Ethics, Elections and Campaign Finance
1993 Session Legislative Summary

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Senate Ethics, Elections and Campaign Finance Committee
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NOTE: Enacted legislation is effective November 4, 1993 unless otherwise indicated.
Summary of 1993 Legislation
Annette Talbott, Committee Counsel
Senate Ethics, Elections and Campaign Finance Committee

I. ENACTED LEGISLATION
A. Ethics

Senate Bill 159
Revises ethics law

SB 159 is the omnibus ethics bill. It renames the Oregon Government Ethics Commission as the Oregon Government Standards and Practices Commission, and the ethics code is now referred to as the standards and practices code. A procedural change was made in the preliminary review phase so when the commission is determining whether there is "cause" to proceed with a case, the activities and records of the commission will be confidential. However, all records will be released at the end of the phase, regardless of the commission's finding. "Cause" means there is a substantial, objective basis for believing that a violation of the code may have been committed. The bill allows a public official the option of going to court in lieu of a contested case proceeding and clarifies that prevailing party attorney fees are available only for the legal work performed for presentation of the contested case or the court review.

The bill expands the revolving-door statute, prohibiting the employment of certain public officials by private businesses or industries over which they previously had authority for one year after leaving office, by adding the Liquor Control Commission Administrator, the Oregon State Lottery Director, the State Treasurer, and the Chief Deputy Treasurer. The bill adds administrative and financial officers of common and union high school districts, education service districts, and community college districts, as well as key Treasury staff, to the list of officials who are required to file statements of economic interest. The Treasury staff are required to file verified quarterly confidential reports listing all securities purchased or sold in that period with the State Treasurer, the Audits Division, and the Attorney General. Lobbyists are currently prohibited from making false statements but the term "false statement" is now defined to mean "intentionally misrepresents or misstates a material fact." The bill adds a broad definition of "relatives" of a public official, allows the commission access to outside legal counsel, and prohibits the Attorney General from representing state employees registered as lobbyists before the commission.

SB 159 prohibits receipt of honoraria by statewide officials and limits honoraria for legislative officials to $1,500 for an out-of-state appearance made when the legislature is not in session. It adds a reporting requirement so public officials must report the amount, date, time, and payer of honoraria exceeding $50. A new exclusion from the gift definition is added for food or beverage consumed by relatives of a public official and for entertainment not to exceed $100 per event or $250 in a year. It removes a constitutional problem by clarifying that certain candidates can expend his or her own personal funds for campaigns during the legislative session. The commission is authorized to enforce violations of the executive session law and fine the public body responsible unless the body acted upon the advice of legal counsel.
Senate Bill 111  
Revises lobbyist laws

SB 111 has two components. First, it amends the lobbyist registration law by changing the threshold for who must register with the Oregon Government Standards and Practices Commission (formerly the Oregon Government Ethics Commission). Prior to passage of SB 111, a person who spent more than 16 hours or $50 on lobbying during any calendar quarter had to register. Now a person who spends more than 24 hours or $100 on lobbying during any calendar quarter has to register. It also institutes a registration fee of $50 per biennium for professional compensated lobbyists. Second, it requires the commission to prepare and present a program of continuing education for public officials and lobbyists.

Senate Bill 321  
Creates Public Investment Fraud Act

SB 321 creates a Public Investment Fraud Act, similar to federal law, to protect the state from persons seeking to defraud the government. It creates the crime of public investment fraud, which occurs if a person, for purposes of influencing in any way the action of the State Treasury, knowingly makes any false statement or report. An action of the Treasury includes application, advance, discount, purchase, purchase or repurchase agreement, commitment, or loan. It codifies case law established under the federal investment fraud act which provides that a defendant cannot allege that criminal conduct by government employees is a defense to a charge under this Act. The conduct constituting a criminal violation of the Act is considered an incident of racketeering activity both for criminal and civil purposes. The state can recover reasonable attorney fees and investigation and litigation costs. This Act, in contrast to Oregon’s theft by deception statutes, will not require proof that the defendant’s deceptive conduct actually "created or confirmed" the government’s false impression. It also does not require that the government rely on the false statement.

