Ballot Measure 66: Lottery Funds for Parks and Watersheds

City Club of Portland (Portland, Or.)

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Ballot Measure 66: Lottery Funds for Parks and Watersheds

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Your Committee Found:

Oregon's state parks and watershed are critical assets that need a source of stable long-term funding. While your committee members agree on the need for funding, we disagree on whether Measure 66 is the appropriate mechanism to meet that need.

The majority of your committee believes that Measure 66 would put into the state constitution material that does not relate to the structure, powers and limitations of government and the rights of the people with respect to their government. It would inappropriately dedicate a fixed percentage of Oregon Lottery revenues, and redirect funding from other state activities without either identifying new funding sources to keep these activities whole or allowing an overall prioritization of state expenditures. Also, voters cannot be assured that the watershed funds dedicated by Measure 66 would be put to best use. No mechanism is in place to determine and prioritize needs on a statewide basis and oversight is unclear. The majority questions whether local watershed councils have the expertise to do the strategic planning and can effectively achieve the goals of the measure.

The majority urges a No vote on Measure 66.

The minority of your committee believes that state parks and watersheds urgently need a guaranteed source of stable funding now and into the future. The legislature has repeatedly failed to provide stable funding for state parks and could do the same with regard to watershed programs. Measure 66 ensures that these programs will be funded—at least until voters revisit the measure in 2014. Amending the state constitution is appropriate in this case because that is the only way to expand the use of Oregon Lottery revenues.

The minority recommends a Yes vote on Measure 66.

The City Club membership will vote on this report on Friday, October 23, 1998. Until the membership vote, the City Club of Portland does not have an official position on this report. The outcome of this vote will be reported in the City Club Bulletin dated November 13, 1998.
I. INTRODUCTION

Ballot Measure 66 will appear on the ballot as follows:

<table>
<thead>
<tr>
<th>Caption:</th>
<th>Amends Constitution: Dedicates Some Lottery Funding to Parks, Beaches; Habitat, Watershed Protection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Result of “Yes” Vote:</td>
<td>“Yes” vote dedicates 15 percent lottery funding to parks, beaches; salmon, wildlife habitat, watershed protection.</td>
</tr>
<tr>
<td>Result of “No” Vote:</td>
<td>“No” vote retains system restricting state lottery funding to job creation, economic development, public education.</td>
</tr>
<tr>
<td>Summary:</td>
<td>Amends constitution. State lottery proceeds currently limited to job creation, economic development, public education. Measure dedicates 15 percent of net lottery proceeds to new fund for parks, beaches; salmon, wildlife habitat, watershed protection. Dedicates half of fund to create, maintain state parks, ocean shores, public beach access areas, historic sites, recreation areas. Dedicates other half for single agency to administer funds to protect native salmon, wildlife habitat, watersheds, using at least 65 percent for capital expenditures. Requires biennial audits, voter renewal in 2014. Other provisions.</td>
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(The language of the caption, question, and summary was prepared by the Oregon State Attorney General.)
The City Club chose to study Measure 66, based on two areas of concern. First, Measure 66 would amend the Oregon Constitution by dedicating a fixed portion of the Oregon Lottery's net proceeds to two new purposes in addition to those currently allowed. Second, it was thought that the important provisions of Measure 66 and any significant issues raised might not receive adequate discussion because attention from the media and voters would be focused on more controversial, better-funded campaigns.

The City Club screened the Measure 66 Study Committee's seven members to ensure that no member had an economic interest in the outcome of the study or had taken a public position on the subject of the measure. Committee members met twice weekly for over six weeks. During these meetings, the Committee interviewed proponents and opponents of the measure, as well as other individuals with relevant expertise or a special interest in the outcome of Measure 66. The Committee sought and reviewed printed materials as provided or discovered by members' research. Individual Committee members conducted separate one-on-one interviews.

II. BACKGROUND

State parks supporters and environmental organizations led a citizen initiative effort that placed Measure 66 on the ballot. The measure comes out of long-standing interest in the establishment of a dedicated or predictable funding source for state parks coupled with a more recent interest to direct funding to watershed restoration programs thereby protecting fish and salmon habitat.

A. What Would Measure 66 Do?

Measure 66 would dedicate 15 percent of the net proceeds from the Oregon Lottery to "restoring and protecting Oregon's parks, beaches, watersheds and critical fish and wildlife habitats." The measure would evenly divide these funds between two public purposes:

- "financing the protection, repair, operation, and creation of state parks, ocean shore and public beach access areas, historic sites and recreations areas....", and

- "financing the restoration and protection of native salmonid populations, watersheds, fish and wildlife habitats and water quality in Oregon."

