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OFFICE OF THE STATE TREASURER

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PROPOSAL: Session Structure Discussion
EXHIBIT: _____
PUBLIC COMMISSION ON THE LEGISLATURE
DATE: 12-6-05 PAGES: 5
SUBMITTED BY: Randall Edwards

Public Commission on the Oregon Legislature
Testimony of State Treasurer Randall Edwards
before the Process Committee
December 6, 2005

Thank you for the opportunity to be here today to talk about the need for the legislature to move from biennial legislative sessions to annual sessions.

It is time for the State to ask the voters to make this change. The legislature, I believe, has become a weakened body. Annual sessions will strengthen the legislature and bring more financial stability, more accountability, and simply a better run government. I also believe that with annual sessions, Oregon should maintain its part-time, citizen legislature.

Biennial sessions are a tradition here in Oregon, and they have served Oregon well for more than 100 years. They made a lot of sense when Oregon's economy was primarily agrarian and the State's finances were relatively simple. Today, however, the State is a multi-billion dollar entity operating in a global marketplace with near instant communication—a situation that is not going to slow down. Therefore, the speed with which the State must act and react to ever-changing conditions and the complexity of the State's budget require more than a meeting of lawmakers every other year.

The legislature is losing its power to govern via the legislative process. It is weakened by what could be called Oregon's initiative "industry," its loss of critical institutional memory from session to session, and its inability to participate in a meaningful way in public debates. Under the current biennial session system, we are asking our legislators to achieve the impossible: to create a balanced, stable budget for a two-year period during which the state may experience significant revenue shifts, to respond to the impacts of lawsuits and initiatives in a timely and meaningful way, and to maintain continuity of issues and expertise from session to session.

Why is all of this so important? What is so different now that it's time to make a change? It's different now because the size and scope of the legislature's responsibility has grown immensely and has reached a point where the body is no longer able to effectively govern within the biennial structure. General Fund revenue for the ten-year period from the 1989-91 biennium to the 1999-01 biennium grew from \$4.9 billion to \$10.5 billion—more than doubling in ten years. Going back another ten years to the 1979-81 biennium,

the General Fund was only \$2.6 billion. Today it's nearly \$12 billion, a four fold increase in 25 years.

Equally important, there has been an enormous increase in the legislature's responsibility to Oregonians. Perhaps the best example is its increased responsibility to fund K-12 education with passage of Measure 5 in 1990. Prior to the measure, the legislature was not primarily responsible for education funding, but it is today, and this responsibility is one that grows each year with the increase in population. Education isn't the only example. There are others: increased correctional costs as a result of Ballot Measure 11, increased costs associated with the meth epidemic, increased transportation and infrastructure costs to support the population growth, and the list goes on.

Annual sessions would help restore the legislature's ability to do its job effectively:

They would help stabilize the budget process by allowing opportunities to refine and adjust the budget—helping alleviate the need for special sessions

A more stable budget lends more predictability for services important to Oregonians like schools and social services

They would give the legislature the opportunity to address court rulings and to be part of the debate for ballot measures that affect Oregonians

They would provide more continuity of issues and relations among members from session to session—this would be beneficial to the debate and process overall

All of these benefits of annual sessions—more stable budget, more proactive with respect to initiatives, more responsive to lawsuits, and the building of experience and institutional memory—lead to a better functioning, more stable government with the flexibility to act in a meaningful way.

From my perspective as Treasurer, this could have a positive impact on the state's overall financial picture. It would also help the state's credit rating, meaning the state would pay less interest on the bonds it sells, leaving more money available for things like education and healthcare.

With annual sessions I am suggesting that the legislature meet more often, but not more. While there are a myriad of ways to structure annual sessions, the total of both sessions within a biennium should not be longer than one regular biennial session. Providing a date certain for adjournment would help to focus effort and debate and ensure that "annual" does not mean "more." It would bring the added benefit of certainty for completion and enactment of the budget, a fact that would aid the State when accessing the financial markets, which abhor uncertainty.

Like other states, Oregon faces many challenges, and I am not proposing that annual sessions will be the miracle cure to all the state's ills, but it is one step that acknowledges

that this State and the world in which it operates has changed over the last 145 years and sometimes it takes changing even tradition to better serve the citizens.

Again, I appreciate the opportunity to participate in this committee's important work.

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September 29, 2005

Public Commission on the Oregon Legislature
900 Court Street NE, Room 349
Salem, Oregon 97301

Dear Commission Members:

I appreciate the opportunity to submit proposals for your consideration for changes to the operation of the Oregon Legislature and the legislative process. Both structural and political dysfunction in the legislative process have an impact on my position as State Treasurer and on the financial health of the state, particularly as viewed by independent credit rating agencies that assess the state's credit worthiness when I sell bonds. A poor rating translates into higher interest rates and, over time, accumulates into millions of additional dollars in interest payments.

I am submitting proposals for consideration by your commission that I believe would have a positive impact on the stability and long-term financial health of the state. Many of these ideas will not be new to you, but my perspective as State Treasurer is unique and could add value to your discussions.

Annual sessions: With the growing complexity of the state's budget, biennial sessions do not seem to be serving the state's financial needs well. Oregon is one of only a few states that continue to hold biennial sessions. Moving to annual sessions could help stabilize the biennial budget process by allowing opportunities to refine and adjust the budget and help alleviate the need for special sessions. The legislature should meet annually, alternating between one short session and one longer session, both with hard deadlines by which they must adjourn so that the number of days for both sessions is limited. As a legislator, I sponsored legislation that would have created annual sessions and would have limited the total combined number of days for both sessions to approximately 180, which represent fewer days than the past several biennial sessions.

In the longer of the two annual sessions, a biennial budget should be passed and could be revisited in the following shorter session year if necessary. Shorter sessions will also alleviate the need for continuing resolutions and the negative impact these can have on the state's bond sales and cash management.

MEMORANDUM

TO: GINNY LANG, CHAIR
PROCESS COMMITTEE
PUBLIC COMMISSION ON THE LEGISLATURE

FROM: BRUCE BISHOP
LEGISLATIVE PRACTICE LEADER
HARRANG LONG GARY RUDNICK, P. C.

SUBJECT: LEGISLATIVE CALENDAR OPTIONS

DATE: 11/30/05

Thank you for the opportunity to appear before the committee on changes the Commission might recommend in the calendaring of Oregon's sessions of the Legislative Assembly. This memorandum presents my personal views on this matter and does not necessarily represent the views of my law firm, our clients, or of the Capitol Club, for which I am currently the vice-president. It will be part of the panel presentation your committee will receive at its hearing on December 6.

By way of background, I have been involved in the Oregon Legislature over most of the past 32 years, as a legislative staffer, lobbyist and lawyer. While I don't have as much seniority as some other members of the Commission who are also lobbyists, I'm much grayer and balder now than I was when I first started my professional career in Salem as a member of the Legislative Research Office. My longstanding involvement in legislative activities has shaped my views about what should—and can, practically—be fixed to improve the operations of Oregon's legislative body. I appreciate the opportunity to present these ideas for your consideration.

In my view, the fundamental problem faced by Oregon's citizen legislature is that it begins its regular sessions within two months of the General Election, a period of time already clogged with holiday and end-of-year activities. You could say, "Well, a lot of other states do that too," and that would be true. But I'm convinced that Oregon's legislative process would be substantially improved if we followed another path.

Just changing when the regular biennial session starts will have several desirable effects. It will give new legislators a chance to learn about how the legislature functions and the issues they will be deciding. It will extend the period of time for preparation of legislative proposals, avoiding the "crunch" that occurs as legislators and other interests scramble to get bill-drafting requests submitted and bills produced. It will allow standing committees to organize their work more deliberately and to strengthen their understanding of and deliberations on the legislation they are assigned. Overall, starting the regular session some time after January in odd-numbered years will create positive ripples in conducting the public's business at the legislature.

Here are three alternatives that would, in my view, be preferable to the current legislative calendar.

First, Oregon's legislature could commence on the first Monday in April (or May) of each odd-numbered year. This approach would probably require an initial ten-day (or shorter) session for the purpose of organizing and referring bills to committee. It would allow the Governor to present his or her recommended budget. It would also allow legislative consideration of any "emergency" matters requiring attention at the beginning of the year. Moreover, it would give legislators approximately the first 90 days of the year to get legislative proposals developed and considered without having to be in session (or Salem) every day. Under the current approach, the first 90 days of our regular sessions accomplish relatively little, other than having overview and public hearings on state programs and legislative issues. Typically, few major issues even pass one chamber during this period. If this approach were adopted, there seems little reason that the regular session would need to extend beyond July, if it would need to last that long.

Second, Oregon's legislature could commence on the second Monday (or first Tuesday) after Labor Day in September of each odd-numbered year. This approach would also probably require an initial ten-day (or shorter) "organizational" session. It would give legislators (and legislative committees) the first eight months to develop proposals for consideration on the floor of the first chamber. Under this calendar, policy and budget bills should be "ready" by the end of August. If this approach were adopted, the regular session should not need to extend beyond November, and practically speaking, would probably end before Thanksgiving.

Third, Oregon's legislature could commence on the second Monday in January of even-numbered years. This approach would devote the entire year following a General Election to development of legislation for consideration by the full Assembly. It would also, probably, require that the May Primary be postponed, since campaigning would be difficult (and should be prohibited) while the legislature is in session. Consequently, this approach would necessitate significant changes in the timing of state (and probably local) elections.

While any of these approaches could include requirements for adjournment at a specific time, e. g. within 180 calendar days or 90 calendar (or legislative) days, there is no overriding reason, in my view, that an absolute deadline would be required to implement any of them.

While similar recommendations could be developed for any of the preceding options, I have drafted a "Twelve Step Program To Reform The Oregon Legislature" that promotes the second approach—starting regular sessions in September. In preparing these recommendations, I have attempted to minimize the need for either constitutional amendments or statutory changes and to emphasize actions within the purview of the Legislative Assembly. Overall, if the political will exists to pursue such changes, I have attempted to outline ways that these reforms could be accomplished in 2007.