Senate Bill 323  
Revises loss reporting statutes

SB 323 codifies an Attorney General’s opinion that the State Treasury is covered by the Audit Division’s loss reporting statutes by adding a definition of "state agency." It adds a requirement that any loss of public funds or property be reported to the Audits Division in writing within 30 days of discovering the loss. Notably, the term "loss" has been interpreted by the Audits Division and the Attorney General to be a loss of funds or property under circumstances where a public officer or employee has violated or breached his or her duty of care while the funds or property were entrusted to the public officer or employee. It also codifies an agreement that the State Treasurer has with the Audits Division to conduct an annual audit of the administrative accounts of the State Treasury. In addition, a member of the Oregon Investment Council (OIC) is prohibited from accepting a fee for serving on the board of directors of a company in which the state has a direct equity investment interest, other than publicly traded common stocks.
B. Elections Law

1. Elections Code Generally

Senate Bill 420

Election Law Changes for 18 Year Olds

SB 420 removes the present barrier precluding those persons turning 18 years old and registering for the first time from being able to file and run for a precinct committee position or any major political party office. Prior to passage of SB 420, the law provided that the filing deadline for the declaration of candidacy or a nominating petition is 70 days before the date of the primary election. It also specified that a person who will attain the age of 18 years old may register after the 60th day before the election. Thus, the prior timeline precluded some 18 year olds from being able to file a declaration or nominating petition.

SB 420 specifies that a person who will attain the age of 18 years after the filing deadline for the declaration or petition is eligible to file a nominating petition to get on the primary ballot for the office of precinct committee person. It also provides that a person who is otherwise qualified and will attain the age of 18 years after the filing deadline for a nominating petition or declaration of candidacy for nomination to any major political party office is eligible to file and run for that office.

Senate Bill 884 Keeps elector’s residence address confidential for safety reasons

SB 884 allows a county clerk to keep an elector’s residence address confidential if the elector demonstrates to the clerk’s satisfaction that the elector’s personal safety or the safety of an elector’s family member residing with the elector is in danger. The protection will be extended until the elector indicates it is no longer necessary, or the elector is required to reregister. The elector seeking this protection will be required to vote absentee. The bill exempts clerks from any liability either for granting or denying these requests. The clerk can release the exempt address upon receipt of a request from a law enforcement agency or a court order. In addition, any person may petition for the disclosure if the person can demonstrate that it will not constitute an unreasonable invasion of privacy. The bill adds an elector’s residence address to ORS 192.501 which lists exemptions from the public records law. Prior to passage of the bill, a county clerk’s only option, if asked to keep a residence address confidential, was to advise the person not to register.

House Bill 2271

State Reimbursement for Certain Elections

HB 2271 requires the Secretary of State to reimburse counties for the costs of elections (other than primary or general) held to fill vacancies in United States Senate seats or to recall state office holders. State offices include: Governor, Secretary of State, State Treasurer, Attorney General, Labor Commissioner, Superintendent of Public Instruction, state Senator, state Representative, judges and district attorneys. Prior to passage of this legislation, state reimbursement of counties was only required for elections to fill vacancies in the office of a United States Representative.
HB 2275 is the omnibus elections legislation. The bill makes numerous changes to the elections code and the more substantive changes are explained below. It clarifies that the most recent county elector registration figures will be used to determine the number of signatures needed for minor party petitions. It deletes the requirement that counties verify every signature on minor party formation petitions; verification by a random sample will be used as it is with other petitions. Instead of listing the actual names of the presidential electors on the ballot, a statement that the person’s vote is being cast for the electors of the presidential candidate will appear on the ballot. State and county ballot measure numbers will not be repeated in any subsequent election until the number reaches 99. In addition, it specifies that ballot measure arguments are not available for public inspection until the fourth business day after the filing deadline, consistent with the law on other voters pamphlet materials such as candidate statements.

The bill deletes the requirement that the ballot measure explanatory statements prepared by appointed committees or Legislative Counsel include the “effect” of the measure as it is difficult to agree on what the effect might be. It removes the requirement that an endorsement be accompanied with a notarized affidavit. It allows maps for measures involving district boundary changes to be provided in voters’ pamphlets at the polling places instead of requiring maps in each voting booth.

Persons separated from the military for a period of less than 30 days are eligible to vote as military voters. It eliminates the incumbency designation for Justice of the Peace candidates. A county clerk is given standing to contest an election. It expands the requirement for who must file contribution and expenditure reports to include a person who has solicited or accepted contributions, whether or not the office the candidate will seek is known. The bill clarifies that a candidate or treasurer of the candidate must file a new or amended statement of organization each election cycle and when a person must file a statement regarding independent expenditures. It specifies that an individual who solicits and accepts contributions is a political committee.