The measure does not identify a particular agency or agencies as being responsible for carrying out the parks-related goals. It does, however, require state agencies that receive the revenues targeted to parks to use the funds for the following purposes:

- "maintain, construct, improve, develop, manage and operate state park and recreation facilities, programs and areas...."
• "acquire real property, or interest therein, deemed necessary for the creation and operation of state parks, ocean shores public beach access areas, recreation and historic sites or because of natural, scenic, cultural, historic and recreational values...;"

• "operate grant programs for local government entities deemed necessary to accomplish the public purposes..." established by the measure.

The measure requires that the watershed-related funds be administered by "one state agency"—but does not identify the agency—and requires that 65 percent of the funds be used for capital projects. The funds must be used for:

• "watershed, fish and wildlife, and riparian and other native species, habitat conservation activities, including but not limited to planning, coordination, assessment, implementation, restoration, inventory, information management and monitoring activities;

• watershed and riparian education efforts;

• the development and implementation of watershed and water quality enhancement plans;

• entering into agreements to obtain from willing owners determinate interests in lands and waters that protect watershed resources, including but not limited to fee simple interests in land, leases of land or conservation easements; and,

• enforcement of fish and wildlife and habitat protection laws and regulations.

The measure specifically prohibits the legislature from limiting these expenditures and allows the legislature to appropriate additional money or revenues to these purposes.

Additionally, any state agency receiving funds dedicated by this measure must present a biennial report to the legislature based on an independent audit by the Oregon Secretary of State of the agency's "financial integrity, effectiveness and performance."

Finally, the measure instructs the legislature to give voters the opportunity in 2014 to vote on whether to continue the provisions of the amendment. Absent a vote approving their continuation, the provisions of Measure 66 would expire on January 1, 2015.

B. Dedication of Oregon Lottery Revenues

Since its creation by Oregon voters in 1984, the Oregon Lottery has become the second largest source of state government revenue after the state income tax. The ballot measure that created the lottery originally dedicated lottery revenues to "creating jobs and furthering economic development." Since that time, the legislature has interpreted the terms broadly enough to encompass a wide range of projects located in every county and many communities across Oregon. In
1995, Oregon voters overwhelmingly approved a legislative referral that amended the Oregon Constitution to dedicate 15 percent of Oregon Lottery revenues to public education. Passage of Measure 66 would dedicate 15 percent of net lottery revenues to parks and watersheds.

By way of background, the 1997-99 Oregon Lottery revenues were expected to total roughly $657 million. The 15 percent portion for public education came to roughly $92 million, to which the legislature added a further allocation of $451 million representing about 83 percent of lottery revenues. Table 1 on the following page presents a breakdown of legislatively approved lottery revenues. Approximately 75 percent of lottery revenues were generated by video poker operations.

Under Measure 66, an estimated $46.2 million of state lottery proceeds—$92 million per biennium—would be directed each year to parks and natural resources until the year 2014. The estimate is based on 1999-2001 projections of lottery proceeds. These funds would no longer be available to the legislature for other purposes.

C. Oregon State Parks

The Parks System and Administration: Oregon’s state park system was born in 1913 when Governor Oswald West and the state legislature “declared Oregon beaches a public highway” and established the legal precedent for public access to the beaches. Today, Oregon has about 227 separate park properties, 83 Willamette River Greenway properties, and 24 Oregon State Scenic Waterway properties. State park facilities include over 50 campgrounds and other overnight facilities, 172 day use areas, and other outdoor facilities including 478 miles of recreation trails, 12 boating/fishing docks, and 21 swimming areas. The Oregon State Parks system total includes 225 trails, lighthouses, historic places, scenic waterways and ocean shores. No new campgrounds have been added to the system in 28 years.

In addition to the state park system, Oregon Parks and Recreation Department (OPRD) also manages the following state programs: Ocean Shores; State Scenic Waterways; State Historic Preservation Office; Oregon Heritage Commission; Oregon Recreation Trails; Willamette River Greenway; and Grant/Assistance for Local Park and Recreation Development. In most cases, the legislature did not dedicate funds to support its mandate that OPRD administer these programs.

