Oregon's statutory definitions did not match federal ones. Senate Bill 670 will ensure Oregon teachers who would otherwise qualify, are eligible to receive the benefit of these programs.

Effective date: July 1, 2011

Senate Bill 800

Updating education statutes

Senate Bill 800 removes outdated, unnecessary or redundant provisions in education statutes.

The Department of Education (ODE) was tasked with identifying unnecessary, outdated and redundant mandates. Representatives from ODE, the Confederation of School Administrators, the Oregon School Board Association, the Oregon Association of Education Service Districts, the Oregon Education Association, superintendents and administrators, cooperated on mandate relief and paperwork reduction proposals. Their collaborative efforts identified twenty-eight mandates that no longer served any purpose. Senate Bill 800 is the result of those efforts.

Effective date: June 9, 2011

Senate Bill 909

Oregon Education Investment Board

Senate Bill 909 establishes the Oregon Education Investment Board (OEIB) to oversee a unified public education system from early childhood services through post-secondary education in order to ensure that all public school students achieve education outcomes established by the state. The measure also establishes the Early Learning Council under the auspices of the OEIB to assist with development and oversight of a unified system of early childhood services.

The OEIB is directed to consider merging the State Board of Education and the State Board of Higher Education and transferring the duties of those boards and the State Commission on Children and Families to the OEIB. Also, the Commissioner for Community College Services, the Chancellor of the Oregon University System, and the Higher Education Coordinating Commission will function under the direction of the OEIB. The OEIB will also address consolidation of the Oregon Youth Investment Foundation, Oregon Youth Conservation Corps, Youth Standing Committee of the Oregon Workforce Investment Board and juvenile crime prevention programs. The OEIB is also directed to provide an integrated statewide, student-based data system that

tracks expenditures and outcomes to determine the return on statewide education investments, in order to improve statewide data collection and sharing

The OEIB is to report to the interim legislative committees on education on or before December 15, 2011, regarding planned legislation to accomplish the goals set forth in the measure. The OEIB will be dissolved March 16, 2016.

Effective date: June 28, 2011

LEGISLATION NOT ENACTED

House Bill 2021

Career school fees

House Bill 2021 would have raised the fee schedule by 28-35 percent to support the career school program within the Department of Education (ODE), and would have allowed the State Board of Education (Board) to determine future fee changes by rule beginning July 1, 2013. In addition, House Bill 2021 would have authorized the Board to adopt an investigative fee to be paid by the school under investigation in order to cover costs incurred by ODE when a career schools commits a violation.

ODE is responsible for issuing licenses to career schools and to that end it collects a fee from each career school it licenses, based on the career school's tuition income range. Currently, ODE funds oversight of career schools through the fees it collects from the schools. These fees have not been raised in ten years.

House Bill 2022

Discipline of career school licensees

House Bill 2022 would have changed the definition of suspension as it relates to private career schools and added provisions for probation with conditions, including restrictions on advertising, recruiting, and enrolling students, that would have permitted operation while a license suspension was in effect.

The Superintendent of Public Instruction investigates complaints against private career schools operating in Oregon upon receipt of written complaint from any person. The Superintendent may place a private career school on probation or suspend or revoke its license, but currently, a licensee whose license is suspended may not engage in any licensed activity until the suspension is lifted.

House Bill 2024

Career school civil penalties

HB 2024 was introduced at the request of the Superintendent of Public Instruction on behalf of the Career Schools program. It would have permitted civil penalties imposed on owners of private career schools to be collected by the Oregon Department of Education's Associate Attorney General. The Superintendent of Public Instruction would have been permitted to retain up to 20 percent of the amount of each penalty in order to cover investigative costs. Currently, when the Superintendent imposes civil penalties on a career school, these penalties are deposited in the General Fund.

House Bill 2287

Modification of charter school application process

House Bill 2287 would have significantly modified the processes and requirements for proposals to establish public charter schools. The measure would have required the State Board of Education to sponsor a public charter school upon finding that a school district board had not negotiated with the charter applicant in good faith or in a timely manner. Additionally, the requirement for the involvement of community groups in charter school applications would have been eliminated.

Statutes governing the application process for public charter schools in Oregon were enacted in 1999 and House Bill 2287 represented an attempt to eliminate aspects of the application process that some considered onerous.

House Bill 2297

Also introduced as HB 3670

Expansion of Oregon Opportunity Grant

House Bill 2298 was introduced as House Bill 2849 in 2009, and would have lifted restrictions on use of opportunity grants funds to allow students to attend accredited, for-profit professional and technical schools, in addition to not-for-profit institutions of higher learning that are currently permitted.

A student may use Federal Student Aid at a not-for-profit or a for profit institution of higher education. The Oregon Opportunity Grant, administered by the Oregon Student Assistance Commission, may only be applied to expenses incurred at Oregon-based not-for-profit institutions of higher education.

House Bill 2963

Also introduced as HB 3651

Higher education textbooks

House Bill 2963 would have directed the Joint Boards of Education to prepare a report on strategies for reducing higher education textbook costs, and recommendations for implementing cost reducing strategies, namely, bulk purchasing, book exchanges, open source textbooks and materials, instructor-created open source textbooks, statewide licenses for textbooks, shared online materials, central repository for instructors to locate and use free or low-cost materials, and analyze potential cost-savings for K-12 school districts. In addition, the Joint Boards of Education would have been required to solicit student, faculty, and bookstore manager participation in the development of the report.

House Bill 3123

Tuition Protection Fund

House Bill 3123 would have changed the name of the Tuition Protection Fund (Fund) to the Tuition Protection Trust Fund (Trust), insulated it from General Fund sweeps, and expressly dedicated expenditures for student tuition reimbursements and trust administration. The Superintendent of Public Instruction would have been granted the authority to maintain and administer the Trust, and the State Board of Education required to adopt governing procedures.

The Fund was created to provide students enrolled in private career schools pro-rated tuition refunds in the event of a school

closure prior to the completion of their training. The Fund is sustained by mandatory fees paid by for-profit career schools, and is subject to sweep as a General Fund account.

Senate Bill 742

Tuition equity

Senate Bill 742 would have allowed graduates of Oregon high schools to qualify for in-state tuition at the state's public colleges and universities regardless of their immigration status. The measure specified that students must have lived in the country at least five years, attended an Oregon high school for three consecutive years, and filed an affidavit indicating intent to become a citizen or lawful permanent resident of the United States. Currently, an Oregon high school graduate who is not a citizen (or the child of a citizen) is required to pay out-of-state tuition at Oregon's public colleges and universities and is ineligible for federal financial aid.

The U.S. Supreme Court held in *Plyler v. Doe* (457 U.S. 202 (1982)), that states have a constitutional obligation to provide free public elementary and secondary education to all residents regardless of immigration status. Proponents of tuition equity claim that obligation includes meaningful access to higher education. The following states have adopted measures similar to Senate Bill 742: Washington, California, Utah, New Mexico, Nebraska, Kansas, Oklahoma, Texas, Wisconsin, Illinois, Connecticut, New York and Maryland. In June of 2011, the U.S. Supreme Court declined to consider a challenge to the California law.

Elections and Ethics

House Bill 2257

Voters' pamphlets

House Bill 2257 allows the Secretary of State to develop an electronic filing system to permit portraits and documents for the voters' pamphlet to be filed electronically with the Secretary of State by candidates and political parties. The measure also extends the deadline for electronic filing by four calendar days, to Monday, the 64th day prior to the primary.

The Oregon Voters' Pamphlet was first published by the Secretary of State in 1904 to disseminate the text of measures to be voted on by the people of Oregon. Starting in 1910, the legislature ordered that information about State level candidates running for office also be included. Oregon became one of the first states to print and distribute such a publication. One copy of the Voters' Pamphlet is mailed to every household in the state preceding every primary and general election, and special elections involving state measures or candidates for state office. Currently, typewritten information is re-entered, edited, and proofread by Secretary of State Elections Division staff.

Effective: August 2, 2011

House Bill 2433

Campaign finance reporting and candidate deadlines

House Bill 2433 addresses general housekeeping issues relating to the regulation of campaign finance reporting and candidate deadlines: it aligns loan document retention with requirements for similar types of transactions; removes obsolete references to "slate mailers" from statute; requires committees (candidate, political or petition) to appoint new treasurers no later than 14 days following a treasurer's death, resignation or removal; it raises the amount of independent expenditures requiring disclosure from more than $100 to more than $750 in a calendar year and requires filling a statement of same with the Secretary of State within 7 days of the expenditure; and it allows the Election Division to administratively discontinue a petition committee.

Oregon law requires that a nominating petition or declaration of candidacy for a primary election be filed no sooner than the 250th day and not later than the 70th day before the date of the primary election (ORS 249.037). House Bill 2433 extends the filing deadline by five days for a partisan elective office if a vacancy occurs after the 80th day and before the 70th day before the primary election, and allows extension of the deadline for filing a candidate portrait and statement in the voters' pamphlet.

On March 7, 2010, Oregon State Treasurer Ben Westlund died, but because the primary election was scheduled for 72 days later, Tuesday May 18, 2010, potential candidates for the Office of State Treasurer had only two days before the 2010 Primary Election filing deadline to file as a candidate.

Effective date: January 1, 2012

House Bill 2634

The Citizens' Initiative Review Commission

House Bill 2634 creates a permanent 11-member Citizens' Initiative Review Commission to facilitate the review by citizen panels of one or more initiative petitions to be voted upon at the next general election. The measure also specifies the terms

of office and appointment procedures for Commission members; and establishes criteria for selection of initiative(s) to be reviewed, as well as for moderators and citizens to be selected for each panel. House Bill 2634 directs the Commission to compensate panel members as determined by administrative rule and directs panels to prepare and file statements in favor and opposed to the measure under review, along with a statement of key findings. The measure further directs the Secretary of State to print the citizen review panel statements in the voters' pamphlet.

The Oregon Citizen Initiative Review process was piloted by House Bill 2895 (2009). The Secretary of State had nonprofit organizations form citizen panels to review and create official statements on ballot initiative measures. For each initiative reviewed, a 24-member citizen panel was created by Healthy Democracy Oregon, the designated nonpartisan, nonprofit organization. (According to Healthy Democracy Oregon, it is funded from its Board Members and over 600 individual donors, including the National Science Foundation.) Panelists were selected based on their geographic location, party affiliation, age, voting history, and other demographic factors. Each panel lasted five consecutive days and was moderated by two professional facilitators. Each panelist received a per diem of $150 a day for travel, lodging, and meals from the organization sponsoring the review panel. Oregon Citizen Initiative Review panels produced reviews on Measures 73 and 74 for the November 2010 ballothttp://ballotpedia.org/wiki/index.php/Oregon_Citizen_Initiative_Review - cite_note-5. Each review gave a "Citizens' Statement" that had a shared agreement statement from the entire panel in addition to pros and cons for each measure.

Effective: June 16, 2011

House Bill 2880

National Voter Registration Act

House Bill 2880 creates a 10-member National Voter Registration Act (NRVA) State Compliance Council (the Council) consisting of representatives of the Governor, county clerks, Secretary of State, and five designated voter registration agencies. The measure directs the Council to assess federal guidelines, identify barriers, and ensure compliance with the NVRA 1993.

The National Voter Registration Act of 1993 (NVRA) established procedures to increase voter registration of eligible citizens in elections for federal office; to protect the integrity of the political process; and to assure accurate and current voter registration rolls. To increase registration of eligible citizens, the NVRA required States to permit voter registration by the following means, in addition to any other method provided by state law: by application simultaneous with an application for a driver's license; by use of a uniform mail application; and by in-person application at a designated agency.

Effective: June 16, 2011

House Bill 3074

Electronic voting system

Long term absent electors, as defined in ORS 253.510, includes those who serve in the armed forces and merchant marine, are eligible for special absentee ballots, which are mailed to absentee electors prior to the date ballots are mailed to other electors. Under House Bill 2511 (2009), electors who

serve in the armed forces and merchant marine became eligible to cast ballots by facsimile, waiving their right to a secret ballot; and the provisions of House Bill 2511 were extended to all long term absentee voters by Senate Bill 998 (2010).

House Bill 3074 extends these provisions, to permit the use of electronic mail with scanned attachments. Locating facsimile machines is said to be a problem, but electronic scanning equipment is said to be available in many locations. House Bill 3074 allows long term absent voters to cast ballots by electronic mail if they include the return identification envelope and a waiver of their right to secret ballot.

Effective date: June 9, 2011

House Bill 3112

Campaign finance

House Bill 3112 increases the maximum amount of contributions and expenditures (C&E) political committee is allowed to make, from $2,000 to $3,000, before it is required to file a report with the Secretary of State.

Current statute requires political committees to file C&E reports using the Secretary of State's electronic filing system, unless they attest via certificate, that they expect aggregate C&E not to exceed $2,000.

Effective: January 1, 2012

House Bill 3148

Signature requirements for voters' pamphlet

Senate Bill 776 was enacted in 2009, to allow candidates, political parties and assemblies of electors to submit a petition with signatures of electors in lieu of paying the fee to have materials included in the voters' pamphlet. Currently, to submit voter pamphlet materials for state senator or state representatives requires 300 signatures of any Oregon voter.

House Bill 3148 limits signatures to active electors in the candidate's electoral district and reduces signature requirement for state senator and representative from 300 to 200 for including materials in the voters' pamphlet.

Effective: January 1, 2012

House Bill 3576

Candidacy for state legislative office

House Bill 3576 provides elections officials with criteria to determine habitation within a district as required for serving as a state senator or representative. The measure also provides criteria for elections officials to apply to determine whether this Constitutional requirement has been met by a potential candidate. Elections officials can consider several criteria, including, but not limited to the location where personal mail is received; addresses listed on a driver's license and motor vehicle registration; and addresses listed for utilities, tax returns and voter registration, if any.

Article IV, Section 8 of the Oregon Constitution states that "a person may not be a Senator or Representative if the person at the time of election . . . has not been for one year next preceding the election an inhabitant of the district from which the Senator or Representative may be chosen." There is currently no criterion in statute for elections official to consider when

determining if a potential candidate has been in an inhabitant of the district for one year.

Effective: January 1, 2012

LEGISLATION NOT ENACTED

House Bill 2259

Campaign finance reporting

House Bill 2259 would have allowed campaigns, with hundreds of small contributions or expenditures that do not have a large impact on the public or a contest, more time to report them accurately and would have focused increased transparency on more immediate reporting of large contributions and expenditures. House Bill 2259 would also have required campaign contributions in excess of $5,000 to be reported within 48 hours during the last six weeks of the campaign, and would have extended the reporting requirement for transactions under $5,000 from seven days to fourteen.

In lieu of limits on campaign contributions and expenditures, Oregon relies heavily on disclosure to monitor campaign spending. Current Oregon law requires all contributions and expenditures by a candidate or political committee be reported electronically within 30 days, except for the 42 days prior to an election, when transactions must be reported within seven days. Even with the increased frequency of reporting, campaigns can delay expenditures until seven days before the election and delay reporting until the last possible moment. The Secretary of State reports that during the 2010 General Election, the agency's electronic filing system was deluged with 18,000 transactions just before the 11:59 PM filing deadline. The result of the current expenditure reporting deadlines is that voters have no information about who sponsors advertising late in a campaign.

House Bill 2804

Evidence of citizenship for voter registration

House Bill 2804 would have required persons registering to vote in Oregon for the first time to present evidence of citizenship, limited to birth certificates, naturalization documents, and valid United States passports

Currently, voter registration cards require persons registering to attest that they are citizens of the United States. Registrants are expressly forbidden from supplying information knowing it to be false, and a description of the penalties for knowingly supplying false information is required to be printed on the voter registration card, but no written evidence of citizenship is required.

House Bill 3446

Employment of legislators following legislative service

Oregon law prohibits former members of the Legislative Assembly from receiving money or other consideration for lobbying, from the time their legislative service ends until the adjournment *sine die* of the next regular legislative session following their departure (ORS 244.045).

House Bill 3638 would have similarly prohibited former members from accepting positions in state government for a year after leaving office, except in cases where the hiring process was open to and competitive with the public.

Senate Bill 159

Payment for signature gathering

In 2002, voters approved Measure 26, which amended the Oregon Constitution to prohibit the compensation or receipt of compensation on a per-signature basis for signatures collected on all initiative and referendum petitions.

Senate Bill 159 would have made payment for initiative or referendum petition signature gathering based on the number of signatures obtained, a violation of wage and hour law, as well as a violation of election law, to allow enforcement by the Bureau of Labor and Industries.

Senate Bill 269

Also introduced as Senate Bill 510

Statement of economic interest

Senate Bill 269 and Senate Bill 510 would have required investment officers and assistant investment officers in the office of the State Treasurer, Investment Division to file a statement of economic interest with the Oregon Government Ethics Commission. Currently, ORS 244.050 specifies the public officials who are required to file annual statements of economic interests, including the State Treasurer, Chief Deputy State Treasurer, Chief of Staff for the State Treasurer, and the Director of the Investment Division.

Investment officers within the Investment Division of the Oregon State Treasury manage Oregon investment portfolio with a market value of over $73 billion. The division manages the Oregon Public Employees Retirement Fund, the State Accident Insurance Fund, the Oregon Short Term Fund, and multiple smaller funds such as the Common School Fund and the Oregon Growth Account.

Senate Bill 270

Campaign finance reporting

Candidate and political campaign committees are required to use the electronic campaign finance filing system to file statements of contributions as defined by ORS 260.005(3). In 2009, Senate Bill 783 was enacted, implementing multiple changes to how campaign committees file statements of campaign contributions and expenditures. Among the changes, Senate Bill 783 removed the $10,000 cap on civil penalties for failing to file a statement or failing to include required information and lowered the maximum civil penalty from 100 percent of the amount of the transaction to 10 percent of the total amount of the transaction.

Senate Bill 270 would have restored a cap on civil penalties for campaign finance reporting violations, establishing a cap of $5,000 per calendar month and would have required that civil penalties be calculated based on the month in which the transactions should have been filed, not the month in which they were filed.

Senate Bill 273

Penalties for not filing statement of economic interest

Senate Bill 273 would have reduced the maximum penalty from $5,000 to $1,000 for

failure to file statement of economic interest and expenditure statements with the Oregon Government Ethics Commission (OGEC) in a timely manner.
The penalty is based on a mathematical calculation and is automatically imposed upon receipt of filing; OGEC does not have discretion. A public official, lobbyist, or business may appeal a civil penalty by submitting a request to OGEC for reduction or dismissal of the penalty and OGEC is required to consider each request on its meeting agenda.

The lack of discretion regarding the imposition of penalties has limited the ability of OGEC to address other business in a timely manner because each request for reduction or dismissal of the penalty requires a vote of the OGEC. As result a disproportionate amount of OGEC and staff time is spent resolving statement of economic interest and contributions and expenditures filing issues.

Senate Bill 449

Legislative ombudsman

Senate Bill 449 would have created the position of Legislative Ombudsman within the legislative department of state government, to be appointed and terminated by unanimous agreement of the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives. The duties and authority of the Legislative Ombudsman would have included the development of procedures for receiving and processing complaints, conducting investigations, and reporting finding against governmental agencies.

The United States Ombudsman Association (USOA) defines a Governmental Ombudsman as: “an independent, impartial public official with authority and responsibility to receive, investigate or informally address complaints about government actions, and, when appropriate, make findings and recommendations, and publish reports.” Currently, Alaska, Arizona, Hawaii, Iowa, and Nebraska have Legislative Ombudsman offices similar to one proposed in Senate Bill 449.

Senate Bill 947

Establishing open primaries

Senate Bill 947 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.

Senate Joint Resolution 26

Establish Emergency Reserve Fund

Senate Joint Resolution 26 would have referred to voters, for approval or rejection at the November 2012 General Election, an amendment to the Oregon Constitution to establish an Emergency Reserve Fund (Fund). The Legislative Assembly would have been able to appropriate moneys from the Fund with the approval of three-fifths majority of all serving members if a specific economic trigger occurred: if the last quarterly economic and revenue forecast for a biennium indicated that General Fund moneys for the next biennium would be at least three percent less than appropriations for the current biennium; if there were two or more consecutive quarters of decline in

non-farm payroll employment; or, if a quarterly economic and revenue forecast projected that revenue in the General Fund in the current biennium would be at least two percent below revenues projected to be in the legislatively adopted budget.

Senate Joint Resolution 26 would have limited withdrawals from the Fund in any one biennium to two-thirds of the Fund's beginning balance and capped the Fund at 14 percent of General Fund revenue in the prior biennium. The resolution would have maintained the calculation of the 2 percent surplus corporate and noncorporate kickers, with 100 percent of the corporate kicker revenue and 50 percent of the noncorporate kicker revenue into the Fund. If the Fund was at or above 14 percent cap when the kicker calculation was made, 100 percent of the revenue above the forecast would have been sent to personal income tax payers.

Energy

House Bill 2523

Energy tax credit for manufacturing projects

The Business Energy Tax Credit (BETC) program was initially adopted to increase business in Oregon while encouraging sustainable energy sources for the state. Tax credit amounts varied by the type of project completed, and is 50 percent of eligible project costs for either high efficiency combined heat and power, renewable energy resource generation, and renewable energy resource equipment manufacturing facilities. The BETC for manufacturing projects provides that Oregon facilities that manufacture renewable energy resource equipment may be eligible for a credit worth 50 percent of eligible costs. Eligible costs include the building, equipment and machinery and other costs used to manufacture equipment, machinery or products designed exclusively for use as a renewable energy resource.

House Bill 2523 transfers the administration of the manufacturing tax credit from the Oregon Department of Energy to the Oregon Business Development Department, otherwise known as Business Oregon, which is required to certify the manufacturing facility. Each project is limited to a maximum of $40 million in eligible costs for each phase of development. The program is limited to $200 million in pre-certification credits for the 2009-11 and 2011-13 biennia, and $50 million for the six months from July 2013 to December 2013. The measure also expands standards related to job creation for certified projects.

Effective date: September 29, 2011

House Bill 2622

Renewable portfolio standard

House Bill 2622 makes revisions to Oregon's Renewable Portfolio Standard (RPS). The bill expands the types of electricity that qualify under the RPS to include any electricity generated from a renewable energy source, so long as the facility that generates that energy is one that previously burned coal as a fuel source, ceased to do so, and converts to a renewable energy source after the effective date of the measure.

The Oregon RPS was enacted in 2007 and directs utilities to meet a percentage of their retail electricity needs with qualified renewable resources. For Oregon's three largest utilities (Portland General Electric, PacifiCorp and the Eugene Water and Electric Board), the standard starts at five percent in 2011, increases to 15 percent in 2015, 20 percent in 2020, and 25 percent in 2025. Other electric utilities in the state, depending on size, have standards of five percent or 10 percent in 2025. Eligible resources include biomass, geothermal, hydropower, ocean thermal, solar, tidal, wave, wind and hydrogen.

Effective date: January 1, 2012

House Bill 2748

Wave energy

House Bill 2748 extends the applicability of exemptions for certain wave energy projects under ORS 543.017, which establishes minimum standards on the development of hydroelectric energy power. The measure applies to projects for which an application

is made to the Department of State Lands on or before December 31, 2021.

Wave power is the transport of energy by ocean surface waves, and the capture of that energy to do useful work. Waves are generated by wind passing over the surface of the sea. As long as the waves propagate slower than the wind speed just above the waves, there is an energy transfer from the wind to the waves. The rising and falling of the waves moves hydraulic fluid with the buoy; this motion is used to spin a generator, and the electricity is transmitted to shore over a submerged transmission line.

Effective date: May 27, 2011

House Bill 2827

Biodiesel fuel additives

House Bill 2827 permits the sale of biodiesel containing additives to prevent congealing or gelling between October 1 of any year and February 28 of the following year.

The composition and cold flow properties of diesel fuels can vary. These characteristics are influenced by a number of factors, including the crude oil source and how it's refined and blended. Similarly, the cold flow properties of B20 or higher biodiesel blends can vary based on the feedstock from which they are made. Under current law (ORS 646.922), the sale of biodiesel containing additives to prevent congealing or gelling is permissible only until March 1, 2011.

Effective date: June 7, 2011

House Bill 2960

Cool Schools program

House Bill 2960 creates the "Cool Schools" program, which provides grants and loans to school districts for projects to weatherize, upgrade, and retrofit K-12 public schools for energy efficiency; and replacing or retrofitting school bus fleets to operate on compressed natural gas, other alternative fuels, or operate with a hybrid electric engine. The measure establishes the Clean Energy Deployment Fund to appropriate the grants and loans, and changes the name of the Loan Offset Grant Fund to the Jobs, Energy and Schools Fund. School districts can finance such projects via directly payment, receiving a lower interest loan from either the Clean Energy Deployment Fund or the Small Scale Local Energy Project Loan Fund, issuing general obligation bonds, or using any other source of funding. House Bill 2960 prohibits a school district that receives a grant or loan under the program to self-perform work that constitutes more than five percent of the total cost of the financed project. Such projects are deemed as public works projects, subject to the state's prevailing wage rate law.

The Department of Energy (Department) is directed to establish and administer a four-year pilot program which creates energy savings projects at Oregon public schools via a schedule of projects, procured through a centralized contracting system, that allow school districts to apply for project funding. Energy efficiency projects listed in the system are to encompass both short-term and long-term improvements to existing public schools. House Bill 2960 also changes the administration of annual public purpose charge revenues between a contract

between the Department and six education service districts to approximately 110 school districts in service territories that are covered by either Portland General Electric (PGE) or PacifiCorp.