The bill extends the length of time candidates are required to keep their accounts from 6 months to 2 years. It deletes the requirement that copies of invoices, receipts, and checks be submitted to document all expenditures of more than $50 and provides that the report of expenditures must list payee and amount. Chief petitioners are required to file a statement of organization not later than 15 days after the last day for filing a statewide initiative, recall, or referendum. Delinquent C&E reports must be filed 61 days before the election to avoid a candidate’s having her name taken off the ballot (corresponds to the ballot certification deadline).

A two-year limitation on the Secretary of State initiating election law complaints is added, with up to 5 years if fraud is suspected (there was no limitation prior to passage of HB 2275). It requires that a qualified homeless person be allowed to vote. The State’s Hatch Act prohibitions is expanded to include the gathering of signatures on initiative, referendum or recall petitions and to cover the act of opposing committees or measures as well as promoting them.
HB 2280 implements the National Voter Registration Act of 1993 (NVRA). The Secretary of State, by rule and in conformance with NVRA, shall designate certain voter registration agencies -all state offices providing public assistance, other state offices providing services to disabled persons and may designate other state or local government offices. It removes the current cancel and reregister process and replaces it with an "updating" process. The clerk will automatically update an elector's change in residence address based on postal records if the person moved within the county (as to opposed to cancelling the voter). An elector will not be disqualified from voting due to any updating error based on postal records. Counties will be required to automatically update an elector's registration using postal records unless the elector moves to another residence in another county or state; this is phased in as follows: a county with a population of: (a) more than 500,000 - November 4, 1993; (b) with 100,000 or more by July 1, 1994; and (c) all other counties by July 1, 1995. Before any general election, the clerks shall use the postal records to verify the voter registration address lists. In the tri-county area (Multnomah, Washington and Clackamas), the clerks will automatically update registration when the elector moves within the area unless there are technical, legal or financial reasons the clerks are unable to implement the cross-county system.

A clerk can update an elector’s registration between the 19th day and the 8th day before the election. An elector who moves within a county may update their registration after the 8th day before an election and receive a limited ballot at the person’s former or new polling place or at the clerk’s office. An elector can be canceled only if the clerk: receives validation from the elector that they have moved; receives notice from another county or state that a person has registered there; receives notice the person has died; or records indicate two general elections have passed since the person has been in inactive status (indication the person moved). The county clerk must mail a forwardable notice with a postage prepaid, preaddressed return card to any elector when it appears the elector’s registration needs updating or the elector has moved to another county. Clerks are authorized to inquire into the validity of a registration of any elector at any time and it sets forth a hearing process for the clerk to use when necessary. A person whose registration card is postmarked no later than the 21st day before the election or is received not later than midnight on the 21st day before the election is eligible to vote.

It eliminates the June election to consolidate voting days. It specifies that in calling emergency elections, the city or county governing body has the authority to determine the existence of an emergency. The primary rotation requirement is repealed and is replaced with a system which requires the county clerks to arrange candidates’ surnames on the ballot in the order of letters of the alphabet the Secretary of State has randomly selected and provided to the clerks. Sections relating to voter registration and voting mechanics are effective on July 1, 1994. The required designation of voter registration agencies by the Secretary and the implementation of the program and other NVRA conforming provisions are operative on January 1, 1995. All other sections are effective on November 4, 1993.
House Bill 3151  Revises disclaimer requirements for political broadcasts

HB 3151 conforms state law to the federal disclosure requirements for political broadcasts. The bill requires an election-related broadcast to contain a statement about who "paid for" the broadcast. If the broadcast is paid for by someone other than the candidate or the candidate's principal campaign or political committee, the broadcast must contain a statement indicating whether or not the candidate authorized the broadcast. The bill exempts television broadcasts from the state requirement to include the address of the person responsible for the broadcast.

FCC and FEC regulations require that election-related broadcasts include the disclaimer "paid for by" and prior to passage of HB 3151 Oregon law required such broadcasts to include the disclaimer "authorized by." Compliance with the combined federal and state requirements results in the disclaimer "paid for and authorized by." HB 3151 will result in the use of the disclaimer "paid for by" for most political broadcasts and will identify clearly those broadcasts not authorized by the candidate. Radio and television stations keep the addresses of persons responsible for political broadcasts on file and available for public scrutiny.