Until 1989, the administration of state parks was housed in the State Highway Department, which later became the Oregon Department of Transportation (ODOT). In 1989, the state legislature created the Oregon Parks and Recreation Department as an independent agency. OPRD’s 1997-99 legislatively approved budget was $84 million. Major sources of revenue are: park camp rentals and day use permits (32 percent); RV registrations (23 percent); lottery bonds (18 percent); and the state general fund (13 percent).
Table 1. 1997-99 Legislatively Adopted Lottery Funds Allocation

<table>
<thead>
<tr>
<th>1997-1999 ALLOCATIONS</th>
<th>AMOUNT</th>
<th>PERCENT OF TOTAL LOTTERY REVENUES</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DEDICATED ALLOCATIONS:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>15% of total lottery transfers to Education Endowment Fund</td>
<td>$91,800,000</td>
<td>14.0%</td>
</tr>
<tr>
<td>(The actual percent is slightly less in this case</td>
<td></td>
<td></td>
</tr>
<tr>
<td>because of how the revenue was calculated.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2.5% of video net sales to counties for local economic</td>
<td>$20,800,000</td>
<td>3.2%</td>
</tr>
<tr>
<td>development projects</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Earnings from Sports Action Games to Department of Higher</td>
<td>$4,400,000</td>
<td>0.7%</td>
</tr>
<tr>
<td>Education for inter-collegiate athletics and academic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>scholarships</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>DISCRETIONARY ALLOCATIONS:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Additional Funds Allocation for Education</td>
<td>$451,206,170</td>
<td>68.7%</td>
</tr>
<tr>
<td>Economic/Community Development</td>
<td>$56,029,504</td>
<td>8.5%</td>
</tr>
<tr>
<td>Natural Resources (Includes $1.2 million debt service</td>
<td>$8,354,326</td>
<td>1.3%</td>
</tr>
<tr>
<td>on parks bonds, and $1.8 million to watershed programs.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transportation</td>
<td>$20,160,000</td>
<td>3.1%</td>
</tr>
<tr>
<td>Administration</td>
<td>$4,000,000</td>
<td>0.6%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$646,750,000</td>
<td>100.0%</td>
</tr>
</tbody>
</table>

*Source: Oregon Lottery*

Current Status of Parks System: Oregon has one of the most heavily used state park systems in the nation. While our state ranks 29th among the 50 states in park acreage, it ranks sixth in total park visitors and second in the number of state park visitors per acre. Over 40 million visitors a year come to Oregon State parks, two-thirds of whom are Oregon residents. Oregon ranks second in the nation in the number of annual campsite rentals.

Camping and day usage are increasing statewide. A citizen task force that developed the 2010 Plan in the late 1980s estimated that over $84 million in new
facilities were needed to accomplish the long-term goals of the Plan and to address growing population and changes in Oregon. These estimates may be conservative today, given Oregon’s population growth and increases in the number of park visits.

An estimated $560 million was generated by state park visitor and staff expenditures in 1996 (the most recent year for which statistics are available). The estimate is based on spending by park visitors within 25 miles of the park, plus actual expenditures made by park employees and lodging tax dollars transferred from parks, where they were collected, to cities and counties.

The Search for Stable Funding: OPRD has contended with a lack of adequate funding to maintain and improve Oregon’s state park system for several years. Current revenues are not sufficient to keep state parks open and operating at the level of service that the public demands. In 1980, when Oregon voters approved a constitutional amendment restricting state gas tax revenues to highway construction and maintenance, gas tax dollars had been supporting more than half of the state parks system budget.

As a result of this reduced funding, during the past three biennia OPRD has cut staff, services, supplies, and capital outlay resulting in deterioration of sites. Significant major repairs to park facilities are needed. At least $110 million in deferred maintenance has accumulated due to lack of adequate funding for state parks. Additionally, there is inadequate funding to take care of statutory and stewardship responsibilities on the ocean shores, rivers and scenic waterways and recreational trails. Revenues from park users alone do not cover operating costs.

OPRD presented your Committee with the following description of the evolution of the funding problems for state parks:

- 1980: Parks lost its dedicated gas tax revenue, which had traditionally funded more than half the state parks budget. State general fund support for parks in 1987-89 biennium totaled 24 percent of the agency’s budget.

- 1990: Measure 5 passed and state general fund support fell from $6 million in 1990 to $4 million in 1991 (22 percent of the OPRD budget).

- 1992: A ballot measure to reinstate the gas tax funding failed as did a measure to give OPRD authority to issue bonds. State general fund support dropped to $3 million in 1993 (15 percent of the OPRD budget).

- 1994: Measure 11 passed and intensified the competition for general fund dollars. General fund support for state parks dropped to $2.6 million in 1995 (9 percent of OPRD budget).