Here are twelve steps to legislative reform:

1. Convene the 2007 regular session on January 8.
2. Before February 1, 2007, adopt a bill repealing ORS 171.010 [the current statute specifying that session convenes on second Monday of January in odd-numbered years].
3. Before February 1, 2007, adopt a transitional budget for 7/1/07-12/31/07 at the same levels of spending in place 6/30/07.

4. Amend Senate/House rules recessing regular session not later than midnight, February 1. Purpose of January session: Selection of Senate/House presiding officer. Appointment of standing and special committees. First reading of bills.
5. Amend Senate/House rules to require interim or session committee sponsorship for bills, except for five priority bills for each legislator.
6. Amend Senate/House rules to require introduction in bill form of Governor's Recommended Budget.
7. Amend Senate/House rules to require approval of bills in original chamber not later than 30 days (October 3, 2007) after reconvening of 2007 session on September 4, 2007.
8. Amend Senate/House rules to require approval of bills in second chamber not later than 60 days (November 2, 2007) after reconvening of 2007 session.
9. Amend Senate/House rules to require final legislative approval of all bills, including the budget for 2008-2009, not later than 75 days (November 16, 2007) after reconvening of 2007 session.
10. Amend ORS 171.022 to require all legislation to take effect on July 1 of the year following its legislative adoption, unless an emergency clause or specific effective date is included.
11. Amend ORS Chapter 291, et al., to conform state financial administration laws for beginning the state fiscal year on January 1.
12. Enact such other measures by law or rule as necessary to fulfill the legislature's constitutional responsibilities.

Admittedly, this list may not be completely satisfactory to the committee, the Commission, the Legislative Assembly or the general citizenry. I offer these suggestions to the committee as a feasible and constructive way of making substantial improvements in the operations of the Oregon Legislative Assembly and the public policies that would result.

I would welcome any questions you may have.

Thank you.

PUBLIC COMMISSION ON THE LEGISLATURE CONCEPTS FOR IMPROVEMENT

Senator Frank Morse
December 1, 2005

In reviewing the seven issues raised by President Frohnmayer, I would like to offer specific concepts for improvement with respect to four of the issues: ***loss of public confidence, reduction of legislative independence and authority, increasing complexity of funding and legislative oversight, and excessive political partisanship.***

Loss of Public Confidence

In a poll conducted by Moore Information on September 27 and 28 of this year of likely voters in Senate District 8, 48% have an unfavorable impression of the legislature, 19% have a favorable impression, and 33% have no opinion. It is likely a statewide poll would reflect equally unflattering marks for the legislature. These statistics should have a sobering impact on defining concepts for improvement that will restore public trust.

Reduction of Legislative Independence and Authority

There is a sense among standing legislators that the role of the legislature in balancing the power of the executive branch has been substantially diminished. Alan Rosenthal, in his article published by The Council of State Governments and titled, "The 'Good' Legislature", states with respect to the balance of power, "Here is where legislatures are at the greatest disadvantage and where they perform least well." How does the Oregon Legislature perform?

- Does Legislative Fiscal and Legislative Counsel have sufficient staff to adequately serve the legislature's constitutional role of oversight to balance the power of the executive branch?
- Can the 19 members of Legislative Fiscal adequately monitor the activities of the largest and most complex of all enterprises in the state, namely state government?
- Money has been appropriated to three very complex projects: \$118 million to the Computing and Networking Infrastructure Consolidation (CNIC); \$21 million for cyber security; and beginning appropriations for the Public Safety Wireless Infrastructure Replacement Plan that has roughly been estimated to cost \$300 to 500 million. Does the legislature have sufficient staff to monitor these activities and provide periodic reports to the appropriate legislative committees?
- Should the executive branch have priority over legislative members? At present, the executive branch has priority for bill drafting over legislative members prior to the start of session.
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- Is it good practice to require that primarily only interim committee bills can be pre-session filed?
- Is it good practice to have a process that requires the majority of bills to be drafted after the session begins?

Recommendations:

- 1) Implement standing committees to provide greater degree of oversight of agency activities. Note: If the published work of the Joint Audit Committee is reflective of the emphasis on legislative oversight, there is improvement to be made: 2004 - 1 publication; 2002 - 4 publications; 2000 - 6 publications; 1998 - 9 publications; 1996 - 1 publication; 1994 - 1 publication; 1993 - 1 publication; 1992 - 3 publications; 1990 - 4 publications.
- 2) Place greater emphasis on the importance of interim committees. The expectation should be that major policy issues/solutions will be crafted in the interim and presented as committee bills. Provide the opportunity for interim committees to advance legislation directly to the respective floors of each chamber. Note: If the newly elected members comprise a sufficient majority in opposition to an interim committee bill, it can always be re-referred on the floor back to committee.
- 3) Increase Legislative Fiscal staff to meet the needs of auditing and monitoring agency performance. It is not realistic for the legislature to rely on the Secretary of State for all audit functions.
- 4) Increase Legislative Counsel staff to first meet legislative members needs.
- 5) Legislative Administration has determined that the variable cost of each session day is approximately \$27,000. If system improvements can be implemented to eliminate eight weeks per session, an additional \$1.0 million would be available for additional legislative staff and still be cost neutral compared to the experience of the past two sessions.

Increasing Complexity of Funding and Legislative Tasks

The legislature has evolved from a time of low population, few laws, fewer rules and regulations and less conflict to a time where the practices of the past are not meeting the needs of the present and certainly will not meet the needs of the future. Can the legislature continue to meet the complex requirements of today by meeting every two years in increasingly longer sessions? The length of time in session has a significant negative impact on many issues. To name a few, it is more difficult to recruit highly qualified candidates when there is no end date. It creates a physical and mental ex

haustion at the end of session that makes it more difficult to get interim committees up and running.

Recommendations:

1) Implement annual sessions with time certain endings.

- Implement a 4 month session and a 2 month session
- With respect to budgeting, approve a biennial budget in the 4 month session and focus on performance reviews in the 2 month session.
- Standing and interim committees should have legislation prepared and ready to submit at the beginning of each session.
- Major policy bills should be developed during the interim.

2) Provide legislator compensation adequate to attract a broad cross section of capable citizens who are willing to serve.

- The historical concept of a "citizen legislature" needs to be tempered against the reality of the demands currently placed on legislators.
- As citizens expect nearly full time legislators, compensation should be provided accordingly.
- Determine legislator compensation by a citizen board that broadly reflects the makeup of Oregonians. The appointment of the citizen board and the board itself must be independent from the influence of the legislature. For example, legislative leadership appoints two retired judges who appoint the citizens board. The legislature would always have the right to appropriate less than that recommended, but could not exceed the recommendations.
- Legislators should not participate in PERS, but in an alternate pension program that provides benefits commensurate with non-public employees.
- Legislative compensation should be in an amount that balances legislators' calling to serve against their need to remain financially whole. Compensation levels should not be so high as to cause persons to seek public service because of the money.

3) The compensation for legislators' personal staff should be determined by each legislator within their respective legislative office budgets, subject to overrule by the respective caucus leadership.

Budgeting

The budget process in the 73rd Assembly resulted in very few members making essentially all budget decisions. The process also resulted in trading budget votes for policy votes. Is such a process in the best interests of representative government and the interests of Oregon citizens as a whole?

The budget process should be as inclusive and transparent as possible, including the concepts of delegation to budget committee members to make meaningful decisions within the broad goals set by leadership. The agreed upon broad budget goals should be adopted by both the House and the Senate as a non binding Budget Resolution Plan. If legislative members know what the broad budget plan is at the beginning, and a majority agree through a non-binding budget resolution, it is much more likely there will be an efficient budget process. Irrespective of annual or biennial sessions, the budget process needs to be improved. If annual sessions are approved, major budget process improvements must occur. Absent improvement, annual sessions would become a major embarrassment.

Budget process recommendations:

- 1) Impanel a Joint Revenue Committee to determine the amount of General Fund and Lottery Fund available to spend, including tax and fee increases, if any, to the Speaker of the House and the President of the Senate.
- 2) The Speaker and the President, inclusive of the Ways and Means Co-Chairs, prepare a Budget Resolution Plan and recommend to both chambers for adoption. A majority approval of both chambers would be required. The Budget Resolution Plan would incorporate the following:
 - Income and expenditures must balance.
 - The amount of borrowing, if any. i.e. set an allowance for capital expenditures financed by debt.
 - The amount of tax and fee increases, if any.
 - Changes in population, inflation and personal income.
 - The financial impacts of unfunded voter initiatives and federal law.
 - Moneys available in the Education Stability Fund.
 - Moneys available in other accessible reserve accounts.

- A reasonable and prudent ending balance.
- An allowance for Emergency Fund allocations.
- An allowance for Special Purpose Emergency Fund allocations.
- An allowance for state employee salary and benefit adjustments.
- The Budget Resolution Plan would make discretionary fund allocations (General and Lottery Funds) to the Joint Ways and Means Committee with allowances for the maximum amount of discretionary funds to each of the Ways and Means Subcommittees.
- The Ways and Means Subcommittees would be responsible for appropriating their respective GF and LF allocations. (Education, Public Safety, Human Services, General Government, Transportation and Economic Development, and Natural Resources.)
- If the Joint Ways and Means Committee would cease to exist, the Budget Resolution Plan would become void.
- If the Revenue forecast is revised downward before adjournment, the Speaker and the President, inclusive of the Co-Chairs of Ways and Means, would recommend a Revised Budget Resolution Plan for adoption by majorities of the House and Senate.
- If the revenue forecast is revised upward before adjournment, the increase would be allocated 25% to the ending balance, 50% to the Education Stability Fund, and 25% for allocation as determined by the Co-Chairs of Ways and Means.
- An important goal of the budgeting process should be to educate voters regarding what their tax dollars buy. It is very difficult to provide education when the process is cloaked in secrecy and is conducted behind closed doors. There is a very real need to create a prescriptive, fiscally sound budget process.

Legislative Excellence

The legislature has undertaken steps to require state agencies to develop performance standards and measure against those standards. The adage, "Do as I say, not as I do", should not apply to the legislative process. Legislatures have at least four very broad functions: represent constituencies and constituents, make laws, adopt budgets, and balance the power of the executive branch. Legislators must understand what makes an effective legislature, adopt standards that are measurable and be held accountable to the public for meeting those standards. Does the Oregon Legislature have measurable performance standards?