House Bill 3496  Regulates "slate mailers"

HB 3496 requires a slate mail organization to register with the Secretary of State and list its name and address and the names of its principal officers within 10 days of receiving payment for producing a slate mailer. It provides that a disclaimer of legible size and type shall be placed on all slate mailers to ensure that voters understand that the slate mail organization has solicited funds from the candidates or measures endorsed in the mailer. The disclaimer must specify that no political party or party caucus is responsible for publishing or sending the mailer. It requires the organization, if it received payment to endorse any candidate or measure in the mailer, to place an asterisk after every reference to that candidate or measure. The penalty for sending a mailer which is not in compliance with this Act is up to $250 per violation -including a fine for every piece of the mailing. HB 3496 does affect the political disclaimer law.

A "slate mailer" is a mass mailing (more than 200 pieces of mail) that supports or opposes a total of three or more candidates or measures. A "slate mail organization" is any person who directly or indirectly exercises control over the selection of the candidates and measures to be supported or opposed in the slate mailer, is involved in the production of a slate mailer, and receives payment for producing a mailer or for endorsing or opposing or for refraining from endorsing or opposing a candidate or measure. Political party committees and legislative caucus committees are specifically excluded from the definition. Current law prohibits purchase of editorial endorsements in newspapers, periodicals, radio or television.

"Slate cards" are printed slates of political endorsements mailed to voters. Slate card publishers are known to use official-sounding names of organizations to give the impression that the candidates or measures have received impressive endorsements. The publishers are often just collecting money from the slated candidates and making an endorsement publication. The bill is intended to prevent voters from being deceived by these publications.
2. Political Parties and Candidates

Senate Bill 1070
Revises incumbent designation for candidates

SB 1070 repeals the statutes limiting the use of the terms "reelect" and "incumbent" and creates a new provision on who can use the term "incumbent." The bill states that a candidate may use the term "incumbent" if the candidate was elected or appointed in or after the most recent election to an office of the same name as the office to which the candidate now seeks nomination or election and is serving and has served continuously in that office since the date of the election or appointment, even though the district boundaries may have been changed.

In contrast to the prior law, when the district boundaries change, SB 1070 does not limit a person's use of the term "incumbent" to situations where the "majority of the population" from the old district is within the new district. Again, in contrast to the old law, SB 1070 specifies that a person using the word "incumbent" will be in violation of the provision only if the term is used "with knowledge or with reckless disregard that the description is a false statement of material fact." In 1981, the Attorney General issued an opinion that the "reelect" statute, ORS 260.542, was unconstitutional. The Secretary of State has not been enforcing the statute as a result of that opinion.

Senate Bill 1071
Clarifies disclaimers on political publications

SB 1071 clarifies the types of political materials that must contain disclaimers on who is responsible for the publication and that the materials are "authorized by" the person. The bill narrows the application of the disclaimer requirement to written matter, photographs, or broadcast "relating to any candidate or measure at any election." Prior to passage of this bill, the disclaimer statute applied to "any matter relating to an election." The law provides that "signs" are exempt from the political disclaimer statute but it grants the Secretary of State the authority to define the term "sign."

It specifically exempts from the disclaimer statute any written or broadcast matter that is part of "bona fide news coverage," defined as news or editorial coverage, not paid or public service advertising, which is regularly published or broadcast. In the case of written matter, the name and address of the publisher or editor must be printed on the publication, and, in the case of a broadcast, the person making the broadcast must be licensed by the Federal Communications Commission. The secretary believed that the prior statute was overly broad and might be subject to constitutional challenge.

House Bill 2276
Political party reform

HB 2276 has four major components. It modifies the definition of major political party. It provides that an affiliation of electors becomes a major political party when any one of its candidates polled at least 15 percent of the total votes cast for President, Governor or other state partisan office (Secretary of State, State Treasurer, Attorney General or Labor Commissioner).
HB 2276 (continued)

In addition, the party must obtain a voter registration base of three percent of the registered voters to have full major party status. Once an affiliation of electors receives the requisite 15 percent, it has 50 months from the election at which its candidate received the 15 percent to achieve the 3 percent registration requirement. During that period, the party cannot use the primary to elect precinct committeepersons or nominate candidates and would have to nominate candidates in a nominating convention as minor parties do. Prior to the passage of this bill, a major political party is one whose candidate has received more than 20 percent of the vote for all presidential electors in the last general election.