House Bill 2960 allocates money from XI-M, XI-N, Small Scale Energy Loan Program, the Public Purpose Charge, lottery money, and federal moneys to fund the seismic and energy upgrades.

Effective date: June 23, 2011

House Bill 3516

Solar energy systems on residential and commercial buildings

House Bill 3516 establishes that the installation and use of a solar photovoltaic or thermal energy system on a residential or commercial building is an outright permitted use in any zone where such structures are an allowed use. The measure establishes that the approval of a permit for such systems is a ministerial function if the installation can be accomplished without increasing the footprint of structure or the peak roof height and the plane of system is parallel to slope of roof. Cities and counties are prohibited from collecting land use permit application fees or requiring extensive surveys or site evaluations in connection with such applications. The bill exempts from the provisions related to ministerial function and application fees, surveys and evaluations those systems located on a residential or commercial structure that is in a federally or locally designated historic building, landmark or conservation landmark; located in historic district; or located in area designated as significant scenic resource unless the material used is designated as anti-reflective or 11 percent or less reflective.

Solar power is the conversion of sunlight into electricity, either directly using photovoltaics, or indirectly using concentrated solar power. Concentrated solar power systems use lenses or mirrors and tracking systems to focus a large area of sunlight into a small beam. Photovoltaics converts light into electric current using the photoelectric effect.

Effective date: January 1, 2012

House Bill 3571

Renewable energy certificates

House Bill 3571 specifies that the owner of a qualifying facility is the owner of a renewable energy certificate created pursuant to the system established under ORS 469A.130 for generation during the term of a contract if the contract was executed pursuant to federal law and in effect prior to November 20, 2005. The measure applies only to qualifying facilities located in Oregon, certified as a qualifying small power production facilities or a qualifying cogeneration facilities under federal law, and producing electricity priced under ORS 758.525.

Under ORS 469A.130, the Oregon Department of Energy (ODOE) is required to establish a system of renewable energy certificates that can be used by an electric utility or electricity service supplier to establish compliance with the state's Renewable Portfolio Standard. The ODOE codified this system in administrative rules which do not currently address ownership of renewable energy certificates for facilities built prior to 2005.

Effective date: June 7, 2011

House Joint Memorial 28

Hanford Nuclear Reservation

House Joint Memorial 28 urges the United States Department of Energy (DOE) to remove the Hanford Nuclear Reservation from its list of candidate sites for permanent storage of radioactive waste.

According to the United States Nuclear Regulatory Commission (NRC), there are no facilities for permanent disposal of high-level radioactive waste. Since the only way radioactive wastes become harmless is through decay, which can take hundreds of thousands of years, the wastes must be stored in a way that provides adequate protection for very long times. In February 2002, after many years of studying the suitability of the site, DOE recommended that the Yucca Mountain site be developed as a long-term geologic repository for high-level waste. The DOE is preparing a license application to submit to the NRC for construction authorization for the Yucca Mountain repository.

Seven operating commercial facilities in the United States are licensed to dispose of low-level radioactive wastes. They are (1) West Valley, New York; (2) Maxey Flats, Kentucky; (3) Sheffield, Illinois; (4) Beatty, Nevada; (5) Hanford, Washington; (6) Clive, Utah; and (7) Barnwell, South Carolina. At the present time, only the latter three sites are receiving waste for disposal. The Hanford Nuclear Reservation is in eastern Washington, approximately 40 miles north of Hermiston, Oregon.

Filed with Secretary of State: June 28, 2011

LEGISLATION NOT ENACTED

House Bill 3595

Siting solar facilities on farmland

House Bill 3595 would have authorized the governing body of a county to conditionally approve the siting of a solar energy generation facility that does not otherwise require a site certificate on land that has been zoned for exclusive farm use, so long as the land does not have an appurtenant irrigation water right and contains soils predominantly in capability classes IV to VIII. For such siting, the measure would have eliminated the requirement that the facility obtain an exception to a statewide land use planning goal. The bill would have required applicants to demonstrate that the proposed solar generating facility could be operated in compliance with all laws and regulations protecting fish and wildlife.

Solar power is the conversion of sunlight into electricity, either directly using photovoltaics, or indirectly using concentrated solar power. Concentrated solar power systems use lenses or mirrors and tracking systems to focus a large area of sunlight into a small beam. Photovoltaics convert light into electric current using the photoelectric effect.

Environmental Quality

House Bill 2081

Greenhouse gas emissions from trucking

The Environmental Quality Commission has indicated that idling standards and aerodynamic efficiency for trucks will greatly reduce the harmful environmental impacts inherent to the trucking industry.

House Bill 2081 creates the offense of unlawfully idling the primary engine of a commercial vehicle. The measure also prohibits idling in front of schools. The bill specifies that the motor vehicle carrier, not the owner of the truck will be responsible for any citation. House Bill 2081 requires auxiliary power units to be used for heating and cooling of the cab in lieu of engine idling.

Effective date: January 1, 2012

House Bill 2191

Paint stewardship program records

House Bill 2191 prohibits the Department of Environmental Quality from disclosing certain records obtained by the agency from a paint stewardship organization or specific paint producer as part of approval of plan or annual report except under certain circumstances.

Oregon was the first state to enact a paint product stewardship law. House Bill 3037 (2009) created the architectural paint stewardship pilot program by establishing a standard assessment on all containers of architectural paint sold in the state. The assessment funds the collection and disposal of paint as well as education and outreach activities. The program is administered by PaintCare, a not-for-profit industry association. In addition to collecting the assessment, PaintCare collects information from each producer on the quantity, type and size of products sold.

Effective date: May 27, 2011

House Bill 3121

Invasive species permit fines

House Bill 3121 establishes a fine of $30 for manually propelled boats and $50 for motorboats for violations of the law which requires persons operating boats in Oregon waters to hold aquatic invasive species permit. The bill prohibits a court from imposing specific, additional assessments.

“Invasive species” are plants, animals, and microbes not native to a region which, when introduced, may outcompete native species for available resources, reproduce prolifically, and dominate regions and ecosystems. Because they often arrive in new areas unaccompanied by their native predators, invasive species can be difficult to control. Left unchecked, many invasives can transform entire ecosystems, as native species and habitats disappear. The 2009 Legislative Assembly adopted a measure requiring any person who operates a manually propelled boat that is 10 feet or more in length or a motorboat on the waters of this state to obtain an aquatic invasive species prevention permit from the State Marine Board. Under the 2009 legislation, violation of this requirement was a Class D violation, punishable by a fine of $90.

Effective date: June 16, 2011

House Bill 3145

Bottle Bill

House Bill 3145 expands the Oregon Bottle Bill. On the earlier of January 1, 2018 or one year after the Oregon Liquor Control Commission (OLCC) determines that at least 60 percent of beverage containers returned for refund are returned to an approved redemption center, the bill dictates that the provisions of the Bottle Bill apply to all containers holding beverages intended for human consumption in quantities more than or equal to 4 fluid ounces, or less than or equal to 1.5 fluid liters, excluding distilled liquor, wine, dairy or plant-based milks, and infant formula. On the later of January 1 of the next calendar year or eight months following a determination by OLCC that, in each of the two previous calendar years, less than 80 percent of beverage containers sold in Oregon were returned for a refund, and in any event no sooner than January 1, 2016, the refund value of beverage containers increases to no less than 10 cents. Finally, House Bill 3145 directs OLCC to approve one beverage container redemption center pilot project in a city having a population of less than 300,000. The bill establishes requirements for the payment of refunds by a redemption center and by dealers of a certain size located in a convenience zone centered on the redemption center.

The Oregon "Bottle Bill" was passed in 1971 with the goal of reducing litter and increasing recycling. The 2007 Legislative Assembly expanded coverage of the five-cent beverage container deposit to include water and flavored water beverage containers and created a nine-member Bottle Bill Task Force to study issues associated with beverage container collection and refund.

Effective date: January 1, 2012

House Bill 3157

Oregon Adopt-a-River Program – invasive species removal

House Bill 3157 extends the Oregon Adopt-A-River program to include the removal of certain invasive species identified on a list created by State Marine Board. The bill requires the Marine Board to provide volunteer groups with instructions for removal of invasive species and best management practices regarding disposal and equipment decontamination.

"Invasive species" are plants, animals, and microbes not native to a region which, when introduced, may outcompete native species for available resources, reproduce prolifically, and dominate regions and ecosystems. Because they often arrive in new areas unaccompanied by their native predators, invasive species can be difficult to control. Left unchecked, many invasives can transform entire ecosystems, as native species and habitats disappear.

Effective date: January 1, 2012

House Bill 3255

Pinniped Hazing

House Bill 3255 requires the Oregon Department of Fish and Wildlife (ODFW) to expand its program of pinniped hazing at Willamette Falls from five to seven days per week between February 1, 2012 and April 30, 2012, and between February 1, 2013 and April 30, 2013. For the biennium beginning July 1, 2011, the bill sets a maximum limit of $112,932 for ODFW funds that may be used for hazing program expenses.

Seals, sea lions and walrus are pinnipeds. "Pinniped hazing" is the use of loud noises and other non-lethal methods to drive pinnipeds to other locations. Since the spring of 2008, wildlife managers for the Washington Department of Fish and Wildlife and ODFW have removed a total of 40 California sea lions below the Bonneville dam to reduce salmon predation. Since 2003, the Army Corps of Engineers has documented approximately 100 California sea lions annually consuming an average of 3,000 spring Chinook salmon and steelhead at the Bonneville dam.

Effective date: June 23, 2011

House Bill 3325

Brownfields

House Bill 3325 allows the Department of Environmental Quality to provide property owners with releases from liability associated with certain prior spills or releases of oil or other hazardous substances on or emanating from their property. These releases may be accomplished either through an administrative consent order or a judicial consent judgment. The bill does not affect a property owner's liability for spills or releases occurring after the owner acquires legal possession of the property, or if the owner has exacerbated or contributed to the spill or has otherwise been negligent. When a person purchases land or a facility that is already subject to an administrative agreement relating to liability for spills or releases, that person can take advantage of the terms of the administrative agreement by adopting and agreeing to be bound by it.

A "brownfield" is a piece of property where previous environmental contamination, whether actual or perceived, complicates expansion or redevelopment, leaving the land vacant or underused. Prospective purchasers of brownfields may decline to buy or develop the land out of fear of legal liability or the potentially high costs of investigating and cleaning up the property.

Effective date: January 1, 2012

House Bill 3538

Greenhouse gas emissions

House Bill 3538 directs the Energy Facility Siting Council to adopt rules establishing the global warming potential of greenhouse gases based on generally accepted scientific method and to convert any greenhouse gas emissions to a carbon dioxide equivalent. The bill defines "greenhouse gas" as carbon dioxide, methane, and nitrous oxide.

State law requires new fossil fuel plants sited by the state to mitigate a portion of their lifetime carbon dioxide emissions. Before the enactment of House Bill 3538, the statute allowed only carbon dioxide related offset projects.

Effective date: June 9, 2011

Senate Bill 81

Ballast Water Fee

Senate Bill 81 authorizes the Department of Environmental Quality (DEQ) to collect $70 per trip for vessels regulated under the state's ballast water statutes.

An unintentional consequence of commercial shipping is the transport and introduction of species into ecosystems outside their historic ranges. These aquatic invasive species, freed of the natural controls of their native range, can proliferate

in Oregon's waterways, displace native species and degrade ecosystem services critical to human economies and health. Ballast water management regulations for transoceanic and coast-wide vessel traffic into Oregon waters were established in 2002 to reduce the risk of invasive species introduction. The primary ballast water management practice in widespread use is mid-ocean ballast water exchange, which replaces high-risk water from distant ports with lower-risk waters from open ocean environments.

Effective date: January 1, 2012

Senate Bill 82

Oregon E-Cycles Program

Oregon E-Cycles is a statewide program established in 2007 that requires electronics manufacturers to provide free, convenient recycling for computers, monitors and televisions. Manufacturers are required to join a manufacturer-run program or participate in state-run recycling program. Each program accepts covered devices through a network of collection sites and services and recycles them under a plan approved by the Department of Environmental Quality (DEQ). Each year, DEQ determines the total weight of devices expected to be recycled in the state in the following year and assigns each manufacturer a portion of that total weight as its return share, or minimum recycling obligation.

Senate Bill 82 adds printers and computer peripherals to the Oregon E-Cycles Program beginning in 2015. The measure also allows manufacturers or the state contractor program that collects covered electronic devices to claim recycling credits under certain circumstances. Printers and computer peripherals are also excluded from a ban on disposal in solid waste sites of devices covered by the program.

Effective date: June 28, 2011

Senate Bill 993

Solid waste

Oregon law establishes a hierarchy for the management of solid waste. The first objective is to prevent the generation of the waste. If that is not possible, re-use is the next option, followed by recycling, composting, and energy recovery. Safe disposal is the last option, if none of the others is feasible. The Department of Environmental Quality does not currently regulate biomass fuels as solid waste. Senate Bill 993 specifically excludes woody biomass that is combusted as fuel by a facility that has obtained an air quality permit from the definition of solid waste.

Specifically, Senate Bill 993 excludes woody biomass that is combusted as a fuel by a facility that has obtained a permit under ORS 468A.040 (air quality) from the definition of solid waste. It establishes that solid waste management definitions do not apply to wood residue that 1) is a by-product of manufacturing wood products or processing wood at a facility that manufactures wood products, including a sawmill, pulp mill or paper mill; 2) is not co-mingled with other types of solid waste; and 3) is combusted as fuel by a generator of wood residue in facility that has obtained an air quality permit and is owned or operated by the generator or is purchased from or exchanged by generator of wood residue for fair market value and is combusted as fuel in facility that has obtained air quality permit.

Effective date: January 1, 2012

LEGISLATION NOT ENACTED

House Bill 2009

Marine reserves

House Bill 2009 would have revised the list of recommendations relating to marine reserves and protected areas to be implemented by state agencies. The bill also would have made changes to the set of regulatory tools to be used by agencies, and the required elements of the work plan that the Oregon Department of Fish and Wildlife (ODFW) must develop to execute those recommendations.

Marine reserves are areas within Oregon's Territorial Sea or adjacent rocky intertidal area that are protected from all extractive and development activities, except as necessary for monitoring or research or to aid in the research and management of ocean habitats and marine plants and animals. The 2009 Oregon Legislative Assembly passed HB 3013, which established a process for evaluating and implementing marine reserves. ODFW is currently engaged in executing this marine reserves process.

House Bill 3165

Willamette River Basin Project

House Bill 3165 would have required the Water Resources Department (WRD) to assemble a work group of affected stakeholders and federal agency representatives to issue a report to the Water Resources Commission on water right transfer applications in the Willamette River Basin Project. The bill would have prohibited WRD from processing a transfer application for water stored in the project in the absence of a work group unless the cumulative total of stored water under the proposed transfer was not more than 500 acre-feet. The bill required the WRD Director to receive sufficient public or private funding before assembling a work group.

The U.S. Army Corps of Engineers operates 13 reservoirs in the Willamette River Basin Project that store a combined total of 1.64 million acre-feet of water. According to the Oregon Water Utilities Council, 1.56 million acre-feet is not under contract. The US Congress authorized the reservoirs for flood control, navigation, irrigation, hydroelectric power, drinking water, and stream pollution reduction. The US Bureau of Reclamation, the contracting entity for the project, has applied for and received water right certificates to all of the stored water for the purpose of irrigation; any other use of the water requires approval of a water rights transfer application by theWRD.

Senate Bill 529

Recycling of light bulbs containing mercury

Senate Bill 529 would have required producers of light fixtures containing mercury to establish a product stewardship program. The measure set mercury content standards and state procurement policy for such fixtures and prohibited the disposal of light bulbs containing mercury at solid waste dumps.

There are many types of light bulbs that contain mercury: fluorescents, including linear straight tubes, U-shaped, circular and compact fluorescents (the spiral type commonly used in homes); neon bulbs; ultraviolet bulbs (often used to disinfect

drinking water); and high-intensity discharge bulbs such as mercury vapor, metal halide and high pressure sodium.

Senate Bill 536

Plastic bags

Senate Bill 536 would have prohibited retailers from providing single-use checkout bags to customers except under certain circumstances. The prohibition did not apply to restaurants. The measure would have also prohibited local governments from imposing any type of fee or assessment on checkout bags provided to retail customers.

Oregon is a national leader in recycling programs and has one of the highest recovery rates for solid waste in the United States. Recycling is encouraged through state laws including the Bottle Bill (1971), which established the first bottle deposit in the country; the Opportunity to Recycle Act (1983), which provides for curbside recycling and drop-off depots; and the Oregon Recycling Act (1991), which set goals for recovery of solid waste.

Senate Bill 945

Copper in brake pads

Senate Bill 945 would have prohibited the sale of brake pads that contained specified levels of certain fibers or elements, as well as motor vehicles or trailers with such brake pads, on July 1, 2014. Effective January 1, 2021, copper and its compounds would have been added to the list of prohibited brake pad materials. The measure provided specific exemptions to the prohibition on the sale of brake pads.

Brake pads generate friction against discs or cylinders that in turn slow and stop a moving vehicle. Brake pads may contain a variety of ingredients, including copper. While a vehicle is stopping, a small amount of the brake pad's friction material rubs off and goes onto the roadway or into the air, ultimately ending up in stormwater runoff and entering lakes, creeks, rivers and marine waters.

Government

House Bill 2020

Raising ratio of state employees to supervisors

The Service Employees International Union (SEIU), Local 503, issued a report in March 2011 entitled, *Moving Forward: A Better Way*, that compiled and evaluated the recommendations of its members on how to close the state budget gap for 2011-2013. One of the recommendations was for a review of the structure of state agencies, focusing on the ratio of staff to management. The report stated that the current ratio was 5.7 to 1, and that it should be increased.

House Bill 2020 requires state agencies to submit a report for each of its divisions or units, to the Joint Committee on Ways and Means (the Committee). The report is to include the ratio of employees to supervisors, the ratio of employees to managers, and the number of nonsupervisory managers with a description of their duties. The Committee is then directed to develop a plan to achieve a ratio 11 to 1 for each division of each agency with more than 100 employees. If it is determined that the 11:1 ratio cannot be obtained, the Committee is authorized to develop a plan with a different ratio.

Effective date: July 6, 2011

House Bill 2069

Special Public Works Fund

The Special Public Works Fund exists to provide loans to local municipalities for infrastructure projects defined by statute. The Oregon Infrastructure Finance Authority may determine the level of grant of loan funding on a case-by-case basis. The grants cannot exceed $1 million or 85 percent of the projects cost, whichever is less.

House Bill 2069 changes the initial terms of these loans no longer than the lesser of the usable life of the project or 30 years from the year in which a project is completed. The measure also modifies the terms of a renegotiated loan to not exceed the lesser of the remaining usable life of the project or 30 years.

Effective date: January 1, 2012

House Bill 2095

Interstate Insurance Product Regulation Compact

The insurance industry is heavily regulated by states. This is understandable for insurance products that depend on location, and thus vary from state-to-state (such as health, auto and home insurance), but less so for products that do not relate to location, such as life insurance and annuities. Historically, to offer a new product, an insurer would have to go through a separate regulatory process in 56 different jurisdictions, even if the product was not related to location. Each jurisdiction has its own specific requirements and issues a separate approval when those requirements are met. In Oregon, the entity responsible for review and approval of most insurance products is the Department of Consumer and Business Services.

The Interstate Insurance Product Regulation Compact allows life insurance, annuity, and disability income products to reach the market with greater efficiency, by establishing a single point of contact for insurers to seek product review and approval. Since its inception in Colorado

and Utah in 2004, 39 other states have elected to participate, including Nevada and Alabama in 2011. Participating states adopt uniform product standards governed by an Interstate Insurance Product Regulation Commission that is comprised of representatives from each of the participating states. House Bill 2095 enacts the Interstate Insurance Product Regulation Compact in Oregon, making Oregon the 40th state to participate.

Effective date: January 1, 2012

House Bill 2113

Clarification of PERS/OPSRP statutes

House Bill 2113 makes a number of changes to statutes related to the Public Employees Retirement System (PERS) and the Oregon Public Service Retirement Plan (OPSRP), either to conform with federal tax law, correct items that were inadvertently omitted when previous legislation was passed, or to delete provisions of statute that were invalidated due to the outcome of *Strunk v. Public Employees Retirement Board (PERB).*

Current statute requires legislators to make a retirement plan election for their legislative service. However, in certain circumstances, a legislator who is already a PERS member could make an election that results in receiving credit for two programs for the same service. This is inconsistent with federal tax laws that govern retirement plan qualification and with the provision of House Bill 2285 (2007), which eliminated the "break in service" provision in which a PERS Tier One/Tier Two member who had a six month "break-in-service" became an OPSRP member upon return to PERS-covered employment. House Bill 2113 clarifies that if an elected or appointed legislator fails to make an election, the measure provides for defaults that are consistent with federal tax law.

House Bill 2113 also corrects an inadvertent omission of three retirement credit purchases (service as a professional wildland firefighter, service as a public safety officer in another state, and service while on loan to the federal government) from the enactment of Senate Bill 399 (2009), which permits retirement credit purchases via a pre-tax, trustee-to-trustee transfer from certain other retirement plans beginning on September 1, 2011. House Bill 2113 also allows an OPSRP member to vest in both the Pension Program and an Individual Account Program employer account if the member is an active member on or after the date the member reaches normal retirement age. The measure also codifies federal legislation from 2010 allowing Roth Individual Retirement Account contributions within the Oregon Growth Savings Plan, and it amends ORS 238.555 (disability retirement allowance) and repeals ORS 238.258 (minimum regular account balance) to remove invalidated statutory provisions due to the Oregon Supreme Court's decision on *Strunk v. PERB*. The measure also allows PERB to offer Roth Individual Retirement Account contributions within the OPSRP program.

Effective date: August 5, 2011

House Bill 2192

Mapping Availability of Broadband

House Bill 2192 clarifies that the Public Utility Commission is authorized to expend money from the Universal Service Fund (OUSF) to survey and map for broadband, per the intent of 2009 legislation regarding the statewide deployment of broadband

infrastructure and applications that run on broadband.

House Bill 3158 (2009) was intended to allow moneys from the OUSF to be used to survey or map the state to determine where adequate broadband services are available. The measure was created as a means for Oregon to obtain a federal grant to map the availability of broadband in Oregon, in which a 20 percent state match was required. House Bill 3158 clarified that the maximum amount of expended moneys cannot exceed the amount of the match. However, another enacted measure during the 2009 regular session (House Bill 3199) superseded the language in House Bill 3158, expanding the usage of OUSF moneys for any type of facilitation of broadband. House Bill 2192 codifies the original legislative intent.

Effective date: January 1, 2012

House Bill 2244

State agency policy on use, retention and ownership of public records

House Bill 2244 revises the definition of "public record" for the purposes of statutes governing the retention of public records for state agencies and local governments. The measure updates statutory language to reflect that records today are often kept in electronic or other forms besides the traditional paper format, as well as to reflect the use of social media and other types of services that make it difficult to capture and retain records in a traditional manner. Each state agency is directed to develop a written policy that sets forth its use, retention and ownership of public records and ensures that records are maintained and managed consistently; written policies are subject to review and approval by the State Archivist prior to taking effect.

House Bill 2244 also specifies that records maintained by providers of domestic violence services, as well as resource centers and shelters operated by or in partnership with a public entity, are not subject to disclosure as public records.

Effective date: August 2, 2011

House Bill 2247

Disclosure of government audit information

Materials related to ongoing audits by the Secretary of State's Audits Division are subject to disclosure before an audit is final, permitting the dissemination of sometimes inaccurate information.

House Bill 2247 prohibits disclosure of documents and work papers related to ongoing audits until a final audit report is released. If a draft report is released to an audited entity, then the draft report may also be disclosed.

Effective date: January 1, 2012

House Bill 2425

Statutory requirements related to local budget law

Following the enactment of Senate Bill 916 (2009), which made several changes that were related to local budget law, a work group was established to perform a comprehensive review of local budget law, and recommend any updates. The last such effort was undertaken in 1963, and House Bill 2425 is the result.

It provides a more usable and readable format for the general public, and conforms statutes to current court and Department of

Revenue practices and interpretations. The measure's primary changes are to statutes that deal with notice of public hearings, and with financial summaries. Most notably it eliminates the requirement that summaries of individual funds be published, and requires an expanded summary of the budget as a whole instead. Education districts are to publish similar summaries. Some of the required notices may now be placed on district websites in lieu of publication in local newspapers and some sections have been consolidated.

Effective date: January 1, 2012

House Bill 2456

Repeal of additional benefit payment for certain PERS retirees

House Bill 2456 establishes that the increased benefit provided by House Bill 3349 (1995) will not be paid to affected Public Employees Retirement System (PERS) Tier One retirees whose payments are not subject to Oregon personal income tax on or after January 1, 2012. Upon applying for retirement payments, a PERS member must provide a written statement to the Public Employees Retirement Board (PERB) that indicates whether the payments are subject to Oregon personal income tax, and must notify the Board when that status changes. If the member fails to submit the written statement, or indicates that payments are not subject to Oregon personal income tax, PERB may not pay the increased benefit. The measure also requires the Department of Revenue to provide an annual report to PERB with information identifying persons receiving payments, including information on personal income tax returns that the Board deems necessary for determining whether the retiree's payments are subject to Oregon personal income tax. The Board is required to provide written notification regarding the measure's provisions to all affected PERS members who are applying for or receiving payments. House Bill 2456 also extends similar provisions to public employers that provide retirement benefits for police officers and firefighters through a system other than PERS.