With respect to policy bills, there is an expectation of most legislators to introduce and pass bills. All legislators want their constituents to know that they either co-sponsored or sponsored bills that eventually find their way to the Governor for signature. In fact, some legislators have been known to make as many as 200 measure requests of Legislative Counsel. How can all members be treated equitably when some members act in excess?

In the last session, the last day for introducing House measure requests resulted in 500 new requests being made. How can Legislative Counsel respond with quality when this kind of work load is placed upon them?

In 2005 there were 2,952 bills drafted, of which 600+ were agency bills. Of those bills, 853 were signed into law and 9 were vetoed.

In 2003 there were 2,923 bills drafted and of those bills, 869 were enrolled.

Legislative Excellence Recommendations:

- 1) Develop measurable legislative performance standards, measure the performance, and communicate the results to the public.
- 2) To achieve an equitable balance of power with the executive branch, create structures that are better able to hold agencies accountable for performance.
- 3) Place boundaries on the number of bills legislators may introduce.
- 4) Create an expectation that it is quality, not quantity that counts.

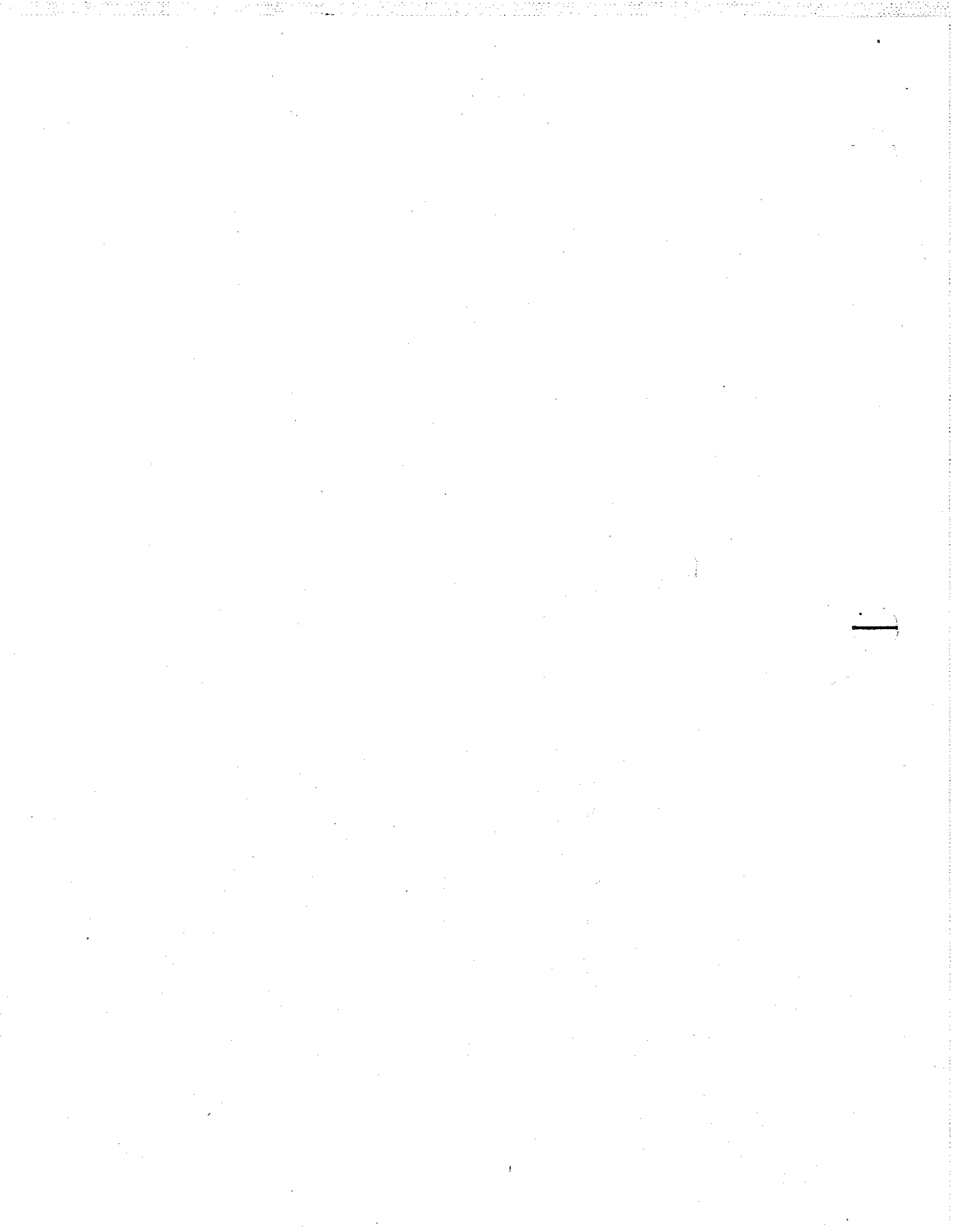
Excessive Partisanship

The political process will always be partisan as long as there are political parties. However, the question has been raised in light of recent legislative sessions, "Is the legislature too partisan?" The issue of excessive partisanship raises an number of interesting questions. Should leadership always have the right to block legislation that has support of the majority of both chambers? Is too much power vested in too few? Should the President of the Senate and the Speaker of the House, in practice, represent their chambers as a whole? Is excessive partisanship diminishing the stature of the legislature in the minds of the voters?

What are the root causes of excessive partisanship? While there are many issues that drive highly partisan relationships, a major and possibly the most primary is the issue of minority rights. The present structure of the legislature rewards all the spoils to the victor on election day. For those in the minority party, there is sometimes the perception that they are not needed to make the process work, save for the need for a quorum.

Partisanship Recommendations:

- 1) Establish minority rights.
- 2) Allow the minority leader to make committee assignments for his or her members.
- 3) Allow the minority party, with demonstrable evidence of a majority of members of the chamber in support, to require a bill to move to the floor for debate and vote.
- 4) Provide Vice Chair positions for the minority party.
- 5) Provide for an additional President Pro-Tem and Speaker Pro-tem from the minority party.
- 6) Provide for rule changes with a 2/3rd vote rather than a simple majority.



*Submitted to the Joint Interim Committee
by Ramona Kenady and Jim Scherzinger*
REPORT TO HOUSE COMMITTEE ON LEGISLATIVE RULES

As part of the examination of HJR 7, HB 2291, and HB 2292 (the package on retimed session filed by the Leadership Committee) the following report has been prepared.

This proposal:

- * *converts the current session starting day (second Monday in January, odd-numbered years) into an organizational meeting;*
- * *provides for an active, intense interim;*
- * *moves the actual session to the second Monday in September.*

This report discusses the advantages of retiming session to follow an intense interim, details procedurally the workflow during the biennium, and points out special considerations.

ADVANTAGES:

- * More rational decision-making process

The interim is when the Legislature studies issues. Under a normal decision-making process, the study period takes place before the decision making. Shifting the interim permits this logical order to occur: legislators are elected, they study issues, they make decisions, they defend decisions in election campaigns. Under the current system, new legislators must make decisions immediately. And, although the present system allows study during the interim, the timing creates scheduling conflicts between committee hearings and election demands.

- * Continuity of legislators from interim to session for a more efficient legislative process

The members studying issues during the interim would be the same as during session. Many concerns and questions regarding proposed legislation would be resolved prior to the official introduction of measures. The interim committee process would take on new meaning. All legislators would be more interested in the proceedings because they will be studying the actual issues that will be voted on during session. The identical members developing the legislation will follow it through the entire legislative process.

- * More meaningful interim period

Lobby, agencies, and the public will be more interested as they realize policy will be shaped during the hearings. These groups will understand the interim committees have decision-making power and will be acting on proposed legislation. They will know that if there are issues they want addressed they must get into the process early. Now there is a tendency to wait until late interim or the start of session to talk ideas. The groups that interact with the legislature will find more meaning in the intense interim and will get involved earlier in the process. The interim will be stronger and more productive because finely crafted and tuned legislation will be developed for introduction.

- * More effective use of staff resources

A majority of the committee work will take place during the intense interim. With the anticipated regular meeting schedule it will be possible for staff to work on more than one committee. Work load for Legislative Counsel, Fiscal and Revenue will be spread out, allowing more time for drafting legislation and preparing impact statements.

The chair and staff will have more of an opportunity to sit down and organize and set priorities for the committee. Staff will have more time between meetings to structure information to be presented and to organize testimony. Under the current system with the meetings running back to back, there is more reaction than planning. The restructuring gives more time for preparation.

- * Allows Assembly to use more definitive revenue forecast

Ways and Means will begin consideration of state budgets during the intense interim and then at the start of the regular session will be able to use the latest forecast in the final development of the budget. This will prevent delays that occur now in waiting for last-minute information needed for final action.

- * Provides more time for leadership to develop legislative agenda

Leadership will have the interim to become familiar with proposed legislation and work with caucuses in setting goals and priorities for the assembly. It will be the same leadership driving the intense interim as will be presiding during session.

- * Provides more time for new members to learn process and issues

Under the current system new members are thrown immediately into the full legislative process. With a change in session timing, new members would have more time to have legislation drafted, to understand the committee process, and to be briefed on key issues.

- * Provides more time for Governor and newly-elected state officials to develop budget

The current introduction deadline is December 15, with in-coming statewide elected officials allowed to file through a member or committee until their introduction deadline is reached. ORS 171.132 could be changed to a designated time that will allow more preparation time while still providing enough opportunity for the Legislature to study the budget.

- * Helps maintain a citizen legislature

With prescheduled committee meetings set for a few days a month and a projected shorter regular session, the process would be open to more people from different backgrounds to run for office. The current session schedule prevents the participation of some in the legislative process.

- * Decrease cost of session by decreasing number of session days

The most productive way for the assembly to realize significant cost-savings is through the reduction of session days. Ideally, session committee membership will be the same as during the interim period. This will expedite legislation through the committee process upon first reading and referral. Members and interested groups will already have had an opportunity to study the issues and many measures should be voted out of committee quickly. The third reading calendar should develop promptly resulting in longer, more productive floor sessions early on. The intense interim will provide a better process for developing ideas resulting in a more compact, expedited regular session.

