Legal Careers in Legislative and Policy Advocacy

Cosponsored by the Oregon New Lawyers Division

Wednesday, September 21, 2022
Noon–1 p.m.

1 Practical Skills credit (ID 92393)
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SCHEDULE

Noon Legal Careers in Legislative and Policy Advocacy
- Why does legislative and policy advocacy matter?
- What a career in public policy looks like
- How to get started in a career in legislative and policy advocacy

1:00 Adjourn

FACULTY

Mae Lee Browning, Attorney at Law, Portland. Ms. Browning is the Legislative Director of the Oregon Criminal Defense Lawyers Association (OCDLA). Ms. Browning has focused her legal career on criminal defense. She volunteered at public defender offices in Marion and Multnomah counties during and after law school and interned with the former Legislative Director of OCDLA. She practiced criminal defense and juvenile dependency around the state at a small law firm before moving to legislative work. Ms. Browning is past chair of the Oregon New Lawyers Division and is active in the Oregon Chinese Lawyers Association.

Amanda Dalton, Dalton Advocacy Inc., Lake Oswego. Ms. Dalton is a lawyer-lobbyist with deep experience of legislative advocacy, public policy, and strategic planning experience. Her lobby firm is Oregon’s largest female led and managed advocacy and association management firm. Dalton Advocacy’s client base includes issue leaders in the employment, technology, agriculture, health care, and public safety sectors. Her legal background includes a clerkship with the Clackamas County District Attorney’s Office and court-appointed defense work in Lake Oswego and West Linn municipal courts. She volunteers with Legal Aid Service of Oregon representing petitioners in contested FAPA and stalking order cases, primarily in Multnomah and Clackamas counties. She also serves as President and CEO of the Northwest Grocery Association.

Kimberly McCullough, Oregon Department of Justice, Salem. Ms. McCullough is the Legislative Director for the Office of the Attorney General. She began her legal career in private practice. She then served as the Policy Director at the ACLU of Oregon, where she worked to advance the ACLU’s civil rights and liberties policies before the state legislature and various Oregon municipalities, participated in ballot measure campaigns, and made extensive media appearances. Most recently, she served as the Legislative Director of the Oregon Office of Public Defense Services.

Amy Zubko, Oregon State Bar, Tigard. Ms. Zubko is the Oregon State Bar’s Public Affairs Legislative Attorney. She first became involved in Oregon’s legislative process as a bar volunteer through the Taxation Section. She served as legislative staff in State Senator Richard Devlin’s office during his time as the Senate Cochair of the Ways and Means Committee. Prior to her work in the legislature, Ms. Zubko worked for a public accounting firm in Portland, where she focused on state and local taxation.
Legislative Glossary

https://www.oregonlegislature.gov/citizen_engagement/Pages/Legislative-Glossary.aspx

The glossary is designed to familiarize you with many of the terms and definitions used within the Legislative Assembly.

A-Engrossed: An engrossed (meaning "to make a final fair copy of") bill is a bill that is printed with its amendments. If a bill is engrossed, it will be printed as "SB ____, A-eng.," meaning "Senate Bill ____, including its amendments." A bill may be amended more than once; in that case, the bill will be printed "B-eng.," and so on.

Administrative Rule: Any agency directive, standard, regulation or statement of general applicability that implements, interprets or prescribes law or policy, or describes the procedure or practice requirements of any agency. (ORS 183.310(9)).

Agenda: The official plan that outlines what the committee will do on a given day. Agendas normally list measures and the kind of hearing it is scheduled for (e.g., public hearing, work session) or topical informational hearings.

A & R Tables: Officially known as the "Table of Sections Amended, Repealed, or Added To" printed in the Weekly Cumulative Index to Legislative Measures and in the final calendar. These printed tables show all Oregon Revised Statutes (ORS), Oregon Rules of Civil Procedure (ORCP), session laws, and Constitutional provisions amended, repealed, or "added to" by introduced measures. These tables are useful when researching changes made to particular pieces of legislation over the years.

Act: A bill which has been made law by passing both houses of the Legislative Assembly, and which either has been signed by the Governor, filed without the Governor's signature, or passed by both houses of the Legislative Assembly over the Governor's veto.

Adjournment: Ending of a meeting or legislative session. Adjournment of the House or Senate takes place at the close of each legislative day.

Advance Sheets: The compilation of laws enacted and selected memorials and resolutions adopted during a single Legislative Session, before the publication of the "Oregon Laws."

Amendment: An alteration made or proposed to be made to a measure. Measures may be amended more than once.

Appropriation: A sum of money designated for a particular purpose by an Act. For example, an appropriations bill funds a state agency over the upcoming biennium.

Approved by the Governor: Acceptance by the Governor of a bill passed by the Legislative Assembly as indicated by the Governor’s signature on the enrolled bill.

At Ease: Describes the condition of the Senate or House when it temporarily stops its floor work for some other specific activity. A committee may also “stand at ease” for a short while.
**Bar**: The Bar is the railing along the sides of the Senate or House Chamber which separates the Chamber floor and the side aisle. Only legislators, legislative staff, or invited guests, may be within the bar and side aisles. The press is allowed both within the bar (in the press area) and in the side aisles.

**Benchmark**: General term for a standard or point of reference, but often refers to an Oregon Benchmark. See Oregon Benchmarks.

**Bicameral**: A body made up of or having two houses, branches, or Chambers. Oregon, for example, has a bicameral Legislative Assembly.

**Biennial**: Occurring every two years. The Legislative Assembly creates a biennial state budget.

**Biennium**: A two-year period. Regular sessions convene twice per biennium: for 160 days in the odd-numbered year, and 35 days in the even-numbered year.

**Bill**: A measure that creates new law, amends or repeals existing law, appropriates money, prescribes fees, transfers functions from one agency to another, provides penalties, or takes other action.

**Bill Back (blue/green back)**: The cover of the measure, showing the bill number, title, and sponsors. It is also used on resolutions and memorials. The covers are sometimes green, and are sometimes referred to as "green backs." They have also been referred to as "blue backs."

**Blue (pink) Sheet**: Committee Report Summary listing measures filed with the desks and eligible for floor debate. Published by the Secretary of the Senate and Chief Clerk of the House, Pink Sheets signify Senate measures eligible for floor debate and Blue Sheets signify House measures.

**Calendar Days**: The days listed on a normal seven day per week calendar, as distinguished from legislative or session days, which are those days the Legislature is in session.

**Call of the House/Senate**: A Call of the House/Senate is a means of compelling all members (unless they are excused) to present themselves to the Chamber. The Call empowers the floor staff to lock the Chamber, preventing those present from leaving, and requires the Sergeant at Arms to bring in absent members. A Call is usually requested just before a major vote is to take place or to bring a quorum to the floor to conduct other business.

**Carrier**: The legislator assigned by the Committee Chair to explain and speak in favor of a measure on the floor and to answer questions about it.

**Caucus**: "Caucus" is used as both a noun and a verb. A caucus, n., is a group of people who share something in common (e.g. they are members of the same political party, such as the Senate Republican Caucus or the Senate Democratic Caucus, or come from the same area of the state, such as the Coastal Caucus or the Eastern Oregon Caucus, or share something else in common, such as the Freshman Caucus or the Women's Caucus). When these people caucus, v., they meet to address their group's policy questions and to select political candidates for office, or political party leaders.
**Caucus Staff:** The people working for the members of a political party. In each Chamber there is a majority caucus staff and a minority caucus staff. The caucus staff helps legislators research issues and serve constituents.

**Chair:** The legislator appointed by the President of the Senate or the Speaker of the House to preside over an individual committee; for example, the Chair of the House Revenue Committee.

**Chamber:** The official meeting place of the Senate or House.

**Chief Clerk of the House:** The chief administrative officer of the House of Representatives. The Chief Clerk is elected by the members of the House, and is responsible for keeping records of the proceedings of the House, supervising House employees, acting as parliamentarian of the House, advising members on parliamentary procedures, and preparing all House publications for printing.

**“Christmas Tree” Bill:** A “Christmas Tree” bill is generally passed late in a legislative session and contains funding for particular projects. It gains its name from the provisions or “ornaments” that are attached.

**Committee:** A group of legislators chosen to consider bills in a particular subject area and make recommendations to the full Senate or House.

**Committee Administrator:** The staff "manager" of a committee, responsible for assisting the Chair in getting agendas posted, bill management, meeting logistics, assembling background materials and information, and bill analysis.

**Committee Assistant:** Works with the Committee Administrator in providing assistance to legislative committees. The assistant is responsible for recording meetings, preparing and maintaining the committee records, and submitting reports to the office of either the Secretary of the Senate or Chief Clerk of the House.

**Committee Counsel:** Another name for a Committee Administrator who is an attorney.

**Committee Days (Officially called Legislative Days):** Since Oregon voters adopted annual sessions in 2010, the Legislature meets for a maximum of 160 days in odd numbered years and 35 days in even numbered years. The period of time in between sessions is called the interim. The Legislature convenes periodically during the interim for special meeting days, called "Legislative Days." Legislative Days happen approximately every eight weeks and last for four days. During Legislative Days, Committees may hold informational hearings on topics that could lead to legislation in upcoming sessions, hear updates on implementations of past legislation, hear reports from state agencies and Task Forces, and keep current on the subject areas which affect Oregonians. During Legislative Days, the Senate may also convene for the purpose of making executive appointments.

**Committee Records:** Office that provides copies of minutes/recording logs, exhibits, and audio recordings of legislative committee meetings.

**Committee Reports:** A one page report made to the President of the Senate or Speaker of the House by a standing, special, or conference committee, which recommends further action on a measure, or reports the measure without recommendation.

**Concurrence:** Agreement by one Chamber to a proposal or action taken by the other Chamber.
**Concurrent Resolution:** A measure affecting actions or procedures of both houses of the Legislative Assembly. A concurrent resolution is used to express sympathy, commendation, or to commemorate the dead.

**Conference Committee:** A committee usually consisting of two or three members of each house, appointed by their respective presiding officers. A conference committee is appointed when one house refuses to concur with amendments to a measure adopted by the other house. Its goal is to prepare a version of the measure acceptable to both houses.

**Confirmation:** Approval of a Governor’s appointment by the Senate, requiring that a constitutional majority (16) of the members approve the appointment.

**Conflict:** A conflict occurs when two or more measures amend or repeal the same section of law, and the changes cannot be blended, even if the measures do not conflict in purpose. The Oregon Constitution allows the compilation of more than one amendment unless the amendments conflict in purpose. If conflicting amendments become law, the measure last signed by the Governor prevails. (Also see conflict amendment).

**Conflict Amendment:** An amendment drafted for the purpose of resolving conflicts between two or more measures.

**Conflict of Interest:** An action that could be expected to have a financial impact on the official, his or her business, or the person’s relative. See ORS 244.020 (1) (“actual conflict of interest”) and ORS 244.020 (12) (“potential conflict of interest”).

**Consent Calendar:** In the House of Representatives, measures reported out of committee unanimously may be placed on the Consent Calendar at the recommendation of the committee. Such measures must be held at the Desk for two days prior to being scheduled for consideration. If four written objections are received, signed by members of the House, the measure is placed in its proper order on the daily calendar. Measures scheduled on the Consent Calendar are not debatable.