It eases ballot access and retention for minor political parties. It revises current law so that when an affiliation of electors files a petition with the signatures of one and a half (1.5) percent of the votes cast for Governor at the last preceding election in that electoral district, it becomes a minor political party in the state, county or other electoral district. It adds a requirement that the party achieve a .05 percent registration threshold. The minor party may retain its place on the next general election ballot if any of the party’s candidates receives at least one percent of the votes for any statewide partisan office on the ballot at the preceding election in that electoral district. Prior to passage of this bill, there was a petition signature access requirement of 2.5 percent of all registered voters in the district and retention was one percent of the vote cast for U.S Representative in the electoral district.

The statutory provisions relating to internal party structure were amended to comply with the U.S Supreme Court’s Eu decision. It provides a major political party with three options in terms of internal organizational structure: comply with current statutory provisions dictating internal party structure in ORS Chapter 248 (such as county and state central committees and precinct committee selection processes) and elect precinct committee persons in the primary; comply only with the precinct committee person process and elect them in the primary and file organizational documents regarding other internal organizational operations; organize independently of any statutory provisions and refrain from using the primary ballot to elect any political party officers. The U.S. Supreme Court found that statutory directives on internal party structure were unconstitutional under the First Amendment’s freedom of association provision. The Court, in the case of California’s statutory framework, held that the state had not provided any compelling interest that justified the state directing how the party should conduct its internal affairs. HB 2276 also provides that a major political party shall when exercising electoral functions, as opposed to internal functions, operate according to the one party member, one vote scheme. Court cases indicate that when a party nominates a candidate to fill a vacancy in office, which is an electoral process, the party must use a nomination process based on the number of registered party members in the district, not the number of registered voters.

The bill modified the liability of political parties and its members. The courts have held that political parties are associations making officers and members joint and severally liable for any debts or liabilities of the party. It limits the liability of the party as an entity by granting it the authority to become a nonprofit corporation. It provides that party officers and members are not liable for party debts.
HB 2276 (continued)
It provides that individual electors can nominate an individual candidate by collecting petition signatures from 1 percent of the votes cast for presidential electors in that district. Prior to passage of this bill, petition signatures requirements were three percent for state or for U.S Representative offices or five percent for any other office.

C. Voters' Pamphlet

Senate Bill 173

Exclusion of voters' pamphlet material

SB 173 modifies the current provision that allows the Secretary of State to exclude certain references in material submitted for inclusion in the voters' pamphlet. It removes the references to "scandalous" language, "cast ridicule or shame upon," "promotes", "hostility" and deletes the list of references (race, color, religion, or manner of worship) which the secretary had to reject. It continues to allow the secretary to reject material that: contains obscene, profane or defamatory language; incites or advocates hatred, abuse or violence toward any person or group; or contains any language which may not legally be circulated through the mails. The secretary is given rulemaking authority to work with the person who submitted a statement that was rejected under these provisions within a prescribed timeline. The secretary believed the prior statute was subject to constitutional challenge as it arguably allowed him to exclude material based on content alone. Notably, the voters pamphlet is a state subsidized publication and is only one channel of communication with voters and substantial alternative channels remain open.

Senate Bill 1072

Voters' pamphlet revisions

SB 1072 provides the Secretary of State with the flexibility to reduce the size of the voters' pamphlet if necessary due to budgetary constraints as well as addressing other matters on the production and distribution of the voters' pamphlet. It sunsets on December 31, 1996. It states that the secretary shall by rule prescribe the "size, format and method of distribution" of the voters' pamphlet according to the limits in this Act. It allows the secretary to set the portrait size for all candidates but it can be no smaller than 1.5 inches by 1.75 inches (portrait was 2 by 3 inches). It removes candidates for any city or county office and Metro councilors and executive officers from the voters' pamphlet. It modifies existing fees and space limitations for paid statements. Statements shall not exceed 325 words or 30 sq. inches (1 column) and cost:

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NOTE: Enacted legislation is effective November 4, 1993 unless otherwise indicated.
II. LEGISLATIVE REFERRALS

Senate Joint Resolution 4  Time Line for Filling Certain Vacancies

SJR 4 addresses whether a vacancy is filled through an election or by appointment based upon when the vacancy occurs. Current law requires vacancies which occur more than 20 days before the general election to be filled through an election, rather than by appointment. The resolution proposes to change that from the "more than 20 days" to "more than 61 days" prior to the election. This process applies to: offices whose appointments are filled by the Legislative Assembly except when the Assembly is in recess; or any elective office of the state or of any district or county thereof.