- * More efficient introduction of measures

As committees study referred introduction drafts, amendments and consolidations will likely take place. Since interim committees must officially approve drafts for introduction, some measures that would typically end the regular session "in committee upon adjournment" will die at this point. This will save printing costs and save time during session when expenses are higher.

OUTLINE OF PROCEDURES RETIMED LEGISLATIVE SESSION

ORGANIZATIONAL SESSION:

The Legislative Assembly would convene the second Monday of each odd-numbered year for organizational purposes. This would consist of:

- * report on credentials/swearing-in of new members
- * election of leadership
- * adoption of session and interim rules
- * appointment of committees
- * joint assembly to hear the Inaugural or State of the State address
- * act on Governor's vetoes (unless constitutional requirement changed to allow this during the regular session)

Organization normally will be completed in one day. In the case of a problem electing leadership, Article IV, section 12 provides that per diem will stop after five days.

New member orientation, typically held in early December, could be planned during the first days following organization. This orientation is put on by the non-partisan support staff to explain services, process, and protocol.

Caucuses may want to take advantage of members being in Salem and schedule caucuses and/or subject briefings.

INTENSE INTERIM:

Committees

The President and Speaker would appoint interim committees that would meet jointly in order to consider proposed legislation. As separate committees meeting jointly, a majority of each house constitutes a quorum; roll call votes will be separate by each house. A majority vote of even one house will approve a referred draft for introduction to that house.

It is essential that members of both houses meet jointly in order that the same informational briefings, hearings and work sessions do not need to be repeated for the second chamber. There is no procedure being proposed to transmit measures between houses during the interim. The time-saving joint meetings are needed in order to consider proposed legislation thoroughly prior to session.

During the week following the organizational session of each house, interim committees will meet to organize--adopting rules and receiving briefings from staff or agencies on proposed legislation. A meeting schedule for the intense interim will have been established and approved by leadership prior to organization. Members will receive this timetable and will have the information for their work scheduling purposes.

A definitive committee schedule will be dependent upon the number of committees and the anticipated workload. A possible agenda would be that committees that have met three times

a week during past sessions will meet in two consecutive all-day hearings each month; committees with a regular meeting schedule of twice a week will meet one day a month under the September plan.

Consideration of Proposed Legislation

ORS 171.132 provides that state agencies pre-session file by "December 15 of the year next preceding the legislative session." This provision will allow the interim committees to immediately begin considering proposed legislation. Leadership can review the LC drafts and have referrals ready immediately. These will be transmitted to committee following the organizational session.

As additional drafts are filed with either the Senate or House Desk, they will be referred to interim committees for consideration. Members and interim committees will be allowed to pre-session file measures until two months prior to session. A cut-off time needs to be designated in order to allow time for committee attention.

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REGULAR SESSION:**Committees**

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Introduction and Referral

All measures approved for introduction by interim committees, and those submitted directly by members, will be first read and referred as soon as possible during the first weeks of session. It is expected that initially each Desk would read and refer at least 200 measures a day.

Measures that had been through the interim committee process would be referred to those same committees. Since so much work had taken place during the interim, many measures would pass out of committee within the first couple weeks of session.

Deadline for introductions should be 15 calendar days following the start of regular session. Pre-session filing should be stressed, however, in order to provide for interim committee scrutiny. A deadline two weeks into session for members and session committees would accommodate any late introductions and provide time to go through the process.

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Because of the quick turnaround in session committees, the third reading calendars for both houses should fill quickly, precipitating longer floor sessions. This faster movement of measures through the process will be the key to a shorter session. This can be accomplished without rushing consideration of legislation, though, as the majority of measures will have had intensive hearings during the interim.

SECOND INTERIM:

During this less intense interim period the number of committee meetings would be minimized. Committees to meet would include Executive Appointments, statutory committees and other committees as designated by leadership. The full Senate would meet to consider executive appointments in conjunction with the Emergency Board schedule as it does currently.

EFFECTS OF SESSION CHANGES ON STAFFING:Committees:

A change in timing of legislative sessions would have an effect on the staffing of both interim and session committees. Because of the shortened session and the time it takes to train administrators, it would be ineffective to hire administrators for session only positions. There would also be an increased need for policy analysis and research during the intense interim period. Adding ongoing committee staff positions for research and policy analysis would provide the Assembly with the support needed under this scenario. Additional clerical staff would be hired for session support. This scenario would also allow for the use of university and graduate interns for the four month positions, contrasted with current difficulties obtaining full time interns for six months.

During the alternate year interim, committee staff would provide more extensive research and constituent services for members and oversight of agencies' implementation of legislation. Staff would also produce summaries of legislative activity during the session.

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Legislative Counsel/Fiscal/Revenue:

Current staffing levels would be maintained under the options discussed. The workload should remain the same but a leveling-out shift would occur, alleviating some of the peak pressure overloads. These options would improve the internal process of providing fiscal and revenue impact statements to committees.

Trade and Economic Development:

The reduced length of session from six months to four months or less would reduce the need for additional session staffing for the Trade Committee. Typically, the Trade Committee has had one additional committee assistant and one additional analyst. These positions have been funded by the Legislative Assembly because Trade and Economic Development Committee has not had funding for session staff in its own budget.

Chief Clerk/Secretary of the Senate:

The workload for these offices will shift somewhat under the restructuring plans. Some of the frantic activity of introductions would be spread out over a longer time frame. Introductions approved by committee, or those brought directly from members, would be brought to the Desks during the intense interim, ending two weeks into session.

It is envisioned that a session position for each house may need to be hired during the intense interim. This would be to help handle the increased work load in referral of measures, docketing and tracking filings, preparation and distribution of "Measures Referred" documents, transmittal of drafts to committees, and increased public contact.

Essentially Desk and floor staff would start work under the same time frames as in the past: Desk staff, two to four weeks prior to session (depending on computer training needed); Sgt. at Arms, one week prior; remaining floor staff, start of session.

SPECIAL CONCERNS:

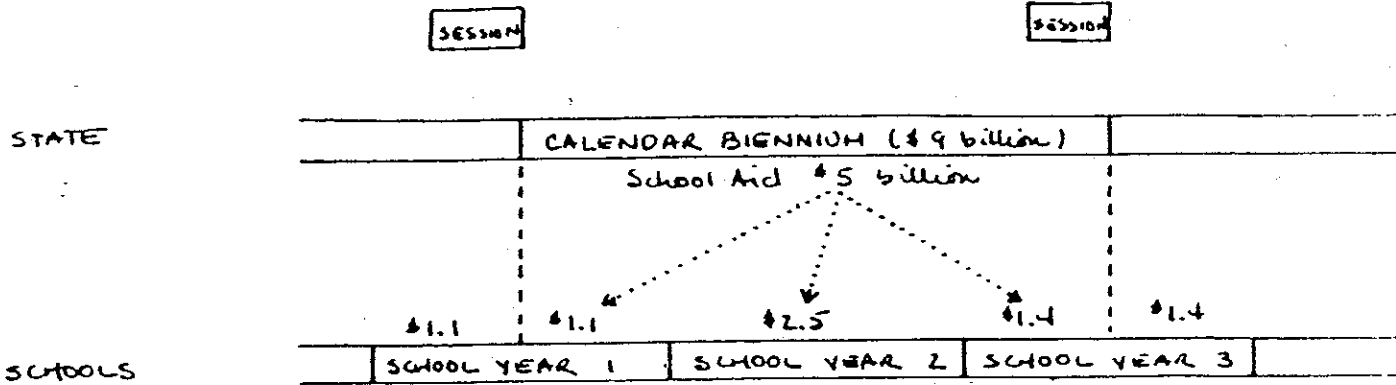
- * Requires shift in fiscal year

A September session would require shifting to a calendar biennium, beginning January 1 of each even year. This would require a six-month transition budget period.

- * September session creates school funding question

In addition, changing to a calendar biennium may create a concern for local schools. The appropriation for each odd school fiscal year would be split between two calendar bienniums. The first half of the school year would be funded in one biennium, while the second half would be funded in the next. Since the session begins in September, local schools would not know the approved funding level for the second half of the year until the first half is almost over.

Although this situation sounds difficult, there are ways around it. The most practical is to tentatively commit the second half of the odd school year in the prior biennium. For example, you could statutorily require the Department of Education to estimate each district's funding level for the full year based on the first half's funding level. This would create some political momentum to fund the second half of the year at that level. This commitment would be substantial, about 15% of the budget (see chart next page). Of course, the new Legislature, if times were hard, could still cut it back. And, in any event, the Legislature would have ample room to adjust school funding for the other year and a half.



* Requires a Constitutional amendment

The subcommittee recommends a constitutional amendment to implement the retimed session. Since retiming would make the Legislature more efficient and reduce costs, there is no reason to believe voters would reject it.

Proposed language is attached.


BRUCE A. BISHOP

HARRA
ATTORNEYS & COUNSELORS AT LAW

December 6, 2005

333 HIGH STREET, N.E.
SUITE 200
SALEM, OREGON
97301-3632

TO: Process Committee
Public Commission on the Oregon Legislature

FROM: Bruce A. Bishop 

RE: Legislative Session Calendars

CORRESPONDENCE:
P.O. BOX 12949
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TELEPHONE:
503.371.3330

FACSIMILE:
503.371.5336

OFFICES IN EUGENE,
PORTLAND & SALEM,
OREGON

Thank you for the opportunity to present my views of improvements you can recommend in the way Oregon's Legislative Assembly operates. This memorandum will supplement the summary I submitted last week for your consideration.

In that correspondence, I suggested that *the* most important problem facing the Legislature is that it starts its regular session two months after the General Election. Since it's not practicable to move the General Election sooner, I've concluded that it's necessary to delay the commencement of the session to produce better legislative results.

This solution is not a cure-all, nor is there one single intervention that will carry it out. In fact, like managing a chronic disease, a number of practices will need to change and a number of treatments will be required. But the Legislative patient's health can be substantially improved by answering one key question:

When should Oregon's regular legislative sessions begin?