**Constituent:** A citizen residing within the district of a legislator (or other elected official).

**Constitutional Majority:** A majority of the membership in the Oregon Legislative Assembly: 16 votes in the Senate and 31 votes in the House of Representatives. (See: extraordinary votes).

**Continuously Appropriated:** Monies received by an agency other than from the General Fund that are deposited into a fund or account for specified uses by the agency. The amount of money that the agency can spend from the continuously appropriated fund or account is restricted by the Legislature through the budget process in the form of an expenditure limitation.

**Convene:** To officially begin a meeting of a legislative body.

**Current Service Level:** An estimate, required by law, of the cost to continue current legislatively approved programs at their current levels. The essential budget level is built on the base budget plus essential packages.

**Desk:** The station of the Secretary of the Senate and staff at the desk below the main podium in the Senate Chamber, or the station of the Chief Clerk of the House and staff at the desk below the main podium in the House Chamber.
**Desk Personnel:** The people who work at the Desks: the Secretary of the Senate, the Chief Clerk of the House, and their staff, which include, for example, the Journal Editor, Reading Clerk, and Calendar Composer.

**Digest:** The brief measure summary found at the top of a bill. The digest is written by Legislative Counsel.

**District:** A geographical area designated for representation by a Senator or Representative. Legislative districts are drawn to ensure that a nearly equal number of constituents reside in each legislator’s district, and are re-drawn by the Legislature every ten years to accurately reflect changes in population. Each larger Senate district contains two equally-populated House districts.

**Do Pass:** The recommendation by a committee for passage of a measure, abbreviated "DP." "DPA" means "do pass with amendments."

**Drop:** Refers to submitting a committee report to the appropriate Desk after a measure passes out of committee, as in "I dropped the bill at the Desk at 2:00 p.m."

**Effective Date:** When a bill goes into effect. "Except as otherwise provided in the Act, an Act of the Legislative Assembly takes effect on January 1 of the year after passage of the Act." (ORS 171.022) Some bills contain a clause that specifies a particular effective date; others may have emergency, sunset, or referendum clauses attached.

**Emergency Board:** The joint committee of Senators and Representatives that meets during the interim periods to address state fiscal and budgetary matters.

**Emergency Clause:** A statement added to the end of a measure that causes the Act to become effective before the accustomed date (on January 1 of the year after passage of the Act). An emergency clause either sets a specific date or is effective immediately, which means that the measure will take effect on the date it is signed into law.

**Employee Services:** The non-partisan unit of Legislative Administration (LA) that manages personnel, payroll, and recruitments for LA, the Assembly, Fiscal, Counsel and Revenue Offices.

**Engrossed Bill:** A measure that is printed with its amendments included.

**Enrolled Bill:** A final copy of a bill that has passed both houses of the Legislative Assembly and has been specially reprinted in preparation for the signatures of the President of the Senate and Speaker of the House. After these confirmatory signatures, the enrolled bill goes to the Governor.

**Executive Branch:** The branch of state government that carries out and enforces state laws. It includes state agencies and the Governor’s Office, Secretary of State, State Treasurer, and Commissioner of Bureau of Labor and Industries. The other two branches of government are the Legislative Branch and Judicial Branch.

**Exhibit:** Anything submitted for the record that supplements a witness’ oral testimony. An exhibit can also be a copy of a witness’ oral testimony.
**Expenditure Limitation:** A spending limit set by the Legislative Assembly directing state agencies as to the level of Other Funds, Lottery Funds, or Federal Funds they can spend in a biennium. If an agency receives more Other Funds or Federal Funds than the Legislature approved them to spend, they must obtain an increase in their expenditure limitation from the Legislature or the Emergency Board in order to spend the revenue.

**Extraordinary Votes:** The Constitution requires that bills raising revenue receive 3/5 majority for passage. The Constitution also requires that bills reducing criminal sentences, as approved by the people, requires a 2/3 majority vote for passage.

**Facility Services:** The non-partisan unit of Legislative Administration (LA) which maintains the Capitol, including heating and cooling, custodial service, and ongoing maintenance, as well as telephone service, supplies and distribution services.

**Financial Services:** The non-partisan unit of Legislative Administration (LA) that manages finances and accounting for LA and the Assembly, as well as member service and supply accounts. Financial Services is also responsible for preparing the LA and Assembly budgets.

**First Reading:** The recitation on the Chamber floor of the measure number and title by the Reading Clerk upon introduction of a measure in either house. After the First Reading, the measure is referred to committee by the President or Speaker.

**Fiscal Impact Statements:** An analysis of a bill done by the Legislative Fiscal Office that estimates future costs resulting from the passage of a bill.

**Floor:** The area within the bar in both the Senate and House Chambers.

**Floor Personnel:** This term refers to the Sergeant at Arms, Assistant Sergeant at Arms, and Pages who work on the floor of the Senate and House Chambers.

**Form and Style Manual for Legislative Measures:** The manual that explains the official, uniform system for preparing of all legislative measures.

**General Fund:** Money available for the state budget that is not dedicated to a specific agency or purpose and that can be used for general purposes of state government. Most General Fund money in Oregon derives from personal and corporate income taxes. Some revenue from liquor, cigarettes, and other sources also go into the General Fund.

**General Election:** An election involving most or all constituencies in a state (or nation) in choosing candidates for office and voting on ballot measures. In Oregon, the general election is held on the first Tuesday following a Monday in November.

**Germane:** Appropriate, relevant, pertinent. As the term is used in relation to legislation, “germane-ness” is a parliamentary determination as to whether or not a provision fits into a measure.

**Governor’s Recommended Budget:** The budget proposed by the Governor. A newly elected Governor must submit a recommended budget by February 1 after the election. Thereafter, the Governor must send a recommended budget to the Legislative Assembly by December 1 in even-numbered years.
“Gut and Stuff”: A slang term that refers to removing the text of a measure and inserting entirely new language which, while it may change the nature of the measure completely, still must fall under the measure’s title, also known as the “relating-to” clause.

**Hearing**: A public meeting of a legislative committee held for the purpose of taking testimony and/or other action concerning proposed legislation.

**House of Representatives**: The legislative body of 60 members, called Representatives, each of whom represents a district of approximately 63,851 Oregon citizens.

**Information Services (IS)**: The non-partisan unit of Legislative Administration that manages all computer and media systems, including closed circuit television, within the Capitol.

**Initiative**: A procedure enabling a specified number of registered voters, via petition, to place proposed laws, changes to laws, or changes to the State Constitution on a general election ballot. In Oregon, the number of signatures required is determined by a fixed percentage of the votes cast for all candidates for governor at the general election preceding the filing of the petition. (Also see: Referendum).

**Interim**: The period of time between two sessions of the Legislative Assembly.

**Interim Committee**: A legislative committee authorized by the Legislative Assembly to study a particular subject or subjects between sessions. Interim committees are appointed by the presiding officers or established by a bill.

**Introduction**: First Reading of a bill, resolution or memorial in the Chamber of origin.

**Joint Committee**: A legislative committee composed of members of both houses. NOTE: Committees may also meet jointly; that is, two committees may meet simultaneously, for example, to hear testimony on matters of interest to both committees.

**Joint Legislative Schedule**: A document published daily during Legislative Sessions identifying planned committee meetings, locations, and bills scheduled to be discussed.

**Joint Memorial**: A measure adopted by both houses and used to make a request of or to express an opinion to Congress, the President of the United States, or both.

**Joint Resolution**: A measure used for proposing Constitutional amendments, creating interim committees, giving direction to a state agency, expressing legislative approval of action taken by someone else, or authorizing a kind of temporary action to be taken. A joint resolution may also authorize expenditures out of the legislative expense appropriations.

**Joint Session**: A combined meeting of the House and Senate, usually taking place in the House Chamber.

**Journal**: The edited record of all proceedings in each Chamber of the Legislative Assembly, published after each Legislative Session.

**Judicial Branch**: The branch of state government that interprets the Oregon Constitution and state laws. It includes the courts of the state, with the Supreme Court having general power over all other courts. The other two branches are the Legislative Branch and Executive Branch.
**Law:** A bill that has been passed by both the Senate and House, enrolled, and approved by the Governor.

**LC Draft:** Refers to “legislative concept.” It is a draft of an idea for legislation prepared by Legislative Counsel. Each LC draft has its own number (e.g., LC 345). If the draft is introduced as a measure, it is given a bill number instead. For example, LC 345, if introduced in the House, could become HB 2040, or whatever number assigned.

**Leadership:** The presiding elected officers of each house: the President of the Senate and the Speaker of the House. They are elected by the members of each Chamber when the body organizes for a Legislative Session following a general election. Sometimes “leadership” also refers to the majority and minority leaders, who are elected by their respective caucuses.

**Legislative Administrator:** The non-partisan chief administrative officer of the Legislative Administration Committee who coordinates service functions—visitor services, personnel and payroll, facilities, financial services, information systems, committee staffing, and mail and distribution—for the Legislative Assembly.

**Legislative Assembly:** The Senate and House of Representatives collectively. The terms Legislative Assembly and Legislature are often used interchangeably.

**Legislative Branch:** The branch of state government that creates state laws. It also decides how state government will be financed. The Legislative Branch in Oregon consists of a Senate with 30 members and a House of Representatives with 60 members. The other two branches are the Executive Branch and Judicial Branch.

**Legislative Counsel (LC):** The bill drafter and legal adviser to the Legislative Assembly, and the chief administrative officer for the Legislative Counsel Committee. The Legislative Counsel Office also publishes and distributes Oregon Laws and edits, indexes, annotates, and publishes the Oregon Revised Statutes.

**Legislative Days (also called Committee Days):** Since Oregon voters adopted annual sessions in 2010, the Legislature meets for a maximum of 160 days in odd numbered years and 35 days in even numbered years. The period of time in between sessions is called the interim. The Legislature convenes periodically during the interim for special meeting days, called "Legislative Days." Legislative Days happen approximately every eight weeks and last for four days. During Legislative Days, Committees may hold informational hearings on topics that could lead to legislation in upcoming sessions, hear updates on implementations of past legislation, hear reports from state agencies and Task Forces, and keep current on the subject areas which affect Oregonians. During Legislative Days, the Senate may also convene for the purpose of making executive appointments.

**Legislative Fiscal Officer (LFO):** The statutory fiscal adviser to the Legislative Assembly, and chief administrative officer for the Emergency Board, the Joint Ways and Means Committee, the Joint Legislative Audit Committee and the Joint Information Management and Technology Committee. In addition, the Legislative Fiscal Office prepares fiscal impact statements for proposed bills.

**Legislative Guide:** A directory listing the names and office locations of all members, names and room locations of all committees, a Capitol floor plan, telephone numbers, and other pertinent legislative information.
**Legislative Policy and Research Office:** The Legislative Policy and Research Office (LPRO), created by the Legislative Assembly in Senate Bill 1569 (2016), provides centralized, professional and nonpartisan research, issue analysis and committee management services for the Legislative Assembly.