Until the late 1980s, PERS pensions were exempt from state income taxes, while federal retirement benefits had partial exemptions and private retirement benefits had no exemptions. However, a 1989 U.S. Supreme Court ruling required that states must treat federal and state retirement benefits in the same manner. For nearly a decade, the state courts and the Legislative Assembly addressed this issue. House Bill 3349 (1995) provided a one-time retroactive payment to PERS retirees as compensation for the taxation of benefits since 1991 and provided for increases in all future benefit payments adequate to compensate retirees to the extent required by *Hughes v. State of Oregon*. That case determined that imposing income taxes was a breach on workers' contractual rights and that PERS retirees must be compensated for taxes paid on benefits that were attributable to service before September 28, 1991, the effective date of House Bill 2352 (1991).

Effective date: August 2, 2011

House Bill 2550

Reciprocal agreements concerning tax refunds and tax obligations

The Oregon Department of Revenue has the authority to enter into intergovernmental agreements with the United States Financial Management Service and the Internal Revenue Service for engaging in the

reciprocal offset of federal tax refunds in payment of liquidated state tax obligations and the offset of state tax refunds in payment of liquidated federal tax obligations. A liquidated debt, in general, is one where the exact past due amount is known, proper notification of the debt has been made to the debtor, and there has been a judgment, distraint warrant, administrative proceeding, or similar action to establish the debt.

Currently, only tax refunds are offset by tax obligations. House Bill 2550 allows offset withholding of overpayments, refunds, and vendor payments to pay other, nontaxable debts. While the measure does not specifically identify which payments are subject to withholding under the agreement, federal and state laws contain existing provisions that exclude certain types of payments from offset. These include Social Security, and means-tested benefit payments such as Supplemental Security Income, veterans' benefits, public assistance, unemployment benefits, disability benefits and workers' compensation. The agreement itself also addresses inclusions and exclusions and other items and conditions specific to Oregon's agreement with the federal government.

Effective date: January 1, 2012

House Bill 2788

Expanding information on Oregon's Transparency Website

House Bill 2500 (2009) directed the Department of Administrative Services to develop the Oregon Transparency Website, to allow access to public records about each state agency, including its revenues, expenditures, human resource expenses (including compensation), tax expenditures, contracting and subcontracting information, pie charts of primary revenue sources, mission statements, function and program categories, and audit reports issued by the Secretary of State.

The Office of Oregon Treasurer was originally exempt from making information available on the Transparency Website, but has been doing so. House Bill 2788 removes the exemption to conform to the Treasurer's actual practice.

Effective date: June 16, 2011

House Bill 2825

Economic development tax expenditure information on Oregon's Transparency Website

Oregon taxpayers spent more than $350 million during the 2009-2011 biennium on programs designed to promote economic development, primarily in the form of tax credits and property tax abatements; however, it can be difficult for the public to access detailed information.

House Bill 2825 requires information be made available via the Oregon Transparency Website, including the name and address of any taxpayers receiving a tax expenditure related to economic development; the amount; the promised and actual results related to the project receiving the tax expenditure; and an explanation of the agency's certification decision. Reporting is also required for the following economic development tax expenditures: reservation enterprise zones; rural renewable energy development zones; the strategic investment program; food processing equipment abatement; electronic commerce zones; film production development contributions; film production labor rebates; small city business

development credits; long-term enterprise zone facilities; and manufacturing and renewable energy components on the business tax credit.

Effective date: September 29, 2011

House Bill 3000

State contract preferences for local goods and services

House Bill 2763 (2009) provided that contracting agencies may pay up to 10 percent above the lowest bid for agricultural products that are produced and transported entirely within the borders of Oregon, and that agencies may exceed 10 percent if the agency finds good cause for doing so in a written determination.

House Bill 3000 allows for contracting agencies to provide a preference similar to that created in House Bill 2763 for any goods fabricated or processed in Oregon, or for services performed entirely within the state, except for public improvement and construction contracts. Contracting agencies may provide an additional preference to bidders that reside in or are headquartered in Oregon if more than one bidder qualifies for the 10 percent preference.

Effective date: June 7, 2011

House Bill 3195

Filing electronic records with a county clerk

House Bill 3195 allows county clerks to record instruments that are transmitted or presented electronically if the person seeking recordation attests to original signatures. The measure allows a county clerk to enter into an agreement to receive instruments electronically with contractors who present such images on behalf of others. The measure also defines electronic signatures.

Oregon adopted the Uniform Electronic Transactions Act (UETA) in 2001; however, ORS 93.804 prohibits county clerks from recording documents without an original signature. Jackson County's clerk recorded electronic documents for a year until the practice was challenged in court. The court ruled that electronic recording was permitted under the UETA, but that ruling is being appealed. House Bill 3195 provides a statutory solution and applies retroactively.

Effective date: June 16, 2011

House Bill 3291

Audits of state agencies

The Secretary of State's Audits Division was established in 1929 to carry out the Secretary of State's constitutional responsibility of auditor of public accounts. The Audits Division's mission is to ensure that public funds are properly accounted for, spent in accordance with legal requirements, and used to their best advantage. The Division conducts audits selected to produce the best value for Oregon taxpayers. There were 41 audit reports produced in 2010.

House Bill 3291 directs agencies that are subject of a Secretary of State audit to disclose the audit results and present a written report to the Legislative Assembly within six months following the release of the audit report. In addition, the agency is directed to report to the appropriate subcommittee of the Joint Committee on Ways and Means at all hearings related to the agency's budget for a period of three

years from the date that the Secretary of State issues the audit report.

Effective date: January 1, 2012

House Bill 3361

Access to clustered mailboxes by persons with disabilities

Current law provides for compliance with the federal Americans with Disabilities Act (ADA) by ensuring that affected buildings and related facilities are accessible and usable by persons with disabilities. Affected buildings include commercial facilities, private entities, private membership clubs and churches, as well as multifamily dwellings. Related facilities are defined as building site improvements such as parking lots, passageways, roads or any other real or personal property located on site.

House Bill 3361 incorporates clustered mailboxes, both those in private development and in the public right of way, into the definition of "related facilities" for disabled accessibility standards. The measure specifies that cities and counties are to adopt standards and specifications for clustered mailboxes that conform to those contained in the state's Structural Specialty Code by March 1, 2012; the Department of Consumer and Business Services is, in turn, directed to amend the Structural Specialty Code to incorporate standards and specifications for clustered mailboxes that are consistent with the ADA and existing accessibility provisions within the Code.

Effective date: June 23, 2011

House Joint Resolution 7

Executive and Legislative authorities when a disaster is declared

Scientists and emergency management officials say it is a question of "when," not "if," a major earthquake in the Cascadia Subduction Zone will trigger a massive tsunami on the coast. The earthquake experienced by Haiti 2010 and the earthquake and tsunami in Japan in 2011, both focused attention on the issue of government function in the wake of a disaster.

House Joint Resolution 7 refers to voters, for their approval or rejection at the November 2012 General Election, a proposed revision to the Oregon Constitution to give new authority to the Governor and Legislative Assembly if a catastrophic disaster is declared by the Governor. The proposed revision would allow the Governor to redirect General Fund and lottery moneys, appropriated or allocated to executive branch agencies, in order to respond to the disaster.

The proposed revision would also allow the Legislative Assembly to operate with a quorum of two-thirds of members who are able to attend, as opposed to two-thirds of all its members, which is otherwise constitutionally required. A member would also be permitted to participate via electronic or other means and the Assembly could convene in a place other than the Capitol. The Legislative Assembly would also be permitted to take actions that are otherwise constitutionally prohibited: appropriating highway funds and kicker refund moneys for any purpose, exceeding the state debt limit, overriding the local mandate provisions, and allocating state lottery moneys for any purpose related to disaster response.

Filed with the Secretary of State on June 28, 2011

House Joint Resolution 44

Clarifying terminology in the Oregon Constitution

House Joint Resolution 44 refers to voters, for the November 2012 General Election, an amendment to the Oregon Constitution that changes the word "Department" to "Branch," when it refers to a branch of government; from "branch" to "chamber" when it refers to a chamber of the Legislative Assembly; and removes gender-specific reference to the office of Secretary of State.

House Joint Resolution 44 makes changes to terminology only, in conformity with modern language usage; referring to branches of government as "departments" predates the American Civil War.

Filed with the Secretary of State: June 28, 2011

Senate Bill 530

Renaming the Commission on Asian Affairs

Senate Bill 530 changes the name of the Commission on Asian Affairs to the Commission on Asian and Pacific Islander Affairs. The measure also clarifies its duties.

The Commission on Asian Affairs was formed in 1995 to work toward economic, social, political and legal equality for Asian Americans and Pacific Islanders in Oregon. It is one of four such advocacy commissions in Oregon. The other three are the Commission on Black Affairs (created in 1980), the Commission on Hispanic Affairs (1983) and the Commission for Women (1964).

Effective date: January 1, 2012

Senate Bill 676

State budget policy

Senate Bill 676 was introduced on behalf of the Committee on Performance Excellence (CPE) to include the submittal of an outcome-based budget (based on state agency performance management and performance measurements). The measure also directs the Oregon Department of Administrative Services and the Governor to submit outcome-based budgets, and the Governor and Chief Justice are directed to report to Legislative Assembly on a plan to implement continuous improvement strategies for better management of government.

In 2008, Senate Bill 1099 was enacted, which established the nine-member CPE, composed of representatives of each branch of government, unions, and businesses. CPE has worked with agency directors and legislators to learn more about ways to improve performance excellence in state government and promote improved performance management.

Effective date: June 28, 2011

Senate Bill 976

Law Enforcement Medal of Ultimate Sacrifice

Senate Bill 976 creates the Law Enforcement Medal of Ultimate Sacrifice, to be awarded, upon nomination by the Governor's Commission on the Law

Enforcement Medal of Honor (the Commission), to the family of a law enforcement officer who died as a result of performing their duties. The measure also puts a surviving family member of a law enforcement officer killed in the line of duty on the Commission.

In 2005, the Oregon Legislature created the Law Enforcement Medal of Honor to be awarded by the Commission. The Law Enforcement Medal of Honor is intended to serve as the highest possible standard for exceptional conduct for members of the profession. Current members of the Commission are from the Governor's office, the Department of Public Safety Standards and Training, the Oregon Association of Chiefs of Police, the Oregon State Sheriffs' Association, and a statewide organization of police officers, and a statewide association of peace officers.

Effective date: January 1, 2012

Senate Bill 987

Officer Chris Kilcullen Memorial Highway

Senate Bill 987 designates State Highway 126, beginning where the highway intersects with West 6th Avenue and West 7th Avenue in Eugene and ending where the highway intersects with Main Street in Springfield, as the Officer Chris Kilcullen Memorial Highway, and requires the Oregon Department of Transportation to place and maintain markers with the designation.

On April 22, 2011, Officer Chris Kilcullen, a 12-year veteran of the Eugene Police Department, was killed during a vehicle pursuit, becoming that department's first officer to die in the line of duty in more than 70 years. Officer Kilcullen was on his department motorcycle, attempting to stop a vehicle that ran a red light. He pursued the suspect into Springfield, pulled up alongside to indicate that the driver should pull over, when she drew and fired a weapon, mortally wounding him.

Effective date: January 1, 2012

Senate Bill 989

House and Senate redistricting

Every ten years, the legislature must redraw House and Senate legislative district lines based on the decennial U.S. Census data. Senate Bill 989 establishes the new districts. According to the 2010 U.S. Census, the population of Oregon was 3,831,074 people, representing a 12% increase from 2000. An ideal population for the 30 state Senate districts is 127,702, and for the 60 state House districts, 63,851.

Criteria to guide the legislature in redistricting are provided at ORS 188.010: each district, as nearly as practicable, should be contiguous; of equal population; utilize existing geographic or political boundaries; not divide communities of common interest; and be connected by transportation links. Further, districts shall not be drawn for the purpose of favoring any political party, incumbent legislator or other person, or for the purpose of diluting the voting strength of any language or ethnic minority group. In addition, the Constitution and statute both require two state representative districts to be wholly "nested" within each state senatorial district.

In 2008, voters passed Measure 55, which amended the Oregon Constitution to allow representatives and senators to continue to represent the districts from which they were elected for their full term, however the new districts will be effective for the purpose of

the primary and general election. Therefore, the new legislative districts described in Senate Bill 989 become operative on the second Monday in January 2013, and will be effective for the purpose of running for the office of state representative or senator during the 2012 primary and general elections. Redistricting maps may be found at http://www.leg.state.or.us/redistricting/.

Effective date: January 1, 2012

Senate Bill 990

Congressional redistricting

Every ten years, the legislature must redraw congressional district lines based on the decennial U.S. Census data. Senate Bill 990 establishes the new districts. According to the 2010 U.S. Census, the population of Oregon was 3,831,074 people, representing a 12% population increase from 2000, making the ideal population for Oregon's five congressional districts 766,215.

Criteria to guide the legislature in redistricting are provided at ORS 188.010: each district, as nearly as practicable, should be contiguous; of equal population; utilize existing geographic or political boundaries; not divide communities of common interest; and be connected by transportation links. Further, districts shall not be drawn for the purpose of favoring any political party, incumbent legislator or other person, or for the purpose of diluting the voting strength of any language or ethnic minority group.

The measure specifies that the new congressional districts became effective upon signing by the Governor on June 30, 2011; however, any person holding office on the basis of residency in a congressional district, whether elected or appointed to any public office prior to June 30, 2011, is not disqualified from office and can continue to serve until it would otherwise expire. Congressional redistricting maps are at http://www.leg.state.or.us/redistricting/.

Effective date: June 30, 2011

Senate Concurrent Resolution 2

Official outdoor pageant and wild west show

Senate Concurrent Resolution 2 designates the Happy Canyon Indian Pageant and Wild West Show as Oregon's official outdoor pageant and wild west show.

The Happy Canyon Indian Pageant and Wild West Show has been presented annually during the Pendleton Round-Up since 1916. It depicts the settling of the American West, from Native Americans' prior way of life through activities on a main street in a frontier town. It was originally conceived by Roy Raley, who later collaborated with local tribal members to include depictions of Native American village life.

Filed with the Secretary of State June 17, 2011

LEGISLATION NOT ENACTED

House Bill 2003

Deferred maintenance on state-owned properties

House Bill 2003 would have required state agencies to establish a dedicated account to pay for maintenance and repair of property

and facilities, and for replacement of facilities beyond repair. Agencies would have been required to contract annually for review and estimate of maintenance, repair, and replacements costs, as well as to determine the amount needed in the dedicated account. The dedicated account was to receive any sale or lease proceeds or rent revenues until it was fully funded, and was to be fully funded before a separate account for construction, operation, and disposal costs could be funded.

The State of Oregon owns a portfolio of facilities worth more than $6 billion. There is an estimated $1.4 billion backlog of deferred maintenance, including facilities within the Oregon University System, but not including the K-12 public school system. A legislative budget note from 2005 directed the Department of Administrative Services (DAS) to form a work group to assess deferred maintenance. Executive Order 10-11 (December 6, 2010) directed DAS to develop standards and guidelines for all state agencies to use for assessment and reporting, and to implement a pilot program with two or more agencies to develop a comprehensive plan to address the issue.

House Bill 2063

Database of deferred maintenance on state-owned properties

House Bill 2063 would have required Departemtn of Administrative Services (DAS) to establish a database of state facilities to compare the cost of performing deferred maintenance versus the cost of facility replacement. DAS and the Capital Projects Advisory Board would have been required to set priorities for providing deferred maintenance, and DAS would have reported to the Legislative Assembly every two years. A special fund would have been established for critical maintenance projects that had no other source of funding, and DAS would have been authorized to issue and sell certificates of participation.

The State of Oregon owns a portfolio of facilities worth more than $6 billion. There is an estimated $1.4 billion backlog of deferred maintenance, including facilities within the Oregon University System, but not including the K-12 public school system. A legislative budget note from 2005 directed DAS to form a work group to assess deferred maintenance. Executive Order 10-11 (December 6, 2010) directed DAS to develop standards and guidelines for all state agencies to use for assessment and reporting, and to implement a pilot program with two or more agencies to develop a comprehensive plan to address the issue.

House Bill 2218

Maintenance and repair of capital construction projects

House Bill 2218 would have required state agencies borrowing money to fund capital construction projects to set aside an unspecified percentage of the net proceeds of any bonds issued into a separate account if the bond authorization allowed for the financing of repairs or maintenance of the project. Agencies would have been directed to use interest earned on the money in a separate account to finance repairs and maintenance on the project.

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(DAS) to form a work group to assess deferred maintenance. Executive Order 10-11 (December 6, 2010) directed DAS to develop standards and guidelines for all state agencies to use for assessment and reporting, and to implement a pilot program with two or more agencies to develop a comprehensive plan to address the issue.

House Bill 2636

Taxpayer Ombudsman Office

House Bill 2636 would have created an Office of the Taxpayer Ombudsman within the Oregon Department of Revenue. The measure established the functions, powers, and duties of the office, and scheduled its sunset on January 1, 2016.

The U.S. Internal Revenue Service, Office of the Taxpayer Advocate has served the public for over 30 years. Across the nation, 28 states have created taxpayer advocate positions, and 15 of those are statutory. New York's Office of Taxpayer Rights Advocate was created in 2009. It exists to assist taxpayers with resolving problems, to identify systemic issues, and to develop potential legislative solutions, as well as to work with the New York Department of Taxation and Finance to improve its processes. In February 2011, the New York State Society of Certified Public Accountants requested that the Governor of New York designate the Office of Taxpayer Rights Advocate a permanent resource within the Department.

House Bill 2932

Four-day work week for state employees

House Bill 2932 would have established regular office hours for all state agencies from 7 a.m. to 6 p.m., Monday through Thursday, except those that provide essential services. The measure directed the Department of Administrative Services to develop and implement a plan for each agency, to adopt rules for implementation, and to report twice annually to the Legislative Assembly.

The State of Utah transitioned its state agencies to a four-day work week in 2008, increasing the number of hours of operation per day. Although government offices are only open four days per week, the extended hours improve accessibility for people who previously would have had to take time off work to attend to government business. Utah state government reports a 13 percent reduction in energy use, and 82 percent of its employees indicate a preference for the new schedule, and that time and money is saved by not commuting on Fridays. Employees who did not like the new schedule tended to have small children at home and found it difficult to obtain day care during the extended hours. Researchers also found that Utah state employees take fewer sick days. In Oregon, Clackamas County temporarily transitioned to a four-day work week in 2008, and made the change permanent in 2009.

House Bill 3241

Disrupting funeral services

House Bill 3241 would have allowed Oregonians to reserve certain public real property surrounding a property where a funeral service was to be held, in order to exclude uninvited persons.

The measure was introduced in response to conduct of the members of the Westboro Baptist Church, based in Topeka, Kansas, who picket military funerals across the

nation as a means to draw attention to their views on social issues. They appeared at a service person's funeral in Hood River in 2006, and were met by a group of volunteers, called the "Patriot Guard Riders," who had assembled to create a barrier between the church group and mourners.

The First Amendment protects the picketers' activities, but a few restrictions have been enacted via the federal Respect for America's Fallen Heroes Act (Public Law 109-228), that prohibit close proximity with mourners at the time a funeral is taking place.

House Bill 3294

Recording public meetings

House Bill 3294 would have required both minutes and an audio record of public meetings; and that both such records be available to the public within seven days of the meeting, or within one day of a public records request, whichever was later.

Under current law, public bodies, including boards and commissions of state government, cities, counties, school districts, education service districts, community college districts and special districts, must keep either an audio recording or minutes of all meetings that are subject to public meetings law. (Executive sessions need not be recorded, but minutes must be taken.) Such records must be available within a reasonable time.

House Bill 3360

Vacant positions in state agencies

House Bill 3360 would have directed a state agency wishing to retain a vacant position to provide its reasons the Department of Administrative Services (DAS). DAS, would have been required to prohibit the agency from filling the position if it was determined that the reasons given were insufficient, and to report quarterly to the Legislative Assembly on actions taken regarding vacant positions. The Legislative Assembly, state court system, Public Defense Services Commission, Secretary of State, and State Treasurer were exempt.

As of January 2011, there were 4,475 vacant, nonseasonal positions within Oregon state agencies, representing approximately 11 percent of the budgeted state workforce. Of these, 2,389 have been vacant for six months or more. Under current law, agencies must report any position to DAS that has remained vacant for a continuous six-month period, and include a report on the position as part of its estimate, submitted to DAS and the Legislative Fiscal Office, of the funds required to carry out the agency's activities. DAS, in turn, may consider the vacancy and reduce the amount allotted to the agency.

House Bill 3415

Audits of public improvements contracts

House Bill 3415 (and Senate Bill 772A) would have required contracting agencies conducting a procurement for a public improvement to pay a fee equal to one-tenth of one percent of the contract price to the Secretary of State, unless the contract specifically restricted such use. The funds

would have been used by the Secretary of State to conduct financial, compliance, and performance audits of public improvement contracts. The Secretary of State was to publish a report of each audit on its website and on the Oregon Transparency Website.

There has been controversy over the use of alternative contracting methods in which a firm is awarded a public contract without going through a normal competitive bid process. Current law outlines the specific cases when theses alternative contract methods can be used and the procedures for awarding such a bid. There is a perception that some public agencies misuse these alternative methods to favor particular firms, which could have the effect of limiting competition and making projects less affordable.

Senate Bill 41

Revising public records law

Senate Bill 41 would have established specific deadlines for public bodies to respond to requests for public records; prescribed how fees for such requests could be calculated and assessed; directed the Attorney General to develop training materials on the subject; and reorganized exemptions.

Public bodies in Oregon are currently allowed a reasonable time to provide copies of requested records or make them available for inspection. Thirty-three other states and the District of Columbia have specific statutory deadlines. All states permit public bodies to recuperate costs associated with preparing requested records; 11 exclude staff time, and only Oregon allows for the inclusion of an attorney's time.

Senate Bill 581

Alternative Contracting Review Board

Senate Bill 581 would have established a seven-member Alternative Contracting Review Board (the Board) to consider recommendations to exempt public improvement contracts from competitive bidding requirements and to consider the contracting agency's evaluation of a public improvement contract that was awarded under an alternative bidding process.

Under current law, a contracting agency cannot exempt a public improvement contract from the competitive bidding requirements unless findings are approved by the director of the Department of Administrative Services, a local contract review board, or the director of the Department of Transportation.

Senate Bill 586

Green energy technology in public buildings

Since 2008, public entities have been are required to spend 1.5 percent of the total contract price of a public improvement contract for new construction or major renovation of a public building on solar energy technology. This requirement was the result of passage of House Bill 2620 in 2007.

Senate Bill 586 would have allowed these funds to be spent on the broader category of green energy technology, including on-site wind and geothermal energy generation, hydroelectric energy generation, biomass, solar, and conservation techniques.

Senate Bill 655

Commission on Immigrant and Refugee Affairs

Senate Bill 655 would have created a Commission on Immigrant and Refugee Affairs (the Commission), consisting of 11 members, to work for the "implementation and establishment of economic, social, legal and political equality for immigrants and refugees in this state." The Commission would have reported biennially to the Governor and a member of the Commission was to be appointed to the Environmental Justice Task Force and Oregon Council of Health Care Interpreters.

Oregon currently has four advocacy commissions that serve as liaisons between minority communities and government entities: the Commission on Black Affairs, the Commission for Women, the Commission on Asian Affairs, and the Commission on Hispanic Affairs. Administrative support is provided by the Oregon Advocacy Commission Office.

Senate Bill 667

Indefinite quantity contracts for certain personal services

Senate Bill 667 would have permitted public bodies, including state agencies and local governments, to utilize indefinite quantity contracts (IDQs) in cases where there is an anticipation of a recurring need for architectural, engineering, land surveying or related services.

An IDQ is a particular type of contract, providing for an indefinite quantity of supplies or services during a fixed period of time, most often used when a precise quantity cannot be predetermined, above a specified minimum. Through such a contract, a government agency places delivery orders (for supplies) or task orders (for services) against a basic contract for individual requirements. Minimum and maximum quantity limits are specified in the basic contract, as either a number of units for supplies or as a dollar value for services.

Senate Bill 764

Alcohol impact areas

Senate Bill 764 would have allowed cities with populations of at least 50,000, to petition the Oregon Liquor Control Commission (OLCC) to establish one or more alcohol impact areas (AIAs) within its limits.

The OLCC allows AIAs to be established in cities with populations over 300,000. Within an AIA, the OLCC could take certain actions to reduce problems associated with alcohol, such as limiting hours of operation, restricting certain sales, and denying further license applications.