This is not a new issue. In fact, the Oregon Constitution specifies in Article IV, section 10:

"The sessions of the Legislative Assembly shall be held biennially at the Capitol of the State commencing on the second Monday of September, in the year eighteen hundred and fifty eight, and on the same day of every second year thereafter, unless a different day shall have been appointed by law."

This provision has been on the books since statehood. Of course, ORS 171.010 or similar laws have, consistent with the constitution, superceded it for nearly that long.

If, as I am convinced is the case, Januaries of odd-numbered years are the *wrong* time on the calendar to start our legislative sessions, are Septembers necessarily the *right* time, as the constitution currently provides? My conclusion is that while Septembers are better times, other alternatives may also be worth your consideration. But falling back on the original schedule in the Oregon Constitution has the distinct benefit of requiring no further amendments to the constitution, just a repeal of current law.

Over the last week, I also have been reminded that, just as the legislature's problems are not new, neither are the solutions. Thanks to your capable staff administrator and her predecessors, I've recently had the opportunity to review volumes of legislative research about how Oregon's legislative process could be improved by retiming the legislative session. A one-page draft document, captioned "Argument in Support of Retimed Session," appears to have been prepared in anticipation of a proposed referendum.

Although it lacks other context to identify its source or date, the draft outlines some of the reasons "retiming" could be beneficial. It argues that the September-start of session would produce more rational decision-making, reduce costs, make the process more efficient, help to retain a citizen legislature, allow biennial sessions and improve new legislators' performance. We should all be satisfied with your efforts if you were able to achieve such results with a simple calendar change. Along with this document, I have also attached to this memorandum some other documents that might be helpful in considering ways to retime (if not entirely "reform") the Legislature.¹

¹ The following documents are attached:

1. "Argument In Support of Retimed Session," author and date unknown. 1 page.
2. "Report To House Committee On Legislative Rules," author unknown, probably prepared in 1992. 9 pages.
3. "Issues Surrounding September Primary," April 6, 1995 memorandum from Elections Director Colleen Sealock, and "Attachment 2," chart showing election law changes necessary for September primary election by mail. 8 pages.
4. "Annual Session Proposal, September Primary (HB 2844)," memorandum from Representative Jane Lokan to Representative Ray Baum, April 10, 1995. 7 pages.
5. "Let voters decide when Legislature should meet," Herald & News (Klamath Falls, April 20, 1993.) 1 page.
6. "Legal Requirements of Retimed Session," memorandum to Retimed Legislative Session Work Group from Chief Deputy Legislative Counsel, Kathleen Beaufait, April 9, 1992. [Of note in this "historic" document, zip codes were nine digits and phone numbers were only seven.] 3 pages.
7. Memorandum from Office of the Legislative Counsel on "retiming proposals," April 29, 1992,
(continued...)

The PCOL should focus on what can be accomplished readily, without dwelling unduly on reshaping every moving part of the legislative machine. I would like to think that this time, unlike prior efforts, we can implement specific changes, not just shelve another report or stack up a pile of theoretical or procedural hurdles that will keep us from making any progress. I hope this testimony, like that of my fellow panelists, informs that approach.

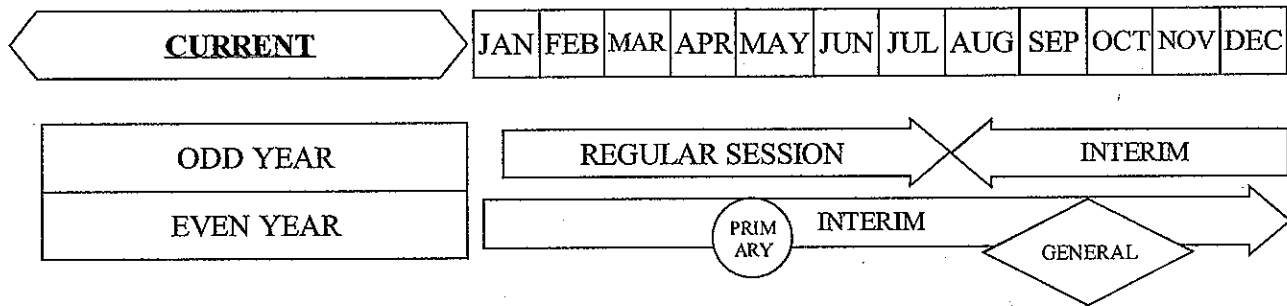
There are two specific decisions I would urge you to make. First, should the legislative calendar be depicted as parallel annual lines or as a circle? Second, at what point on the calendar should the session start? Let me now turn to explaining why, I think, these are the right questions to be asking and what, in my view, the best answer would be.

¹(...continued)

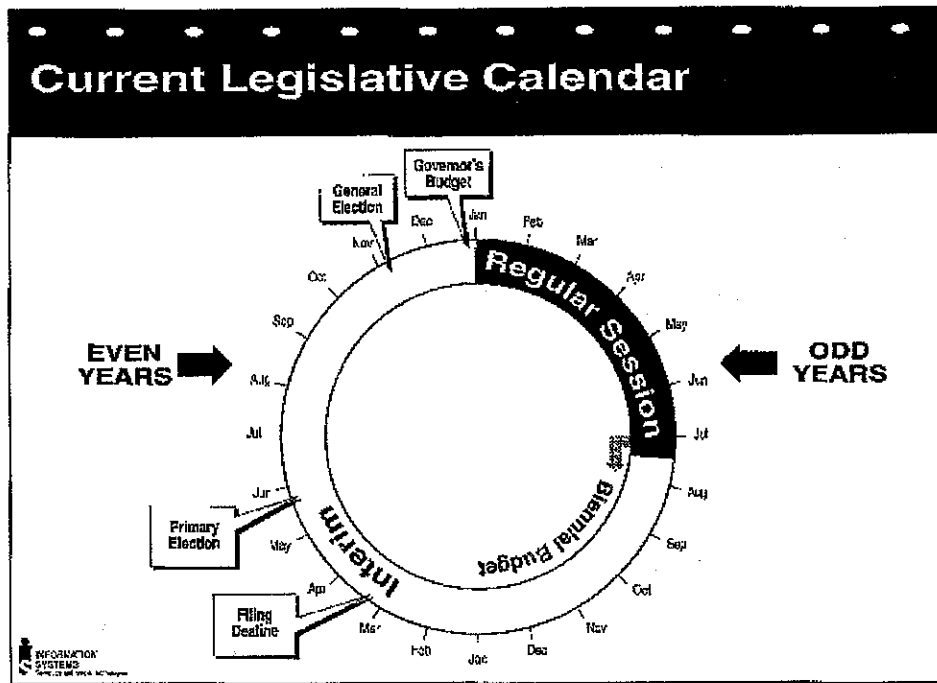
- including an attachment, "Relevant Constitutional Provisions." 6 pages.
8. "Proposals to Change Session Format," memorandum from Legislative Administrator Susan Wilson to Committee on Oregon's Future, February 3, 1992. 4 pages.
 9. "Alternative Legislative Session Structuring," Craig Allen, Legislative Committee Services, September 14, 2001. 14 pages.

Is The Legislative Cycle A Line Or A Circle?

In my preparations for this presentation, I graphed the biennial legislative calendar as parallel lines and marked significant events in that format. Thus, for example, my depiction of the status quo looks like this:



Contrast that perspective with the following one, developed about ten years ago when a legislative committee was considering the same retiming issues we are today. (Had I realized at the time that the work had already been done, I would not have needed to develop my own.) Here's that picture:

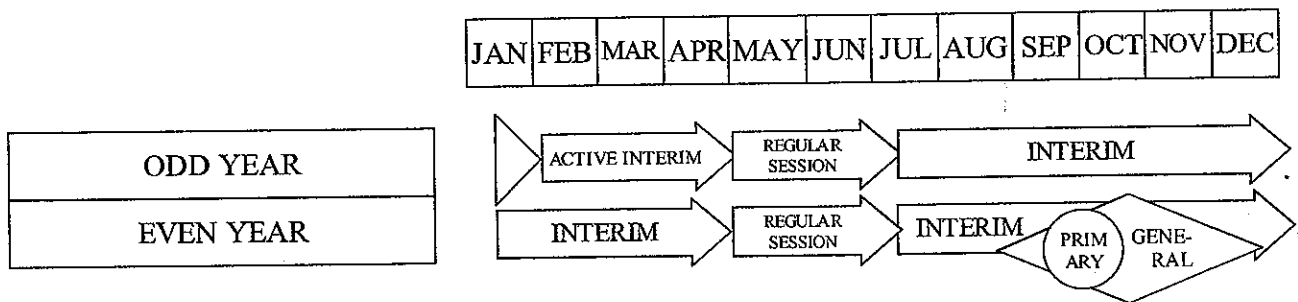


As is usually the case in legislative matters, drawing lines is an important responsibility. The committee's first task should be to decide which view a majority of you prefer.

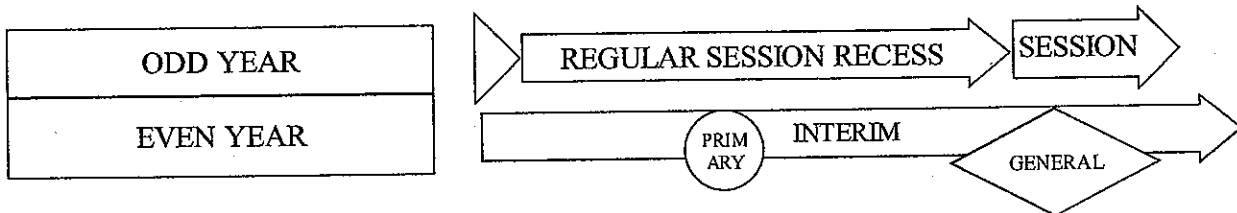
Which Alternative Start Date Is Best?

Having designed the format, the committee next needs to place the point on the calendar where it recommends regular legislative sessions start. If you agree with me that any point *other than* the second Monday in odd-numbered Januaries would probably work better, you have a lot of choices.