Election officials have found it very difficult to make all the changes necessary to the ballot and other voting information within the 20 days that is currently provided. Thus would give election officials an additional forty-one days to prepare. The 61 day period corresponds with the current time line for ballot certification.

Senate Joint Resolution 33  Prevents felons from serving in Legislature

SJR 33 proposes a constitutional amendment that would disqualify a person from serving in the Legislature if the person were convicted of a felony between the date the person was elected or appointed to the Legislature and the end of the person's term of office. It specifies that the person may run for office again in the future, but not until the person has completed any sentence received for the conviction. The term "sentence" includes imprisonment, probation, or payment of fines imposed by the court. The resolution refers the proposed constitutional amendment to the next general election in November 1994.

Currently, the only qualifications for running for or serving in the state Legislature (contained in Article IV, Section 8, of the Oregon Constitution) are that the person must be a U.S. citizen, 21 years of age, and an inhabitant of the district for a specified period.
III. SIGNIFICANT SENATE LEGISLATION (NOT PASSED BY HOUSE)

A. Ethics

Senate Bill 319

State Treasury real property transactions

SB 319 places some procedural safeguards on any real estate transactions the Treasury and the Oregon Investment Council (OIC) may undertake. It provides that the Treasury or the OIC shall not use investment funds to purchase real property for more than or sell it for less than its fair market value. It requires the Treasury or OIC, when purchasing real property, to request any recent appraisals of the property from the seller and then to obtain an appraisal by an independent licensed appraiser within the year following the purchase. SB 319 codifies current practice. It prohibits the Treasury and the OIC from making investments in a loan or issuing a loan secured by an interest in real property in violation of the loan to value ratio set by the OIC. The underlying value used in computing the ratio must be based on a valuation by an independent appraiser. Any valuation of real property related investments, except as otherwise specified above, shall be performed by a qualified investment manager or advisor or a state certified appraiser.

SB 319 was introduced at the request of the Interim Special Investigative Committee on PERS Investments in response to concerns it had when it reviewed some of the real estate transactions in the Commercial Mortgage Program. The concern was that there was no appraisal listed for many properties. Transactions that the committee reviewed, including some transactions in Washington County handled by then Treasury employee Terry Canby and others, were completed without any independent analysis or appraisal of the real property’s value. In some cases, OPHERF purchased property for an amount that substantially exceeded the property’s fair market value at that time.

Senate Bill 322

False Claims Act

SB 322 establishes a False Claims Act to investigate and prosecute public corruption. It provides that a "false claim" is a "claim that contains or is based on false, fictitious or fraudulent information, which information could have a material effect on the value, validity or authenticity of the claim." The Act defines seven types of false claims as a Class C Felony including making it unlawful for a person to:

- knowingly make, use, possess or cause to be made or used a false record or statement in the course of a proceeding before a public body a false or fraudulent claim for payment;
- knowingly agree, combine, conspire or attempt to present to a public body a false or fraudulent claim for payment or approval.

It provides for both criminal and civil causes of action. Fines for persons convicted of a submitting a false claim were included. If the person derived a pecuniary benefit from or caused a pecuniary loss to a public body, the person may be sentenced to pay three times the gross value gained or caused, whichever is greater. A civil penalty scheme is set forth and the fines range from $2,500 to $250,000.
SB 322 (continued)

It provides that a person who has been found guilty of violating this Act may be prohibited from consulting for, bidding on or otherwise obtaining pecuniary benefit from a public body. A violation of the Act is also a racketeering activity. It establishes a method to address less serious cases of fraud against the government; the process is used in consumer fraud cases and is known as an assurance of voluntary compliance (AVC). A prosecuting attorney who has probable cause to believe that a violation of the Act has occurred or a person is about to engage in a violation of the Act, may before filing suit, notify the person of proposed terms of the AVC and allow the person 10 days to decide whether to agree to comply with its conditions.

Senate Bill 324  Records and Reports of the Oregon Investment Council

SB 324 addresses record keeping, investment reports and public meetings of the Oregon Investment Council. It provides that the Oregon Investment Council (OIC) shall tape record its meetings in addition to providing written minutes. It clarifies that the records of the OIC are public records and shall include minutes as well as exhibits except for exhibit materials that would otherwise be exempt from disclosure under the public records law. Investment reports would be required to include a market valuation of the investment classes including write-offs or delinquent loans, more than 90 days delinquent. That report must also include reference to the aggregate amount of recognized and recorded fees paid to investment advisers, money managers, consultants and general partners.