Senate Bill 772

Audits of public improvements contracts

Senate Bill 772A (and House Bill 3415) would have required contracting agencies conducting a procurement for a public improvement to pay a fee equal to one-tenth of one percent of the contract price to the Secretary of State, unless the contract specifically restricted such use. The funds would have been used by the Secretary of State to conduct financial, compliance, and performance audits of public improvement contracts. The Secretary of State was to publish a report of each audit on its website and on the Oregon Transparency Website.

There has been controversy over the use of alternative contracting methods in which a firm is awarded a public contract without going through a normal competitive bid process. Current law outlines the specific cases when theses alternative contract methods can be used and the procedures for awarding such a bid. There is a perception that some public agencies misuse these alternative methods to favor particular firms, which could have the effect of limiting competition and making projects less affordable.

Senate Bill 883

Decreases in capital gains tax rates

Senate Bill 883 would have created a subtraction for income derived from long term capital gains, defined as income resulting from the sale of assets that have been held for more than 60 months. The measure would have established a 50 percent subtraction for long term capital gains resulting from the sale of real property held in Oregon that had a primary purpose of producing income and a 50 percent subtraction for assets sold on or after January 1, 2013. Senate Bill 883 would also have phased-in the subtraction for these assets over an eight year period starting in 2013. The measure would have become effective if Senate Joint Resolution 26 had been approved by voters in the November 2012 General Election.

Oregon currently taxes capital gains as ordinary income.

Senate Bill 889

Oregon Finance and Credit Authority

Senate Bill 889 would have created the Oregon Financing and Credit Authority (the Authority), comprised of the Governor or a designee, the State Treasurer or a designee, and a third member to be appointed jointly by the Governor and State Treasurer. The three-member Authority would have created a seven-member advisory council, to consist of representatives of the state's financial sectors, small businesses, building trades and small farms; at least two of the advisory committee members were to be officers of banks with 75 percent of their offices in Oregon, and two were to be representatives of credit unions with 75 percent of their offices in Oregon. The Oregon Business Development Department would have been responsible for staffing the Authority.

The Authority would have been responsible for formulating and implementing investment and management policies and practices for state funds controlled and administered by state agencies. It was to submit a report on its activities to the Legislative Assembly by the convening of the 2013 Legislative Session.

Health Care

House Bill 2013

Body art practitioners

House Bill 2013 authorizes the Oregon Health Licensing Agency (OHLA) to regulate emerging body art practices. The bill also transitions the Advisory Council for Electrologists and Permanent Color Technicians and Tattoo Artists (the Advisory Council) into a seven-member Board of Body Art Practitioners to establish standards and examination requirements for emerging practices in cooperation with OHLA. The bill directs OHLA to consult with the Oregon Medical Board before adopting regulations and amends the definition of "single facility license" to include body art practices, replacing the current requirement for separate licenses based on practice.

The OHLA regulates tattoo artists, permanent color technicians and electrologists with the assistance of the Advisory Council, but lacked regulatory authority over emerging practices such as dermal implants and scarification.

Effective date: June 16, 2011

House Bill 2068

State Board of Psychologist Examiners

In 2009, the Legislative Assembly enacted Senate Bill 174, which increased the maximum civil penalty amount that could be assessed by the Oregon State Board of Psychologists (the Board) from $1,000 to $5,000, or $10,000 under certain conditions. House Bill 2068 remedies a statutory inconsistency by updating a reference to the Board's civil penalty authority at ORS 675.110(5). This section still caps the civil penalty at $1,000. House Bill 2068 amends ORS 675.110(5) to refer to ORS 675.070 as updated by Senate Bill 174 in 2009.

The Oregon State Board of Psychologist Examiners mission is to protect consumers of psychological services against the unethical, unprofessional and unlicensed practice of psychology. The Board screens, tests, licenses and disciplines psychologists and also investigates and levels civil penalties against individuals who practice psychology without a license.

Effective date: May 19, 2011

House Bill 2100

Oregon Health Authority functions

House Bill 2100 abolishes the 12-member Drug Use Review Board (DUR) and assigns its functions to an 11-member Pharmacy and Therapeutics Committee: to encourage safe, effective, innovative and financially sustainable policies through drug use research and education; to perform drug use review and make policy recommendations for the Department Medical Assistance Program.

House Bill 2100 likewise abolishes both the Health Resources Commission (HRC) and the Health Services Commission (HSC), and assigns their functions to a Health Evidence Review Commission.

HRC's role was to analyzes and disseminate information about medical technologies, as a component of the Oregon Health Plan (OHP), in furtherance of its goal of enabling Oregonians' access to high quality, effective health care at an affordable cost.

The role of the Health Services Commission (HSC) was to prioritize health services and establish benchmark rates for OHP.

The measure also describes the roles of the Oregon Health Authority (OHA) and Department of Human Services (DHS) in administering medical assistance programs and permits information sharing between them for specified reasons.

Finally the measure prohibits charging hospitals for complaint investigations in excess of a specified number and for related fees in excess of a specified amount.

Effective date: August 5, 2011

House Bill 2174

Controlled substances

House Bill 2174 allows proceeds from the Illegal Drug Cleanup Fund to be spent on law enforcement safety certification, training, and personal protective equipment. (Currently, the Illegal Drug Cleanup Fund may only be spent to clean-up sites contaminated by drug-related activities.)

The bill also separates possession, distribution, and manufacture offenses into different statutes depending on the type of drug (oxycodone, hydrocodone, and methadone) so law enforcement can track data by drug.

It also adds "endangering the welfare of a minor" and "frequenting a place where controlled substances are used" to the list of crimes eligible to receive probation treatment under Oregon's conditional discharge statute (ORS 475.245).

Finally, the measure repeals a provision that prohibits the Oregon Board of Pharmacy from adding over-the-counter drugs approved by the Food and Drug Administration (FDA) to the state's schedules of controlled substances. (The FDA has been criticized for trailing behind state pharmacy boards in criminalizing or regulating over-the-counter drugs such as phenylpropanolamine.)

Effective date: June 28, 2011

House Bill 2366

Recruitment of primary care physicians

House Bill 2366 directs the Oregon Health Authority, through the Health Care Workforce Committee, to collaborate with interested entities (including Travel Oregon, the State Workforce Investment Board, medical schools, physician organizations, hospitals, county and city officials, local chambers of commerce, organizations that promote Oregon or local communities in Oregon, and organizations that recruit health care professionals) to develop a strategic plan for recruiting primary care providers.

Approximately 60 million Americans lack adequate access to primary care due to a shortage of primary care physicians in their communities, according to the Kaiser Family Foundation, and thirty-two of Oregon's thirty-six counties have some form of federal designation as shortage areas.

Effective date: June 16, 2011

House Bill 2371

Immunization reporting

House Bill 2371 requires the Oregon Health Authority (OHA) to adopt rules requiring entities that administer vaccines and receive

vaccines from OHA to report certain information about the administration of the vaccine to Oregon's immunization registry (ALERT IIS), and to certify that employees of the entity have completed OHA-approved training on the storage, handling and administration of vaccines. OHA is also directed to consider methods of facilitating the redistribution of unused vaccines

In 2010, the Oregon Immunization Program distributed over $35 million dollars worth of vaccines to more than 600 clinics, hospitals and pharmacies for administration to eligible children and adults. In 2009, nearly 60,000 Oregonians needed to be revaccinated due to a variety of flaws in vaccine administration and/or storage.

Effective date: June 16, 2011

House Bill 2380

Direct entry midwifery

House Bill 2380 provides for the confidentiality of information disclosed during the peer review of a direct entry midwife (DEM) and establishes protections for physicians and hospitals treating patients of DEMs. It also eliminates a certified nurse midwife member from the State Board of Direct Entry Midwifery (the Board), and adds to and transfers data collection responsibilities to the Oregon Health Authority's Center for Health Statistics from the Oregon Health Licensing Authority (OHLA).

Direct entry midwives supervise labor and childbirth, give advice, and render prenatal, intrapartum and postpartum care. DEMs are not required to be licensed, but many seek licensure voluntarily, since medical assistance programs will not reimburse otherwise.

Effective date: June 16, 2011

House Bill 2381

Health professional regulatory boards

House Bill 2381 brings the Oregon Board of Optometry, the State Board of Massage Therapists, and the Physical Therapists Licensing Board (the Boards) in line with other health care regulatory boards by requiring them to follow state personnel relations laws (including job classification and salary provisions). The bill also initiates a pilot project through which the Boards will present adopted budgets to the Governor, President of the Senate, Speaker of the House of Representatives, and Legislative Fiscal Officer on or before February 1st of each odd-numbered year.

The Boards were previously designated as "semi-independent," as are a number of state agencies. Such designation allows an agency to operate more like a business by exempting them from several requirements that would otherwise apply (such as state personnel and salary requirements, public contracting laws, fund investment requirements, and budget review and approval by the legislature or an arm of the Department of Administrative Services). No other health care regulatory boards were designated as semi-independent agencies.

Effective date: January 1, 2012

House Bill 2401

Family medicine residency network

House Bill 2401 encourages the Area Health Education Centers (AHEC) Program within Oregon Health and Science University (OHSU) to create a family medicine

residency network. The network is designed to increase the number of family residency positions, support hospital systems developing family residency programs, and help those programs through standardized curriculum, training, and other support. The program may accept gifts, grants or contributions from any public or private source.

The AHEC Program is a partnership between OHSU and Oregon communities. The purpose of the program is to improve the education, training and distribution of health care professionals in Oregon through a statewide network of centers. AHEC works to connect students to careers, professionals to communities and communities to improved health.

Effective date: June 9, 2011

House Bill 2726

Definitions of "cigar bar" and "smoke shop"

House Bill 2726 modifies provisions of Oregon's Indoor Clean Air Act (the Act) pertaining to exemptions, in response to the recent proliferation of hookah lounges. The bill requires the Oregon Health Authority (OHA) to adopt rules establishing a certification system for smoke shops, and modifies the definition of a smoke shop by limiting seating, prohibiting food or beverages, permitting smoking for sampling purposes only, requiring a registration system, and authorizing unannounced inspections by OHA. The measure grandfathers-in existing smoking lounges.

The Act prohibits smoking in almost all public places and indoor workplaces except cigar bars and smoke shops certified by the Oregon Tobacco Prevention and Education Program (TPEP). Since December of 2008, TPEP has received close to 50 applications from business seeking exemption from the Act as a cigar bar or a smoke shop. The majority of these were from hookah lounges – establishments that offer a nightclub atmosphere where patrons smoke sweetened or flavored tobaccos through water pipes – in direct conflict with the spirit and intent of the Act.

Effective date: June 30, 2011

House Bill 2852

Anatomical gifts

House Bill 2852 specifies that a donor's agent or guardian may amend or revoke an anatomical gift only if the agent or guardian made the gift, or the agent or guardian has power of attorney for health care, or another record granting express authority to amend or revoke an anatomical gift.

An anatomical gift is defined as a donation of all or part of a human body to take affect after the donor's death for the purpose of transplantation, therapy, research or education (ORS 97.953(3)). In Oregon, an organ donor can document their intent when they apply with the Department of Motor Vehicles for a license to drive or for an identification card.

Effective date: January 1, 2012

House Bill 2908

Prohibiting pelvic exams when a woman is anesthetized or unconscious

House Bill 2908 prohibits pelvic examinations when a woman is anesthetized or unconscious in a medical facility, unless

she or a person authorized to make decisions for her provides informed consent, or it is necessary for a diagnostic or treatment purpose, or it is conducted pursuant to a court order. The measure provides that licensing boards are responsible for disciplinary action, as appropriate.

Medical students are known to perform pelvic examinations on postoperative surgical patients who are unconscious, because it is thought to be an opportunity for the student to practice without pressure and without causing the patient any discomfort. Guidelines in the United States and Britain however, recommend obtaining specific consent.

Effective date: January 1, 2012

House Bill 3138

Prescription of vaccines

House Bill 3138 authorizes the State Board of Pharmacy to adopt rules allowing pharmacists to prescribe and administer vaccines to persons who are at least 11 years old, for enrollment and participation in the Vaccines for Children (VFC) Program. The Act allows pharmacists to become VFC providers to immunize Medicaid children 11 through 18 years of age and to receive reimbursement.

The VCF Program, established by Congress in 1993, is a federally-funded program that provides vaccines at no cost to children who might not otherwise be vaccinated because of inability to pay. Rural areas are commonly underserved by medical personnel and pharmacists currently administer 85 percent of the flu shots in Oregon. Currently, they may administer influenza vaccinations and immunizations to persons 11 years or older, with special accreditation or certification (ORS 689.645).

Effective date: June 7, 2011

House Bill 3185

Functional and cognitive impairments driving work group

House Bill 3185 creates a work group in the Department of Transportation for the purpose of evaluating the system of mandatory reporting of persons with persistent, episodic or other cognitive or functional impairments that prevent those persons from driving safely. The measure requires the work group to submit a report to the interim legislative committee relating to transportation no later than October 1, 2012, and sunsets the work grop when the 2013 Legislative Assembly convenes.

Currently, Oregon Administrative Rule (OAR 735-074-0050) establishes the At-Risk Driver Program that requires mandatory reporting to the Department of Motor Vehicles (DMV), by physicians and health care providers, those drivers who have functional and cognitive impairments that may affect the person's ability to drive.

Effective date: June 9, 2011

House Bill 3311

Improving birth outcomes by using doulas in the state medical assistance program

House Bill 3311 requires Oregon Health Authority to explore options for using doulas via the state medical assistance program and to report to the appropriate legislative committees in February 2012.

Doulas are birth coaches who provide nonmedical support to mothers during pregnancy, childbirth and during the post-partum experience. Several studies have found that doulas improve the birth experience for mothers, including reducing the use of pain medications, epidurals and Caesarean deliveries.

In 2010, the March of Dimes gave Oregon a "C" grade for having an immature birth rate nearly 50 percent higher than the national average.

Effective date: June 17, 2011

House Bill 3650

Health care transformation

House Bill 3650 establishes the Oregon Integrated and Coordinated Health Care Delivery System to replace prepaid managed care systems for recipients of medical assistance, including those who are dually eligible for medical assistance and Medicare.

The measure specifies criteria for coordinated care organizations, and directs the Oregon Health Authority (OHA) to adopt corresponding rules and develop related processes. OHA is required to report to the Legislative Assembly by February 1, 2012. The bill also directrs the Home Care Commission within the Department of Human Services to coordinate with culturally-diverse, community-based organizations to train and certify community health workers and personal health navigators to serve on multidisciplinary teams under the direction of a licensed or certified health care professional.

Health care is increasingly unaffordable. Oregon faces a shortfall of approximately $850 million for health care services provided by the state for the 2011-2013 biennium, and spending on human services and Medicaid is expected to claim nearly 26 percent of the state's budget, representing a five percent increase over the past ten years.

Effective date: July 1, 2011

Senate Bill 224

Expanded use of physician assistants

Senate Bill 224 allows for expanded use of physician assistants based on a practice agreement between the supervising physician and physician assistant. The measure also allows a supervising physician to oversee more than four assistants, and an assistant may be supervised by more than four supervising physicians.

Physician assistants are formally trained to provide diagnostic, therapeutic and preventative health services, teamed with supervising physicians. Currently, a supervising physician must include a practice description in the application to the Oregon Medical Board to use a physician assistant.

Effective date: June 28, 2011

Senate Bill 454

Regulation of massage therapy

Senate Bill 454 exempts particular practices from regulation by by the Oregon Board of Massage Therapists (OMBT) if the practitioner is certified by a professional organization or credentialing agency, and does not claim to be a massage therapist. The measure also discontinues the continuing education requirement for

practitioners of alternative modalities and their licensing agency.

The OMBT regulates and monitors the practice of massage therapy. In addition to massage therapists, OBMT's regulatory authority includes practitioners of alternative modalities such as the Feldenkrais Method, Bowenwork, and polarity therapy.

Effective date: January 1, 2012

Senate Bill 579

Patient advocates

Senate Bill 579 creates a process for hospitals to follow when an incapacitated patient needs medical care and has no known directive, relative or friend. The measure allows hospitals to appoint a health care provider to make medically necessary decisions after reasonable efforts to locate relatives, friends, health care representatives or health care instructions have failed. The measure also prohibits the provider from making any decisions relating to mental health, sterilization, abortion, life-sustaining treatment, and withholding or withdrawing artificially-administered nutrition or hydration.

Oregon law has established procedures for making health care decisions in emergency and end-of-life situations. Individuals also have a number of legal methods available to make their wishes known in advance, but there is no established process to enable health care decision making for incapacitated patients with no known relatives or documentation.

Effective date: June 23, 2011

Senate Bill 738

Oral health care delivery systems pilot projects

Senate Bill 738 allows the Oregon Health Authority to approve pilot projects to encourage the development of innovative practices in oral health care delivery systems with a focus on those most at risk. The measure also requires the Oregon board of Dentistry (OBD) to issue expanded practice permits in place of limited access permits and requires the Department of Consumer and Business Services to adopt rules requiring health insurers to report to OBD on the reimbursement services provided by expanded practice dental hygienists.

Oral disease can cause disabling pain and also worsens heart conditions, respiratory conditions, and autoimmune diseases. A 2006 study by the Oregon Department of Human Services, Public Health Division, found that 61 percent of Oregon's counties have a shortage of dental professionals.

Effective date: August 2, 2011

Senate Bill 748

Qualifications of persons involved in child abuse investigations

Senate Bill 748 requires individuals conducting child abuse investigations or making protective order determinations to possess a bachelors, masters or doctoral degree from an accredited institution of higher learning. The measure exempts current Department of Human Services (DHS) employees and law enforcement officials.

The Child Protective Services (CPS) division of the DHS shares responsibility with law enforcement agencies to take and respond to child abuse reports. In federal fiscal year 2010, CPS received 71,886 reports of abuse and neglect, of which 29,021 reports were referred for investigation.

Effective date: January 1, 2012

Senate Bill 964

Strengthening, Preserving and Reunifying Families program

Senate Bill 964 requires Department of Human Services (DHS) and county partners to implement the Strengthening, Preserving and Reunifying Families program to provide family preservation and reunification of child welfare services. These programs will build off of successful models in other states and Jackson County.

DHS has discretion to take custody of children, and to provide care, support and protective services for children who are dependent or neglected, or who have mental or physical disabilities, or who are in need of public services for other reasons (ORS 418.015). An overriding principle of the child welfare system is to maintain parent/child relationships while a parent receives services designed to address the issues that gave rise to the state's involvement in the first instance.

Effective date: June 28, 2011

LEGISLATION NOT ENACTED

Senate Bill 97

Continuing education for health care professionals

Senate Bill 97 would have required the Oregon Health Authority (OHA) to collaborate with health care professional regulatory boards to develop continuing education in cultural competency, in coordination with other states and national entities.

National and state studies have consistently shown health disparities, or differences in health outcomes, in non-white communities when compared to white communities. Disparities also exist across other socioeconomic lines. Cultural competence training would have been designed to address factors that contribute to these disparities, including patient-practitioner communication, cultural and linguistic barriers, and access to care.

Senate Bill 858

Equal pay for nurse practitioners in independent practice

Senate Bill 858 would have required health insurers to reimburse independent nurse practitioners at the same rate as physicians for the same services.

Nurse practitioners are nurses with specialized graduate-level study within the specific scopes of practice for which they are licensed. Nurse practitioners practice independently and are increasingly becoming the primary care provider for

many people. They are typically reimbursed at a lower rate than physicians who perform the same services.

Senate Bill 972

Study of alternative funding for health care

Senate Bill 972 would have directed the Oregon Health Authority to develop a plan for providing health care coverage for all Oregonians, including its recommendations regarding a constitutionally dedicated sales tax; assumptions regarding private sector health care delivery options; the elimination of employers having to provide health insurance coverage to employees; and options to eliminate deductibles for persons below specified levels of the federal poverty guidelines.

The Federal Patient Protection and Affordable Care Act allows states to seek an innovation waiver from several requirements of federal. Health care costs are rising faster than both the cost of living and inflation and at the same time, the number of people insured by Oregon's seven largest insurers has decreased by 15 percent since 2007.

Human Services

House Bill 2049

Public assistance

House Bill 2049 modifies statutes relating to a number of assistance programs administered by the Department of Human Services (DHS), allowing DHS to suspend certain current requirements for aid, and adding new requirements for the 2011-2013 biennium. The bill also authorizes the reinvestment of funds to allow some programs to continue and to determine what services will be eliminated or reduced, in an effort enable DHS to remain operable with a substantially reduced budget.

In 2007, the Legislative Assembly enacted House Bill 2469 which redesigned the TANF program (Temporary Assistance for Needy Families). Since its passage, Oregon has experienced an unprecedented economic downturn which continues to result in an increasing need for services. According to DHS records, since implementing the TANF redesign, TANF caseloads are 60 percent higher, while program staffing remains flat at 40 percent of current need.

Effective date: July 6, 2011

House Bill 2052

Payments to adoptive parents

House Bill 2052 expands the definition of "child" for purposes of payments to subsidize adoptions by the Department of Human Services (DHS). The measure requires DHS to pay nonrecurring adoption expenses in connection with the adoption of a child with special needs and clarifies limitations on payments to adoptive parents to include when the child is no longer receiving any support from the adoptive parents.

The federal Adoption Assistance and Welfare Act of 1980 established state-run programs designed to remove financial barriers to adoption. These programs are federally funded but states set the eligibility criteria. DHS indicates the payment expansion will create an incentive for families to adopt older children, providing them with an environment that achieves improved long-term outcomes. DHS indicates that over the past five fiscal years 68 children (age 16 or older) have been adopted.

Effective date: May 27, 2011

House Bill 2183

Child abuse reporting

House Bill 2183 creates a Class A violation for filing of a false report of child abuse with the Department of Human Services (DHS) or a law enforcement agency, punishable by a maximum fine of $720.

With some exceptions for privileged communications, current law requires any public or private official to contact DHS or law enforcement immediately if they reasonably believe that a child, with whom they have had contact, has suffered abuse or has abused another child (ORS 419B.005 to 419B.050).

Effective date: January 1, 2012

House Bill 2235

Maternal mental health

House Bill 2235 creates the Maternal Mental Health Patient and Provider Education Program at the Oregon Health Authority (OHA) to identify and address maternal mental health disorders. The measure requires OHA to develop and post informational on its website.

Maternal mental health disorders include a range of mood and anxiety disorders affecting women during pregnancy and postpartum. Depression is the leading cause of disease-related disability in women and the most common serious complication of childbirth. In Oregon, nearly one in four new mothers report symptoms of depression either during or after pregnancy.

House Bill 2235 represents some of the recommendations of the Maternal Mental Health Work Group created by House Bill 2666 (2009), in its September 2010 report.

Effective date: June 2, 2011

House Bill 2237

Public Guardian and Conservator Task Force

House Bill 2237 continues the Public Guardian and Conservator Task Force and schedules its sunset on July 1, 2013. (The Public Guardian and Conservator Task Force was initially established by House Bill 2883 (2009) and sunsetted on January 10, 2011.)

In 1971, the Oregon State Legislature enacted ORS 125.700, to allow counties to establish Public Guardian and Conservator Programs. According to the Department of Human Services (DHS) there is a need in Oregon for adoption of professional standards for guardians and conservators, and for coordination and oversight of statewide program standards.

The Public Guardian and Conservator Task Force is charged with studying and making recommendations on the need for public guardian and conservator services in Oregon.

Effective date: June 28, 2011

House Bill 2325

Elder abuse investigations

House Bill 2325 creates a 17-member Elder Abuse Work Group, which is directed to study and make recommendations on issues surrounding elder abuse, including prevention and investigation, as well as to assess the costs of implementation. The work group is required to submit a report to the Legislative Assembly no later than January 15, 2012, and sunsets February 29, 2012.

Elder abuse may take place in a facility or a private home. It is defined as physical injury other than accidental, neglect leading to harm, abandonment, willful infliction of physical pain or injury, financial exploitation, and unwanted sexual contact (including when the elder lacks the capacity to consent). According to the Department of Human Services, more than 11,000 complaints of elder abuse or neglect are investigated each year.

Effective date: June 21, 2011

House Bill 2375

Health care representatives admitting principal for treatment of a mental illness

House Bill 2375 allows health care representatives (HCR) to make the decision to admit a principal for treatment of a mental illness.

The Oregon Health Care Decisions Act of 1993, grants HCRs the authority to make health care decisions when principals are unable to direct their own care.

Effective date: January 1, 2012

House Bill 2600

Adults with developmental disabilities

House Bill 2600 codifies the Staley Agreement in updating terminology and creating definitions and eligibility criteria for services to be provided to adults with developmental disabilities. The measure requires the Department of Human Services (DHS) to establish an application and eligibility determination process by rule, and codifies the regional support service brokerage infrastructure, requiring individualized written service plans and client participation.

The Staley Agreement settled a class action lawsuit filed January 14, 2000, by Medicaid-eligible adults with developmental disabilities. The purpose of the suit was to eliminate a long-standing wait list for services. The Staley Agreement entitled all eligible adults to a limited amount of support services within 90 days of application; created regional support service brokerages to help individuals plan for their support needs (needs are "brokered" with community-based services and supports); and provided comprehensive 24-hour services to a limited number of eligible persons.

Effective date: January 1, 2012

House Bill 3102

Court Appointed Special Advocates Task Force

House Bill 3102 creates a nine-member Court Appointed Special Advocate (CASA) Task Force. The measure directs the task force to study and make recommendations regarding the appropriate structure, funding operation and administration of Oregon's volunteer CASA program. The task force must report to the appropriate interim committees no later than January 15, 2012 and sunsets on June 30, 2013.

