

United States Senate

WASHINGTON, DC 20510

Chair Wagner, Vice-Chair Girod, Members of the Committee:

For the record, I am Senator Jeff Merkley and have had the honor of representing the great state of Oregon for 22 years, including 10 years in the state legislature. Thank you for the invitation to testify in general support of the bills before you that I believe would improve your ability to craft, debate and deliver necessary legislation from Salem for Oregon families.

There is too much at stake in Oregon for our state to be subjected to vitriolic partisanship that shuts down our institutions. This has been a year of hardship and loss for so many people in our community. We have pulled together and worked to keep people safe through the pandemic, and managed through devastating wildfires and ice storms.

Now, as we start our recovery, Oregon is about to receive more than \$6 billion through the American Rescue Plan. While the stimulus checks are going directly to Oregonians, the state legislature has an essential role in investing funds for COVID-19 vaccinations and testing, safe school reopening, small business support, and helping Oregonians who need extended unemployment benefits, emergency food, housing and child care assistance.

We do not have a single day to waste and I am deeply concerned about how repeated and lengthy legislative shutdowns could affect the state's ability to get these funds into the hands of businesses, service providers, and Oregon families.

And apart from the immediate and essential work on the pandemic, the larger question is how in the longer term lawmakers can come together across the aisle and work to get things done for Oregonians. As elected officials, we

should be able to debate the merits of proposed legislation and if there are elements we oppose, work hard to make them better. To accomplish that, there must be checks and balances in our rules to prevent either side from shutting down debate and shutting down the legislature.

The bills before you provide checks and balances. If lawmakers don't show up for a session, they shouldn't get paid and there must be consequences for walking off the job - just like any other worker - as proposed by SB 262. And when those consequences are implemented, legislators should not be allowed to turn to special interests to pay the bill, as proposed in SB 261.

And just like any other worker, if lawmakers have 10 unexcused absences they shouldn't be allowed to hold their job, as provided in Senate Joint Resolution 3. Finally, if the repeated failure of Oregon House and Senate members to show up and do their job paralyzes either chamber's ability to get the work of the people completed, we must look at changing the quorum requirements for the balance of the session which, by the way, would bring Oregon's quorum requirements in line with those in the U.S. Constitution and most of our states.

Last year's walkout was 35 days. Such extensive and repeated walkouts are an abandonment to one's duty to the office, the Oregon Constitution, and the people of Oregon.

The walkouts, however appealing they might be to a frustrated minority at a given moment, pose a profound threat to the function of the Oregon legislature. The walkouts create, in essence, a minority veto over legislation. This was exactly the situation at the founding of our country when the Continental Congress (sometimes called the "Confederation Congress") operated under the Articles of Confederation from 1781-1787. The result was paralysis on issue after issue, leading the founders to warn us not to make the same mistake.

James Madison noted that under a minority veto “the fundamental principle of free government would be reversed.” *Federalist Papers Number 58*

Alexander Hamilton declared that the result would be “tedious delays, continual negotiation and intrigue; contemptible compromises of the public good.” *Federalist Papers Number 22*

And if you need a modern example, look no further than the U.S. Senate, where the supermajority requirement to close debate has created a minority veto; the result is not compromise, but obstruction. The Senate is no longer “the world’s greatest deliberative body” but a paralyzed chamber that is failing to address numerous pressing issues.

So I urge my friends in both parties of the Oregon Legislature to embrace debate and coalition building and bi-partisan initiatives, but to resist the siren call of pure obstruction. Do not let Oregon’s legislative process descend into “tedious delays” and “contemptible compromises.” Do not let the minority veto that poisoned and paralyzed the Continental Congress and is currently destroying the U.S. Senate destroy our beloved Oregon legislature.

I wish you all well in figuring out the right path forward.