**Legislative Publications and Distribution Services:** A division of Facility Services popularly known as “distribution” or “the bill room.” This legislative service unit receives all printed measures, measure status reports, and digests from the State Printer and distributes these publications to legislators and members of the public on call or by mail upon request.

**Legislative Revenue Officer:** The statutory chief revenue analyst for the Legislative Assembly and chief administrative officer for the interim revenue committees and the separate standing Senate and House Committees on Revenue. In addition, the Legislative Revenue Office prepares revenue impact statements for proposed bills.

**Legislative Schedule:** See Joint Legislative Schedule.

**Legislature:** See Legislative Assembly.

**Lobbyist:** A person who is employed by an organization to represent its interests before the Legislature. Lobbyists are required to register with the Government Ethics Commission and are guided by state laws, administrative rules, and House and Senate rules relating to lobbying.

**Majority Leader:** A legislator elected by their peers to lead the party having the majority in their house. The majority leader is responsible for the development and implementation of the caucus agenda.

**Mason's Manual:** The source document for legislative parliamentary procedures. It is used in Oregon only in instances which are not provided for in the Oregon Constitution, the rules and custom of either house, or statute.

**Measure:** A written document used by the Legislative Assembly to propose a law or to express itself as a body. A measure may be a bill, a memorial, or a resolution.

**Measure Status Report:** A document published daily during a legislative session listing the measures introduced to date, the action taken on each measure, the dates of hearings and work sessions, and other legislative information. After adjournment, a compilation of every measure introduced during the session is published in the Final Legislative Measures--Status Report.

**Members Present:** Those members of a Chamber who are physically present at a daily floor session. Many votes are determined by a majority of the members present.

**Memorial:** A measure adopted by either the Senate or House (a measure adopted by both is a joint memorial) to make a request of or express an opinion to Congress or the President of the United States, or both.

**Message from the Governor:** Official communication from the Governor read during session and printed in the Journal.

**Message from the Senate (House):** An official communication from the opposite Chamber read during session and printed in the Journal.
**Minority Leader**: A legislator elected by their peers to lead the party in the minority in their house. The minority leader is responsible for the development and implementation of the caucus agenda.

**Minority Report**: A committee report signed by at least two committee members who are in the minority on the issue in question on a particular bill (not necessarily in the political minority party) for the purposes of officially stating their position on the issue and seeking action from their Chamber on their proposal.

**Minutes/Recording Logs**: A written record of the proceedings of a committee. By Oregon statute, the official record of a meeting is the digital recording of its proceedings. The minutes/logs accompanying it serve as an index to the contents of the recordings.

**Motion**: A formal proposal for action during debate on the floor or in committee. For example, a member may move that an amendment to a bill be adopted in committee, or that a measure be recommended for passage by the committee, or a member may move to table a measure.

**“Note from Mother”**: A slang term for a note from a legislator or committee administrator authorizing Legislative Counsel to work with the person possessing the note on drafting a measure or amendments.

**Oregon Administrative Rules (OAR)**: A compilation of the administrative rules of Oregon state agencies, compiled, indexed, and published by the Secretary of State's Office.

**Oregon Benchmarks**: High level measures of societal well-being identified by the Oregon Progress Board to measure the state’s social, economic, and environmental progress. State agencies are expected to link to these benchmarks when developing strategic plans and budget requests.

**Order of Business**: The established sequence of activity during each floor session in each Chamber.

**Oregon Laws**: The collected laws and selected memorials and resolutions of a Legislative Session.

**Oregon Revised Statutes**: The codified laws of the State of Oregon. The ORS is published every two years. Each edition of the ORS incorporates all laws, and changes to laws, enacted by the Legislative Assembly through the odd-numbered year regular session referenced in the volume titles for that edition.

**Original Bill Folder**: The file folder that contains the official bill documentation: a copy of the bill, committee reports, staff measure summary, and fiscal and revenue impact statements. The original bill file is distributed to committee staff when the bill is referred to committee and is returned to the Desks with official documentation when the bill is reported out of committee. The Senate uses yellow folders and the House uses blue folders for original bill folders.

**Other Funds**: Money received by state agencies that does not come from the General Fund or from the federal government. Other Funds come from sources such as gasoline taxes, driver licenses fees, and fishing license fees. Other Funds may be dedicated, requiring the revenue to be spent for specific purposes. Examples of dedicated funds are park user fees dedicated to park programs and gasoline taxes dedicated to highway programs.
Page: A person who works on the Chamber floor, and occasionally in committees, to distribute materials, open doors, deliver messages, and generally facilitate the legislative work flow. Honorary pages are guests of members who serve as pages for a day.

Parliamentary Inquiry: A request from the floor or from a committee member to ask a question. Typically, such questions are about parliamentary procedures or agenda items under consideration.

Passage: Favorable action on a measure before either house.

Per Diem: Meaning “for the day.” It is an allowance made to legislators for expenses when on legislative business.

Pink Sheet: See Blue Sheet.

Point of Inquiry: A motion from a member on the floor or in committee in order to ask a question. Typically, questions are about such issues as parliamentary procedures or agenda items under consideration.

Point of Order: A motion from the floor or from a committee member calling attention to a breach of order or a breach of rules.

Point of Personal Privilege: A way in which a legislator can get the attention of the presiding officer on the floor of either Chamber. It is used when some question requires immediate consideration such as raising the question of no quorum.

Postpone/ Postpone Indefinitely: A motion from the floor to postpone further consideration of a bill. A motion to postpone will contain a time certain for further consideration. A motion to postpone indefinitely does not contain a time certain and, in most cases, bills that are indefinitely postponed are not heard again.

Precedent: Precedents are previous interpretations of rulings by presiding officers and/or appeals by the body on specific rules.

Prefiled Bill: A bill that a legislator requests to be drafted during the interim between legislative sessions. The bill is introduced and given a number on the first day of the next legislative session.

Presiding Officer: The person elected to direct the activities of a Chamber. (Another term for President or Speaker).

President of the Senate: The presiding officer of the Senate, elected by a majority of members of the body.

President Pro Tempore: President "for a time": a Senator elected to serve as the temporary presiding office in the absence of the President of the Senate. If the office of the President of the Senate becomes vacant, the President Pro Tempore becomes the President until a new President is elected.

Previous Question: A motion to close debate and bring the pending question to an immediate vote.
Primary Election: A preliminary election in which the registered voters of a political party nominate candidates for office. A political party may allow registered independents or unaffiliated voters to vote in a primary election.

Propositions and Motions: A customary, traditional order of business on the floor where legislators may make a motion if they wish.

Quorum: The number of members required to be present before business can be transacted in the Senate, House, or a committee. In the Senate, 20 members must be present; in the House, 40 members; and in committees a constitutional majority constitutes a quorum. NOTE: If a quorum is not present, the chair can convene the committee as a subcommittee for the purposes of taking testimony ONLY.

Quorum Call: The method used to determine if a quorum exists.

Ratify: To approve and make valid.

Reapportionment: See Redistricting.

Reading Clerk: A House or Senate staff member responsible for reading bills and recording votes on any question or motion before the body.

Recess: A break in a daily legislative session. A committee may also recess for a period of time before resuming later in the same day.

Reconsideration: The process for taking a second vote on a measure. A motion to reconsider must carry before a second vote can be taken. A bill may be reconsidered by a committee after being voted out of committee, if it has not yet been dropped at the Desk. A vote on a bill may also be reconsidered on the floor.

Redistricting: The redrawing of legislative and congressional district boundaries following the federal census to reflect changes in population distribution. In Oregon, the Legislature is responsible for Congressional and Legislative redistricting. If the Legislature does not agree on a redistricting bill or does not obtain the Governor’s signature on such a bill, the authority transfers to the Secretary of State.

Referendum: The submission of a measure passed by the Legislature to a vote of the people. In Oregon, either the Legislature or citizens, by petition, may cause a measure passed by the Legislature to be placed on the ballot for a vote. In the case of a legislative referral, both houses of the Legislature must vote to refer the measure. Such referrals cannot be vetoed by the Governor. In the case of a citizen referendum, supporters of the referendum must obtain a specified number of signatures from registered voters. The number of signatures required is determined by a fixed percentage of the votes cast for all candidates for governor at the general election preceding the filing of the petition. Any change to the Oregon Constitution passed by the Legislature requires referral to voters. (See also: Initiative).

Referendum Clause: A clause added to the end of a measure that causes the measure to be referred to a vote of the people for approval before it takes effect. The referred measure goes on the ballot at the next general election unless the Legislative Assembly calls a special election for the vote.
Refer: To direct a bill to a committee (e.g., HB 2000 was referred to the Ways and Means Committee).

Relating-to Clause: The title of a bill begins with the phrase “Relating to” and expresses the subject of that bill. For example, HB 2000, relating to charter schools. In Oregon, a bill may only address one subject, and for this reason the relating-to clause becomes an important element of the bill.

Remonstrance: A protest. It is a Constitutional right of legislators that "any member of either house shall have the right to protest, and have his protest, with his reasons for dissent, entered on the journal." (Oregon Constitution, Article IV, Section 26).

Report Out: To return a measure from a committee to the Senate or House Desk with or without recommendation as to further action.

Resolution: A measure used by the Senate or House (a measure used by both would be a joint resolution) to take an action that would affect only its own members, such as appointing a committee of its members, or expressing an opinion or sentiment on a matter of public interest.

Revenue Impact Statement: An analysis of a bill done by the Legislative Revenue Office that identifies any potential state or local revenue changes that might result from the bill's passage.

Roll Call: A recitation by the Reading Clerk of each legislator's name, done at the beginning of a floor session, during a Call of the Senate or House to identify those present, or during a vote of the Senate.

Rules: The written procedures by which the Senate, the House of Representatives, or a committee governs its meetings. Rules are formally adopted at the first convening of the Legislative Assembly or of a committee, and require a vote (with at least a quorum of members present) for official adoption.

Second Reading: Like the First Reading, a recitation of the measure's number and title by the Reading Clerk. Second Reading occurs after the measure has been referred to committee, worked on, and reported back to the floor for a vote.

Secretary of the Senate: The chief administrative officer of the Senate. The Secretary of the Senate is elected by the members of the Senate, and is responsible for keeping records of the proceedings of the Senate, supervising Senate employees, acting as parliamentarian of the Senate, advising members on parliamentary procedure, and preparing all Senate publications for printing.

Senate: The legislative body consisting of 30 members, called Senators, each representing districts of approximately 127,702 Oregon citizens.

Sergeant at Arms: Staff appointed by each house to maintain order within that Chamber.

Session: The period of time in which the Legislative Assembly officially convenes. Regular sessions convene each February and may last 160 days in odd-numbered years and 35 days in even-numbered years.
Session Laws: Officially called the "Oregon Laws," the session laws are a compilation of laws enacted and selected memorials and resolutions adopted during a single session. They are published in bound volumes with tables and an index.

Sine Die: "Without fixing a day for a future meeting"--the last day of a Legislative Session.

Speaker of the House: The presiding officer of the House of Representatives, elected by the members of the House.

Speaker Pro Tempore: A Representative elected to serve as the temporary Speaker in the absence of the Speaker of the House.