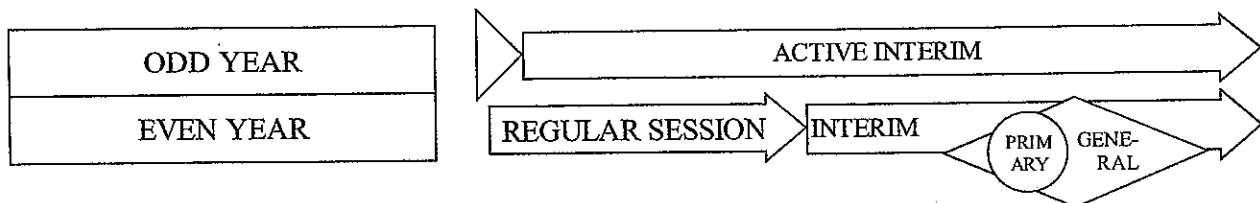
Should you pick a date in April, the legislative calendar that results could look like this. (This option is depicted as if annual sessions were the preferred approach:



Should you pick a date in September, it would look like this:



And should you choose to recommend that sessions start in January of *even-numbered* years, the schedule would look like this:



As I indicated previously, these choices are not as simple as they might appear, since many other changes in state legislative practice may be necessary to carry out your recommendation(s).

Let me describe one example from my experience almost 20 years ago, when as a rookie, I lobbied in both Oregon and Washington State. In 1987, both states started their legislative sessions at the same time. I spent much more of my time in Olympia during the first three months than in Salem because legislative policy committees there start their substantive hearings on legislation in the first week of session. By mid-March, their committee work is done, by and large, and legislation awaits action either in rules or budget committees before it reaches either chambers' floor. As a lobbyist, one can survive both states' sessions because by the time Washington is nearly done, Oregon is beginning to start its substantive consideration of issues.

Could Oregon just adopt Washington's approach? Probably. Would we be willing to accept the other practices they rely on as the price of their shorter legislative sessions? Probably not.

For example, would new Oregon legislators be willing to accede to their more senior legislative leaders and committee chairs as to what legislation should be advanced during their initial sessions, in effect serving a "training" session before they would engage in legislative decisions? Would Oregon legislators be willing to abide very strict deadlines for consideration of legislation? (In Washington, the deadlines are enforced.) Would Oregon legislators consider voting on one budget bill for state government, rather than the 100 or so that they consider now for each state agency? Would Oregon legislators accept floor amendments to bills, rather than requiring committee action? Would Oregonians prefer the relatively stronger caucus system that Washington's legislature relies on? These are some of the "technical" aspects of another state's "greener grass." You need to decide whether Oregon should continue to follow its own path.

In conclusion, I would urge you to make your first step deciding when Oregon's legislative sessions should begin. Once you've crossed that threshold, a lot of other pieces of the legislative reform puzzle will start to fall into place.

Thank you for listening to these ideas. I am sure that any of us on the panel would be pleased to answer your questions or discuss these matters with you in greater detail.

Attachments

12 STEPS TO RETIME THE OREGON LEGISLATURE IN 2007

1. Convene the 2007 regular session on January 8.
2. Before February 1, 2007, adopt a bill repealing ORS 171.010 [the current statute specifying that session convenes on second Monday of January in odd-numbered years].
3. Before February 1, 2007, adopt a transitional budget for 7/1/07-12/31/07 at the same levels of spending in place 6/30/07.
4. Amend Senate/House rules recessing regular session not later than midnight, February 1. Purpose of January session: Selection of Senate/House presiding officer. Appointment of standing and special committees. First reading of bills. Consideration of Governor's vetoes.
5. Amend Senate/House rules to require interim or session committee sponsorship for bills, except for five priority bills for each legislator.
6. Amend Senate/House rules to require introduction in bill form of Governor's Recommended Budget.
7. Amend Senate/House rules to require approval of bills in original chamber not later than 30 days (October 3, 2007) after reconvening of 2007 session on September 4, 2007.
8. Amend Senate/House rules to require approval of bills in second chamber not later than 60 days (November 2, 2007) after reconvening of 2007 session.
9. Amend Senate/House rules to require final legislative approval of all bills, including the budget for 2008-2009, not later than 75 days (November 16, 2007) after reconvening of 2007 session.
10. Amend ORS 171.022 to require all legislation to take effect on July 1 of the year following its legislative adoption, unless an emergency clause or specific effective date is included.
11. Amend ORS Chapter 291, et al., to conform state financial administration laws for beginning the state fiscal year on January 1.
12. Enact such other measures by law or rule as necessary to fulfill the legislature's constitutional responsibilities.

SUPPORT

ARGUMENT IN ~~FAVOR~~ OF RETIMED SESSION

See May 21

The shifting of the Legislature's regular session to September gives the public more opportunity to impact legislation under consideration.

Creates a more rational decision-making process. Currently new members are elected, sworn in, and almost immediately begin the process of hearing and voting on bills. Under the (ballot title), new members would be elected and have the opportunity to study the issues while home amongst their constituents. This allows for a more deliberative process in a shortened time frame.

Reduces the cost of legislative sessions. The intense interim will provide a better process for developing ideas resulting in a more compact, expedited regular session. Reducing the length of regular session reduces the overall cost.

Results in a more efficient legislative process. With term limitations, each session will have a larger number of new members. It takes time for new members to learn the process, develop their legislation, and learn about emerging issues. This more thorough orientation insures that new legislators can understand the effect of legislation on their constituents.

Helps maintain a citizen legislature. Legislators would be attending meetings a few days each month from January to September and a shortened session in the fall. This schedule would open the process to more citizens with differing backgrounds.

Guarantees continuation of biennial structure for regular legislative sessions. The organizational session would be constitutionally limited to electing leadership and naming committees. All action on bills would be limited to the regular session which would be held once every two years in September.

Gives newly-elected legislators more time to assess the effectiveness and efficiency of government. Currently budgets must be filed with the Legislature at the beginning of the legislative session in January. The proposal gives state officers more time to develop their budgets and the legislature more time to study the performance of agencies.

① ②

appt. by P/S

ORS 251.244

REPORT TO HOUSE COMMITTEE ON LEGISLATIVE RULES

As part of the examination of HJR 7, HB 2291, and HB 2292 (the package on retimed session filed by the Leadership Committee) the following report has been prepared.

This proposal:

- * *converts the current session starting day (second Monday in January, odd-numbered years) into an organizational meeting;*
- * *provides for an active, intense interim;*
- * *moves the actual session to the second Monday in September.*

This report discusses the advantages of retiming session to follow an intense interim, details procedurally the workflow during the biennium, and points out special considerations.

ADVANTAGES:

- * More rational decision-making process

The interim is when the Legislature studies issues. Under a normal decision-making process, the study period takes place before the decision making. Shifting the interim permits this logical order to occur: legislators are elected, they study issues, they make decisions, they defend decisions in election campaigns. Under the current system, new legislators must make decisions immediately. And, although the present system allows study during the interim, the timing creates scheduling conflicts between committee hearings and election demands.

- * Continuity of legislators from interim to session for a more efficient legislative process

The members studying issues during the interim would be the same as during session. Many concerns and questions regarding proposed legislation would be resolved prior to the official introduction of measures. The interim committee process would take on new meaning. All legislators would be more interested in the proceedings because they will be studying the actual issues that will be voted on during session. The identical members developing the legislation will follow it through the entire legislative process.

* More meaningful interim period

Lobby, agencies, and the public will be more interested as they realize policy will be shaped during the hearings. These groups will understand the interim committees have decision-making power and will be acting on proposed legislation. They will know that if there are issues they want addressed they must get into the process early. Now there is a tendency to wait until late interim or the start of session to talk ideas. The groups that interact with the legislature will find more meaning in the intense interim and will get involved earlier in the process. The interim will be stronger and more productive because finely crafted and tuned legislation will be developed for introduction.

* More effective use of staff resources

A majority of the committee work will take place during the intense interim. With the anticipated regular meeting schedule it will be possible for staff to work on more than one committee. Work load for Legislative Counsel, Fiscal and Revenue will be spread out, allowing more time for drafting legislation and preparing impact statements.

The chair and staff will have more of an opportunity to sit down and organize and set priorities for the committee. Staff will have more time between meetings to structure information to be presented and to organize testimony. Under the current system with the meetings running back to back, there is more reaction than planning. The restructuring gives more time for preparation.

* Allows Assembly to use more definitive revenue forecast

Ways and Means will begin consideration of state budgets during the intense interim and then at the start of the regular session will be able to use the latest forecast in the final development of the budget. This will prevent delays that occur now in waiting for last-minute information needed for final action.

* Provides more time for leadership to develop legislative agenda

Leadership will have the interim to become familiar with proposed legislation and work with caucuses in setting goals and priorities for the assembly. It will be the same leadership driving the intense interim as will be presiding during session.

* Provides more time for new members to learn process and issues

Under the current system new members are thrown immediately into the full legislative process. With a change in session timing, new members would have more time to have legislation drafted, to understand the committee process, and to be briefed on key issues.

RETIMED SESSION

Page 3

- * Provides more time for Governor and newly-elected state officials to develop budget

The current introduction deadline is December 15, with in-coming statewide elected officials allowed to file through a member or committee until their introduction deadline is reached. ORS 171.132 could be changed to a designated time that will allow more preparation time while still providing enough opportunity for the Legislature to study the budget.

- * Helps maintain a citizen legislature

With prescheduled committee meetings set for a few days a month and a projected shorter regular session, the process would be open to more people from different backgrounds to run for office. The current session schedule prevents the participation of some in the legislative process.

- * Decrease cost of session by decreasing number of session days

The most productive way for the assembly to realize significant cost-savings is through the reduction of session days. Ideally, session committee membership will be the same as during the interim period. This will expedite legislation through the committee process upon first reading and referral. Members and interested groups will already have had an opportunity to study the issues and many measures should be voted out of committee quickly. The third reading calendar should develop promptly resulting in longer, more productive floor sessions early on. The intense interim will provide a better process for developing ideas resulting in a more compact, expedited regular session.

- * More efficient introduction of measures

As committees study referred introduction drafts, amendments and consolidations will likely take place. Since interim committees must officially approve drafts for introduction, some measures that would typically end the regular session "in committee upon adjournment" will die at this point. This will save printing costs and save time during session when expenses are higher.