SB 324 was introduced at the request of the Interim Special Investigative Committee on PERS Investments. It was designed to address several concerns: first, the minutes of the Oregon Investment Council were not detailed enough to adequately follow the deliberations and decision making of the council; second, the minutes were only kept in the Treasurer’s office so there was limited access to them and there was no archival copy; and third, the amount of fees paid to money managers and advisers was never reported in the annual report.

Senate Bill 355  Limits Lobbyist Expenditures

SB 355 limits the amount a lobbyist can expend on a legislative or executive official to the same amount the Executive Department allows management service employees to receive for instate meal expenses. The current meal expense reimbursement is $6/breakfast; $6.75/lunch; and $14/dinner. It provides that specific reporting on the time, place and purpose of the lobbying be documented if the expenditures on the official exceed $50 in any reporting period. Lobbyists or lobbyist employers are prohibited from paying for any out of state travel, lodging or meals. It also specifies that the limitations in the lobbyist and ethics code do not prohibit a lobbyist from giving a legislative official, who is related by blood or marriage or shares a principal residence with the lobbyist, "anything of value".
B. Elections

Senate Bill 843 Clarifies the Definition of Residency for Voter Registration

SB 843 clarifies the definition of residency for voter registration for a person who: has more than one dwelling place; has temporarily left their fixed residence but has no other fixed residence in Oregon such as a "Snowbird" or person who continuously travels around the state; has a residence split by a jurisdictional line; or is homeless. It states the general rule that a person's residence is the place in which the person's habitation is fixed and to which the person intends to return. It lists factors the clerks can use to determine a person's intent to return. Where a person's residence is split by a jurisdictional line, the clerk shall place the person in the district which contains the larger portion of the property's value. It provides that a person who leaves their residence for a temporary purpose does not lose their residency due to the temporary absence. In situations where a person leaves their place of residence but does not yet have another place in which their habitation is fixed, it allows a person to continue to register at the previous residence. It states that a homeless person shall not be denied the opportunity to register to vote.

Senate Bill 1073 Inhabitancy Criteria for Legislative Candidates

SB 1073 establishes a definition of inhabitancy for candidates for the Legislative Assembly. The Oregon Constitution states that a candidate must be "an inhabitant of the district from which the Senator or Representative may be chosen." SB 1073 defines "inhabitant" and specifies that the person's intention as well as physical presence is required. A person can be an inhabitant of only one place. A person shall be an inhabitant of the place:

- In which the person has an established, fixed or permanent dwelling or abode;
- Where the person intends to remain permanently or indefinitely;
- To which the person has an intention of returning when absent from the place.

The Secretary of State can consider any of the following eight factors to determine intent: voter registration; mailing address; drivers' license; motor vehicle registration; property or income tax status; receipt of utility services; address of immediate family members; and location of any property rented or owned by the person. If the secretary determines, based on credible information, that it is more probable than not that a person is not an inhabitant of the district, the secretary shall refuse to place the name of the person on the ballot or remove the name from the ballot. Nothing in the Act precludes the Senate or the House from judging the qualifications of its own members.

Senate Joint Resolution 3 Constitutional Reapportionment Revisions

SJR 3 proposes constitutional amendments to the reapportionment provisions by: adding the flexibility to have a special session on redistricting; clarifying terminology; repealing an obsolete provision; specifying an operative date for the new districts; stating how vacancies in the office of Senator or Representative are filled following redistricting; and providing that the Secretary of State will undertake Congressional redistricting if the Legislative Assembly fails to enact a plan.
C. Campaign Finance

Senate Bill 326
Ethics Requirements for the Treasurer and Staff

SB 326 prohibits the State Treasurer or a candidate for that office from receiving certain campaign contributions and prohibits shadow investing by the Oregon Investment Council (OIC), State Treasurer and staff. It prohibits the State Treasurer or any candidate or political committee of a candidate for that office from soliciting or receiving any campaign contributions from: any person performing investment services or the principals, officers or directors of the person performing investment services with the OIC or State Treasurer; or any person who has received a loan from the OIC or the State Treasurer within the preceding four calendar years. It requires that the State Treasurer adopt a rule that: prohibits the State Treasurer, OIC members and investment staff from engaging in shadow investing; and prescribes that the State Treasurer or the OIC may dismiss any employee or terminate any contract with any person who violates the shadow investment prohibition. It states that such a dismissal would be considered a dismissal for good cause. It clarifies that this requirement is in addition to any other federal or state requirements.