Special (select) committee: A committee authorized by Senate or House Rules to study a limited subject.

Special Session: A convening of the Legislative Assembly called by the Governor or a majority of the members of the Legislative Assembly, at a time other than during a regular session. Typically, special sessions of the Legislative Assembly are called for the purpose of addressing a specific state problem or issue.

Sponsor: The legislator(s), state agency, or legislative committee that introduces a measure. The name of this person or committee is printed at the top of the measure.

Staff Measure Summary: A brief, impartial description of a measure that must accompany the measure when it is reported out of committee.

Standing Committee: A permanent committee during a session authorized by Senate or House Rules.


Statute: A codified law. NOTE: “Codify” means “to arrange laws systematically.” A codified law is one that has been incorporated into that section of the ORS that it amends, modifies, or accompanies.

Statutory Committee: A legislative committee established by statute.

Subcommittee: A subordinate committee composed of members appointed by the chair (or by Senate or House leadership) from the full committee. A subcommittee usually considers a narrower range of topics than the full committee, and generally is authorized only to make recommendations to the full committee.

Subsequent Referral: When the President or Speaker designates a bill to go to two committees, one after the other (e.g., a tax measure might first be referred to a committee to consider the substantive issues, and then to the Revenue Committee to consider the revenue issues).

Substitute Measure: A measure submitted by a standing committee as a substitute for a measure referred to it. It is treated in the same manner as an amendment if it is germane to the title and subject of the original measure.

Summary: The measure summary or digest found printed near the top of a bill.

Sunset Clause: A statement added to the end of a measure which causes the act to "sunset," or become ineffective, after a certain date.
**Table**: “Table” is used as both a noun and a verb. Tables, n., are found at the back of the calendars, and display legislative information in a variety of ways. Table, v., is used in reference to stopping bills from further action in committees or on the floor. A bill is tabled by a majority vote, after a non-debatable motion from a member.

**Task Force**: A legislative committee authorized by legislative leadership to study a specific subject for a specified period of time. A task force may contain lay members and is different from a committee in that it typically considers a narrow subject within a broader topic area; for example a task force might consider mental health in Oregon rather than health issues in Oregon.

**Third Reading**: As in First or Second Readings, a recitation of a measure's number and title by the Reading Clerk on the floor before a final vote by either Chamber.

**Third Reading Calendar**: A publication devoted exclusively to listing all measures on the agenda for Third Reading and final passage on a given day. It lists the measures in order, and includes measures scheduled for consideration under Propositions and Motions and, in the Senate, action on Executive Appointments.

**Time Certain**: A means of designating a definite time for a certain activity, for example, to hear a particular bill.

**Unfunded Mandate**: A requirement that a lower level of government provides a program or performs an activity with their own resources. Under a federal mandate, the federal government may require a state or local government to provide a service and not provide the federal funding to pay for it. Under a state mandate, the state may require a local government to provide a service, but under the Oregon Constitution, the local government is not required to comply with certain new state mandates unless the state pays the costs of the new services. The Constitution provides exceptions.

**Veto**: An action by the Governor in disapproval of a measure that has passed both houses. After a veto, the bill is returned to the house of origin with written objections. A Governor's veto may be considered by both houses, and if the bill is again passed by two-thirds of the members present, it is considered overridden and becomes law. A veto must be considered at the very next Legislative Session following the veto.

**Vice-Chair**: A committee member chosen by the President or Speaker to serve as the committee chair in the chair’s absence.

**Visitor Services**: The non-partisan unit of the Legislative Administration (LA) which provides Capitol tours and video presentations on the legislative process and Capitol history. They also schedule and coordinate special events in the Capitol and operate the Capitol Gift Shop.

**Vote Explanation**: On occasion, legislators may wish the official record to reflect the reason why they voted yes or no on particular bill. Members may state their vote explanation orally after a roll call vote, and a member may also submit a written vote explanation. A written vote explanation is found in the Journal, following the vote record of a bill.

**Weekly Cumulative Index to Legislative Measures**: A subject index to measures, published weekly during legislative sessions.
**Whip:** A term used at the federal level to refer to the Deputy Majority Leader. It derives from the British fox-hunting term "whipper-in," which described the person responsible for keeping the foxhounds from leaving the pack. Some, but not all, of the caucuses in the Oregon Legislative Assembly use the term "whip" in reference to the Deputy Majority or Minority Leader.

**Witness:** A person who testifies before a legislative committee.

**Work Session:** A committee meeting held for the purpose of determining the contents of a measure to be reported out of committee. A work session is different from a public hearing. In a work session, testimony is usually not taken from the public, although the public may attend the hearing.
How an Idea Really Becomes a Law

What Only Jacques Cousteau Can Know
A smooth surface does not mean that an ocean is calm. Detritus on the seashore—blasted mollusks, the carcass of a tern—may alert a beachcomber to the turbulence beneath even a gentle “painted ocean.”\(^1\) To appreciate the ocean, an observer must imagine the scene that is invisible from the shore: the eel, the stingray, the crab with colossal pincers scuttling across the rocky floor.\(^2\) The same is true of a session of the Legislative Assembly: To understand how an idea becomes law, a person must witness the whole of the formal legislative process, not just the parts that make for the best political theater.

Each session, the Legislative Administrator, the public official who coordinates the state’s legislative operations,\(^3\) distributes a booklet to guide citizens through the legislative process. This guidebook includes “How An Idea Becomes Law: A Simple View of the Oregon Legislative Process,” an illustrated flow chart that shows key steps through which an idea may pass on its way to becoming a law.\(^4\) This flow chart, accurate though it may be, presents a picture of the formal legislative process that is only as complete as Marriott Edgar’s description of the ocean. A view of the whole institutional process shows that it is anything but simple. The purpose of this booklet is to provide a look at the commotion beneath the surface, the parts of the formal legislative process most citizens cannot see.\(^5\)

I. HOW AN IDEA BECOMES A BILL

A. SOURCES OF IDEAS

Sources of ideas are as varied as the ideas themselves. A legislator may read about a problem in the newspaper. A constituent may call a problem to a legislator’s attention. A state employee may suggest a change in the law that would allow the agency to better manage the people’s business. A public official may have a political agenda to implement through legislation. An organization, such as the National...
Conference of Commissioners on Uniform State Laws, may offer ideas. In some cases, such as that of the Oregon Law Commission, the legislature has created a group specifically to come up with ideas for legislation. In every case, however, an idea can become a law only through the efforts of a person or entity with the authority to convert the idea into a bill that the legislature may consider. That stage of the process involves sponsorship.

**B. Sponsors of Ideas**

Here, the flow chart uses the phrase “sponsors the bill” to mean “assumes responsibility for” converting the idea into a bill; the member or person taking responsibility to make an idea law may or may not be the “chief sponsor” whose signature ORS 171.127 (2) requires on a measure filed for introduction. At this stage, a member or person assumes responsibility for an idea by asking the Legislative Counsel to draft a measure that reflects the idea.

**C. Ideas into Draft Bills**

1. **Office of the Legislative Counsel**

   Despite what some media may report, members of the Legislative Assembly do not draft bills themselves. Their rules do not allow them to do their own drafting. Each session, the House of Representatives and the Senate adopt rules that prescribe the form and style of legislative measures and direct the Office of the Legislative Counsel to prepare the measures in that form and style. To draft bills and amendments to bills, the Legislative Counsel employs 14 attorneys and 12 other professionals with backgrounds in areas other than law, such as languages and journalism.

   There are several reasons why members do not draft their own bills. First, members do not have time. Digesting the information necessary to choose from among ideas — taxes, teachers, telecommunications — is more than a full-time job. Second, drafting a bill is a task too complicated for other than professional drafters to accomplish well. Only a professional drafter can hope to know almost 100 pages of formal and stylistic conventions along the lines of: “When a bill … will delay the effective date of [the] Act until after the normal effective date, place the section containing the effective date at the end of the bill[.]”
In addition, only a professional drafter can be expected to keep track of the special meaning of various terms in the Oregon Revised Statutes, such as the dozens of different definitions of “public body”\textsuperscript{13} and the term “person” which usually includes corporations and other nonhuman entities.\textsuperscript{14}

Not only members and committees of the legislature may obtain the drafting services of the Legislative Counsel. ORS 173.130 (2) authorizes the Legislative Counsel to draft bills for state agencies and the Governor, the Governor’s designated representative, the Secretary of State, the State Treasurer, the Attorney General, the Commissioner of the Bureau of Labor and Industries, and the Superintendent of Public Instruction. Of the 4,240 requests for draft measures in the 1999 session, 793 requests came from state agencies and independently elected state officials.

Through the 1953 legislative session, attorneys in private practice volunteered their services to draft measures for the legislature. By that time, however, the legislature determined that part-time volunteers did not provide satisfactory drafting services or the specialized legal advice members needed. As a result, the legislature created the nonpartisan position of Legislative Counsel and charged the officer with providing legal — including drafting — services to members and their committees.\textsuperscript{15} Because the Legislative Counsel serves all 90 members of the legislature and members-elect, the legislature prohibits employees of the Office of the Legislative Counsel from “oppos[ing], urg[ing] or attempt[ing] to influence legislation,”\textsuperscript{16} and the guiding principle of the office is to avoid appearing to advocate for or against any political issue.\textsuperscript{17}

2. Confidentiality of Communications

The work of the Legislative Counsel for members, agencies, and public officials is confidential for the same reason the legislature protects other communications between clients and their attorneys:\textsuperscript{18} to encourage sound decisions through frank communication.\textsuperscript{19} With draft legislation kept confidential, a person or entity may be more likely to experiment with ideas that do not yet have a popular following.

The Office of the Legislative Counsel drafts many more bills than the Legislative Assembly considers in a session. In the 1999 session, for example, the Office of the Legislative Counsel received 4,240 requests for draft measures, but the Clerk of the House and the Secretary of the Senate accepted only 3,308 measures for introduction. This means that the Office of the Legislative Counsel drafted some or all of 932 measures that did not obtain a public sponsor in the sense used in ORS 171.127 (2) and legislative rules\textsuperscript{20} and, therefore, did not enter the public part of the legislative process.
3. Drafting Draft Bills

The Legislative Counsel assigns a request for a draft bill to an attorney with the goal of matching the subject of the request to the area of law in which the attorney specializes. Each attorney handles different subject areas and is responsible for drafting bills affecting the chapters of the Oregon Revised Statutes that correspond to the attorney’s areas of expertise.

The attorney’s first task is to understand the request, which may require the attorney to consult with the requester or the requester’s representative. When the attorney understands the request, the attorney researches the issue to determine whether the law permits the attorney to fulfill the request. Among other issues, the attorney considers the requirements the Constitution prescribes for the form and substance of bills, such as containing a single subject, taxing uniformly, and setting forth the entire text of a law a bill proposes to amend.

The attorney also completes a search of a legislative computer database that informs the attorney of related statutes the attorney may want the bill to amend. For example, section 1, chapter 1074, Oregon Laws 1999, amended ORS 171.130 to eliminate the authority of state agencies to file proposed measures with the legislature except through a member or committee. There were, however, three other statutes — ORS 456.571, 456.625, and 468B.162 — that authorized specific agencies to submit proposed legislation, and a database search identified them so the attorney could include amendments to them in the bill.