**OUTLINE OF PROCEDURES
RETIMED LEGISLATIVE SESSION****ORGANIZATIONAL SESSION:**

The Legislative Assembly would convene the second Monday of each odd-numbered year for organizational purposes. This would consist of:

- * report on credentials/swearing-in of new members
- * election of leadership
- * adoption of session and interim rules
- * appointment of committees
- * joint assembly to hear the Inaugural or State of the State address
- * act on Governor's vetoes (unless constitutional requirement changed to allow this during the regular session)

Organization normally will be completed in one day. In the case of a problem electing leadership, Article IV, section 12 provides that per diem will stop after five days.

New member orientation, typically held in early December, could be planned during the first days following organization. This orientation is put on by the non-partisan support staff to explain services, process, and protocol.

Caucuses may want to take advantage of members being in Salem and schedule caucuses and/or subject briefings.

INTENSE INTERIM:

Committees

The President and Speaker would appoint interim committees that would meet jointly in order to consider proposed legislation. As separate committees meeting jointly, a majority of each house constitutes a quorum; roll call votes will be separate by each house. A majority vote of even one house will approve a referred draft for introduction to that house.

It is essential that members of both houses meet jointly in order that the same informational briefings, hearings and work sessions do not need to be repeated for the second chamber. There is no procedure being proposed to transmit measures between houses during the interim. The time-saving joint meetings are needed in order to consider proposed legislation thoroughly prior to session.

During the week following the organizational session of each house, interim committees will meet to organize--adopting rules and receiving briefings from staff or agencies on proposed legislation. A meeting schedule for the intense interim will have been established and approved by leadership prior to organization. Members will receive this timetable and will have the information for their work scheduling purposes.

A definitive committee schedule will be dependent upon the number of committees and the anticipated workload. A possible agenda would be that committees that have met three times

a week during past sessions will meet in two consecutive all-day hearings each month; committees with a regular meeting schedule of twice a week will meet one day a month under the September plan.

Consideration of Proposed Legislation

ORS 171.132 provides that state agencies pre-session file by "December 15 of the year next preceding the legislative session." This provision will allow the interim committees to immediately begin considering proposed legislation. Leadership can review the LC drafts and have referrals ready immediately. These will be transmitted to committee following the organizational session.

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RETIMED SESSION

Page 6

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Legislative Counsel/Fiscal/Revenue:

Current staffing levels would be maintained under the options discussed. The workload should remain the same but a leveling-out shift would occur, alleviating some of the peak pressure overloads. These options would improve the internal process of providing fiscal and revenue impact statements to committees.

Trade and Economic Development:

The reduced length of session from six months to four months or less would reduce the need for additional session staffing for the Trade Committee. Typically, the Trade Committee has had one additional committee assistant and one additional analyst. These positions have been funded by the Legislative Assembly because Trade and Economic Development Committee has not had funding for session staff in its own budget.

Chief Clerk/Secretary of the Senate:

The workload for these offices will shift somewhat under the restructuring plans. Some of the frantic activity of introductions would be spread out over a longer time frame. Introductions approved by committee, or those brought directly from members, would be brought to the Desks during the intense interim, ending two weeks into session. It is envisioned that a session position for each house may need to be hired during the intense interim. This would be to help handle the increased work load in referral of measures, docketing and tracking filings, preparation and distribution of "Measures Referred" documents, transmittal of drafts to committees, and increased public contact.

Essentially Desk and floor staff would start work under the same time frames as in the past: Desk staff, two to four weeks prior to session (depending on computer training needed); Sgt. at Arms, one week prior; remaining floor staff, start of session.

SPECIAL CONCERNS:

- * Requires shift in fiscal year

A September session would require shifting to a calendar biennium, beginning January 1 of each even year. This would require a six-month transition budget period.

- * September session creates school funding question

In addition, changing to a calendar biennium may create a concern for local schools. The appropriation for each odd school fiscal year would be split between two calendar bienniums. The first half of the school year would be funded in one biennium, while the second half would be funded in the next. Since the session begins in September, local schools would not know the approved funding level for the second half of the year until the first half is almost over.

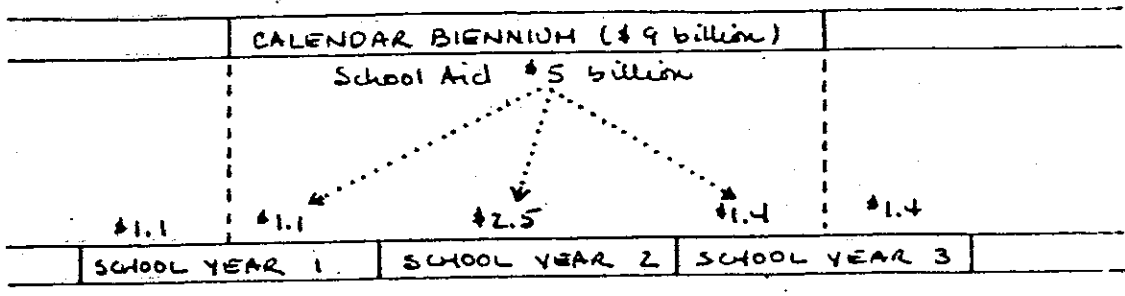
Although this situation sounds difficult, there are ways around it. The most practical is to tentatively commit the second half of the odd school year in the prior biennium. For example, you could statutorily require the Department of Education to estimate each district's funding level for the full year based on the first half's funding level. This would create some political momentum to fund the second half of the year at that level. This commitment would be substantial, about 15% of the budget (see chart next page). Of course, the new Legislature, if times were hard, could still cut it back. And, in any event, the Legislature would have ample room to adjust school funding for the other year and a half.

RETIMED SESSION

SESSION

SESSION

STATE



SCHOOLS

* Requires a Constitutional amendment

The subcommittee recommends a constitutional amendment to implement the retimed session. Since retiming would make the Legislature more efficient and reduce costs, there is no reason to believe voters would reject it.

Proposed language is attached.

OFFICE OF THE SECRETARY OF STATE

PHIL KEISLING
SECRETARY OF STATE

ELECTIONS DIVISION

COLLEEN SEALOCK
DIRECTOR141 STATE CAPITOL
SALEM, OREGON 97310-0722
ELECTIONS — (503) 986-1518TO: Representatives Watt, Beyer, Lundquist and Roberts
House Work Group on Legislative Reorganization

FR: Elections Division (EW)

RE: Issues Surrounding September Primary

DT: April 6, 1995

DO NOT PURGE

The Elections Division and Vicki Ervin, Multnomah County Elections Director have spent several days reviewing options for administering a September Primary election. This initial review indicates that there are several important considerations that the group will need to evaluate in deciding whether to have a September Primary including the date and type (poll or vote by mail) of the election; deadlines for candidate filings, ballot certification and voters' pamphlets statements and arguments; procedures for counting absentee ballots and recounts; and the restructuring of the contribution and expenditure report filing deadlines.

In the relatively short time the division has had to review this proposal, we have been able to schedule all required tasks on a calendar; however, any unforeseen problems or lawsuits would be disastrous in this timeframe. This change must be carefully scrutinized with all county elections officials and their governing bodies to develop individualized fiscal strategies (e.g. hiring and finding office space for additional staff, producing voters' pamphlets, arranging polling places).

Notably, the fiscal impact of this measure cannot be estimated until several key policy issues are resolved, particularly whether the primary election is at the polls or by mail. In addition, it is critical to understand that each county elections official will have to be consulted to determine the impact on each county. The September primary proposal will require that several time consuming and staff intensive tasks be conducted simultaneously. This will increase the staffing requirements and an increase in new or temporary staff will raise the odds of making mistakes in the process.

Date of Primary

The date in September is critical to ensuring there is adequate time between the primary and general election. Therefore, a September Primary will only work if there are at least 56 days between these two elections. This requires the election be on the second Tuesday after the first Monday in September at the latest. In four elections between 1995 and 2025, the election would need to be held on the first Tuesday after the First Monday which would be the day after Labor Day. These Labor Day elections will undoubtedly increase personnel costs if the September election is a poll election.

Type of Election

It is critical to understand that there are several trade offs that would have to be made to enable the elections officials to hold a poll election in September and November.

Poll Election in September

- *Remove requirement for automatic recounts. Recounts would be by demand only and would be 100% of the ballots. The recount would need to be conducted by computer, not by hand as is the practice now. It would be possible to do a hand count in one precinct to ensure the computer program is not flawed.
- *Count absentee ballots before the poll books are returned from the polls. This would mean the elections officials would not be able to check whether a person had voted twice (by absentee and at the polls). Thus both ballots from a person who voted twice would be counted; however, the voter could still be prosecuted if the state can prove intent.
- *Limit candidates to filing one voters' pamphlet statement for the primary and general elections. The compressed timeframe would only allow time for entering, proofing and laying out the candidate portion of the pamphlet one time.
- *Remove the requirement that candidates who are nominated in the primary receive a certification of nomination.
- *Move the precinct committee person elections to the March Presidential Preference Primary. Other cost saving measure include making precinct committee people be elected for a four year term or passing SB 177 which provides that only contested races be placed on the ballot. However, if this is not acceptable, the alternative is to make the political parties responsible for the acceptance of office forms for precinct committee persons who won as write in candidates.
- *Provide only blank ballots to the approximately 10,000 voters in the state who receive overseas or military absentee ballots [This makes the state vulnerable to a lawsuit by the Department of Justice].

Vote by Mail September Primary

The logistics of having the September primary as a vote by mail election are not as complicated. Indeed, a vote by mail election allows approximately ten days of post election activities to be done before election day. This includes counting the ballots so that the general election activities can begin sooner. Notably, the double voting scenario will not occur with a vote by mail election.

While there are not as many trade offs involved, the following items would have to be addressed.

- *Reduce likelihood that there would be joint production of voters' pamphlets between the state and counties due to time constraints.
- *Remove the flexibility of allowing an elector to change party affiliation up until the day of the primary. It would be possible to allow a change up to the 21st day before the primary as proposed in HB 2551. [A change in the party affiliation procedures would be easier with a poll election.]

General Concerns

There are some concerns that remain regardless of whether a September election is held at the polls or by mail.

