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TO: House Committee on Rules  
FROM: Oregon Secretary of State Kate Brown  
RE: HB 3521 Proposal to Modernize Voter Registration  
Date: May 6, 2013

At the House Committee on Rules hearing on March 20, 2013, Chair Garrett requested a memo to the committee describing my proposal to modernize voter registration in Oregon and proactively register eligible Oregonians to vote. This memo summarizes the proposal and responds to specific issues or questions raised by the committee.

### **Proposal to Register Eligible Voters**

Voting is an undisputed right of all United States citizens. All eligible voters should be able to cast a ballot on Election Day if they choose to do so. In Oregon, voter registration is necessary to operate the state's pioneering vote-by-mail system. Same day registration, which eliminates a barrier to voting, is the rule in a dozen states and is neither practical because of vote-by-mail nor lawful because the Oregon Constitution requires that a person must be registered to vote at least 20 days prior to an election. Yet, it is in the final weeks of the campaign that people tend to focus on elections, which leads thousands of Oregonians to apply to register too late, during the 20-day window. This proposal provides a way to allow eligible voters to cast a ballot on Election Day while upholding security of the ballot and taking into consideration the practical realities of administering a vote-by-mail system.

This legislation proposes that qualified state agencies that collect proof of a person's eligibility to vote in Oregon share certain information with the Secretary of State. The Secretary of State's Elections Division will process the information received from the agency and register eligible persons to vote. Each eligible person will be registered as unaffiliated with a political party. Upon registration, the Secretary of State will send a notice to the person with a description of how to opt out of voter registration or register with a political party.

### **Division of Motor Vehicles**

The proposal requires voter registration agencies designated by the National Voter Registration Act of 1993 that maintain a digital copy of a person's signature, process citizenship documentation and collect age and residence data to provide this information to the Secretary of State's office. Currently, only the Division of Motor Vehicles (DMV) is a qualified agency under the proposed law.

## **Technology**

The DMV and the Secretary of State have shared data for identification verification purposes since 2006. In 2010, with the advent of Oregon's online voter registration system, the two agencies developed the technology to share a digital copy of a person's signature, which is essential to verifying signatures in Oregon's current vote-by-mail system. Using this technology, the DMV can share with the Elections Division additional data including a person's age, residence and citizenship. Upon receipt of the data, the Secretary of State and County Clerk would determine whether a person is qualified to vote under Article X, Section II of the Oregon Constitution and would register qualified persons.

## **Citizenship**

Currently, proof of citizenship is not required to register to vote. However, DMV is required to process citizenship data to comply with state law. Under this proposal, the Secretary of State would only register persons who have shown proof of United States citizenship. If a person has not provided proof of citizenship, the person could not be registered to vote in this manner.

## **Opt Out**

This proposal relies on an easy and accessible way to opt out of being registered to vote. Upon registration of a person, the Secretary of State will send a mailing that allows the person to opt out of registration by signing and returning the mailing. The mailing will include prepaid return postage and the person will not receive a ballot or be added to any public voter registration list for at least two weeks after the mailing is sent. The Secretary of State will keep track of each person who declines to be registered and the person will not be re-registered through this process.

## **Political Party Affiliation**

Each person registered by the Secretary of State will be registered as unaffiliated with a political party. The mailing sent to each person allowing them to opt out will also explain how the person may choose to affiliate with a political party using the online voter registration system.

## **Emergency Clause & Compliance**

The proposal includes an emergency clause; however, compliance with the proposal is not mandated until January 1, 2014, which is the ordinary effective date of bills passed in the 2013 legislative session. The purpose of the emergency clause is to ensure that the DMV and the Secretary of State have time to prepare systems and adopt rules necessary to comply with the proposed law by January 1, 2014.

## **Cost to the Counties and the State**

Both the Secretary of State's Office and the counties would face initial costs and ongoing costs with the adoption of this proposal. Ongoing savings and increased stability and predictability of budgets are also anticipated.