Once satisfied that the law allows the requested bill, the attorney begins drafting. By emphasizing the A, B, C’s of drafting — accuracy, brevity, and clarity — the attorney prepares a draft bill with the goal of satisfying the constitutional command that “[e]very act . . . be plainly worded, avoiding as far as practicable the use of technical terms.” A draft bill also includes an impartial summary of the bill’s content, describing new law and changes in existing law proposed by the bill and “written in a manner that results in a score of at least 60 on the Flesch readability . . . [or] comparable test.”

4. Editing Draft Bills

After the attorney finishes the initial draft of a bill, the attorney transfers the draft to the office’s Publication Services section where, in many cases, the
lion’s share of the work on a bill occurs. There, the draft undergoes a thorough proofreading by two editors, who verify the accuracy of base texts and the thoroughness and consistency of proposed changes. They also review the draft for errors of form and style, such as capitalization or designation of subsections, as well as for errors in substance, such as the creation of a crime without specifying the penalty.

The Legislative Counsel Committee considers this depth and detail of editing, which, in the case of a long bill, may take days to complete, to be worth the effort because the inadvertent omission of even a single word may have a large fiscal impact.29

5. DRAFTING TIMELINES

The need for thorough editing becomes clearer with an understanding of the time frames within which the drafting of bills occurs: The Office of the Legislative Counsel prepares almost half of a biennium’s draft bills — roughly 2,000 bills — in under two months.

Because most members are involved in elections until the second Tuesday in the November before session, the Office of the Legislative Counsel receives comparatively few drafting requests from members before that time. The limits on the years a member may serve in the legislature30 mean that, each session, roughly one-third of the members are not in a position to request draft bills until the session starts. As a result, the Office of the Legislative Counsel receives the bulk of members’ requests after session begins on the second Monday in January. Both the Senate and House require the Office of the Legislative Counsel to complete its drafting of members’ and committees’ bills by roughly a month and a half into the session. House Rule 13.10 (1) required the Legislative Counsel to complete that chamber’s drafts by the “36th calendar day of the session,” and Senate Rule 13.10 (1) required the Legislative Counsel to complete that chamber’s drafts by the “50th calendar day following the election of a President.” Both chambers permit some additional drafting after the deadline. Members may request two additional bills,31 and some committees may request more bills.32
II. How a Draft Becomes a Bill

A. Introduction

From the Office of the Legislative Counsel, the requester receives the draft bill and a “bill back,” the document a person or entity uses to introduce the bill into the formal legislative process. On the bill back, the person or entity introducing the bill identifies the chief sponsor, the bill’s title, and, if appropriate, on whose behalf the sponsor is introducing the bill. Before introducing the bill, a member has the opportunity to obtain additional members’ sponsorship. To show support for a bill, a member signs the bill back.

The person or entity delivers the draft bill and completed bill back to a chamber’s chief legislative officer, a nonpartisan office nicknamed the Desk. In the Senate, the chief legislative officer is the Secretary; the chief legislative officer in the House of Representatives is the Chief Clerk. The respective houses elect the officers.

A member introduces a bill in the chamber in which the member serves, and constitutional requirements may influence the chamber in which a person or entity asks a member to introduce a bill. For example, section 18, Article IV of the Oregon Constitution, requires “that bills for raising revenue shall originate in the House of Representatives.”

The Desk makes sure that the person or entity introducing the bill has completed the bill back correctly. The Desk then assigns the draft bill a number, and delivers the bill to the Office of the Legislative Counsel, who arranges for printing through the State Printer.

B. Presession Filing

ORS 171.130 (1) allows the Legislative Counsel Committee or the chambers themselves to set a time before session by which members and committees may file bills they have introduced with the Legislative Counsel. For the Seventieth Legislative Assembly, that deadline was December 31 of the year preceding session. ORS 171.130 (2) allows independently elected public officials in the executive department until December 15 of the year preceding session to file the bills they have introduced with the Legislative Counsel. Executive department agencies may also file their bills with the Legislative Counsel by December 15, but only “through a member or committee.”
Submitting a proposed measure before session, called presession filing, gives the measure’s proponent a potential advantage over proponents of measures filed later: The Desks do not accept measures for introduction from December 31 to the start of the session.45 As a result, a measure presession-filed will be available for the legislature to consider when the legislature convenes or as soon thereafter as possible; there will also be fewer bills with which to compete for members’ attention than at any later stage in the process.

C. First Reading

When a chamber convenes, the chief legislative officer (or, more likely, a person on the officer’s staff) reads the title of the printed bill46 out loud to the assembled members and public. With this reading, the bill becomes public for the first time and is available through the Bill Distribution office. The requirement to read the bill’s title aloud comes from section 19, Article IV of the Oregon Constitution, which directs that “[e]very bill shall be read by title only on three several days, in each house[,]” one purpose being to allow interested members of the public time to travel to Salem to present their views on the bill.47

Once read, the Desk transmits the bill to the presiding officer. The President, who is elected by the members,48 presides in the Senate; in the House of Representatives, the presiding officer the members elect is the Speaker.49

III. How a Bill Becomes Law

A. Fiscal and Revenue Review

The flow chart omits two essential steps in the process of a bill’s becoming law: evaluations for budget and tax consequences. When a person or entity introduces a bill, the bill also goes to the Legislative Fiscal Officer and Legislative Revenue Officer for review.

1. Legislative Fiscal Officer

The Legislative Fiscal Officer, who is selected by the Joint Committee on Ways and Means (or, if the position opens during the interim, by the Emergency Board),50 assists the legislature in crafting the state budget,51 and for every bill introduced, estimates the cost to state and local governments.52
The fiscal impact of a bill may affect the process the legislature follows when considering the bill. First, section 15, Article XI of the Oregon Constitution, allows a local government to decline to implement a state-mandated program if the program will have a significant impact on the local government’s budget and both houses of the legislature have not passed the bill by three-fifths votes.53

Second, the presiding officers who, under the chambers’ rules, have the authority to decide which committees will consider which bills54 may require the Joint Committee on Ways and Means to approve bills with particular fiscal impacts, such as those over $50,000, before the second of the two chambers votes on the bill.55

The Legislative Fiscal Officer employs 12 budget analysts and three fiscal analysts, who are, by training, economists, accountants, or business administrators. During session, the budget analysts help the Joint Committee on Ways and Means craft specific agencies’ budgets; fiscal analysts estimate the fiscal impacts of all proposed bills. (Because they handle fewer subject areas, budget analysts have more detailed knowledge of government units’ finances than fiscal analysts do.)

The Legislative Fiscal Officer begins the fiscal review by assigning each bill to the fiscal analyst with special expertise in the subject of the bill (e.g., human resources, corrections, or transportation). The fiscal analyst assigned the bill reviews the bill to learn its potential effect on government, then obtains from affected government units estimates of the costs of implementing the law the bill proposes.

Suppose, for example, that a bill proposes to require the Oregon Department of Administrative Services to provide all citizens of the state with a copy of the state Constitution. The fiscal analyst would ask the department to estimate the costs of the supplies, labor, and distribution involved in that undertaking. The fiscal analyst would then review the information and make an independent estimate of the potential fiscal impact of the bill on the department. The independent estimate the fiscal analyst prepares is called a fiscal impact statement. Next the budget analyst assigned to the department reviews the fiscal impact statement. If the budget analyst approves the fiscal impact statement, the Legislative Fiscal Office sends the statement to the committee to which the presiding officer has referred the bill.
2. LEGISLATIVE REVENUE OFFICER

The Legislative Revenue Officer, who, with the approval of the presiding officers, is selected by the House and Senate Committees on Revenue (or, if the position opens during the interim, by the Interim Revenue Committee)\(^{56}\) provides the legislature the financial information necessary to evaluate proposed tax laws,\(^ {57}\) and for every bill introduced, determines whether the law the bill proposes will increase or reduce tax revenues, and if so, by how much. ORS 173.025 (2) requires the Legislative Revenue Officer to prepare a statement on a bill’s potential “effect on revenues of local governmental units,” and chamber rules extend that responsibility to a bill’s “anticipated change in state . . . revenues[.]”\(^ {58}\)

Whether a bill affects revenues is important because that effect may also affect the process through which the legislature considers the bill. Section 18, Article IV of the Oregon Constitution requires “bills for raising revenue . . . [to] originate in the House of Representatives.”\(^ {59}\) Section 25, Article IV of the Oregon Constitution, requires three-fifths votes for revenue bills to become law.

The legislature also assigns to the Legislative Revenue Officer evaluation of the state’s principal spending obligation: public school funding. It is, therefore, the Legislative Revenue Officer who calculates the effect on individual school districts of changes to the school funding formula and funding levels.

The Legislative Revenue Officer receives a copy of every bill introduced and every amendment a committee adopts and makes an initial determination whether the bill or amendment affects state or local tax revenues.\(^ {60}\) The Legislative Revenue Officer employs four economists who have Ph.D’s and special expertise in different areas of tax policy, such as property, income, and excise. If the Legislative Revenue Officer determines that a bill will affect tax revenues, the officer assigns the bill to the economist who specializes in the subject of the bill. If a committee plans to hold a hearing or work session on the bill, the economist, employing a sophisticated computer model, prepares a statement that estimates the revenue impact of the bill.

B. ASSIGNMENT TO COMMITTEE

The chambers’ rules require the presiding officer to refer a bill to a committee;\(^ {61}\) under House rules, that decision is based on the subject matter of the bill.\(^ {62}\) For example, the 1999 House Committee on Human Resources should receive the bills “relating generally to human resources and health care
issues[.].” As a practical matter, however, a bill may have a subject that falls within the jurisdiction of more than one committee. The Speaker referred HB 2633 (1999), which related to “abortion,” a medical procedure, but also involved procedures for resolving disputes, to the House Committee on Judiciary-Civil Law, which had jurisdiction over bills “relating generally to civil law and administration of justice.”

The presiding officer’s referral of a bill to a particular committee can be a critical decision. Under rules adopted by the committee, the chair, whom the presiding officer appoints, decides on which bills the committee will take action. Chairs of different committees may have different political views, and one chair may decline to take action on a bill the other chair favors. Because of this potential for difference in treatment, the presiding officer’s referral is a decision many in the legislative process—sponsors, chairs, lobbyists—attempt to influence. The majority of the members of a committee may force a chair to allow the committee to take action on a bill, but forced action rarely occurs because the majority of the committee’s members are usually of the same political party as the chair.

C. Committee Action

The flow chart appears to suggest that a committee will hold a public hearing on every bill and hold public hearings before taking action on the bills the committee chooses to consider. If those are the ideas the flow chart intends to convey, the flow chart overstates not only the scope of the work committees undertake but also the amount of public participation in the legislative process.
1. Separating Wheat from Chaff

Most committees of the legislature receive administrative support from Committee Services, which is under the direction of the Legislative Administrator. Committee Services ordinarily provides one administrator (plus additional clerical staff) for every standing committee. An administrator is usually not an attorney, but often another professional with real-world expertise in the subject matter over which the committee has jurisdiction. For example, the Task Force on Landslides and Public Safety, which the legislature charged with recommending laws to reduce landslides and the damage they cause, had as its administrator a person who had served for 10 years in the Oregon Emergency Management Division of the Oregon State Police.