The CASA program is currently operated under the auspices of the Oregon Commission on Children and Families (OCCF). In My of 2010, the OCCF issued a Blue Ribbon report that indicated CASA no longer needed to be housed within OCCF given its longevity and maturity.

Effective date: August 5, 2011

House Bill 3110

Relating to substance abuse programs

House Bill 3110 removes the Alcohol and Drug Policy Commission (ADPC) sunset provision. It also directs ADPC to establish pilot programs to phase-in long-term treatment and prevention programs, and to create a budget advisory committee. The measure also establishes a governor-appointed Director of ADPC to

develop a science-based model alcohol and drug abuse prevention program for use in conjunction with the pilot programs.

The ADPC was created by House Bill 3353 in 2009 and charged with planning for funding and effective delivery of alcohol and drug treatment and prevention services. ADPC makes recommendations, establishes funding priority, provides methods to standardize reporting and data collection, and strategies to consolidate treatment.

Effective date: January 1, 2012

House Bill 3375

2-1-1 telephone number

House Bill 3375 modifies the Oregon 2-1-1 system telephone number to consist of a single call center utilizing a statewide health and human services resource database. The measure requires the 2-1-1 system facilitator to maintain information gathered by designated information centers, and to establish standards to solicit, review and evaluate potential regional information centers. Oregon Emergency Management (OEM) is directed to provide grants for round-the-clock 2-1-1 service.

The 2-1-1 abbreviated dialing code was assigned by the Federal Communications Commission to enable consumers to access community health and human services information and referral. Beginning in October 2000, a collaboration of organizations began building an integrated statewide system to provide 2-1-1 access to trained information and referral specialists. The 2-1-1 number is available in nine Oregon counties (Clackamas, Washington, Lane, Lincoln, Multnomah, Deschutes, Crook, Jefferson and Yamhill) and four Washington counties (Clark, Cowlitz, Skamania and Wahkiakum).

Effective date: January 1, 2012

House Bill 3482

Unpaid leave to address issues arising from harassment

House Bill 3482 requires Oregon employers, who employ six or more individuals, to allow eligible employees to take unpaid leave to address issues arising from harassment. The measure defines “victim of harassment,” expands the definition of “victim of stalking,” and describes unlawful employment practices.

The measure requires employers to make reasonable accommodations for the safety of harassment victims and permits unclassified and exempt state employees (who are not confidential, managerial, or supervisory) to by accompanied by a person of their choosing, during contact between the employee and the employer.

Effective date: August 2, 2011

House Bill 3584

Appropriate ethnic aesthetic care for children in foster care

House Bill 3584 directs the Department of Human Services (DHS), in consultation with the Oregon Health Authority (OHA), to provide training to child care agencies and foster parents on the proper aesthetic care of children of African-American, Hispanic, Native American, Asian-American or multiracial descent.

African-American or ethnic hair is fragile. It requires regular maintenance, the use of specific products, and careful handling. Through no fault of the child, knowledge and products may not otherwise be readily available to a care provider.

Effective date: January 1, 2012

Senate Bill 88

Relating to long term care insurance

Senate Bill 88 requires the Department of Consumer and Business Services (DCBS) to adopt rules for prompt payment requirements for insurance claims for long-term care (LTC), and for the process of internal and external review of denials of LTC insurance claims. DCBS is directed consider prompt payment requirements in model acts developed by the National Association of Insurance Commissioners (NAIC), the definition of "benefit trigger" for purposes of prompt payment, and provisions requiring LTC policies to include clear descriptions of appeals processes.

LTC insurance covers a variety of medical, personal and social services for persons who have a chronic illness or disability and require assistance with activities of daily living. The United States Department of Health and Human Services estimates that approximately nine million Americans over the age of 65 will need LTC services in 2011. Currently, LTC insurance policies in Oregon are not subject to many of the consumer protection regulations applicable to other health insurance policies, including prompt payment provisions, and grievance and appeal rights. DCBS indicates that they received approximately 291 complaints relating to long-term and home health care over the last three years.

Effective date: May 19, 2011

Senate Bill 143

Telecommunications service to low income customers

Senate Bill 143 modifies the definition of "low income customers" to determine eligibility for the Oregon Telephone Assistance Program (OTAP). The measure removes the requirement for residents of a long term care facility or a residential care facility, who receive medical assistance, that they not exceed 135 percent of federal poverty guidelines.

The OTAP is one of three telecommunication assistance programs under the Residential Service Protection Fund, which was enacted by the 1987 Legislative Assembly. The objective of OTAP is to assure that adequate, affordable residential telecommunication services are available to all Oregonians. Those who qualify for the program can receive a maximum reduction of $13.50 from their monthly bill for local residential telephone service or cellular service.

Effective date: May 19, 2011

Senate Bill 238

Administrative requirements for persons contracting with the state to provide health services

Senate Bill 238 requires the Oregon Health Authority (OHA) to review rules relating to patient information provided to the agency by mental health and addictions treatment providers.

The OHA is required to determine if the process can be streamlined, to adopt standardized forms and rules, and to appoint a work group to advise the agency during the rulemaking and form review and development processes. The rules or forms are to be adopted no later than January 1, 2012.

Mental health and addictions treatment providers serving state assistance recipients must provide the state with data that is, in part, used to comply with federal laws that require reporting on the use of federal funds.

Effective date: June 14, 2011

Senate Bill 746

Child welfare services

Senate Bill 746 requires members of the Legislative Sensitive Review Committee (the Committee) to make recommendations to the Department of Human Services (DHS) regarding policies and practices. The Committee is required to disclose the report upon request by any member of the Legislative Assembly, unless it is otherwise exempted from disclosure.

Located within DHS, Child Protective Services is the public agency mandated to protect children from abuse and neglect. In federal fiscal year 2010, DHS received 71,886 reports of abuse and neglect. Of those, 29,021 reports were referred for investigation and 7,306 referrals were determined to be founded, representing 11,188 victims. DHS currently has the authority to convene a sensitive review committee to review its actions and the integrity of the child welfare system.

Effective date: June 17, 2011

Senate Bill 863

Utility bill assistance for low-income families

Senate Bill 863 contains a number of provisions related to the funding and administration of the Oregon Low-Income Home Energy Assistance Program (LIHEAP). If a request is received from the Housing and Community Services Department(the Department), the bill requires the Public Utility Commission to direct electric companies or Oregon Community Power to collect a combined total of $5 million more per year, for no more than two years, from residential consumers, to fund LIHEAP. In order to make a request, certain criteria must be met by the Department. The measure will sunset January 2, 2014.

LIHEAP is intended to provide assistance to low-income Oregonians for their home energy expenses. Households wishing to receive assistance must be at or below 60 percent of the state median income level.

Effective date: June 28, 2011

LEGISLATION NOT ENACTED

House Bill 2053

Data and reporting on race and ethnicity of state assistance recipients

House Bill 2053 would have directed the Department of Human Services (DHS) to prepare impact statements on any legislation potentially affecting minority racial and ethnic groups receiving services. The

measure would also have required DHS to report on the race or ethnicity of children receiving child welfare services for inclusion in the child welfare report in prepared every even-numbered year. DHS would also have been required to purchase culturally-specific services, to reflect the racial or ethnic population of children being served.

House Bill 2438

Dating violence education

House Bill 2438 would have required school districts serving grades 7 through 12, to include age-appropriate dating violence education as part of their curricula using one or more sources of state domestic violence prevention funds. Additionally, the measure would have allowed the Department of Human Services to award grants, and to commission a study on teen dating violence in Oregon.

Dating violence refers to behaviors that harm, threaten, intimidate or control a current or former dating partner, including emotional, physical, and sexual abuse. Several states require school districts to adopt policies on dating abuse among students, including the provision of dating abuse education and/or protection for victims.

House Bill 3086

Abolishing the Oregon Commission on Children and Families

House Bill 3086 would have abolished the Oregon Commission on Children and Families (OCCF) and established a nine-member Early Learning Council located in the Governor's Office. The Council would have assumed responsibility for unifying and coordinating early childhood services in cooperation with the public education system. Additionally, the measure would have created a twelve-member Task Force on Improving Educational Success for At-Risk Youth.

OCCF was created in the early 90s to improve support for children and families in local communities. The system consists of a state commission, and local offices in each county in Oregon. At the state level, OCCF is charged with establishing statewide policies for services, and building a framework for local offices. Both state and local offices work in cooperation with a number of other state and county-level entities to improve conditions for and the delivery of services to children and families, including nonprofits, the faith community, businesses and others interested in improving supports for children and families at the local level.

House Bill 3570

Modifying the Oregon Commission on Children and Families

House Bill 3570 would have modified current the structure of the Oregon Commission on Children and Families (OCCF). Modifications would have included renaming OCCF, reducing the number of members, altering member composition, making the prevention of child abuse and neglect a main purposes of local offices, and allowing local offices to provide direct services as directed by county commissioners.

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House Bill 3588

Relating to smokeless tobacco products

House Bill 3588 would have created a Class A violation, punishable by a maximum fine of $720, to prohibit the sale of flavored smokeless tobacco products resembling or marketed as candy.

Smokeless tobacco products are reportedly the second most common type of tobacco ingested by children after cigarettes, and are attractive to very young children due to flavorings and a candy-like appearance.

Insurance

Senate Bill 86

Exemption of retainer medical practices from provisions of Oregon Insurance Code

Senate Bill 86 exempts retainer medical practices from the requirements of the Insurance Code if they are certified by the Department of Consumer and Business Services. In addition to certification, the retainer medical practice must post disclosures describing the practice in marketing materials and in the contract or retainer agreement with the patient.

Retainer medical practices charge patients a monthly or annual fee in exchange for a defined package of medical services. Because these types of practices may share some characteristics in common with a traditional health insurance model, they could arguably be subject to regulation under the Oregon Insurance Code.

Effective date: June 23, 2011

Senate Bill 89

Codification of Patient Protection and Affordable Care Act in the Oregon Insurance Code

Senate Bill 89 codifies some provisions of the federal Patient Protection and Affordable Care Act (PPACA's) in the Oregon Insurance Code, including: mandated coverage of preventative services without cost-sharing; new limitations on the ability to rescind, cancel or nonrenew a health benefit plan; guarantee-issue coverage without preexisting condition limitations for children under the age of 19; enhanced appeals and grievance procedure protections; and mandated coverage of dependent children up to the age of 26.

In March 2010, the PPACA was signed into law. The PPACA put in place comprehensive health insurance reforms that are being phased in over the next several years.

Effective date: June 23, 2011

Senate Bill 91

Bronze and Silver health benefit plans

Senate Bill 91 requires all health care insurers selling health benefit policies in Oregon to offer Bronze and Silver level plans, as defined by the federal Patient Protection and Affordable Care Act (PPACA), both within and outside the health insurance exchange. The measure also limits the sale of catastrophic plans to within the exchange. Coupled with Senate Bill 99, the measure ensures that individuals will have choices and may compare like products within and outside the exchange.

In March 2010, the PPACA was signed into law. It put in place comprehensive health insurance reforms that are being phased-in over the next several years, including requiring the United States Department of Health and Human Services to define a set of essential health benefits. Health insurers wanting to participate in state-run health insurance exchanges beginning in 2014 will be required to cover all the services in that package. The PPACA defines four levels of coverage that vary based on the actuarial value of the percentage of claims that the insurer pays at the corresponding level: Platinum, 90 percent; Gold, 80 percent; Silver, 70 percent; and Bronze, 60 percent. Additionally, the PPACA provides for a

catastrophic plan that is limited to individuals under the age of 30 or who are exempt from any federal or state penalty for failing to maintain minimal essential coverage.

Effective date: January 2, 2014

Senate Bill 99

Oregon Health Insurance Exchange

Senate Bill 99 establishes the Oregon Health Insurance Exchange Corporation as a public corporation. It is charged with developing a health insurance exchange to provide health insurance options to individuals and small business beginning in 2014. The exchange will be designed to help consumers compare health insurance options based on quality and price. The exchange will also be the vehicle for individuals and small business to use federal tax credits to assist in paying for health insurance.

In 2009 the Legislative Assembly enacted House Bill 2009 which established the Oregon Health Policy Board and directed the board to develop a plan to create an Oregon Health Insurance Exchange. The federal Patient Protection and Affordable Care Act, signed into law in March 2010, also requires the implementation of state-run insurance exchanges by January 1, 2014.

Effective date: June 17, 2011

Senate Bill 514

Reinsurance program for children's coverage

Senate Bill 514 allows the Department of Consumer and Business Services (DCBS) to establish a reinsurance program for children's coverage offered within the Oregon Medical Insurance Pool (OMIP). The reinsurance program would spread the cost of covering children in OMIP among all health insurers.

Established in 1989, OMIP is the state's high-risk insurance plan, covering adults and children who are unable to obtain health insurance because of medical conditions. The OMIP is funded in part by an assessment on all insurers that provide health insurance to Oregonians. Signed into law in March 2010, the federal Patient Protection and Affordable Care Act requires health insurers offering coverage to children under the age of 19 to issue that coverage on a guarantee issue basis. Guarantee issue insurance has the potential to deter insurers from entering the market.

Effective date: May 23, 2011

LEGISLATION NOT ENACTED

Senate Bill 555

Health insurance coverage for autism spectrum

Senate Bill 555 would have created provisions to cover screening, diagnosis, and treatment of autism spectrum disorders regardless of a person's age.

Autism spectrum disorders include a wide range of developmental disabilities that cause significant social, communication and behavioral challenges. Current Oregon insurance laws group autism spectrum disorders with other developmental disabilities that require coverage for those under 18.

Senate Bill 716

Independent analysis of health insurance rate filings

Senate Bill 716 would have created additional requirements for the Department of Consumer and Business Services (DCBS) during the rate filing process – when health insurers sought approval of premium increases for individual and small group policies – including consideration of an independent analysis in some circumstances, paid for by the insurer.

DCBS is authorized to approve premium rates proposed by insurance companies for individual and small group health insurance policies, according to a specific protocol.

Senate Bill 717

Hearings on health insurance rates

Senate Bill 717 would have authorized the Department of Consumer and Business Services (DCBS) to hold hearings on certain requests by individual and small employer health plan providers to increase premiums. It would also have allowed for intervening groups or individuals to receive access to certain information related to the rate filing, and to be reimbursed for expenses related to the proceedings.

Senate Bill 718

Notice of health insurance rate review

Senate Bill 718 would have modified notice requirements in certain cases where rate increases were approved by the Department of Consumer and Business Services (DCBS), directing it to post a detailed explanation for rate payers on its website.

Judiciary

House Bill 2272

Consultation authority for Court Appointed Special Advocates

House Bill 2272 allows Court Appointed Special Advocates (CASAs) to consult with agencies, hospitals, schools, mental and physical health care providers, law enforcement and others.

A Court Appointed Special Advocate is assigned to a case when a child is before a court as part of a dependency proceeding. They are responsible for investigating the case, monitoring compliance with court orders, acting as liaison between other concerned individuals and entities, and making recommendations to the court on behalf of the child. They may inspect and copy agency records regarding the child, but cannot consult with regard to same.

Effective date: January 1, 2012

House Bill 2312

Immunity from civil liability for charitable donation of medical devices

House Bill 2312 exempts fraternal organizations that are charitable corporations, from civil liability for damages arising from the giving of eyeglasses, hearing aids or other medical devices.

The exemption only applies when used eyeglasses or hearing aids are provided at no charge to persons who are at least 14 years old. Eyeglasses must be provided by a licensed optometrist or ophthalmologist who examined the person and issued a prescription.

Effective date: January 1, 2012

House Bill 2463

Reporting child pornography

House Bill 2463 requires paid computer technicians and paid or unpaid processors of photographic images to make a report when they have reason to believe they have observed an image of a child involved in sexually explicit conduct. If known, they are required to provide the name and address of the person in possession of the computer or images, and are absolved from civil liability for reports made in good faith. Reports are required to be made to the Cyber Tipline at the National Center for Missing and Exploited Children, or the Department of Human services, or to law enforcement in the county where the image was observed.

Effective date: January 1, 2012

House Bill 2650

Background checks and disqualifying offenses for certain alcohol, drug and mental health counselors

House Bill 2650 requires home health agencies and in-home care agencies to complete a criminal records check on any individual paid to provide health services. The bill exempts mental health or substance abuse providers from the general prohibition against receiving public funds to support the employment of individuals who have contact with a recipient of support services or who have contact with a resident of an adult foster home if the individual has certain prior convictions. House Bill 2650 reduces the list of disqualifying offenses for mental health or substance abuse providers to murder and certain sex offenses committed in the first degree. An individual with a prior conviction for a crime not listed as a disqualifying

offense would nonetheless be required to complete a certified background or fitness check that assesses the length of time elapsed since the underlying conviction, the type of position being sought, any verifiable period of sustained sobriety, and other indicia of reformation and fitness. House Bill 2650 allows for a mental health care or substance abuse provider to request the Department of Human Services (DHS) or Oregon Health Authority to retain a copy of any fitness determination made in hiring that person and can request the release of that information as needed.

State law requires long-term health providers, residential care facilities and other care institutions to conduct criminal checks on potential employees. DHS serves over 15,000 seniors and people with physical disabilities each month in nursing facilities and community-based care facilities. More than 5,000 children and adults with developmental disabilities are in foster care or residential facilities. To improve quality of care, proponents have identified a need for better information on potential employees as well as greater consistency in training and investigations in this area.

Effective date: July 6, 2011

House Bill 2710

Court fees

House Bill 2710 updates and simplifies the current statutory revenue and distribution structure related to civil filing fees and assessments. The measure includes a statement of intent related to non-judicial entities which previously received funding from dedicated civil filing fees, but will now receive funding through appropriations from the General Fund. In addition, the measure creates a direct distribution to Legal Aid from a General Fund account in the Oregon Judicial Department.

The measure establishes a uniform civil filing fee schedule that includes:

- Establishes $3 filing fee to provide assistance to counties with critical state court facility improvement;
- Raises the jurisdiction of small claims departments of circuit and justice courts to $10,000;
- Establishes Small Claims filing fee of $50 for cases less than $2,500 and $90 for case more than$2,500, but less than $10,000;
- Establishes a forcible entry detainer fee of $75;
- Establishes a garnishment filing fee of $35; and
- Increases prevailing party fee in small claims actions to $93 (without trial) and $108 (with trial).

House Bill 2710 is one of three measures resulting from the efforts of the Joint Interim Committee on State Justice System Revenues (the Interim Committee), which was established by House Bill 2287 (2009) and met almost monthly between October 2009 and January 2011. The Interim Committee was charged with studying the Oregon Judicial Department fee collection and revenue distribution structure, identifying best practices with regard to same, and making recommendations to simplify it. The Interim Committee was guided by a number of principles, including a desire to preserve court access, to improve efficiency, and to achieve a stable, predictable, and transparent flow of money that can be accounted for and easily understood by the public. All the materials collected and produced by the Interim Committee are available at www.leg.state.or.us/comm/lfo/justicerevenues.htm

House Bill 2710 and its companion measures House Bill 2712 and House Bill 2711, replace HB 2287 (2009), which sunset June 30, 2011. These bills continue the level of filing fee revenue necessary to augment General Fund support for the Oregon State Court System.

Effective date: June 30, 2011

House Bill 2712

Criminal fines and assessments

House Bill 2712 establishes a more uniform structure for application of payments received from defendants in traffic and criminal cases and creates a Criminal Fines Account to centralize funds from which allocations are made for specific purposes. The measure modifies presumptive and maximum fines for violations by individuals and corporations, lowers fines for traffic tickets, modifies minimum fines for crimes, sets minimum fines for specific methamphetamine crimes, and sets range of fines, if ordered, for reduced crimes.

The measure replaces the current Criminal Fine and Assessment Account with the Criminal Fine Account (CFA), creating two subaccounts, a Public Safety subaccount for 70 percent of the total collected, and a Miscellaneous Distributions subaccount for the remaining 30 percent. House Bill 2712 provides statement of legislative intent that allocations made to the subaccount entities be consistent with historical funding levels and directs distributions to be made from these accounts to specific entities for specific purposes. In addition, House Bill 2712 directs distribution to each county the equivalent of $5.00 per criminal action in that county for court facilities.

House Bill 2712 is one of three measures resulting from the efforts of the Joint Interim Committee on State Justice System Revenues (the Interim Committee). These bills include House Bill 2710 and House Bill 2711. Please see background information under House Bill 2710 for additional information.

Effective date: July 1, 2011

House Bill 2714

Crime of patronizing a prostitute

House Bill 2714 creates the crime of patronizing a prostitute if a person pays or offers to pay a fee to another in order to engage in a sex act. It classifies the crime as a Class A misdemeanor and sets the fine at $10,000 for the first offense and $20,000 for a second or subsequent offense if the person to whom the fee was offered was under 18 years of age. House Bill 2714 does not require the state to prove the person knew the individual, to whom the offer was made, was under 18 years of age.

Effective date: January 1, 2012

House Bill 2721

Spiritual treatment as an affirmative defense

House Bill 2721 eliminates the usage of spiritual treatment as an affirmative defense in homicide cases where the victim is a minor under the age of 18.

ORS 163.115 Sec. 1(c) (B) defines homicide to include death caused by abuse when a person, recklessly under circumstances manifesting extreme indifference to the value of human life, causes the death of a child less than 14 years of age or a dependent person,

as defined in ORS 163.205, and the death is caused by neglect or maltreatment. ORS 163.115 Sec. 1(e)(4) makes an affirmative defense when the child or victim is a dependent person and was under care or treatment solely by spiritual means pursuant to the religious beliefs or practices of the child or dependent person or the parent or guardian of the child or dependent person. In 1999, the Legislature passed House Bill 2494, which eliminated the spiritual healing defense against charges of second-degree manslaughter, first- and second-degree criminal mistreatment and nonpayment of child support.

Effective date: June 9, 2011

House Bill 2792

Vehicular possession of weapons and reinstatement of gun rights

House Bill 2792 allows a person to possess firearms while operating a motorcycle, all-terrain vehicle, or snowmobile. The bill also prohibits individuals convicted of person-felonies that involve a firearm or deadly weapon, and individuals convicted of crimes requiring a minimum mandatory sentence, from having their gun rights restored.

Inadvertent errors involving gun rights were made in previous sessions: motorcycles and off-road vehicles were mistakenly omitted from statutes that allow for the possession of weapons in vehicles, and separately, a convicted felon's ability to seek reinstatement of their gun rights was unintentionally expanded. House Bill 2792 corrects these errors.

Effective date: August 2, 2011

House Bill 3075

Ignition interlock devices and DUII diversion

House Bill 3075 makes the installation of an ignition interlock device mandatory for participants in a diversion program and removes the court's ability to decline to impose this condition due to insufficient moneys in the Intoxicated Driver Program Fund (Fund). The provider of the interlock device must provide notice of any removal or tampering with the device to the court or the court's designee, including health providers certified by the Oregon Health Authority. House Bill 3075 raises the Fund fee from $25 to $50 for those convicted of DUII. Failure to install the ignition interlock device or tampering with the device constitutes a Class A traffic violation.

ORS 813.602 requires that an ignition interlock device be installed and used in any vehicle operated by a person who has been convicted of driving under the influence of intoxicants. Courts are not currently permitted to exercise authority during any period the courts have notice from the Office of Economic Analysis of the Oregon Department of Administrative Services that there are not sufficient moneys in the Intoxicated Driver Program Fund to pay for indigent defendants.

Effective date: January 1, 2012

House Bill 3100

Certified psychiatrists and psychologists

House Bill 3100 requires a person pleading not guilty except for insanity to file with a court a report from a psychiatrist or psychologist who has been certified by the Oregon Health Authority (OHA). It requires OHA to adopt rules to certify psychiatrists

and psychologists. House Bill 3100 requires the defendant to file the report with the court prior to trial. House Bill 3100 allows a court to only accept a plea agreement of not guilty except for insanity if the court has before it a psychiatric or psychological evaluation from a certified professional. House Bill 3100 requires a court to commit to the State Hospital a person convicted of a misdemeanor if the court finds that the person not only is affected by mental disease or defect, but also presents a substantial danger to others. It requires a person convicted of a Class C felony be evaluated by a local mental health program designated by the Psychiatric Security Review Board (PSRB).

A person is guilty except for insanity, if, as a result of mental disease or defect at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law. A court can place a person determined to be guilty except for insanity under the supervision of the PSRB, or discharge the person if the court finds that the person is no longer affected by mental disease or defect or no longer presents a substantial danger to others. The court may also conditionally release the person if it finds that the person can be adequately supervised in the community. House Bill 3100, among other things, is intended to ensure that psychiatrists and psychologists who evaluate persons charged with a crime who raise the defense of mental incapacity are qualified to make this call.

Effective date: August 5, 2011

House Bill 3151

Using forfeiture assets for drug treatment

House Bill 3151 puts drug treatment and programs that support drug treatment on the list of allowable purposes for the use of proceeds forfeited in drug cases.

Previously, assets forfeited in drug cases could only be used for enforcement and education. Drug treatment is considered a cost-effective and logical companion to those purposes.

Effective date: June 2, 2011

Senate Bill 65

DUII breath and blood test equivalency

Senate Bill 65 allows either a blood or breath test to be used to measure the concentration of alcohol in a person's system.