Initial costs to counties are based on the influx of a large number of registered voters in the next year or so. More voters mean more ballots, more postage and time processing information. The Secretary of State will also fund some of the costs of this proposal, including the notifications of registration and the postage pre-paid opt-out mailings. Help America Vote Act dollars are also allocated for specific purposes, some of which can be used to offset the costs of this proposal. Although HAVA dollars are not available to fund mailing ballots or any other essential aspect of conducting elections, over \$3 million in HAVA dollars have been allocated to counties in the current biennium to help with other fundable projects.

Going forward, this proposal will also lead to increased efficiency, including reduced costs in paperwork processing and elimination of human error as almost all registrations will be online and part of the Oregon Centralized Voter Registration System. Additionally, voter registration will no longer be subject to major surges preceding big elections. The Secretary of State can conduct these processes well before an election so that County Clerks will never face a surge of registrations again.

### **Minor Political Parties**

An influx of new registrations could impact how minor parties maintain their qualification for the ballot. To maintain status as a minor political party, the party must retain a certain percentage of registered voters as members of the party. The proposal addresses this concern with a phase-in provision that allows a minor political party to use the number of registered voters as of July 1, 2013 to maintain status as a minor political party for the 2014 general election.

### **Precinct Size**

The proposal increases the maximum number of electors allowed in a precinct from 5,000 to 10,000 in order to avoid redrawing precinct boundaries to accommodate an increase in the number of registered voters. County Clerks recently reconfigured precinct boundaries following the 2010 federal decennial census.

### **Public Records & Confidentiality**

Oregon's voter registry is a public record. The legislation proposes that before a person is mailed a ballot or added to any public voter registration list, the person will receive notification of this voter registration process and will have at least two weeks in which to opt out of voter registration.

Persons with legal privacy needs, including confidential records as a result of stalking orders, domestic violence or other law enforcement purposes, are currently protected in the DMV system. Protected information will not be transferred to the Secretary of State under this proposal and will remain confidential. Finally, only persons who will be 18 years of age by the date of the election will be registered to vote under this proposal.

### **Jury Duty**

In Oregon, persons are selected to serve on a jury at random from two sources: voter registration records and DMV records. Currently, Oregon residents who have DMV records are already subject to selection for jury duty.

## **Persons with a Felony Conviction**

If an incarcerated felon is registered to vote, the record is flagged in the Centralized Voter Registration System as someone who is ineligible to vote. Under current law, all persons convicted of a felony have their right to vote automatically restored upon completion of the person's sentence. Those on probation or parole are also eligible to register to vote.

## **Inactive Voters & Address Updates**

Under current law, a person's registration is considered inactive if any personal information (most commonly a person's address) has changed or the person has not voted or updated registration for a period of at least five years. An inactive voter who updates information with the DMV will be re-activated. Further, a change of address by any person with the DMV who is already registered to vote will automatically update the person's voting records.

## **Voters Moved Out-of-state**

Oregon has joined a collaborative group of 22 states to match data to ensure that voter rolls are as accurate and up-to-date as possible. Database matching techniques will continue to be utilized across state lines to compare with other state's databases to maintain the integrity of our systems.

## **Initiative & Referendum**

An increase in the number of registered voters will not directly affect the requirements for signatures on initiative or referendum petitions. The number of signatures required for initiative or referendum petitions is based on the number of people who voted in the most recent gubernatorial election, not the number of registered voters. However, this proposal will substantially increase the number of people eligible to sign initiative or referendum petitions.

## **Double-Majority Requirement**

Currently, most local money measures appear on the Primary or General Election ballot, which exempts them from the double-majority requirement. The proposal would affect measures that appear on ballots at elections that are not held in May or November of even-numbered years.

## **Motor Voter Law**

Currently, the DMV is subject to what is known as the "Motor Voter" law. Under ORS 247.017, personnel of the Department of Transportation are required to ask persons who come in contact with the agency whether the person would like to register to vote. Because this proposal would obviate the need for extra voter registration work conducted by DMV personnel, the legislation suspends application of ORS 247.017 as long as the DMV is a qualified agency.