When a presiding officer refers a bill to a committee, the administrator’s first task is to gather information on the bill — pros, cons, costs — and to present that information to the committee chair so that the chair can decide whether the committee will consider the bill. Depending upon the time of session, the scope of the bill, and the administrator’s workload, the administrator may have only a few hours or as much as a couple of weeks to learn what the bill does. To gather the information the chair needs, the administrator may undertake factual or legal research or, more likely, given the constraints of time a session imposes, communicate with parties interested in the bill: sponsors, lobbyists, and affected agencies. When presenting information, the administrator takes care not to advocate for or against a particular course of action. ORS 173.740 (3) prohibits an administrator (and any other employee of the Legislative Administration Committee) from “oppos[ing], urg[ing] or attempt[ing] to influence any measure pending before the Legislative Assembly.”

This culling process saves the legislature a considerable amount of time. There were 3,308 measures introduced in the 1999 session. Of those measures, 990 received no public consideration of any kind. The presiding officer assigned the measures to committees, but the chairs of those committees decided not to take testimony on the bills or to have their committees even discuss them.

If the chair does decide the committee will hold a public hearing on a bill, the committee staff calls interested parties and invites their testimony, and also provides notice to the public of the time, place, and agenda for the hearing. For the hearing, the administrator may also prepare background materials for com-
committee members. Background materials may include articles, related laws, or a preliminary staff measure summary, a form of executive summary of the bill. Occasionally, members’ personal staff will also have provided background materials; for most members, however, the only information they will have in advance of the hearing is a copy of the bill.

2. Public Hearing

Potential witnesses sign up to testify before the committee. The chair has the discretion to limit the time a witness may speak or not to hear from a witness at all. As a result, a public hearing may last a few seconds to hundreds of hours.

At the start of the hearing, the administrator may explain the bill to members and answer questions from them about what the bill does. The committee then takes testimony — written and usually oral — from proponents and opponents of the bill: members, representatives of government agencies, private citizens, and lobbyists. On particularly complex or contentious bills, the committee, whose members are usually not attorneys, may also invite testimony from legal experts, such as representatives of the Attorney General, the Legislative Counsel, and the Oregon State Bar. From this testimony and the answers witnesses give to committee members’ questions, the committee members form a clearer idea of the law the bill proposes, and decide whether to support the concept or to propose changes to it.

If a committee meets in public to consider a bill, there is no provision of statute, chamber rule, or Oregon Constitution that requires committee members to take testimony from interested members of the public. The committee must permit members of the public to attend, but need not allow them to speak. As a result, committees can (and do, although rarely) vote to recommend the passage of bills without holding public hearings.

When a committee meets, an assistant makes an audio recording of the proceedings, and then, with the committee administrator, prepares minutes containing, among other items, a “summary of discussion on any matter.”

3. Amendment

As a result of public testimony or discussion with interested parties, a member or committee may decide that a bill as introduced does not propose a law in the form desired. Any member and any committee may ask the Office of the Legislative Counsel to draft an amendment to any bill. For example,
A member may request an amendment to a bill that the member has not sponsored. Other state officials and private parties may request amendments only through a member or committee. The Office of the Legislative Counsel keeps members’ requests for amendments confidential, but treats committees’ requests as public.

(A) DRAFTING

The Office of the Legislative Counsel drafts amendments using the process for drafting bills: initial drafting by an attorney followed by editing. In the 1999 session, members and committees requested 5,894 amendments to measures. Just as much effort goes into drafting an amendment as a bill, but because the drafting of amendments is concentrated in just a few months (just under 4,000 in three months in 1999), the time available for drafting amendments is more limited.

Through its rules, the legislature requires the Office of the Legislative Counsel to make line-by-line amendments rather than new versions of what the bill would look like as amended. An amendment, therefore, looks like this:

On page 3 of the printed bill, line 17, delete “without” and insert “after”.

It is only after a committee has adopted amendments to a bill and sent the bill to the floor that the office prepares a version of what the bill looks like as amended, which is called an engrossed bill.

(B) LEGAL AND PARLIAMENTARY REQUIREMENTS

There are two other significant requirements for an amendment to a bill. First, the amendment must fit within the title. A bill that is “relating to horses” cannot accept an amendment that deals only with cows. An amendment must also be “germane” to the subject of the bill, which is a somewhat narrower inquiry than whether the title covers the amendment. To be germane, the amendment must be “relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.” Thus, an amendment that fits within the title may still not be germane. For example, an amendment that would ban the sale of horse meat might not be germane to a bill “relating to horses” that would limit the tort liability of sponsors of equine activities. Whether an amendment is germane is a parliamentary — not legal — question, the answer to which the chambers’ rules delegate to the chief legislative officer in the first instance.
These requirements of form most often come into play when a member or committee seeks to remove the entire text of a bill and replace it with a different text. This kind of amendment, called a gut and stuff, occurs most frequently in the latter stages of a session when there is insufficient time before adjournment sine die for a bill to move through two chambers. In that case, a member will find a vehicle—a bill that has passed one chamber and that has a title that will accept the amendment the member proposes—then ask the committee with jurisdiction over the bill to gut the bill’s contents and replace them with the member’s amendment. A member or committee must find a bill with an acceptable title because a committee may not amend the title of a bill. If the chamber passes the gutted and stuffed bill, the bill (as with all amended bills) will go back to the floor of the originating chamber to vote on whether to accept the amended version of the bill. If the originating chamber does accept (by repassing) the amended bill, then the bill will become enrolled without a committee in the originating chamber having considered the amended version of the bill.

The genesis of HB 2550 (1999) (relating to “education”) demonstrates the transformation that a bill may undergo. As introduced, the bill proposed a law to prohibit the State Board of Higher Education from funding athletic programs with funds from academic programs. The House gutted the contents of the bill and inserted a proposal to require secondary schools to admit military recruiters on campus. The Senate, in turn, removed the military recruiters text and replaced it with a licensing requirement for teachers in public charter schools. The House concurred in the Senate amendments, and upon the Governor’s signature, the idea the bill proposed became law.

When voting on whether to adopt an amendment to a bill, a committee should have the amendment in front of it so that it knows the exact language on which it is voting. Amendments are known by their “dash” numbers. Each time the Publication Services section in the Office of the Legislative Counsel processes an amendment, the amendment receives as its distinguishing mark the next highest number. The first amendment to a bill the office processes is the –1 amendment; the second is the –2.

(c) Conflicts

Another vital part of the process involves what the legislature calls conflict amendments. More bills than one may propose to amend the same section of the Oregon Revised Statutes. If the legislature passes two or more bills dealing with the same section and the bills conflict—such as one amends
the section and another repeals it—then, under section 22, Article IV of the Oregon Constitution, “the act last signed by the Governor shall control.” Members of the legislature frequently prefer to have a result other than having the bill last signed control, and with over 3,000 bills under consideration, frequently do not know that bills affecting the same provision of law are working their way through the system. To help the members adopt the versions of law they intend, the Office of the Legislative Counsel designates a group of editors as its “conflicts team” and charges the group with (1) tracking all bills as they move through the legislature, and (2) bringing to the drafting attorneys’ attention the potential for conflict between bills, based on computer-assisted analysis using the Amend and Repeal Tables and Measure History databases. After conferring, if necessary, with interested members, the Legislative Counsel prepares amendments to resolve the conflict in the way that preserves the legislative intent. Typically, the conflict amendments will provide that, if the preferred and alternate versions both become law, the alternate version is repealed.

D. Work Session

First a caveat: Contrary to popular opinion, the Public Meetings Law does not apply to the Legislative Assembly. Section 11, Article IV of the Oregon Constitution, requires “[e]ach house when assembled . . . [to] determine its own rules of proceeding.” This authority means that one Legislative Assembly cannot, through a rule or statute (such as the Public Meetings Law), require a future Legislative Assembly to operate in a particular way.

The legislature is nevertheless not free to operate in secret. Section 14, Article IV of the Oregon Constitution, requires the meetings of the legislature and its committees to be “open,” and requires the chambers to adopt rules to maintain that openness. Those rules are similar to but not copies of the Public Meetings Law. The House prohibits a quorum of a committee from meeting “in private for the purpose of deliberating or taking collective action on any matter.” The House also requires at least 36 hours’ notice to the public of a committee meeting. When adjournment sine die was “imminent,” however, the Speaker could reduce the 36 hours’ notice for public hearings to 24 hours and for work sessions to “notice appropriate to the circumstances,” which in practice meant that committees gave at least one hour’s notice before voting on a bill.

The meeting at which a committee votes on a bill is called a work session, which usually consists only of a discussion between members and then a vote.
(usually) on whether to pass the bill to the floor of the chamber with a positive (“do pass” or “do pass as amended”) recommendation. A majority of the committee must agree to a course of action, such as passing a bill to the floor.

Once the committee votes to pass a bill to the floor, the chair of the committee designates a member — usually the bill’s sponsor or a member of the chair’s committee who voted in the majority — as the carrier of the bill. The carrier’s role is to explain the bill to members and lead the debate on the floor.

E. Second and Third Readings

![Diagram of bill passing through committee and chamber floors]

1. Reports

A committee’s passing a measure as amended to the floor triggers a flurry of activity. Within three days:

The Legislative Fiscal Office prepares a revised fiscal impact statement for the bill taking into account the effect of the amendments;

The Legislative Revenue Office prepares a revised revenue impact statement for the bill; and

The committee administrator completes the committee report and staff measure summary which, together, state and explain the committee’s action on the bill.

When the committee staff has gathered or produced all of the required paperwork, the committee staff delivers the complete bill folder to the Desk. The Desk reviews all of the reports to make sure that they are complete and accurate and then schedules the bill for its second and third readings on the chamber floor.
2. Engrossing

The chambers’ rules require a printed measure to be “placed” on members’ desks before a vote on the measure. The chief legislative officer, therefore, transmits the bill and the amendments to the Publication Services section in the Office of the Legislative Counsel, which then produces, through another process of editing, a set of printed amendments and a printed engrossed bill, i.e., one that incorporates the amendments the committee adopted.

3. Third Reading: The Floor Vote

A bill usually comes up for its third, or final, reading the day after the second reading. It is upon this third reading that all of the members debate and vote on the bill. The vote is an up or down vote. Unlike other states and the United States Congress, Oregon’s legislature does not permit amendments from the floor. If the chamber wants to amend a bill before voting on it, the chamber votes to refer the bill back to a committee, which then makes the necessary amendment. There are also a number of parliamentary motions a member may make in an effort to position a vote, such as its timing, in a manner that best meets the member’s needs.