It is illegal in Oregon to operate a vehicle if the concentration of alcohol in a person's system is .08 or more grams of alcohol per 100 milliliters of blood, or the equivalent, 210 liters of breath. Oregon's statutes, however, refer only to blood, so any time a case goes to trial that relies on a breath test, the state has had to subpoena an expert witness to explain the measurements. Breath tests are much less invasive than blood tests, and are by far the prevalent method used by law enforcement nationwide. Oregon is among a handful of states that has not recognized the equivalency of the two measurements in statute.

Effective date: January 1, 2012

Senate Bill 341

Also included in the Transportation Chapter

Overtaking, passing or driving alongside a commercial vehicle in a roundabout

Senate Bill 341 creates the offense of overtaking, passing or driving alongside a commercial vehicle in a roundabout. The offense is classified as a Class B traffic violation, punishable by a fine of up to $360. Oregon law defines "commercial vehicle" as a motor vehicle or combination of motor vehicles weighing 26,001 pounds or more, designed to carry 16 or more people, or any size vehicle that transports hazardous materials. The definition does not include recreational vehicles, fire trucks or other emergency vehicles.

There are currently 51 roundabouts in Oregon, located primarily on county and city roads; the only roundabout on the state highway system connects Oregon Route 202 and U.S. 201 in Astoria. The aforementioned roundabout is one of seven multi-lane roundabouts in the state; two of the remaining six are in Clackamas County, two are in Bend, and one each are in Springfield and Portland.

Effective date: January 1, 2012

Senate Bill 376

Assisting another to commit suicide

Senate Bill 376 creates a class B felony for assisting another person to commit suicide by intentionally selling or transferring to another person any substance or object capable of causing death for the purpose of the other person's use to commit suicide. Exceptions exist for persons acting pursuant to an advance directive or health care decision, and persons lawfully withholding or withdrawing life-sustaining procedures or artificially administered hydration or nutrition pursuant to Oregon's Death with Dignity Act.

Recent years have seen the development of easily-accessible, ready-made "suicide kits" marketed and sold primarily on the internet, as quick and painless ways to end life. The kits are generally composed of readily-available household devices and are sold to any buyer regardless of health, age or mental stability.

Effective date: June 28, 2011

Senate Bill 395

Driving under the influence

Senate Bill 395 clarifies driving under the influence of intoxicants (DUII) as a category 6 felony with a 13-to-30 month presumptive sentence. The measure allows the state to reimburse counties for the cost of incarcerating those charged with and convicted of third DUII, and directs the Department of Corrections (DOC) to adopt rules for counties to see reimbursement.

Under current law, ORS 813.010(5), a fourth DUII conviction is designated as a class C felony. Ballot Measure 73 (2010) also classifies a third DUII conviction as a class C felony and imposes a minimum mandatory sentence of 90 days. The Criminal Justice Commission (CJC) is required by ORS 831.012 to treat all felony DUII convictions as category 6 crimes for sentencing purposes. Category 6 crimes carry a 13-to-30 month presumptive sentence. Senate Bill 395 clarifies the sentencing contradiction by requiring CJC to treat only fourth DUII convictions as category 6 crimes for sentencing purposes. Permitting the CJC to distinguish between the two C felony DUIIs allows the minimum mandatory sentence required by Measure 73

to be imposed for third convictions, and allows the 13-to-30 month presumptive sentence to be imposed for fourth convictions.

Effective date: June 30, 2011

Senate Bill 405

University police

Senate Bill 405 allows the State Board of Higher Education (Board) to authorize a university under its control to establish a police department. Such a department would employ state-certified police officers to enforce the Board's or university's administrative rules and policies in additional to the state's criminal laws. It also requires the university and its police department to establish a process to address policing grievances and permits the Board to make agreements, or to authorize the university to make agreements, with other entities for mutual aid.

All universities have employees dedicated to public safety, and although most of them are experienced law enforcement officers, they are not required to be certified police officers. Enabling universities to employ officers with the same training and authority as any officer in the state allows the university to prioritize matters of importance to its particular community, and to offer a similarly-specialized response, without competing for the attention and resources of other law enforcement entities and without duplication of efforts.

Effective date: June 23, 2011

Senate Bill 412

Tribal police officers

Senate Bill 412 is directed at resolving disparities in the scope of authority and the treatment of tribal and non-tribal law enforcement officers. In *State v. Kurtz*, S058346 (Or. 3-25-2011), 233 Or App 573 (2010), a defendant was found guilty of eluding and resisting arrest by a tribal law enforcement officer at trial court. The convictions, however, were overturned by the Oregon Court of Appeals, which strictly applied both statutory definitions of police and peace officer that require the officer's employing entity to be a unit of Oregon government. Because tribes are separate and sovereign, they are explicitly included in the definitions.

Senate Bill 412 addresses the Court of Appeals' decision and provides authorized tribal police officers with powers and protections provided to Oregon law enforcement officers under certain conditions. The measure grants powers and protections to persons certified by Department of Public Safety Standards and Training (DPSST), whose employing tribal governments comply with insurance requirements, adopt policies regarding discovery in criminal cases in conformity with state law and neighboring jurisdictions, and codify the following in tribal law: waiver of sovereign immunity from tort liability; provisions governing records retention, public access to records, and preservation of biological evidence; and a deadly force plan. Furthermore, the measure creates a transitional approach to grant of authority to tribal officers, limiting scope during first two years to three specific situations outside Indian country (hot pursuit, commission of crime in officer's presence, and upon request or approval of law

enforcement agency with jurisdiction), and unrestricted in Indian country, sunsetting these provisions July 1, 2013. Senate Bill 412 provides full scope of authority the following two years, sunsetting July 1, 2015, then reverting to existing law. Senate Bill 412 also creates a process for nontribal law enforcement entities to apply to tribal government for authority to enforce state and tribal law on Indian country.

Effective date: July 22, 2011

Senate Bill 420

Court's dispositional authority when person found guilty except for insanity of crime

Senate Bill 420 places a person found guilty but for insanity under the jurisdiction of the Oregon Health Authority (OHA) if the crime the person was found guilty of was a crime not involving violence. The OHA will decide when a person can be released back into the community and whether the person should be recommitted; however, the Psychiatric Security Review Board (PSRB) will supervise the person when released into the community. If a person is found guilty but for insanity of a violent crime (usually a Measure 11 crime), the person will be under the jurisdiction of the PSRB for all purposes.

A person is guilty except for insanity if, as a result of mental disease or defect at the time of engaging in criminal conduct, the person lacks substantial capacity either to appreciate the criminality of the conduct or to conform the conduct to the requirements of law. If a person is found guilty but for insanity and the person presents a substantial danger to the community, the court shall order that the person be placed under the jurisdiction of the PSRB and sent to the Oregon State Hospital (OSH) or an intensive community inpatient facility if the person is under 18 years of age. The court may release the person back into the community if it finds that the person can be adequately treated in the community.

If a person is committed to the jurisdiction of the PSRB and placed in OSH, the hospital can recommend discharge back into the community based on the fact that the person's mental condition has improved and the person no longer presents a danger to self if under supervision or without supervision; however, the ultimate decision to do this rests with the PSRB, which not only has the authority to make this decision but sets the terms and conditions of release and supervises the person while released. This split between the OSH's obligation to treat and evaluate and the PSRB's authority to decide who is released has caused confusion, and, some believe, delay in release into the community.

Effective date: August 2, 2011

Senate Bill 425

Crime of prostitution

Senate Bill 425 removes the requirement that the state prove that a person charged with compelling a minor to engage in prostitution knew the person being compelled was a minor and eliminates the defense that the defendant did not know the minor's age or that the defendant reasonably believed the minor was older than eighteen years of age. The measure adds "aids or facilitates" to the crime of compelling prostitution. The measure subjects a juvenile age 15, 16 or 17 years old to juvenile court jurisdiction rather than adult court, and a mandatory minimum sentence of 70 months for facilitating the crime of prostitution, unless the juvenile court waives the child to adult court.

Currently, the state must prove that a person compelling another to commit the crime of

prostitution knew that the person being compelled was under the age of eighteen. The sentence for compelling prostitution is a minimum of 70 months.

Effective date: June 30, 2011

Senate Bill 557

Uniform SARTs (Sexual Assault Response Teams)

Senate Bill 557 requires the district attorney's office in each Oregon county to organize a sexual assault response team (SART) and to adopt response protocols. The measure specifies that policies must also be adopted by certain health care facilities specifically for the treatment of acute sexual assault patients, and that facilities that perform forensic medical examinations of sexual assault patients must adopt guidelines developed by the Sexual Assault Task Force, and examiners must be certified. In addition, the bill encourages the adoption of protocols specific to child victims of sexual assault and accommodates health care facilities that examine and treat only child victims.

SARTs have evolved over time in most of Oregon's counties due to the intimate nature of the trauma inflicted and the influence of best practices on the collection of biological evidence in such cases, but organizational responsibility, standards, and investigation protocols vary. Greater consistency statewide with regard to the adoption of more standardized investigation and treatment protocols will not only better support the survivors of such assaults, but will also improve the ability of prosecutors to hold perpetrators accountable.

Effective date: July 1, 2011

Senate Bill 731

Preservation of biological evidence

Senate Bill 731 modifies the obligations of evidence custodians to retain biological evidence in a number of ways. In cases of aggravated murder, murder, rape in the first degree, sodomy in the first degree, or unlawful sexual penetration in the first degree, the evidence must be preserved for 60 years or until the death of each person convicted. In cases of aggravated vehicular homicide, manslaughter in the first degree or manslaughter in the second degree, evidence must be preserved until the sentence of each person convicted has been completed. For charges that do not result in conviction, evidence must be preserved until the statute of limitations has expired for the subject charge. Senate Bill 731 also provides a means to address alternative disposition of evidence as well as lost or destroyed evidence, and prohibits reversal of conviction on the sole ground that biological evidence is no longer available. The measure requires courts to return admitted evidence to the responsible custodian or the defense, as appropriate, and directs the Attorney General to adopt rules pertaining to evidence collection.

Senate Bill 731 is the most recent in a series of measures that provide a framework for dealing with DNA evidence. Oregon Revised Statutes contain provisions for the collection and retention of such evidence for missing persons at ORS 146.187 and provide a means for the use of DNA evidence in post-conviction relief proceedings at ORS 138.690 to 138.698. In 2009, Senate Bill 310 was enacted and affects a moratorium on the destruction of DNA evidence in certain criminal cases until remaining issues could be resolved; Senate Bill 731 is the product of an interim work

group that refines the provisions of Senate Bill 310 and lifts the moratorium.

Effective date: June 7, 2011

Senate Bill 868

Clarifying mandatory minimum sentences for Measure 11 crimes

Senate Bill 868 clarifies that ORS 137.700, the imposition of mandatory minimum sentences for Measure 11 crimes, applies to those who are at least 18 years of age at the time the offense was committed. Consequently, a juvenile under the age of 15 at the time the crime was committed would not be subject to the mandatory minimum sentence but, most likely, would appear before the juvenile court for adjudication. Senate Bill 868 applies to persons sentenced on or after the effective date of the Act.

In the recent Court of Appeals decision, *State v. Godines*, (2010), Mr. Godines committed certain Measure 11 offenses when he was under the age of 15. He was not prosecuted, however, until he was an adult. At trial in adult court, he was found guilty and sentenced under ORS 137.700. His counsel did not question the court's ability to do so. On appeal, however, the question was whether this failure to raise this defense "plain error" so that the Court of Appeals could review the matter. The court found that it was not "plain error." Thus, it did not reach the merits of the argument. Nonetheless, it did highlight the fact that ORS 137.700 applies to persons convicted of a Measure 11 offense and ORS 137.707 applies to a person charged with a Measure 11 offense who is 15, 16, or 17 years of age at the time the offense is committed. If the former were controlling, the trial court had the authority to impose the sentence; if the later, it did not.

Effective date: June 14, 2011

LEGISLATION NOT ENACTED

House Bill 2787

Keeping concealed handgun permits confidential

House Bill 2787 would have prohibited a public body from disclosing identifying information about persons applying for or licensed to carry concealed handguns pursuant to a public records request. It permitted disclosure with the applicant's or licensee's consent, between public bodies when necessary for a criminal justice purpose, or pursuant to court order.

The measure was introduced in response to an Oregon Court of Appeals' decision in *Mail Tribune v. Winters*, 236 Or App 91 (2010), which required the Sheriff of Jackson county to provide a local newspaper with the identities of all persons licensed to carry concealed handguns and all persons who had applied for such licenses over a two-year period.

Senate Bill 347

Keeping victims' and gun permit holders' information confidential

Senate Bill 347 would have exempted records of individuals who seek assistance from domestic violence service providers from disclosure as public records, as well as information about their family members. The measure would have also exempted information about applicants for and holders of licenses to carry concealed handguns, unless the person consented to the

disclosure, or it was made between public entities for a criminal justice purpose, or pursuant to a court order.

Currently, records maintained by domestic violence service providers, resource centers, or shelters operated by or in partnership with a public entity are subject to disclosure as public records. Senate Bill 347 would have allowed these records to be kept confidential. The bill also identified information relating to who applied for a concealed handgun license to be kept confidential.

Senate Bill 678

Distributing sexual images via cell phone

Senate Bill 678 would have allowed juveniles to assert an affirmative defense if charged with a crime that was based on taking, possessing or distributing a sexual image of another teenager, so long as: both juveniles were close in age; the image depicted juveniles at least 12 years of age; the circumstances did not involve extortion or selling of images; and there was no prior history of such conduct. Senate Bill 678 also created a misdemeanor offense designed to allow courts greater discretion when sentencing juveniles in certain cases.

Taking, possessing, and distributing images of nude juveniles can constitute serious crimes; however, in the digital era, many teenagers engage in such conduct using cell phones and other mobile devices without a second thought as to the potential detriment, criminality, or consequences. Popular media calls such conduct “sexting.”

Labor and Employment

House Bill 2138

Also included in the Transportation Chapter

Criteria for the Road User Fee Task Force recommendations and federal requirements for commercial driver licenses

House Bill 2138 amends current law to comply with federal regulations relating to the driving privileges of commercial motor vehicle operators and commercial driver licenses (CDL). The federal Commercial Motor Vehicle Safety Act of 1986 established national standards for commercial motor vehicle operations to achieve greater consistency among states and to reduce truck and bus crashes. Each state administers a CDL program based on federal laws and regulations governing testing and licensing operators of commercial motor vehicles. Qualification requires a medical certification of fitness to drive which, under current Oregon law, requires CDL holders to show medical certification at initial issuance and at each eight-year renewal; drivers must also carry their certification with them while driving to show at roadside inspections. House Bill 2138 amends this requirement, for purposes of compliance with federal law, to require that CDL holders show their medical certification to the Oregon Department of Transportation's Driver and Motor Vehicle Services Division every two years.

House Bill 2138 also places requirements on the Road User Fee Task Force (Task Force) in its considerations of alternatives to taxing highway use through motor fuel taxes. The Legislative Assembly created the Task Force in 2001 to address the long-term viability of Oregon road finance; it is widely believed that motor fuel taxes will not be able to provide sufficient funds for road maintenance and modernization into the future due to improved fuel efficiency and the potential advent of alternative fuel and plug-in electric vehicles. House Bill 2138 requires the Task Force to take into consideration security, protection of personal information, cost and other specified factors when developing potential alternative funding mechanisms for highway funding.

Effective date: January 1, 2012

House Bill 2347

Exemption of officiating services from unemployment insurance

House Bill 2347 clarifies that individuals who perform officiating services (such as a referee) for recreational, interscholastic, or intercollegiate sporting events or contests, in which the participants are not professional athletes or contestants or are not remunerated for their participation, are exempt from unemployment insurance statutes. The measure does not apply to officiating services performed for a non-profit organization, the state or any of its political subdivisions, or a tribe.

Oregon statute requires that workers be subject to minimum wage standards, mandatory workers' compensation coverage, and unemployment compensation taxation requirements unless explicitly exempted.

Effective date: May 19, 2011

House Bill 3207

Also included in the Veterans Chapter

Requires public employer to interview veterans with transferable skills meeting minimum qualifications

House Bill 3207 requires a public employer to interview any veteran who meets the minimum and special qualifications for a civil service position and has the required transferable skills.

The Task Force on Veterans' Services (Task Force) was asked to review existing policies and procedures, obtain input regarding veterans' services in town hall meetings and provide recommendations. The Task Force reported that of the 3,500 Oregon National Guard troops returning home in 2010, it is estimated 43 percent will be unemployed. Veterans obtain skills, knowledge and experience through their military service, but may lack the educational background to compete for certain jobs. The Task Force report observes that while an interview is no guarantee a veteran will be hired, it should help them increase their chances at finding employment.

Effective date: January 1, 2012

House Bill 3450

Arbitration agreements as a condition of employment

House Bill 3450 reduces the timeframe for notifying an employee about an arbitration agreement from two weeks to 72 hours before their first day on the job. To ensure that the employee has read and reviewed the agreement, the measure requires the employer to include an acknowledgment when the notice is delivered.

Senate Bill 248 (2007) established that employment 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.

Effective date: January 1, 2012

LEGISLATION NOT ENACTED

House Bill 2011

State employee contributions to health benefit plans

House Bill 2011 would have required all state employees who participate in at least one health benefit plan offered by the Public Employees Benefit Board (PEBB) to pay the greater of $50 or five percent of the employee's monthly salary or wages. The maximum monthly contribution was established at $500. The measure's effective date for state employees would have been on pay periods beginning on or after January 1, 2012, if they were not subject to collective bargaining; otherwise, the pay period date in which a collective bargaining agreement executed on or after the measure's effective date was applied.

The provisions of House Bill 2011 would not have applied to participants of the Oregon Educators Benefit Board (OEBB).

House Bill 2092

Streamlining the workers' compensation statutes

The original purpose of House Bill 2092 was to establish a number of changes to workers' compensation law for purposes of reducing burden on employers, protecting workers, and simplifying regulations. The Department of Consumer and Business Services (DCBS) regularly evaluates its laws and processes for determining how to streamline and improve outcomes for both workers and employers.

The measure would have removed the current statutory requirement to provide a printed compliance notice to all employers. It would also have allowed DCBS to work with stakeholders in developing more flexible and efficient ways of providing the required notice, such as in downloadable document form. House Bill 2092 also would have corrected an inadvertent deletion of the DCBS' ability to take action when a worker appeals a workers' compensation insurer's decision regarding the duration of wage benefit benefits provided during the worker's vocational assistance training program, as well as removing the statutory requirement that DCBS specifically consult a health licensing board in determining whether a medical treatment is unscientific, unproven, outmoded, or experimental. The measure also would have extended the period in which a nurse practitioner can provide compensable medical services in a claim from 90 days to 180 days.

House Bill 2989

PERS benefits for legislators

House Bill 2989 focuses on legislators and their participation in Public Employees Retirement Systems (PERS) programs, including the Oregon Growth Savings Plan. The measure would have prohibited legislators who are elected or appointed after the measure's effective date from accruing benefits under any PERS program. If enacted, legislators who were in service on the measure's effective date could continue to accrue benefits as long as they remained in office. If a legislator left their elected position and later returned to the Legislature as an elected or appointed member, they would be subject to the measure's provisions.

Under ORS 238.092, PERS retirees who later become members of the Legislative Assembly may elect to receive their pension, while being an active member of the system as a legislator for the period they hold office. Legislators who already qualify for PERS benefits as a result of previous employment may continue to receive their pension while a member of the Legislative Assembly. Accumulated contributions to PERS will be held in the member's account, and will be used in determining amount of additional annuity.

House Bill 3116

Reemployment of PERS retirees

In general, to continue eligibility for full benefits, a retired public employee receiving Public Employee Retirement System (PERS) payments may work no more than 1,040 hours per calendar year. Exemptions are established in statute for specific positions, such as police departments of fewer than 15,000 people, positions for the Oregon State Police in counties with a population of less than 75,000 inhabitants, and registered nurses who are employed as full time nursing instructors by public employers under specified circumstances.

House Bill 3116 would have modified the 1,040 hour limitation by extending the current statutory waiting period for reemployment from six consecutive months to one year.

House Bill 3218

Contributions to PERS Individual Account Program

Currently, six percent of the salary of a state employee enrolled in Public Employee Retirement System (PERS) is contributed toward the employee's individual account program (IAP), which is a defined contribution plan. PERS Tier One and Tier Two member contributions after January 1, 2004, were directed into their IAP, while all Oregon Public Employees Retirement Plan members have had an IAP since the program's establishment. Approximately 70 percent of PERS members have their six percent contribution "picked up" by their employer.

House Bill 3218 would have reduced the six percent requirement to three percent. The measure specifically stated that the change would not have applied to current collective bargaining agreements at the time of enactment.

Senate Bill 237

Whistleblower protection for hospital staff

Current law prohibits hospitals from retaliating against nursing staff who report or provide information regarding violations of law, rule, or professional standards that the staff member believes poses a risk to the health, safety, or welfare of a patient or the public. Protected activities include disclosure to a manager, accreditation organization, or public body. Senate Bill 237 extends these same protections to other hospital staff.

State whistleblower laws offer protections in addition to those offered by numerous federal laws, including the False Claims Act and the Sarbanes-Oxley Act. Twenty other states currently have some form of whistleblower protection laws.

Senate Bill 610

Regulation of employment

Senate Bill 610 would have imposed several requirements to govern relations between employers, day laborers and labor service agencies. The measure specified that day labor service agencies and third-party employers who contract with them would share legal obligations including: registration with the Bureau of Labor and Industries (BOLI); listing all employers seeking day laborers; notice to inform the public of contact information for the BOLI Commissioner; a written description of the work to be performed; payment of not less than prevailing wage paid to permanent employees; no reduction to the agreed-upon wage rate; a written statement itemizing wages and deductions; provision of attire and equipment needed to perform the job at no charge to the employee; compensation if the employer failed to appear at the designated time and location; transport back to the hiring point (unless requested otherwise by the laborer); no charge for transportation or paycheck cashing; no deployment to a workplace where a strike or lockout exists; no restriction on the right to accept permanent employment with a third-party employer; and no retaliation for exercising rights under the measure.

Senate Bill 610 also specified that any agreement between a day laborer and an employer that sought to waive the rights within the measure would have been considered null and void. The measure provided for civil penalties and a right to civil action, and increased the required surety bond for employment agencies from $5,000 to $20,000.

Senate Bill 612

Construction labor contractors

Senate Bill 612 would have created a definition for "construction labor contractor" to include persons that receive remuneration for recruiting, soliciting, supplying, or employing workers to perform labor for another in construction. The measure specifically exempts: persons with a construction contract for the project in question, those who had obtained building permits, those who supplied materials or machinery for a construction project, those who owned the property where the work was performed, the Employment Department, crew leaders, and educational institutions. The measure specified that construction labor contractors were to be licensed and regulated in a manner consistent with the current statutory requirements for farm and forest labor contractors.

Under current law, persons who bid or submit prices on contracts or who (for compensation) recruit or supply workers for the production of farm crops or the reforestation of lands must apply for a Farm and Forest Labor Contractor License. The fee for this license is $100 for a farm labor contractor license or $250 for a farm and forest labor contractor license. Applicants may be licensed as any one of a number of different types of business entities, including sole proprietors, corporations, or limited liability companies. ORS Chapter 658 outlines specified duties, restrictions and requirements for farm and forest labor contractors.

Senate Bill 624

Establishing a lien on employer property based on an unpaid wage claim

Senate Bill 624 would have granted employees a right of civil action against their employer based on wages owed to the employees for work performed for which they had not been paid. The measure allowed an employee to place a lien on both the employer's real and personal property; this lien was to have priority over all other debts against the employer except for liens established by commercial lending institutions. The unpaid wage lien, however, would still have had priority over the first $3,000 in assets.

Under current law, a wage earner who has not been paid in full may file a claim for unpaid wages through the Bureau of Labor and Industries (BOLI) Wage and Hour Division. Once BOLI verifies such a claim, the agency then attempts to recover all wages owed; however, the collection depends on the ability of the employer to pay the claim, which in turn can be affected by whether the employer is still in business, has filed bankruptcy, and on the location of the employer's money and assets.

Land Use

House Bill 3017

Extension of enterprise zone program

Under Oregon's enterprise zone program, qualified businesses are exempt from local property taxes on new plants and equipment for three to five years in a standard zone and from seven to 15 years in a rural zone. An enterprise zone is sponsored by a local government entity (city, county, tribe, or port). There are currently 60 enterprise zones in Oregon: 48 rural and 12 urban.

The sunset for most enterprise zones, except for zones sponsored by a tribe, would be on June 30, 2013. House Bill 3017 extends the sunset to June 30, 2025.

Effective date: January 1, 2012

House Bill 3225

Development in urban reserves

ORS 195.145 allows a metropolitan service district and a county to enter into a written agreement to designate urban reserves. House Bill 3225 adds an additional subsection to this statute that allows a county to take an exception to a statewide land use planning goal allowing the establishment of a transportation facility in an area designated as an urban reserve.

The exception is to be made under the provisions of ORS 197.732, which outlines the criteria for the exception, as well as the exception's review process.