*Eliminate appeal rights for fiscal impact statements for ballot measures. Currently, the only appeal for fiscal impacts is allowed for the process used, not on the impact amount itself.

*Prohibits boundary changes from the time precincts are drawn for the primary until the day after the general election (about five months). This limits time available to change precinct lines to accommodate boundary changes although this would be minimized a bit if allow precinct lines to cross jurisdictional lines (except counties).

Finally, there are other states which have a September Primary but there are several very significant differences between the elections held in most of those states and Oregon's current system. The differences include the fact that most of these states only have state measures and candidates on the September ballot; Oregon has a September date for local elections. In addition, the September primary states do not have voters' pamphlets for the primary elections nor do most of these states allow automatic recounts or hand counted recounts. Other considerations include the size of the state's electorate and the timing and service of the overseas and military absentee voters.

The Division has attached several documents for your review to understand more of the specific trade offs and timelines which are involved if the primary date is changed from May to September. It is our hope that this information is helpful in your decision making efforts. Please do not hesitate to contact the division to provide any technical advice as the group progresses.

Attachments

**Multnomah County Elections Division, Vicki Ervin

Attachment 1 - September Primary at the Polls

Attachment 2 - September Primary - Vote by Mail

Attachment 3 - Monthly Calendar of Some County Election Officer Tasks for Poll Elections [Pink - Primary Election; Blue - General Election]

**State Elections Division

Attachment 4 - Daily Work Calendar with Elections Division Tasks (Pink-Primary Election; Blue-General Election)

Attachment 5 - Options for Contribution and Expenditure Reporting

This proposal is for a September primary election held by mail. The timelines apply whether the general election is conducted at the polls or by mail. It provides for two voters' pamphlets, one for the primary and one for the general. It does not require any changes to current timelines for filing of state initiative petitions.

Proposal	Change to Current Law	Comments
<p>The date of the primary election will be the second Tuesday after the first Monday in September except that whenever there are fewer than 50 days between that date and the general election the primary will be held on the first Tuesday in September</p>	<p>The primary is held in May</p>	<ul style="list-style-type: none"> There will always be 56 days between the primary and the general election. Less than 56 day between the primary and general can't be done In 4 out of 14 possible calendar configurations the primary election will be on the day after Labor Day
<p>Require all candidates who will be on the primary to file for office by the 84th day before the primary election (140 days before the general)</p>	<p>Candidates for the primary election have until the 70th day before the primary to file for office</p>	
<p>For all state, county and district primary candidates require that voters' pamphlet statements must be filed by the 82nd day before the primary election</p>	<ul style="list-style-type: none"> Separate candidate statements can be filed for the primary and general pamphlets General election statements can be filed until the 70th day before the general 	<ul style="list-style-type: none"> After the 82nd day, no changes can be made A candidate could not file different statements for both the primary and general pamphlets.
<p>Allow primary candidates to withdraw until the 81st day before the primary</p>		<ul style="list-style-type: none"> Gives the same 3 days as in current law
<p>Require all candidates and measures for the primary be certified to the counties by the 75th day before the primary (131 days before the general)</p>	<p>Candidate information for the primary election is not certified to the counties until the 61st day before the election</p>	<ul style="list-style-type: none"> This would apply to the state, cities, counties and districts that have candidates on the primary ballot
<p>City candidates and arguments for local measures on the primary ballot file their local voters' pamphlet materials on the 71st day before the primary (127 days before the general)</p>	<ul style="list-style-type: none"> Separate candidate statements can be filed for the primary and general pamphlets General election statements can be filed until the 70th day before the general 	<ul style="list-style-type: none"> After the 82nd day, no changes can be made A candidate could not file different statements for both the primary and general pamphlets.
<p>State initiative petitions are due 4 months (approximately 120 days) before the general election</p>		

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Proposal	Change to Current Law	Comments
Signatures on state initiative petitions must be checked within 15 days (approximately by the 105th day before the general)		
Absentee ballots for the primary election would be mailed to overseas and military voters by the 45th day before the primary election (101 days before the general)		
Require all candidates who will be on the general (but not the primary) to file for office by the 91st day before the general election (35 days before the primary)	Candidates for the general election have until the 70th day before the general to file for office	
State, county and district candidates on the general election (and not the primary) file their voters' pamphlet statements by the 89th day before the general	Candidates for the general election have until the 70th day before the general to file their voters' pamphlet statements	
Allow general election candidates to withdraw until the 88th day before the general		<ul style="list-style-type: none"> • Gives the same 3 days as in current law
Require all candidates and measures for the general election (not part of the primary process) to be certified to the counties by the 82nd day before the general (26 days before the primary)	<ul style="list-style-type: none"> • Ballot information for the general election is not certified to the counties until the 61st day before the general • Jurisdictions with measures on the September date may resubmit a measure 47 days before the general if the September measure fails 	<ul style="list-style-type: none"> • You could not have any resubmitted measures
City candidates and arguments for local measures on the general election (and not the primary) file their local voters' pamphlet statements by the 78th day before the general	Candidates for the general election have until the 57th day before the general to file their voters' pamphlet statements	
Voters who are allowed to vote a party ballot different from their voter registration must request that party ballot by the 28th day before the primary election		<ul style="list-style-type: none"> • This coincides with the beginning of the preparations for mailing the ballots - the clerk has time to be sure the correct party ballot is being issued • Having the requests in by the 28th day before the election allows candidates time to campaign to each voter who will receive a ballot with that candidate's contest

Proposal	Change to Current Law	Comments
Deadline to register to vote for the primary election is the 21st day before the election		
Deadline to change party affiliation could be primary election day	Deadline to change party affiliation is the 45th day before the election	<ul style="list-style-type: none"> This allows maximum access to voters who wish to change parties This makes campaigning more difficult since a candidate doesn't know for sure who all will be voting for that candidate's contest
Deadline to change party affiliation could be the 21st day before the primary election	<p style="text-align: center;">OR:</p> Deadline to change party affiliation is the 45th day before the election	<ul style="list-style-type: none"> This could reduce the number of Certificates of Registration that must be produced or the number of changes that must be processed before printing the poll books.
Mail primary ballots between the 20th and 14th days before the primary election (76-70 days before the general)	Election must be held at the polls	<ul style="list-style-type: none"> Approximately 10 days worth of post-election activities for a polling place election may be done before the election when it is held by mail Most address corrections that are identified on undeliverable primary ballots could be made in time to have the registration files updated for the general election
State measure arguments are filed for the general voters' pamphlet by the 70th day before the election		
ELECTION DAY (56 days before the general)		
By the 49th day before the general, fee payment is due for any candidate who chooses to have a statement in the general election voters' pamphlet		
The county clerk would file a summary of the official results not later than the 8th day after the primary election (the 48th day before the general election)	The county clerk has until the 20th day after the election to complete the abstract	<ul style="list-style-type: none"> The official abstract with precinct results would still be filed by the 10th day after the primary

Proposal	Change to Current Law	Comments
<ul style="list-style-type: none"> By the 10th day after the primary (46 days before the general) the county clerk would mail a certificate of election to each newly elected precinct committeeperson, including those elected by write-in By the 10th day after the primary election the county clerk would certify the list of newly elected precinct committeeperson to each party 	<ul style="list-style-type: none"> The county clerk has until the 17th day to send out certificates of election and "acceptance of office" forms to those elected by write-in Acceptance of office forms must be returned to the clerk by the 24th day after the election The clerk certifies the list of precinct committeeperson to the parties by the 28th day after the election <p style="text-align: center;">OR:</p>	<ul style="list-style-type: none"> Getting rid of "acceptance of office" forms allows the clerk to wrap up this post-election task sooner Any elected committeeperson who did not want to serve must file a resignation with the party
<ul style="list-style-type: none"> Move the presidential preference primary to a date in March Move precinct committeeperson to the presidential primary 		<ul style="list-style-type: none"> Precinct committeeperson would be elected at a time when there is higher interest in the party activities The election would be more timely for participation in the national conventions Term of office would be 4 years instead of 2 All current provisions for certifying newly elected committeeperson, including the "acceptance of office" procedures could be retained This would remove one of the post-election tasks from the September primary
<ul style="list-style-type: none"> Any recount must be demanded by the 3rd day after the primary election All recounts for the primary election must be for 100% of the precincts 	<ul style="list-style-type: none"> A recount may be demanded up until the 35th day after the election The demand may request that only part of the precincts be recounted 	<ul style="list-style-type: none"> Recounts would have to be demanded before fail-safe and challenged ballots are counted In order to speed up the recount process we would do the recount by computer with one random precinct recounted by hand. (This could be done now without any legislation.)
<p>Absentee ballots for the general election would be mailed to overseas and military voters by the 40th day before the general election</p>	<p>The ballots to overseas and military voters must be mailed by the 45th day before the election</p>	<ul style="list-style-type: none"> The Department of Justice has successfully sued states that have not allowed adequate transit time for absentee ballots for these voters. Generally speaking 45 days is ideal but 40 days may pass muster Even if 40 days is acceptable we may have to mail these ballots with blank lines - there may not be time to get the new ballots printed in 3 1/2 days

Proposal	Change to Current Law	Comments
Names of winning candidates for primary election contests must be certified to the counties by noon on the 13th day after the primary (the 43rd day before the general election).	All general election candidates are certified to the counties by the 61st day before the election	<ul style="list-style-type: none"> This gives counties 3 days to finish preparation and mailing of the general election absentee ballots that must be sent to military and overseas voters
Allow precinct lines to cross city boundaries	Precinct lines cannot cross boundaries of cities with more than 2,000 voters	<ul style="list-style-type: none"> There is no time to change precinct boundaries between the primary and the general
Deadline to register to vote for the general election is the 21st day before the election		
Voters' pamphlets for the general would be mailed by the 14th day before the election	<ul style="list-style-type: none"> State voters' pamphlets are mailed by the 15th day before the election Local voters' pamphlets are mailed by the 7th day before the election 	<ul style="list-style-type: none"> The county clerk and the Secretary of State will each have 29 days to print and mail the general election voters' pamphlet Generally voters' pamphlets have been mailed early enough to be delivered prior to the registration deadline