After the Desk reads the bill by number and title, the presiding officer recognizes the bill’s carrier. The carrier has 10 minutes in which to speak on the bill, explaining its terms and the reasons members should support it. Other members may then address questions to the carrier (through the presiding officer) or address the bill; they are limited to five minutes. Each member, including the carrier, may have at the member’s desk one person to assist the member with the debate. The person assisting the member on the floor may be the member’s legislative aide, but more likely will be a committee administrator or a representative of the Legislative Counsel, Legislative Fiscal Officer, or Legislative Revenue Officer. A lobbyist may not enter the chamber area while a house is in session, but may watch from the third floor public gallery.

When members have finished speaking, the presiding officer calls on the carrier of the bill for closing remarks, and the members vote for or against passage of the bill. The chief legislative officer records all actions taken by the chamber, including votes. The chief legislative officer’s record of floor proceedings, called the journal, is to the legislative process what a birth certificate is to a person. The journal is a requirement of the Oregon Constitution and the official record of the actions the legislature has taken on a measure. Each day, the Desks post to “measure history,” a computer database, information
received from committees about bills. With this history at their fingertips, the Desks serve as clearinghouses throughout the session, providing members and the public with information about the status of bills as they pass through the system.

**F. Passing the Baton**

If the first chamber passes the bill, the Desk in the originating chamber transmits the bill and all of its associated reports to the Desk in the other chamber. This transmission is called a “message,” which the Desk in the other chamber reads to its members when assembled.

**G. Repeat and Rinse**

The second chamber goes through the same process as the first. 113

**H. Concurrence or Conference Committee**

1. Repassing

If the second chamber amends and passes a bill, then the bill returns to the original chamber to decide whether to concur in the amendments and repass the bill. 114 The chair of the committee that handled the bill in the original chamber usually makes the motion and leads the debate on the chair’s proposed course of action. If the original chamber does not concur in the other
chamber’s amendments, the presiding officers appoint a conference committee to iron out the differences between the different versions of the bill. If the conferees can then agree on the form of the bill, the bill returns to both chambers for members to vote on whether to adopt the conference committee’s report.

2. Enrolling

When the second chamber has approved a bill, the Desk once more sends the bill to the Office of the Legislative Counsel. This time, the office converts the bill into its enrolled form, which means that the editors have proofed the bill one more time and added signature lines for the chief legislative officer of the chamber in which the bill started, the presiding officers, the Governor, and the Secretary of State.

1. Sign or Veto

After a bill has been enrolled, the bill must survive the Governor’s review before the law it proposes can take effect. Together, sections 15a and 15b, Article V of the Oregon Constitution, give the Governor the authority to veto whole bills or “single items in appropriation bills.” During session, the Governor has five days (not counting Saturdays and Sundays) within which to veto a bill. The Governor may take up to 30 days from adjournment sine die to veto bills passed within the last five days of the session. Section 15b (4), Article V, imposes an additional procedural requirement with which the Governor must comply before vetoing a bill after the legislature has adjourned sine die: The Governor must make a public announcement at least five days before the veto that he has the “possible intention” to veto the bill. This announcement may trigger lobbying by interested parties to influence the Governor’s decision.
To decide whether to support or oppose a bill, the current Governor assigns responsibility for tracking the bill to a policy advisor with expertise in the subject of the bill. The policy advisor keeps the Governor informed of the progress of the bill through the legislative process and may recommend action by the Governor (or officials the Governor supervises), such as testifying at a hearing or meeting with interested parties, to influence the outcome of a vote. By signaling opposition to a bill, the Governor may keep from having to veto the bill.

When the legislature passes a bill, the Desk of the originating chamber sends the Governor an advance copy of the bill so that the Governor can, at the earliest opportunity, consider whether to sign or veto. To assist the Governor’s decision, the Governor receives from a policy advisor a folder on each bill that includes a “bluesheet”: a summary of the bill and the legislative process and the course of action the advisor recommends. The folder also contains legal analyses from the Attorney General and the Governor’s counsel, policy advice from affected agencies, including from the Oregon Department of Administrative Services on fiscal matters, as well as the staff measure summaries prepared by legislative committee administrators. When deciding whether to sign or veto a bill, the Governor may also confer with interested parties, such as the bill’s sponsor or affected citizens.

When the Governor vetoes a bill, the Governor returns it unsigned to the presiding officer of the chamber in which the bill originated together with the Governor’s explanation for the veto. A member of the chief legislative officer’s staff reads the Governor’s message on the floor of the chamber when the chamber is in session.
J. Overriding a Veto

Section 15b, Article V of the Oregon Constitution, authorizes the legislature to override the Governor’s veto by obtaining two-thirds votes of the members present in each chamber. If the legislature wants to “reconsider” and repass a bill that the Governor vetoed during the session, the legislature must act before adjournment sine die. The legislature must move to reconsider bills the Governor vetoes after adjournment at the next convening of the legislature, whether a special or regular session.120

IV. Conclusion

If there is a fault with the flow chart that illustrates the legislative process, it is that the flow chart understates the amount of work required for an idea to become law. The significant amount of work invested in converting an idea into law recognizes the high “price tag on badly constructed legislation.”121 The price tag is high because “[j]udges struggle to interpret and apply [poorly drafted statutes], attorneys find it difficult to base any sure advice on them, the citizen with an earnest desire to conform is confused.”122 A citizen may quarrel with the idea that becomes law, but there should be little complaint about the effort made in the legislative process to understand the idea and to ensure that the law expresses the idea clearly.123
Notes

1 S. Coleridge, The Rime of the Ancient Mariner, part 2, stanza 8, line 4 (1798).

2 “There anchoring, Peter chose from man to hide, 
There hang his head, and view the lazy tide 
In its hot slimy channel slowly glide;  
Where the small eels that left the deeper way  
For the warm shore, where the shallows play;  
Where gaping mussels, left upon the mud  
Slope their slow passage to the fallen flood;–  
Here dull and hopeless he’d lie down and trace  
How side-long crabs had scrawl’d their crooked race;” 

3 ORS 173.720.


5 This booklet does not address how a legislator makes a decision or the role of a citizen in that process. For academic discussions of legislative decision making, see J. Wahlke & H. Eulau, eds., Legislative Behavior (1959). For an excellent series on legislative decision making in the Oregon legislature, see J. Mapes, “A Near Miss: How gun control failed in the 1999 Oregon legislature,” The Oregonian, p. 1A, col. 2 (Nov. 28, 1999).

6 See ORS 172.010 and 172.020, which create Oregon’s Commission on Uniform State Laws.

7 ORS 173.342 requires the Oregon Law Commission to recommend “statutory and administrative changes[.]”

8 Merriam-Webster’s Collegiate Dictionary 1136 (10th Ed. 1993).

9 ORS 171.127 (2) states in pertinent part: “Each proposed legislative measure shall bear a statement signed by the chief sponsor thereof.”

10 Footnote to J. Mapes, “Leonard wades into water cleanup with Portland plans,” The Oregonian (Feb. 3, 1999) (“[Rep. Randy] Leonard said he was drafting two bills[.]”).

11 House Rule 13.01; Senate Rule 13.01 (3). All references to House and Senate rules are to those adopted in 1999 for the Seventieth Legislative Assembly. In rare instances, a political compromise will produce language for a draft bill that the Office of the Legislative Counsel may not change. For an example, see ORS 192.502 (27).

Compare ORS 196.815 (3)(d)(B) (public body includes federal government) with ORS 526.801 (4) (public body does not include federal government).

ORS 174.090 (4).

Sections 1 to 14, chapter 492, Oregon Laws 1953. At the same time, the legislature created the Legislative Counsel Committee, a permanent legislative committee, ORS 173.111, composed of the President and the Speaker and nine other members they appoint under ORS 173.191 (1), to oversee operations of and set policy for the Office of the Legislative Counsel. ORS 173.130 (4).

ORS 173.240.

Over the years, the Legislative Assembly has assigned the Legislative Counsel additional duties, including editing and publishing session laws and the Oregon Revised Statutes, ORS 171.236, 171.275 to 171.325, 173.160, reviewing and reporting on executive department agencies’ administrative rules, ORS 183.710 to 183.725, participating in legal proceedings, ORS 173.135, assisting in the preparation of statewide initiative measures, ORS 173.140, drafting statements explaining referred and initiative measures in the Voters’ Pamphlet, ORS 251.225, and assisting the ongoing law revision program of the Oregon Law Commission, ORS 173.335. ORS 173.120 also requires the Legislative Counsel to “be in attendance upon all sessions of the Legislative Assembly.”

ORS 40.225 (2) provides: “A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client[.]”

Evidence 16-6 (Oregon CLE 1986).

House Rule 12.01; Senate Rule 12.01.

A member may ask the Legislative Counsel to take direction from a constituent or a lobbyist rather than from the member. This request, which must be in writing, is commonly called a “Note from Mother.”

Section 20, Article IV, Oregon Constitution.

Section 1, Article IX, Oregon Constitution.

Section 22, Article IV, Oregon Constitution.

Sections 2 to 4, chapter 1074, Oregon Laws 1999.
An example of the scope of mistake the employment of professional drafters and editors is designed to prevent occurred in the 1995 session. Before that session, former ORS 279.340 required units of local government to pay their employees overtime, and former ORS 279.342 made exceptions to that general rule, including for local governments’ white-collar workers. Since the legislature adopted ORS 279.340 in 1973 (section 1, chapter 418, Oregon Laws 1973), the state had developed new kinds of local governments, and it was unclear whether ORS 279.340 applied to metropolitan service and mass transit districts. As a result, SB 750 (1995) expanded the scope of governments to which the overtime requirement applied. Rather than list all of the covered entities in ORS 279.340, the legislature incorporated by reference the definition of “public employer” in ORS 243.650, which included metropolitan service and mass transit districts and also the “State of Oregon” (section 26, chapter 286, Oregon Laws 1995). At the same time, the legislature should have made a conforming amendment to ORS 279.342, expanding the exemptions to include the state’s white-collar workers. Without that conforming amendment, the law by its terms required the state to pay overtime to its white-collar workers.

The history of SB 750 (1995) shows that the legislature never intended to pay overtime to the state’s white-collar workers. There is no mention in any legislative proceeding of the bill having that effect. The administrator of the state’s Labor Relations Division never mentioned the bill’s granting overtime to the state’s white-collar workers. Testimony of Peter DeLuca on SB 750 (1995) before S. Interim Comm. on General Govt., Sixty-seventh Legislative Assembly, Document 2 (January 9, 1995).

The Legislative Fiscal Office estimated that the change to ORS 279.340 would have no effect on the state’s budget, and measure summaries prepared by committee staff omitted the changes to ORS 279.340 from discussions of the significant effects of SB 750 (1995). Nevertheless, in Young v. State of Oregon (161 Or. App. 32, 40, 983 P.2d 1044 (1999)), the court of appeals, refusing to look beyond the text of the statutes, held that the law required the state to pay overtime to its white-collar workers. The cost to the state for the period the law granted overtime to white-collar workers may be several million dollars. See A. Green, “Court awards overtime to state’s salaried workers,” The Oregonian p. D6 (June 3, 1999). In 1997, the legislature amended ORS 279.342 to exempt the state’s white-collar workers from eligibility for overtime. Section 3, chapter 793, Oregon Laws 1997.