Effective date: August 5, 2011

Senate Bill 600

Submerged and submersible lands; general permit authority for removal

Senate Bill 600 modifies the preference right for an upland adjacent landowner when a current lessee is in compliance with all terms and conditions of a submersible lands lease and makes other changes to the laws governing the management of state-owned submerged and submersible lands. The measure authorizes the Department of State Lands (DSL) to establish by rule a general permit for removal of no more than 100 cubic yards of material from waters of the state, including from essential indigenous anadromous salmonid habitat, for the purpose of maintaining drainage and protecting agricultural land.

The DSL is responsible for managing submerged and submersible lands underlying many of Oregon's rivers and streams and in the territorial sea. In carrying out management of these lands, DSL must consider constitutional and statutory requirements, State Land Board directives, and the public interest of all Oregonians. Authorizations to use submerged and submersible lands that are offered by DSL include leases, licenses, easements, registrations and short-term access for such uses as marinas, floating homes, log rafts, bridges, pipelines, and fiber optic cables.

Effective date: January 1, 2012

Senate Bill 640

Land division for fire facility

Senate Bill 640 authorizes a division of land in an exclusive farm use zone to create a parcel smaller than the minimum lot or

parcel size for a fire service facility that provides rural fire protection service. The measure authorizes a governing body to establish other criteria it considers necessary for such a land division.

Current law allows the use of land in an exclusive farm use zone for fire facilities providing rural fire protection services, but does not allow the partitioning of that land to achieve a parcel size appropriate for the facility.

Effective date: May 24, 2011

Senate Bill 795

Also included in the Transportation Chapter

Transportation planning

Senate Bill 795 requires the Land Conservation and Development Commission (LCDC) and the Transportation Commission to adopt revisions to the Transportation Planning Rule (TPR) prior to January 1, 2012. It requires LCDC to review and revise rules, plans, and associated guidance documents to balance economic development and the efficiency of urban development with consideration of the development of transportation infrastructure.

The TPR requires local governments to mitigate for impacts on the transportation system resulting from land use changes. The rule was adopted in April 1991 by LCDC with the concurrence of the Department of Transportation. This rule implements Statewide Planning Goal 12, which is to provide and encourage a safe, convenient and economic transportation system.

Effective date: June 17, 2011

Senate Bill 960

Commercial uses in exclusive farm use zones

Senate Bill 960 establishes a permit system that a county may use to approve one or more commercial events or activities on land zoned for exclusive farm use (EFU). The measure establishes an expedited permit process to authorize a single event in a calendar year, a limited permit process for up to six events in a year, or a process to authorize up to 18 events in a year. The bill stipulates conditions for each authorization.

Senate Bill 960 also establishes that a use or structure that existed on June 28, 2011 at a winery that produced more than 250,000 gallons in 2010 may be lawfully continued, altered, restored, or replaced.

In Oregon, agricultural lands are conserved for agricultural uses and certain non-farm uses that are compatible with farming through the application of exclusive farm use zones. As of 2009, about 15.5 million acres (56 percent of private lands in Oregon) were included in EFU zones. The EFU zone was instituted by the Legislative Assembly in 1961 along with the farm tax assessment program. Farm use is encouraged and protected within the zone, while a variety of non-farm related uses that have evolved over the years are also allowed. Minimum lot standards and dwelling approval standards limit the conversion of farmland to other uses.

Effective date: June 28, 2011

Transportation

House Bill 2138

Also included in the Labor and Employment Chapter

Criteria for the Road User Fee Task Force recommendations and federal requirements for commercial driver licenses

House Bill 2138 amends current law to comply with federal regulations relating to the driving privileges of commercial motor vehicle operators and commercial driver licenses (CDL). The federal Commercial Motor Vehicle Safety Act of 1986 established national standards for commercial motor vehicle operations to achieve greater consistency among states and to reduce truck and bus crashes. Each state administers a CDL program based on federal laws and regulations governing testing and licensing operators of commercial motor vehicles. Qualification requires a medical certification of fitness to drive which, under current Oregon law, requires CDL holders to show medical certification at initial issuance and at each eight-year renewal; drivers must also carry their certification with them while driving to show at roadside inspections. House Bill 2138 amends this requirement, for purposes of compliance with federal law, to require that CDL holders show their medical certification to the Oregon Department of Transportation's Driver and Motor Vehicle Services Division every two years.

House Bill 2138 also places requirements on the Road User Fee Task Force (Task Force) in its considerations of alternatives to taxing highway use through motor fuel taxes. The Legislative Assembly created the Task Force in 2001 to address the long-term viability of Oregon road finance; it is widely believed that motor fuel taxes will not be able to provide sufficient funds for road maintenance and modernization into the future due to improved fuel efficiency and the potential advent of alternative fuel and plug-in electric vehicles. House Bill 2138 requires the Task Force to take into consideration security, protection of personal information, cost and other specified factors when developing potential alternative funding mechanisms for highway funding.

Effective date: January 1, 2012

House Bill 2329

Classification system for all-terrain vehicles

House Bill 2329 was the product of the ATV Advisory Committee's efforts to address the need to make adjustments to the current classification system for all-terrain vehicles. The measure reorganizes the three existing classifications and creates a definition for a Class IV ATV, which are larger than Class I ATVs but generally smaller than Class II ATVs. The primary purposes for reorganizing the definitions are to adapt to new types of vehicles that have come to market in recent years, to ensure that age requirements for different classes are appropriate for the type of vehicle, and to ensure that vehicles are used only on trails designed for them. Certification and training requirements are established for Class IV ATV operation as well.

House Bill 2329 also adds three additional positions to the ATV Advisory Committee: one representing a Class IV operator organization, one representing the Oregon Department of Fish and Wildlife with knowledge about ATV enforcement, and one representing persons with disabilities.

Oregon statutes currently provide for three classes of all-terrain vehicles (ATVs): Class I ATVs, commonly referred to as quads;

Class II ATVs, which are heavier than quads and can include jeeps or other vehicles capable of off-road travel; and Class III ATVs, which are motorcycles built for off-road travel, commonly referred to as dirt bikes. The Legislative Assembly established the ATV Safety Training Program with the passage of Senate Bill 101 (2007), followed by creation of an ATV Advisory Committee with the passage of Senate Bill 578 (2009). The latter measure required the ATV Advisory Committee to recommend statutory and safety program changes for consideration and possible legislation.

Effective date: January 1, 2012

House Bill 2370

Notice of sale of public real property near rail infrastructure

House Bill 2370 requires that political subdivisions provide the Oregon Department of Transportation (ODOT) with 30 days advance notice of selling, transferring or leasing real property within 100 feet of a railroad right of way or 500 feet of a railroad crossing. The ODOT, in turn, has 30 days to determine whether purchasing the property might facilitate the expansion of current or future needs for rail service; in addition, ODOT may share the notice with private rail service companies, so that they could enter into negotiations for the property once it is made available to the public.

Increasing rail capacity, combined with other improvements, will benefit both the movement of freight traffic and faster travel times for rail passengers. The ODOT 2010 Rail Study was commissioned by the 2007 Legislative Assembly to increase understanding of Oregon's privately-owned railroad system and to identify the role the state might play in maintaining and growing the system.

Effective date: January 1, 2012

House Bill 3039

Roadside Memorial Fund

House Bill 3039 directs the Oregon Department of Transportation (ODOT) to erect and maintain roadside memorial signs for police officers killed in the line of duty. The measure specifies that any police officer for whom the Legislative Assembly adopts a concurrent resolution recognizing their being killed in the line of duty is to be memorialized once a fee (which ODOT will determine by rule) is paid to cover expenses of the memorial. The measure establishes a Roadside Memorial Fund to hold fees collected to build and maintain the memorials. Local governments are prohibited from expending moneys to pay the fees.

Effective date: January 1, 2012

House Bill 3149

Statutory standards for peer-to-peer vehicle sharing programs

House Bill 3149 requires personal vehicle sharing programs to provide liability insurance for vehicles when the automobile is in use, and defines when the owner's and program's insurance policies apply in personal vehicle sharing arrangements. The measure requires personal vehicle sharing programs to collect, and make available to the vehicle's owner, any information regarding damages or injuries arising out of personal vehicle sharing.

Companies such as Zipcar and Flex Car provide members with access to vehicles on a per-hour or per-day basis by reserving a vehicle from a fleet for a specific date. The potential exists for a next-generation peer-to-peer program that allows car owners to agree to allow their personal vehicles to be used by other program members when the car is not needed by the owner. This would allow for greater flexibility by allowing for an expanded network, providing rental income for car owners, and serving mobility and economic needs of low-income communities.

Effective date: January 1, 2012

House Bill 3150

Designated maximum speeds

House Bill 3150 authorizes road authorities to designate a maximum speed on roadways in residential areas that is five miles per hour (mph) lower than the statutory speed limit for that type of road as provided in ORS 811.111. There are three such speed limit categories: 15 mph in alleys and narrow residential roadways; 25 mph in non-arterial residential roadways; and 55 mph for other types of residential roadways.

In order for a road authority to designate a lower speed than provided in statute, the roadway must meet the following criteria: fewer than 2,000 motor vehicles per day, of which fewer than 15 percent exceed 30 miles per hour; and the presence of a traffic control device to indicate the presence of pedestrians or bicyclists. The road authority is responsible for posting signage to designate the revised speed limit.

Effective date: January 1, 2012

House Bill 3590

Relating to child safety in motor vehicles

House Bill 3590 clarifies that children weighing over 40 pounds may either ride using a booster seat and a shoulder belt, a lap belt only if no shoulder belt is available, or ride secured with a safety system that meets the minimum standards and specifications established by the Oregon Department of Transportation under ORS 815.055. Such systems typically use a five-point harness system, which is considered safer for young children than a lap or shoulder belt used with a booster seat.

Senate Bill 480 (2007) established the current requirements for booster seat use by children who weigh more than 40 pounds but are shorter than 4’9” tall. The requirement was established in part based on studies that demonstrated that children are safest when using a booster seat if they are not tall enough for the shoulder belt to fit properly and in part due to federal grants to states that enact booster seat requirements for children 4’8” or shorter. Prior to passage of Senate Bill 480, Oregon law specified that children between ages 4-6 and weighing 40-60 pounds must be secured in a child safety system that elevated the child so the seat belt fit properly.

Effective date: January 1, 2012

Senate Bill 130

Relating to traffic control devices for bicycles

Senate Bill 130 adds green, yellow, flashing yellow and red bicycle signals to the statutory list of traffic control devices. The

measure also specifies the movement allowed for each of the new signals.

Bicycle traffic signals are traffic signals that specifically regulate bicycle traffic; they are sometimes referred to as "bike heads." Like vehicle operators, cyclists must obey the traffic signals. The bicycle traffic signals use the same colors as a regular traffic signal: green for go, yellow for yield, and red for stop. The key difference between bicycle signals and conventional traffic signals is that the bicycle signals display a color-coded symbol of a bicyclist instead of the conventional round-lens traffic signal. They are used primarily to reduce conflicts between cyclists and motorists at existing signalized intersections.

The City of Portland began installing bicycle traffic lights in 2004 and currently has six intersections with such lights. The Oregon Department of Transportation believes that not proscribing the appropriate response to this type of traffic control device in statute hinders further installations.

Effective date: January 1, 2012

Senate Bill 264

State highway access management

Senate Bill 264 is the product of a 25-member Access Management Advisory Committee, formed by the Oregon Department of Transportation (ODOT) in response to the passage of Senate Bill 1024 (2010). That measure directed ODOT to work with stakeholders to develop a highway access system based on objective standards.

Senate Bill 264 makes significant changes to ODOT's access management program. The measure sets new access management standards for state highways, which have previously been set by rule. The measure dictates an approach permit appeal process and dispute resolution procedures that include appointment of an Access Management Dispute Review Board when requested by an approach permit applicant.

Senate Bill 264 also allows ODOT to transfer jurisdiction and ownership of a state highway segment to a local jurisdiction with the consent of the local jurisdiction and to provide annual funding to the city for maintenance of the road segment from the State Highway Fund.

Effective date: June 14, 2011

Senate Bill 341

Also included in the Judiciary Chapter

Overtaking, passing or driving alongside a commercial vehicle in a roundabout

Senate Bill 341 creates the offense of overtaking, passing or driving alongside a commercial vehicle in a roundabout. The offense is classified as a Class B traffic violation, punishable by a fine of up to $360. Oregon law defines "commercial vehicle" as a motor vehicle or combination of motor vehicles weighing 26,001 pounds or more, designed to carry 16 or more people, or any size vehicle that transports hazardous materials. The definition does not include recreational vehicles, fire trucks or other emergency vehicles.

There are currently 51 roundabouts in Oregon, located primarily on county and city roads; the only roundabout on the state highway system connects Oregon Route 202 and U.S. 201 in Astoria. The aforementioned roundabout is one of seven multi-lane roundabouts in the state; two of the remaining six are in Clackamas County,

two are in Bend, and one each are in Springfield and Portland.

Effective date: January 1, 2012

Senate Bill 447

Removal of personal property under a state highway within an urban growth boundary on property along a river

Senate Bill 447 allows for shortened time frames for notice prior to removal of property if the Oregon Department of Transportation (ODOT) determines that the property could create a hazardous materials contamination or if it presents an immediate danger. In such instances, the measure provides for a minimum of five days' notice and a maximum of 19 days' notice prior to proceeding with removal of property.

Under current law, ODOT rules guide the removal of personal property that does not meet the definition of junk from the public right of way. The Department's policy involves placing signage in English and Spanish in areas frequented by homeless individuals. Agency staff is trained to remove materials and to clean up sites that are exposed to biohazards. Ten days' notice is provided prior to removal of property, and property is stored for 30 days prior to disposal if not claimed.

Effective date: May 19, 2011

Senate Bill 479

Process for declaring oneself as being an anatomical gift donor

Senate Bill 479 revises current law that governs the method by which an individual may declare themselves to be an anatomical gift donor on their driver license or identification card. Under current law, the application for an original driver license, permit or identification card contains the following question, with a yes-or-no checkbox: "Do you want your license/ID card to show that you are an anatomical donor?" Applicants, however, are not required to make a selection in this box in order to complete their application. Senate Bill 479 requires that the question be answered definitively by the applicant in order for the application to be considered complete.

According to Donate Life Northwest, there are more than 105,000 people in the United States waiting for a transplant, of whom more than 2,500 reside in the Pacific Northwest; about 18 people in the United States die every day awaiting a potentially life-saving organ transplant.

Oregon adopted provisions of the revised Uniform Anatomical Gift Act (UAGA) with the passage of House Bill 3092 in 2007. The revised UAGA replaced both the 1968 and 1987 versions of the Act, which facilitates donations and governs organ procurement and allocation in a uniform manner across the country. The Legislative Assembly enacted legislation (House Bill 3055) in 2009 to clarify that an anatomical gift listed on an individual's driver license or state identification card is conclusively presumed to be valid, thereby making it more difficult for a surviving family member of a donor to amend or revoke the anatomical gift.

Effective date: January 1, 2012

Senate Bill 639

Outdoor advertising signs

Senate Bill 639 provides a statutory definition for digital billboards, which may change messages every eight seconds, provided that the transition between images takes two seconds or less. The measure also exempts digital billboards from statutes that prohibit certain roadside markers, provided that they operate at a low light level, do not create the appearance of movement, automatically adjust light intensity, and freeze the display.

The Oregon Department of Transportation (ODOT) is responsible for the regulation of outdoor advertising signs that are visible from state highways, including those that are erected on private property. The regulation is based in part on the federal Highway Beautification Act of 1963; states must comply with the terms of the Act or risk losing up to 10 percent of some federal highway funding.

One type of sign regulated by the Outdoor Advertising Program is a "Tri-Vision" sign, which is made up of a series of three-sided slats that rotate in unison at eight-second intervals, so as to allow the sign to show three separate displays, one after another, on a single structure. In order to erect a new Tri-Vision sign, an applicant must agree to remove three existing signs. This type of variable message sign is different from a "digital billboard," which utilizes an electronic display (such as light-emitting diodes, or LED) that can change images at specified intervals.

Effective date: September 29, 2011

Senate Bill 795

Also included in the Land Use Chapter

Transportation planning

Senate Bill 795 requires the Land Conservation and Development Commission (LCDC) and the Transportation Commission to adopt revisions to the Transportation Planning Rule (TPR) prior to January 1, 2012. It requires LCDC to review and revise rules, plans, and associated guidance documents to balance economic development and the efficiency of urban development with consideration of the development of transportation infrastructure.

The TPR requires local governments to mitigate for impacts on the transportation system resulting from land use changes. The rule was adopted in April 1991 by LCDC with the concurrence of the Department of Transportation. This rule implements Statewide Planning Goal 12, which is to provide and encourage a safe, convenient and economic transportation system.

Effective date: June 17, 2011

LEGISLATION NOT ENACTED

House Bill 2140

Driver education pilot program

House Bill 2140 would have created a pilot program to require all teens in the tri-county area (Clackamas, Multnomah, and Washington) to take an Oregon Department of Transportation (ODOT) approved driver education course prior to obtaining a provisional license. The measure removed a 50-hour requirement for the affected teens.

According to ODOT studies, driver education decreases the casualty and mortality rates of teenagers by an unparalleled amount. Oregon adopted a graduated licensing program in 1999. Every teen must complete 50 hours of practice driving with an appropriate adult. To obtain a provisional license, a teen must complete the 50 hours or an ODOT-approved training program. All ODOT-approved drivers training courses are subsidized by the state and must offer tuition assistance for income-based need.

House Bill 2207

Public electric vehicle charging stations

Oregon is participating with ECOtality in the "EV Project" with the purpose of deploying approximately 1,200 public charging stations in Portland, Eugene/Springfield, Salem/Keizer, Corvallis/Albany, and Medford/Ashland. Approximately 10 percent of these stations are anticipated to be situated at public facilities. Legislation is required in order to allow state agencies to participate in the project and to install grant-funded electric vehicle charging stations for public use. House Bill 2207 would have authorized state agencies to provide electricity for charging electric vehicles at the state's expense.

House Bill 2328

Vehicle road usage charge for electric and plug-in hybrid vehicles

House Bill 2328 is the product of the Road User Fee Task Force. House Bill 2328 would have required the owners of electric and plug-in electric hybrid vehicles to pay 1.56 cents per mile for Road User Charge (RUC) use of Oregon highways, allowed for a transitional rate for electric and plug-in electric hybrids RUC (0.85 cents), and for a $300 flat fee program, which would have sunseted at the end of 2018. The measure also would have required that the Department of Transportation develop methods for reporting miles driven and adopt rules for a collection system.

Currently highway funds are derived from taxing gasoline and diesel. The development of hybrid and electrical vehicles has made the gas tax pricing less reflective of road use, and will see a continued decline in revenue for the state.

House Bill 2356

Commercial Driver Development Fund

House Bill 2356 would have created a Commercial Driver Development Fund to provide loans to students who took classes at a community college with the purpose of qualifying for a commercial driver license and to pay the administrative expenses of the Trucking Solutions Consortium. The Fund would have consisted of private donations, grant moneys, appropriations from the General Fund, and moneys from other sources. The Fund was to be administered by the Department of Community Colleges and Workforce Development, while the Oregon Department of Transportation would have been given the responsibility for promulgating rules to administer the measure.

The trucking industry is currently seeking to hire drivers, but is facing a shortage of qualified applicants in many areas. The requirements for obtaining a commercial driver license and other training requirements can be a significant barrier to bringing new drivers into the labor pool. An industry group called the Trucking Solutions

Consortium was formed in 2005 in response to a recognized need for additional drivers.

House Bill 2860

Rail Advisory Council

House Bill 2860 would have created a Rail Advisory Council (Council) to advise the Oregon Department of Transportation (ODOT) and Oregon Transportation Commission (OTC) on matters related to the state rail system. The measure directed the Council to study development of a bi-state rail authority (with the State of Washington) to plan improvements and operations of the passenger rail system and other issues.

The Oregon Rail Plan, a 25-year plan for statewide freight and passenger rail in Oregon, is currently funded by the Federal Rail Administration. It is currently served by the Rail Advisory Committee created by the OTC and comprised of rail industry representatives, passengers, ports, and industries that transport goods by rail. The Advisory Committee would have been replaced by the Rail Advisory Council under House Bill 2860.

House Bill 3029

Exempting certain areas from the Transportation Planning Rule

House Bill 3029 would have exempted areas within an urban growth boundary containing a population of 10,000 or less from the transportation financing program requirement.

The Transportation Planning Rule (OAR 660-12) was amended in 2005 to require that all transportation projects that are necessitated by a zone change application must be both planned and fully funded for the entire 20-year analysis period. As a result, a city considering an economic development project that would cause an impact to the state highway system must demonstrate how it will fund all of the costs related to upgrading and expanding the highway system to accommodate the increased demand.

House Bill 3141

Lowering age for motorcycle helmet requirement to those under 21

Oregon law currently requires all motorcycle operators and passengers on a motorcycle over 49cc wear an Oregon Department of Transportation (ODOT) approved helmet. House Bill 3141 would have reduced the requirement that all motorcycle operators must wear a helmet to those riders under 21 years of age.

House Joint Memorial 22

Urging federal government to fund bridge and highway projects within Columbia Crossing area

House Joint Memorial 22 was introduced, along with a litany of other bills (House Bills 2626, 2627, 2251, and 3158), regarding building a new bridge spanning the Columbia River. The current I-5 bridge crossing the Columbia River in Washington is seismically unsafe and not capable of handling the traffic volume. The proposed project includes a new bridge with rail capability, but also includes seven interchanges. House Joint Memorial 22 was to be used to urge Congress to give federal funds for the project.

Senate Bill 160

Driving with an animal in the lap

Senate Bill 160 would have prohibited a person from operating a vehicle with an animal in the driver's lap. A violation would have carried a maximum fine of $90.

The 2009 Oregon Legislature prohibited the use of mobile communication devices while driving as a way to reduce traffic accidents caused by distracted drivers. There is no law restricting animals in vehicles or requiring that animals be restrained while in a moving vehicle. A recent survey by the American Automobile Association reported that 59 percent of dog owners participated in at least one distracting behavior while driving with their dog. One in five dog owners reported that they allow their pet to ride in their lap.

Senate Bill 845

Issuance of driver's license or permit to applicants without proof of legal presence

Senate Bill 845 would have required the Oregon Department of Transportation (ODOT) to issue a limited driver's license or permit for driving privileges to someone without a Social Security number. All other requirements for a license or permit would have applied except for proof of legal presence in the United States. The use of a limited license or permit as a form of identification or proof of age would have been prohibited. The license or permit would have been marked to indicate its limited purpose and police officers would have been prohibited from discriminating against individuals holding a limited license or permit.

In response to Executive Order 07-22, ODOT has been verifying the validity of Social Security numbers since February 4, 2008. With the passage of Senate Bill 1080 in 2008, applicants have been required to provide proof of U.S. citizenship or legal presence in the United States before ODOT can issue, renew, or replace a driver's license, a driver's permit, or an identification card.

Senate Bill 846

Labels on bicycle trailers

Senate Bill 846 would have required all manufacturers of bicycle trailers for sale in Oregon that are designed to carry people to affix on each trailer a label that informs the consumer if the trailer conforms or does not conform to the specified ASTM International standards. The bill would have allowed a person to bring a civil action to recover actual damages against the manufacturer if a trailer did not have the required label.

Oregon statutes do not address standards for bicycle trailers designed to carry humans. ASTM International has specified standards for bicycle trailers designed for human passengers (F1975-09), but they are voluntary manufacturing standards.

Veterans

House Bill 2019

Deployment process for surviving sibling

House Bill 2019 creates a procedure for the Adjutant General to follow when an Oregon National Guard unit is called into active federal service under Title 10 of the United States Code. The Adjutant General must notify the Governor if a surviving sibling's unit is called into active federal service. Placement of the service member must be determined militarily necessary and the service member must request active federal service with the unit. House Bill 2019 places the burden on the surviving sibling to "opt in" rather than "opt out."

The number of Oregonians whose lives have been lost in Operation Iraqi Freedom and Operation Enduring Freedom exceeds 120. Many of the casualties were members of the Oregon National Guard. There have been instances when a sibling of a casualty is subsequently deployed. Under Department of Defense directives, the surviving sibling will deploy unless the service member initiates a request in writing asking for a voluntary separation from their unit.

Effective date: June 17, 2011

House Bill 2241

Definition of "uniformed service"

House Bill 2241 changes the definition of "uniformed service" and replaces it with the definition used in the Uniformed Services and Reemployment Rights Act of 1994 (USERRA). The bill also adds initial active duty training as a type of training for which state employees serving in the National Guard or reserve can receive paid leave. Prior law only allowed National Guard and reserve members of the Armed Forces to receive pay for annual active duty training.

The 2009 Legislature passed House Bill 3256 to prohibit employment discrimination against a service member for fulfilling their service obligation. The definition of "uniformed service" adopted by House Bill 3256 was not as inclusive as the definition used in USERRA.

Effective date: April 14, 2011

House Bill 2403

Partnership on veterans' reintegration

House Bill 2403 provides reintegration outreach to veterans by requiring a partnership between a number of state agencies and the Oregon Military Department to provide reintegration service for veterans throughout Oregon. Oregon National Guardsmen who deploy and demobilize as a group receive reintegration services through the Oregon National Guard Reintegration Team. Because Oregon does not have an active duty military base, it is difficult to provide reintegration services to active duty and reserve veterans who deploy and return individually or in small groups.