Senate Bill 416
Campaign Finance Reform

SB 416 sets contribution limits; establishes voluntary spending caps; bans direct contributions by labor organizations and corporations; prohibits pass-throughs; provides partial public financing; adds two new contribution and expenditure reports (C&E) for legislative and statewide candidates; prohibits personal use of excess campaign funds; modifies the current political contribution tax credit; and defines "independent expenditures".

It establishes contribution limits so that PACs and individuals would be prohibited from contributing an aggregate amount, per single election, exceeding:
- $500 to a candidate for Governor;
- $350 to a candidate for a statewide office; and
- $250 to a candidate for a Senate or House race.

In addition, there is a contribution limit of $500 by an individual to a PAC per calendar year. To prevent circumvention of the contribution limits, SB 416 prohibits certain pass-throughs and bundling. It sets voluntary spending caps for primary and general elections which vary based on the office as follows:

<table>
<thead>
<tr>
<th>Office</th>
<th>Primary</th>
<th>General</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor</td>
<td>$500,000</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>Statewide Officer</td>
<td>$300,000</td>
<td>$600,000</td>
</tr>
<tr>
<td>State Senator</td>
<td>$ 35,000</td>
<td>$ 60,000</td>
</tr>
<tr>
<td>State Representative</td>
<td>$ 20,000</td>
<td>$ 45,000</td>
</tr>
</tbody>
</table>

As the courts have rejected mandatory spending caps as unconstitutional, SB 416 proposes voluntary ones but provides candidates with incentives to abide by them if the candidates have an opponent, agree to the spending caps and raise a specific threshold of money from small contributions from individuals.
The state currently finances political campaigns by giving tax credits for political contributions. However, under current law, candidates are not required to abide by any limits in exchange for this tax credit and it deprives the general fund of over $7 million every two tax years. So the current political contribution tax credit is limited so that the resulting savings can be used to establish partial public financing. The tax credit would only be allowed for contributions to candidates for legislative and statewide races and only if the candidates have voluntarily agreed to the expenditure limits and have an opponent. The tax credit for contributions to PACs is eliminated, except ballot measure and political party PACs. An income cap (adjusted gross) is placed on the credit: single/other=$50,000 or less; married persons filing jointly=$100,000 or less. A tax checkoff on Oregon’s income tax form would also provide support for the public financing program. It prohibits personal use of excess funds and provides that the funds can be given to political parties or nonprofit entities as long as the funds are not personally benefiting the candidate. It carefully defines which expenditures are truly independent. "Independent expenditures" can still be made as long as there is no contact between the candidate and the entity making the independent expenditures.

Senate Bill 700

Campaign Finance Reform for State Senate Candidates

For Senate candidates, the measure establishes voluntary spending limits, sets contribution limits and provides partial public financing to certain candidates, and establishes a checkoff system for taxpayers to contribute to the Fair Elections Fund (FEF). For all candidates: it bans personal use of excess campaign funds; prohibits certain pass-throughs and bundling; and defines "independent expenditures". It provides that a Senate candidate who files a declaration to voluntarily limit spending to $80,000 with respect to the general election is eligible for partial public financing if the candidate’s opponent either fails to agree to voluntarily spending limits or withdraws a previously filed agreement to limit spending. The candidate must raise $10,000 from individuals to be eligible to receive public matching funds. It requires a candidate to agree to repay certain amounts financed by the FEF if the candidate withdraws a declaration to limit spending or exceeds the voluntary spending limit. It sets contribution limits and prohibits any person from contributing per single election an aggregate amount exceeding $2,000 to a candidate for a Senate race except that a political committee organized by the caucus of the State Senate shall not contribute more than $10,000 to a Senate candidate.

It allows eligible candidates to receive matching funds so that every $1 raised would be matched by $1 from the FEF. The match would only apply to moneys collected in the applicable general election period and would not apply to in-kind contributions or loans to the candidate or contributions from the candidate’s own personal funds. It provides that a candidate may withdraw the declaration but that the candidate must return an amount equal to all payments received from the FEF. Fines would be levied against candidates who exceeded the spending limit. It establishes a checkoff on the tax form for taxpayers who would like to contribute $1 or more. The Secretary of State shall include a statement in the voters’ pamphlet indicating whether or not a candidate has agreed to the spending limit.