

September 13, 2005

Dear Chairs Pryor and Wilhelms and Commission members:

At the first meeting of the Public Commission on the Legislature, I identified seven aspects of a “problem statement” that an agenda of legislative reform might address. As requested, I have written and expanded on these ideas for your consideration and reaction.

We cannot realistically aim to remove all political partisanship, all forms of monetary influence, or all pettiness from the legislative process. But identifying what many consider to be significant problems may help us to develop an agenda of reforms and organize our thoughts about proposed solutions that can resolve some problems and reduce others to manageable levels.

A list of problems that have been identified by the public, by media commentators, by legislators themselves, and by commission members include at least the following.

1. Loss of public confidence in the legislative process and in the legislature as an institution. The separate aspects and the overall dimensions of loss of confidence in the legislature might be documented by a study of polling data, editorial commentary, letters to the editor, and by inquiry from informed observers.

2. Subordination of the legislature’s independent formulation and analysis of Oregon’s public agenda to others, including the executive branch, the lobby, and an initiative “industry” that often sees Oregon as a low-cost test market for national controversies. Regaining the legislature’s independent stature and capabilities was a major effort in the 1970s, and it needs to be restarted now.

3. A perception by some that the legislative process has broken down because public policies and programs have become too large and complex for short-term, part-time legislators. One example, cited by Commissioner Brawner, is that Measure 5 forcibly moved public school funding from local property taxes onto Oregon’s unstable income tax, which I observed has had today to provide 20 times more dollars of basic school support than was provided in 1977. Others include the large increase in funding corrections that was forced by Measure 11, the time and effort needed to reformulate the originally initiated Measure 47 into a more comprehensible form for re-submission to the voters, and most recently, the problem of maintaining Oregon’s comprehensive land use plans while facing piecemeal claims for money or exemptions under Measure 37.

Still other complexities arise from the state’s continuous need to comply with changing rules and standards imposed by federal laws as a condition of obtaining and retaining federal funding for indispensable state programs. How might legislative bodies and their operating calendars be strengthened to manage these difficulties?

4. Political partisanship. Observers as well as participants have seen a sharp increase in

partisanship and disregard of other views as a major source of decline in Oregon's legislative process and performance, leading the legislature to make faulty decisions or preventing any decision at all. Long-time observers of the legislature blame the emergence of government through caucus discipline, which creates confrontational positions and conflicts that otherwise would yield to reasonable compromise.

5. The perceived effect of dependence on campaign contributions from self-interested groups. These are seen as gaining influence disproportionate to the votes of their Oregon members, and to legislative paralysis in the face of the interests to which each party's caucus may feel beholden. The commission must examine how new candidates for legislative seats are recruited, where self-starting candidates turn to meet the escalating costs of modern election campaigns, and how this question relates to the preceding question of government by caucus.

6. Decline of the "citizen legislature." Some fear that Oregon may lose the concept of the "citizen legislator" and with it our lawmakers' uniquely "representative character" not only in the sense of elected advocates but also in the sense that any citizen who wishes may offer to serve. By what institutional arrangements might preservation of this historic ideal also accommodate the need for thorough understanding of and extended attention to difficult issues and programs, as set out in item 3, above?

7. Adapting to modern communications. An item in the final problem statement observes that we need a legislative process that will be fully adapted to the 21st Century, with its new technologies, new forms of communication, and resulting heavy workloads. These interrelated problems are seen as demanding not only new facilities and technologies but perhaps affect staffing needs and scheduling innovations to make the institution more thoroughly modern. One should not, however, overlook the political implications of the same improvements on competitive elections between incumbents and challengers, which, when combined with the access to campaign funds mentioned in item 5, above, along with partisan systems of districting, have reduced genuinely contested seats in the Congress to perhaps a quarter of the members in each house.

If you agree that these "problem statements" may help us to organize our responses, there are some follow-up steps that could help to maintain our focus.

Best regards,
Dave Frohnmayer