Effective date: April 14, 2011

House Bill 2578

Oregon Veterans' Home in Roseburg

In January 2010, the Oregon Department of Veterans' Affairs (ODVA) issued a Request for Proposals to site a second veterans' home. Five Oregon counties including Douglas County submitted proposals. The site evaluation committee recommended building the second veterans' home in Linn

County, and a third veterans' home in Roseburg. House Bill 2578 provides ODVA with the legislative authorization to proceed with the site evaluation committee's recommendation.

The United States Department of Veterans Affairs estimates more than 900 skilled nursing beds are needed in Oregon. There is one veterans' home located in The Dalles with 151 beds. In 1995, while the first Oregon Veterans' Home was under construction, the Oregon Legislature passed House Bill 2761 authorizing the Director of the ODVA to proceed with the planning, construction, and operation of a second Veterans' Home, but limited the number of veterans' homes to two without further legislative action.

Effective date: January 1, 2012

House Bill 2919

Extends BOOST Account grant eligibility to businesses hiring veterans

House Bill 2919 encourages small businesses to hire veterans by extending grant eligibility under the Oregon Small Business Today Account when a business hires a veteran as a new full-time employee.

When the unemployment rate in Oregon was at 9.6 percent in April of 2011, it was estimated that the rate of unemployment for veterans was in excess of 20 percent statewide. House Bill 3698 (2010) established the Building Opportunities for Oregon Small Business Today (BOOST) account and authorized the Oregon Business Development Department to make loans and award grants from BOOST to small business employers. Qualifying employers can obtain up to $2,500 in grants for each new full time job given to employees who had been unemployed for at least 60 days.

Effective date: January 1, 2012

House Bill 3163

Disposition of service members' remains

House Bill 3163 adds a provision to ORS 97.130 recognizing the validity of written instruments provided by the Armed Forces of the United States for disposition of remains which includes the Department of Defense (DOD) form or any successor form.

Under federal law, military service members must complete the United States DOD "Record of Emergency Data" form. The form requires, in part, that service members designate a "person authorized to direct disposition" of their remains in the event of death. Only a family member can be selected for this responsibility. Service members update the form annually and prior to any deployment. Oregon law allows for disposition of remains only if the written document is in compliance with the form provided in ORS 97.130. When a written instrument does not comply with the form provided under ORS 97.130, disposition of service members defaults to a priority listing of individuals.

Effective date: May 27, 2011

House Bill 3207

Also included in the Labor and Employment Chapter

Requires public employer to interview veterans with transferable skills meeting minimum qualifications

House Bill 3207 requires a public employer to interview any veteran who meets the minimum and special qualifications for a civil service position and has the required transferable skills.

The Task Force on Veterans' Services (Task Force) was asked to review existing policies and procedures, obtain input regarding veterans' services in town hall meetings and provide recommendations. The Task Force reported that of the 3,500 Oregon National Guard troops returning home in 2010, it is estimated 43 percent will be unemployed. Veterans obtain skills, knowledge and experience through their military service, but may lack the educational background to compete for certain jobs. The Task Force report observes that while an interview is no guarantee a veteran will be hired, it should help them increase their chances at finding employment.

Effective date: January 1, 2012

House Bill 3208

Authorization for two additional veterans' homes and nursing bed study

House Bill 3208 provides legislative authorization to the Director of the Oregon Department of Veterans' Affairs (ODVA) to plan and develop up to two additional veterans' homes once the first two veterans' homes are built and operating and the Director determines they are insufficient to meet the needs of Oregon's veterans. House Bill 3208 also allows ODVA to contract a study of the needs of skilled nursing care for Oregon's veterans.

The United States Department of Veterans Affairs estimates more than 900 skilled nursing beds are needed in Oregon. There is one veterans' home located in The Dalles with 151 beds. In 1995, while the first Oregon Veterans' Home was under construction, the Oregon Legislature passed House Bill 2761 authorizing the Director of the ODVA to proceed with the planning, construction and operation of a second Veterans' Home, but limited the number of veterans' homes to two without further legislative action.

Effective date: June 9, 2011

House Bill 3416

World War II Memorial Task Force

House Bill 3416 establishes a World War II (WWII) Task Force to solicit private funding for the development, design and construction of a memorial to honor Oregon's WWII veterans. The memorial will be located on the Capitol grounds and contain the names of the 3,757 Oregonians who lost their lives in WWII.

World War II was the bloodiest war in history killing an estimated 50-70 million people. Sixteen million Americans served in the United States military during WWII. Approximately 1,000 of these veterans die each day in America. One hundred and fifty two thousand Oregonians fought in the war. Currently, Oregon is home to 30,000 WWII veterans. While a number of local memorials exist in Oregon to honor those who served in WWII, there is no statewide WWII memorial.

Effective date: June 21, 2011

House Bill 3500

Cultural barriers to veteran reintegration

House Bill 3500 requires the Oregon Military Department to report on military cultural barriers to reintegration and propose legislation to eliminate such barriers by October 1, 2014.

Each month, between150 to 300 veterans re-enter civilian life in Oregon after discharging from active duty, the National Guard or the Reserves. Unlike other states, Oregon does not have an active duty military base to provide coordinated reintegration services. The Oregon National Guard Reintegration Team partners with Oregon Department of Veterans' Affairs and other agencies to provide reintegration services to National Guardsmen who deploy and demobilize as a group. The Reintegration Team ensures these veterans are assessed for their medical conditions and receive all the benefits to which they are entitled. The Legislative Task Force on Veterans' Reintegration Final Report (October 2010) states many veterans do not seek reintegration help. According to the report, veterans fail to seek reintegration help for a number of reasons, including a concern they will be seen as weak or ostracized by their unit.

Effective date: May 19, 2011

House Bill 3611

Statistics on veterans' suicide

House Bill 3611 requires a person submitting a death certificate to make reasonable efforts to determine and notify the Center for Health Statistics whether the decedent was a veteran and, if so, whether the decedent served in combat and where the decedent served.

The Oregon National Guard Unit has the second highest suicide rate in the nation for veteran suicides. Currently, Oregon law does not keep track of veterans who commit suicide. According to the Secretary of Veterans Affairs, 20 percent of the 30,000 suicides in the United States each year are veterans. The United States Department of Veterans Affairs released preliminary data which indicate the suicide rate among 18- to 29- year-old men who have left the military rose 26 percent from 2005 to 2007. The actual rate of suicides among veterans is uncertain due to inadequate statistics.

Effective date: January 1, 2012

House Bill 3658

Medal honoring Oregon military personnel killed in Iraq and Afghanistan

House Bill 3658 creates a commission to design a medal and establish a ceremony for the presentation of a medal to Gold Star families who have lost loved ones in the wars in Iraq and Afghanistan. Upon completion of the design process and approval by the Governor, the Governor shall present the proposed medal to the Seventy-seventh Legislative Assembly for its approval.

Since the United States invasion of Iraq in March, 2003, there have been 128 service members from Oregon or with significant connections to Oregon who have died in Iraq and Afghanistan.

Effective date: January 1, 2012

House Joint Memorial 6

Urges Congress to require United States Department of Veterans Affairs to pay veterans' transportation costs in certain circumstances

House Joint Memorial 6 urges Congress to require the Veterans Health Administration to pay the transportation costs when a veteran who sought emergency care at a facility not operated by the Veterans Health Administration is transported to a VA facility. The Legislative Task Force on Veterans' Transportation Final Report (October 2010) recommended the Oregon Legislature pass a memorial urging Congress to address this payment issue.

A veteran enrolled in Veterans Administration (VA) health care may seek treatment at the nearest emergency room in an emergency situation provided the veteran is transported to a VA facility as soon as the veteran is stable. The 2009 Legislative Assembly created a task force to study issues relating to veterans' transportation. An issue discovered by the Task Force was the inability of a local hospital to get reimbursement from the VA for transporting a veteran to the VA hospital after obtaining emergency treatment at their hospital in accordance with rules governing emergency care.

Effective date: May 16, 2011

House Joint Memorial 18

Urges Congress to make funding of veterans' health care permanent and direct entitlement

House Joint Memorial 18 urges Congress to change the funding for veterans' health care benefits from a discretionary expense to an entitlement.

Since 1921, veterans' health care has been a discretionary expense within the United States Department of Veterans Affairs budget. Funding for veterans' health care relies on annual budget appropriations. Veterans' organizations want assurance their health care benefits will remain stable.

Effective date: May 20, 2011

Senate Bill 74

Establishes March 30th of each year as Welcome Home Vietnam Veterans Day

Senate Bill 74 recognizes Oregon's Vietnam veterans and honors their service by establish March 30th of each year as *Welcome Home Vietnam Veterans Day*.

The Vietnam War had significant American involvement from 1961 to 1975. More than 58,000 United States Armed Forces (USAF) personnel died and more than 300,000 were wounded during the war. Public debate about the war was extensive and many returning USAF members were not immediately honored for their service. More than 118,000 of Oregon's citizens served in the war, and they, and other Vietnam veterans from around the country, commonly greet each other with the words, "Welcome home."

Effective date: January 1, 2012

Senate Bill 241

Requires agencies to facilitate veteran access to benefits and services

Senate Bill 241 expands outreach to veterans by requiring state agencies to make

reasonable efforts to ask if a customer or client is a veteran. It also requires the Oregon Department of Veterans' Affairs (ODVA) and the Oregon Military Department (OMD) to provide contact information and materials about veterans' benefits and services to state agencies and requires the agencies to make a reasonable effort to disseminate the information and materials. Senate Bill 241 also expands outreach to veterans by including food pantries and food banks as entities required to disseminate contact information and materials and make reasonable efforts to identify veterans. Many veterans, particularly those who are homeless, use food banks or pantries and may be more easily reached in that context.

The 2008 Governor's Task Force on Veterans' Services (Task Force) determined that some veterans do not receive veterans' benefits or services because agencies do not know they are veterans. The Task Force recognized that helping veterans access benefits would help them and their communities. In response to the findings of the Task Force, Governor Kulongoski issued Executive Order 09-03, requiring all agencies to include a question about veteran status on any agency form and requiring agencies to provide that information to ODVA. Executive Order 09-03 was superseded and amended by Executive Order 09-09, which eliminated the requirement that agencies ask about veteran status, but added a requirement that agencies link their websites to the ODVA website and included language encouraging agencies to work with ODVA on outreach to veterans. Executive Order 09-09 also required ODVA to provide outreach materials for agency offices and facilities. In addition, the 2009 Legislative Assembly passed House Bill 3104, requiring ODVA to do more extensive outreach to veterans by placing contact information in agency and county government facilities.

Effective date: January 1, 2012

Senate Bill 275

Also included in the Education Chapter

Uniform college credit for military skills and training

Senate Bill 275 changes current law by requiring community colleges to establish and implement standards for consistent credit allocation for education and training obtained by a person while serving in the Armed Forces of the United States. It also requires that a community college give credit for education or training that meets those standards.

The Legislative Task Force on Veterans' Reintegration, established by Senate Bill 700 (2009), determined that college credit for a veteran's military education and training should be allocated consistently in Oregon universities, colleges, and community colleges. The Oregon University System generally uses the American Council on Education (ACE) guidelines to determine credit amounts for specific military training and education. The ACE system of credit allocation has not been uniformly applied at Oregon's community colleges, resulting in a variety of different credit allocations. ORS 341.533 allows, but does not require, community colleges to give Armed Forces personnel credit for military education and training.

Effective date: January 1, 2012

Senate Bill 277

Clarifies laws pertaining to preference for veteran or disabled veteran in public employment

Senate Bill 277 clarifies the requirement that a public employer grant a preference to a veteran or disabled veteran applying for a vacant civil service position or seeking promotion to a civil service position with a higher maximum salary rate.

ORS 408.230 requires public employers to give a preference to veterans or disabled veterans in hiring and promotion decisions related to civil service positions. The statute provides a framework for giving veterans and disabled veterans additional points in scoring during the hiring and promotion process. The preference does not guarantee that a veteran will be hired or promoted. The 2009 Legislative Assembly amended ORS 408.230, clarifying the definition of "civil service" and removing a provision limiting the veterans' preference to positions for which an application was made within 15 years of discharge or release from service. Some public employers, however, have interpreted the 2009 statutory change to mean they no longer need to give a hiring or salary promotion preference to veterans or disabled veterans because the law does not apply to them.

Effective date: May 19, 2011

Senate Bill 275

Also included in the Education Chapter

Uniform college credit for military skills and training

Senate Bill 275 changes current law by requiring community colleges to establish and implement standards for consistent credit allocation for education and training obtained by a person while serving in the Armed Forces of the United States. It also requires that a community college give credit for education or training that meets those standards.

The Legislative Task Force on Veterans' Reintegration, established by Senate Bill 700 (2009), determined that college credit for a veteran's military education and training should be allocated consistently in Oregon universities, colleges, and community colleges. The Oregon University System generally uses the American Council on Education (ACE) guidelines to determine credit amounts for specific military training and education. The ACE system of credit allocation has not been uniformly applied at Oregon's community colleges, resulting in a variety of different credit allocations. ORS 341.533 allows, but does not require, community colleges to give Armed Forces personnel credit for military education and training.

Effective date: January 1, 2012

Senate Bill 951

Establishes June 25th of each year as Korean War Veterans Honor Day

Senate Bill 951 honors Korean War veterans for their service by naming June 25th of each year *Korean War Veterans Honor Day*.

The Korean War is often called the Forgotten War. In the early 1950's, Americans seemed to still be recovering from World War II and were reluctant to engage in another military conflict. Moreover, Korea was relatively unfamiliar to many Americans. When Korean War veterans returned home, there was little said or done to honor their service. Many Korean

War veterans believed they were expected to simply reintegrate on their own, with barely any recognition of their contributions during the war.

Effective date: January 1, 2012

Senate Joint Memorial 1

Urges United States Department of Veterans Affairs (USDVA) to increase emphasis on permanent and transitional housing for homeless veterans.

Senate Joint Memorial 1 affirms the current programs for homeless veterans and encourages the United States Department of Veterans Affairs (USDVA) to prevent future homelessness through a combination of permanent support housing, transitional housing, and collaborative efforts between government and community partners.

The USDVA estimates that, on any given day, more than 130,000 veterans are homeless. The number would likely be much higher if veterans living in substandard housing or at imminent risk of homelessness were included. There are more than 3,000 homeless veterans in Oregon. While a number of organizations, particularly in metropolitan areas, provide transitional housing for homeless veterans, the demand throughout Oregon is much greater than the supply.

Filed with Secretary of State: May 13, 2011

Senate Joint Memorial 3

Urges Congress to mandate payment for treatment of military sexual trauma provided outside veterans facilities. Urges Congress to require at least one experienced military sexual trauma (MST) counselor at each Vet Center.

Senate Joint Memorial 3 urges Congress to mandate payment for the treatment of military sexual trauma (MST) for providers outside the Veterans Administration (VA) system to give victims the option of seeking treatment from providers with whom they may be more comfortable. Senate Joint Memorial 3 also urges the enactment of legislation requiring that an experienced MST counselor be on staff at every Vet Center.

The Legislative Task Force on Women Veterans' Health Care (Task Force), created by House Bill 2718 (2009), found that MST had become an epidemic among female veterans. The United States Army has found that 22 percent of female veterans indicate they have experienced MST. Adding unreported assaults would likely result in a much higher incident number. Nearly 1500 veterans with MST have been treated in the VA system in Oregon. Many veterans with MST, however, do not feel safe reporting assaults or seeking treatment within the military system.

Filed with Secretary of State: April 26, 2011

LEGISLATION NOT ENACTED

House Bill 2402

Appropriates money to the Campus Veterans' Service Officers Program

House Bill 2178 (2009) would have created a Campus Veterans' Service Officer Program within the Oregon Department of Veterans' Affairs. Campus Veterans' Service Officers (CVSOs) are federally

accredited officers assigned to the Oregon University System and community colleges. CVSOs are veterans' advocates knowledgeable in the laws, regulations and rules of veterans' benefits. CVSOs help student veterans obtain their maximum benefits allowable under the law.

The Campus Veterans' Service Officer Program began as a pilot program at Portland State University. The pilot program turned out to be so successful that the 2009 Legislature expanded and funded the program through the 2011 biennium. House Bill 2402 sought $1.1 million from General Funds to continue the program for the 2011-2013 biennium.

House Bill 2407

Outreach program to encourage female veterans to use VA health care benefits

House Bill 2407 would have directed the Oregon Department of Veterans' Affairs to develop a program to accomplish the goal of identifying, locating, and teaching female veterans about their eligible benefits.

Historically, the Veterans' Administration has served a predominantly male population but that dynamic is changing with more than 250,000 women serving in Iraq and Afghanistan. The number of female veterans is projected to increase 17 percent between 2008 and 2033. Of the 7,361 Oregon female veterans, only 29 percent use their Veterans' Administration benefits. Many female veterans do not know about their rights, benefits, and resources. The Legislative Task Force on Women Veterans' Health Care Final Report (October 2010) identified locating and teaching female veterans about eligible benefits as a priority.

House Bill 3205

Oregon Veterans' Business Enterprise Program

House Bill 3205 would have created the Oregon Veterans' Business Enterprise Program. The Business Enterprise Program would have provided veterans' financial assistance to help start a new business or expand an existing business.

Helping veterans find employment is a long-standing benefit of the Veterans Administration. The Governor's Task Force on Veterans' Services Final Report (December 2008) states that veterans of the wars in Iraq and Afghanistan face serious challenges. Many of these service members find decompressing from their combat experience overwhelming, and finding a job too much to ask, according to the report. As a group, veterans have a higher than normal unemployment rate which is three times the average in some parts of the state.

Senate Bill 2

Providing veterans with paid or unpaid time off on Veterans Day

Senate Bill 2 would have required an employer to provide paid or unpaid time off for Veterans Day to employees who are veterans and who are otherwise required to work on Veterans Day. It also would have required notice and documentation from the veteran making the request. The measure would have provided an exception for any employer experiencing significant economic or operational disruption due to time off for veterans on Veterans Day and would have allowed an employer to deny time off based on a determination of undue hardship.

Most Oregon veterans who are public employees currently receive Veterans Day as a holiday. In 2010, Iowa became the first state to pass a law requiring all employers to give veterans a paid or unpaid day off on Veterans Day.

Senate Bill 280

Assisting veterans who use wheelchairs with medical transportation

Senate Bill 280 was patterned after a voucher program developed by the Idaho Department of Veterans Affairs. The $100,000 allocation in the measure would have enabled the Oregon Department of Veterans Affairs to establish a similar system, providing vouchers for medical transport to the hundreds of Oregon veterans using wheelchairs for mobility.

The Legislative Task Force on Veterans' Transportation (2009) determined that many veterans using wheelchairs had limited access to adequate medical transportation. There is no dedicated medical transportation in Oregon for veterans who use wheelchairs, and the systems that exist often do not accommodate wheelchairs.

Water

House Bill 3451

McKenzie River Subbasin Task Force

House Bill 3451 establishes the Task Force on McKenzie River Subbasin (Task Force), and specifies the composition of membership. The bill directs the Task Force to prepare proposals relating to implementation by the Department of Fish and Wildlife of strategies in the Upper Willamette River Conservation and Recovery Plan for Chinook Salmon and Steelhead. The Task Force is required to report to the Legislative Assembly by October 1, 2012, and sunsets on January 2, 2014.

The Upper Willamette River Conservation and Recovery Plan for Chinook Salmon and Steelhead serves as a federal recovery plan for certain fish populations listed under the federal Endangered Species Act. The Plan is designed to guide implementation of actions needed to conserve and recover these populations by providing an informed, strategic, and voluntary approach.

Effective date: June 28, 2011

House Bill 3623

Deschutes Basin ground water study area

House Bill 3623 extends from January 2, 2014, to January 2, 2029, the sunset date on rules adopted by the Water Resources Commission for the Deschutes Basin ground water study area. The measure requires the Water Resources Department (WRD) to periodically review its program for the study area, including identifying changes that may mitigate injury to water rights and offset reductions in scenic flows. The bill further requires WRD to report to the Legislative Assembly every five years on outcomes of the study area, including program impacts on certain users, timing of mitigation and storage improvements, and identification of zones of impact.

The Deschutes Basin Groundwater Mitigation Program (Program) was established by WRD in 2002 with the goals of maintaining flows for the Deschutes Scenic Waterway and instream water rights, facilitating the restoration of flows in the middle reach of the Deschutes River below Bend, and accommodating growth in the region through new groundwater development. The Program requires applicants for new groundwater withdrawals in the Deschutes Basin ground water study area to mitigate those withdrawals by placing a similar amount of water instream. The Program provides tools that groundwater applicants can use to secure the mitigation credits needed to develop new groundwater permits.

Effective date: August 2, 2011

Senate Bill 126

Licensing of Certified Water Rights Examiners

Senate Bill 126 clarifies roles and responsibilities with respect to the licensing of certified water rights examiners (CWREs). The measure also authorizes the adoption of rules regulating standards of professional conduct and continuing education requirements.

A CWRE is a trained surveyor, engineer, or geologist who has passed an examination and is therefore authorized to document and confirm the location and beneficial use of water. The Water Resources Department relies on documentation by CWREs when it

evaluates water right holders' claims for beneficial use.

Effective date: January 1, 2012

Senate Bill 626

Quality Fresh Waters Program

Senate Bill 626 directs the Oregon Department of Fish and Wildlife (ODFW) to study a program to develop and protect Oregon's unique angling opportunities, called the Quality Fresh Waters Program. The program is to focus on fish management practices, fish research projects, protection and restoration of fish habitat, and enforcement efforts. The Department is directed to review the feasibility of increasing fees on non-resident angling licenses and other proposals to fund the program and to report to interim legislative committees on or before November 1, 2012. The Act is scheduled to sunset on January 2, 2014.

The ODFW 25-Year Recreational Angling Enhancement Plan outlines goals for recreational fisheries management, identifies angling enhancement strategies and describes actions and pilot programs to accomplish the goals.

Effective date: January 1, 2012

LEGISLATION NOT ENACTED

Senate Bill 598

Discharge of water into district facilities

Senate Bill 598 would have prohibited public bodies from discharging drainage or storm water into facilities owned by irrigation districts, drainage districts, water improvement districts or water control districts without an intergovernmental agreement with the district in question. Liability would have been imposed for discharges without, or in violation of, such intergovernmental agreements. The measure required public bodies unable or unwilling to reach agreement with the district to complete and implement an alternative plan for discharging drainage or storm water.

Storm water runoff from land and impervious areas such as paved streets, parking lots and building rooftops during rainfall and snow events often contains pollutants that can adversely affect water quality. National Pollutant Discharge Elimination System (NPDES) permits are required for storm water discharges to surface waters from construction and industrial activities and municipalities if storm water from rain or snow melt leaves a site through "point source" and reaches surface waters either directly or through storm drainage. A point source is a natural or human-made conveyance of water through things such as pipes, culverts, ditches, catch basins or any other type of channel.

Measures Vetoed by the Governor

House Bill 2212

Relating to floral order facilitators

House Bill 2212 would have restricted the amount that floral order facilitators could charge for receiving orders and transferring them to another facilitator or direct floral order providers. The measure would also have required floral order facilitators to pay delivery charges and other amounts to direct providers of floral or plant arrangements within a reasonable time period.

Before modern technologies enabled customers to arrange remotely for flowers to be delivered almost anywhere, a customer made arrangements through a local florist and the local florist contacted a florist in the destination city to fill the customer's order. FTD (Florists' Transworld Delivery) was originally a group of 15 florists who agreed to fill each other's orders via telegraph. Today, the vast majority of orders are transferred between florists on proprietary data networks. A typical floral order pays 20 percent to the originator of the order, seven percent to a floral order facilitator, and 73 percent to the florist who actually fills the order. House Bill 2212 would have specified that 88 percent was due the florist completing the order, with the originator and the facilitator taking five and seven percent, respectively.

The measure was vetoed on June 13, 2011.

Governor's Veto Message

I am returning Enrolled House Bill 2212 unsigned and disapproved.

HB 2212 prohibits floral order facilitators from receiving or charging consideration for individual orders, with certain exceptions. In summary, the bill limits the price that a floral order facilitator can receive for consideration to a specified percentage of the overall amount paid by the consumer, depending on whether the facilitator receives the order from a direct provider or from another floral order facilitator.

The bill has a commendable goal which I fully support: protecting Oregon flower shop owners from uncertain or exorbitant pricing from floral order facilitators. Unfortunately, HB 2212 has several constitutional implications – none of which were raised by opponents to this legislation during the public hearing process.
First, this measure impacts commerce that occurs entirely outside the borders of Oregon, and thereby runs afoul of the Dormant Commerce Clause in Article I, Section 8 of the United States Constitution.
Second, the bill's limitations on the consideration to be paid affects private contracts between floral order facilitators and their members, which likely violates the Contracts Clause of the Oregon and United States Constitutions.

Because a court would likely find Enrolled House Bill 2212 to be unconstitutional, I am returning it unsigned and disapproved.

I want to make it clear, however, that the issue this bill was introduced to address still remains. Therefore, I am committed to convening a work group in the interim to consider alternative approaches to important issues raised by this bill, and I look forward to including interested legislators in that process.

Vetoed