N-3
Section 19 (1), Article II, Oregon Constitution, provides: “No person shall serve more than six years in the Oregon House of Representatives, eight years in the Oregon Senate, and twelve years in the Oregon Legislative Assembly in his or her lifetime.”

House Rule 13.15 (1); Senate Rule 13.15 (1).

House Rule 13.10 (2); Senate Rule 13.10 (1).

See discussion in text at note 9. The person or entity that requested the draft does not have to be the person or entity that introduces the draft as a bill. For example, a member who requested a draft may be defeated for reelection and offer the member’s drafts to a person who will serve in the coming session.

See ORS 171.127 (2).

The process of obtaining cosponsors, hastened by impending filing deadlines, may to some resemble a school yearbook signing party.

Section 11, Article IV, Oregon Constitution, allows each house to create its own offices.

Senate Rule 15.01; House Rule 15.05.

House Rule 13.01 (1); Senate Rule 13.01 (1).

For a discussion of when a bill is one for raising revenue, see Northern Counties Trust Co. v. Sears, 30 Or. 388, 401-03, 41 P. 931 (1895).

For example, the Desk may find that a member other than a committee chair has signed a bill a committee seeks to introduce. SEE Senate Rule 12.05 (“A measure to be sponsored by a committee . . . must be signed by the committee chair.”).

As a matter of custom, Senate bills begin with 1 and House bills begin with 2001. Form and Style Manual for Legislative Measures 79 (1999). A bill the principal purpose of which is to appropriate money begins with 5000 in the House and 5500 in the Senate.

Interim Senate Rule 213.15 (1997).

The Oregon Department of Administrative Services may also file bills with the Legislative Counsel before session to implement the Governor’s budget. ORS 171.130 (2)(a). A public official newly elected in the November preceding the session may file bills after the December 31 deadline, ORS 171.130 (3), because the official does not take office until after December 31.

ORS 171.130 (4). This procedure is new for the 2001 session. Under former ORS 171.130 (1)(e) and ORS 171.132 (1997 Edition), an agency could
presession-file a bill without needing the intermediary of a member or committee.

45 See, e.g., House Rule 12.00 (1).

46 Section 20, Article IV, Oregon Constitution, requires every bill to have a title that expresses the bill’s subject. The purpose of this requirement is “to provide fair notice to legislators (and to others) of the contents of a bill[.]” McIntire v. Forbes, 322 Or. 426, 438, 909 P.2d 846 (1996). Examples of titles are “Relating to weed control emergencies,” chapter 472, Oregon Laws 1999, and “Relating to recording notice of homeowners association,” chapter 447, Oregon Laws 1999.

47 Sutherland State Const § 10.04 (5th Ed. 1994). Another reason for requiring the Desk to read bills out loud was that, at the time of the adoption of the constitution, “literacy was not widespread . . . [and s]ome members would not have had any other means of knowing on what they were deciding.” Sutherland State Const § 10.04.

48 Senate Rule 7.01.

49 House Rule 7.01.

50 ORS 173.410.

51 ORS 173.420.

52 ORS 173.025 (1) requires the Legislative Fiscal Officer to prepare a statement on a bill’s potential “effect on local governmental units,” and chamber rules extend that responsibility to a bill’s “anticipated change in state . . . expenditures[.]” House Rule 14.25 (1). In addition to the responsibility to estimate the fiscal impact of all measures, the legislature has also charged the Legislative Fiscal Office with providing research and administrative support to the Joint Committee on Ways and Means, ORS 171.410 to 171.420, the Joint Legislative Audit Committee, ORS 171.580 (6), the Joint Committee on Information Management and Technology, ORS 171.852 (6), and the Emergency Board, ORS 171.410 to 171.420.

53 There is a common misperception that, under section 15, Article XI, Oregon Constitution, a bill requiring a local government to implement a program needs three-fifths votes to pass. A bill that imposes a local mandate needs only simple majorities to become law. What section 15, Article XI, Oregon Constitution, says is: “A local government is not required to comply with any state [mandate that costs more than] one-hundredth of one percent of the [local government’s] annual budget [unless the mandate] is approved by three-fifths of the membership of each house[.]”
See discussion in text at notes 61 to 64.

House Rule 9.01 (3); Senate Rule 8.40 (1).

ORS 173.800.

ORS 173.820.

House Rule 14.25 (1). In addition to the responsibility to estimate the revenue impact of all measures, the legislature has also charged the Legislative Revenue Office with providing research and administrative support to the House and Senate Committees on Revenue and the Joint Interim Revenue Committee, ORS 173.820, assisting the Department of Education implement the public school funding formula, section 5, chapter 821, Oregon Laws 1997, and preparing reports on specific issues, such as capital gains taxes. Section 11, chapter 809, Oregon Laws 1995.

See discussion in text at note 39.

As a matter of long-standing practice, the Legislative Revenue Office does not estimate the effect of all bills that affect revenues. The Legislative Revenue Office does not estimate the effect of bills that affect the amount of a fee or of specialized assessments, such as those for unemployment compensation. Estimates of those kinds of bills may fall to the Legislative Fiscal Office.

House Rule 9.01; Senate Rule 8.40 (1).

House Rule 8.01.

House Rule 8.01 (7).

House Rule 8.01 (8).

House Rule 8.05 (1); Senate Rule 8.05 (2).

See House Rule 8.10 (2); Senate Rule 8.10 (3).

House Rule 8.20 (1); Senate Rule 8.20 (2).

House Rule 8.05 (2).

House Rule 15.20 (1); Senate Rule 15.05 (4); ORS 173.720 (1) and (9). The Legislative Administrator, who is selected by the Legislative Administration Committee, ORS 173.710, has many other duties, such as managing the State Capitol Building, ORS 173.720 (7) and (8), providing electronic distribution of legislative information, ORS 173.763, and performing administrative service functions (accounting, personnel) for all legislative employees.

Section 7 (1), chapter 565, Oregon Laws 1997.

Senate Rule 8.25 (1); see House Rule 8.25 (1).
See discussion in text at notes 21 to 29.


Form and Style Manual for Legislative Members 57 (1999).

Section 20, Article IV, Oregon Constitution.

House Rule 5.35.


House Rule 15.05 (1)(a)(C); Senate Rule 15.01 (2)(e).

House Rule 5.37; the Senate enforces the same rule through an order from the President.

See discussion in text at note 117.

1999 A-engrossed HB 2550.

1999 B-engrossed HB 2550.

Chapter 199, Oregon Laws 1999.

A source of confusion sometimes occurs when, due to the complexity of a concept, the office creates working drafts of an amendment. To keep track of the working drafts, the office numbers the drafts as if they were final amendments (e.g., -3, -4). Drafts, however, do not leave the office. As a result, a committee may find itself considering –1, –2, and –5 amendments and wondering whether the committee has mislaid the –3 and –4 amendments.

See Senate Rule 8.80 (4).

“No act shall ever be revised, or amended by mere reference to its title, but the act revised, or section amended shall be set forth, and published at full length. However, if, at any session of the Legislative Assembly, there are enacted two or more acts amending the same section, each of the acts shall be given effect to the extent that the amendments do not conflict in purpose. If the amendments conflict in purpose, the act last signed by the Governor shall control.”

For an example of conflict amendments, see section 27a, chapter 999, Oregon Laws 1999: “If Senate Bill 946 becomes law, section 33, chapter _____, Oregon Laws 1999 (Enrolled Senate Bill 946) (amending ORS 316.102), is repealed.”

ORS 192.610 to 192.690.


House Rule 8.15 (5).

House Rule 8.15 (5) and (6).

Just what notice is appropriate under the circumstances is a matter of differing opinions. In the waning days of the 1999 session, the House Committee on Rules, Elections and Public Affairs met on one hour’s notice to consider a bill after the Capitol had closed to the public for the evening.

House Rule 8.20 (2); see Senate Rule 8.50 (4). A committee may take other actions on a bill, such as tabling it, but those actions are rare.

House Rule 8.25; Senate Rule 8.10 (2).

House Rule 8.20 (3); Senate Rule 8.50 (4); ORS 173.045.

House Rule 9.32; Senate Rule 8.55.

House Rule 3.45; Senate Rule 3.45 (1).

House Rule 9.37; Senate Rule 8.80.

House Rule 5.40 (1); Senate Rule 5.40.

House Rules 5.40 (2) and 9.01 (2); Senate Rule 8.43.

The members of a political party in a chamber will often meet, i.e. caucus, before a floor session to discuss the bills scheduled for third reading that day.

Senate Rules 5.01 to 5.25; House Rules 5.01 to 5.15.

House Rules 6.10 (3)(a) and 6.30 (1); Senate Rules 6.20 and 6.30.

House Rule 17.01 (1); Senate Rule 17.01 (1).

See House Rule 15.10 (1)(a); Senate Rule 15.05 (1)(a).

House Rule 17.01 (1); Senate Rule 17.01 (f).

House Rule 17.01 (6); Senate Rule 17.01 (3).

House Rule 6.25 (1); Senate Rule 6.25 (1).

House Rules 3.12 to 3.20; Senate Rules 3.15 to 3.30.

House Rule 14.01 (1); Senate Rule 14.01 (1).

Section 13, Article IV, Oregon Constitution, provides in pertinent part: “Each house shall keep a journal of its proceedings.—The yeas and nays on any question, shall at the request of any two members, be entered, together with
the names of the members demanding the same, on the journal.” For a discussion of the effect of an omission from the legislative journal, see *Portland v. Yick*, 44 Or. 439, 442 – 43, 75 P. 706 (1904).

113 See Section 25 (1), Article IV, Oregon Constitution.

114 House Rule 11.01; Senate Rule 11.01.

115 House Rule 11.05; Senate Rule 11.05. House Rule 11.10 (1) and Senate Rule 11.10 (1) authorize a conference committee to propose amendments “within the scope of the issues between the houses[,]” but in practice conference committees have gutted bills and stuffed them with contents different from either chamber’s version of the bill. See, e.g., chapter 275, Oregon Laws 1999.

116 House Rule 11.15; Senate Rule 11.15.


118 Section 15b (1), Article V, Oregon Constitution, states “(1) Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor; if the Governor approve, the Governor shall sign it; but if not, the Governor shall return it with written objections to that house in which it shall have originated, which house shall enter the objections at large upon the journal and proceed to reconsider it.” If the Governor vetoes a bill after the legislature has adjourned, the Governor sends the unsigned bill and written objections to the Secretary of State, who holds the documents until the legislature convenes again. Section 15b (3), Article V, Oregon Constitution.

119 Section 15b (1), Article V, Oregon Constitution; House Rule 4.01 (1)(e); Senate Rule 4.01 (2).

120 Section 15b (3), Article V, Oregon Constitution.


123 Expressing an idea clearly is vital in Oregon because, under *PGE v. Bureau of Labor and Industries*, 317 Or. 606, 611, 859 P.2d 1143 (1993), a court will consider legislative history—the process through which an idea became law—as a guide to interpretation only if the text of the statute is unclear. As Judge Jack L. Landau has observed, the court’s method of interpreting a statute “cannot be squared with the known realities of the legislative process[.]” Landau, “Some Observations about Statutory Construction in Oregon,” 32 Will. L. Rev. 1, 25 (1996).