- 1995-96: RV license fee revenues fell below expected levels, federal funds continued to decline, flood damage led to revenue loss at campgrounds and day use areas, utility rates soared, and competition from private campgrounds increased.
1996: OPRD considered closing 64 parks. The State Emergency Board allocated $1.8 million to maintain operation of all parks through the end of June 1997.

1997: The legislature allowed OPRD to issue $15 million in lottery-backed bonds to meet urgent repair and replacement needs, and doubled the general fund contribution to $11.1 million (13 percent of OPRD’s budget). Even with this additional funding, OPRD is still dependent on fees from park users and recreational vehicle registrations for more than half of its budget.

OPRD implemented a number of efforts over recent years to solve its financial problems. These efforts included: the transfer of 17 state parks to local governments; increases in camping fees—which are now among the highest in the nation; increases in day-use fees; an aggressive recruitment of more than 11,000 volunteers annually—while OPRD workforce numbers remained relatively flat; and the establishment of the Oregon State Parks Trust to encourage cash and land donations.

Public Input: In 1996, OPRD initiated a campaign to increase public awareness of the need for a stable funding source for state parks. Individuals participating in a series of public meetings expressed support for the following options (ranked from the most popular to the least popular):

- an increase in the bottle deposit (of one or more cents);
- a gas tax increase;
- an increase in vehicle registration fees;
- dedication of a percentage of state lottery revenues;
- an increase in appropriations from the state general fund;
- a statewide hotel/motel tax; and,
- an increase in recreational vehicle registration fees.

During the 1997 legislative session, the governor unsuccessfully pushed an increase in the bottle deposit to generate funding for state parks. After the session, OPRD held a series of public forums throughout the state to identify sources of long-term funding for parks most widely supported by the public. In response to the legislature’s failure to institute a long-term funding source for parks, parks supporters turned to the initiative process. Measure 66 supporters told your Committee that focus groups showed that a dedication of lottery funds had the greatest chance of voter approval. Parks supporters told your Committee they partnered with watershed protection and restoration supporters to broaden the support for the measure.

D. Watershed Enhancement in Oregon

A variety of conditions and circumstances have made watershed conditions the focus of increasing public concern, including loss and degradation of wildlife
habitat, threats to the quality and safety of local drinking water supplies, and flood control. The federal government’s recent listing of a number of fish species as endangered raised the stakes significantly especially for urban and suburban areas in the Willamette Valley. At the same time, environmentalists, business leaders, and policy makers have become aware that the health of our waterways requires addressing watersheds as whole systems, rather than focusing only on specific sites.

Although Measure 66 does not indicate which single agency would administer the water-shed funds, proponents told your Committee that it was their intention that the Governor’s Watershed Enhancement Board (GWEB) would oversee the funds and make grants to local watershed councils to carry out much of the systemic work envisioned under the measure.

The Governor’s Watershed Enhancement Board: The Oregon Legislature created GWEB in 1987 to ensure the "long-term protection of the water resources of this state, including sustainable watershed functions." The legislature was responding to the concerns of a broad-based coalition about emerging drought issues as well as the need to encourage a more comprehensive and coordinated approach to water policy. GWEB’s mandate was to coordinate more effectively the activities of the variety of state and federal agencies and boards involved in water policy issues.

The Governor’s Watershed Advisor chairs GWEB and voting members include representatives of ten state and federal boards, commissions, and agencies. A Technical Advisory Committee and an Education Advisory Committee support GWEB, both made up almost entirely by representatives of public agencies. (See Appendix C for a list of GWEB members.)

GWEB’s early budgets were around $500,000 per biennium and were used for grants for demonstration projects to manage water resources and land, and for the development of education programs. GWEB responsibilities and budget have grown dramatically in recent years. The legislature allocated GWEB $1 million in 1993-95, $2.6 million in 1995-97, and $15 million in 1997-99. The large increase in 1997-99 was tied to the legislature’s decision to give GWEB the responsibility for implementing the Oregon Plan for Salmon and Watersheds. The $15 million allocation was raised through a voluntary tax on timber harvest agreed to by Oregon’s timber industry.

GWEB representatives stated that the Board’s goal is to fund projects that “demonstrate sound principles of watershed management” and that are designed to “appropriately address the cause of the problem for each specific locale.”

In 1991-93 a legislative interim committee looked at the design of a program that would involve citizens in the assessment, improvement, and monitoring of state watersheds. The legislature subsequently passed HB 2215, which created the watershed council program. When first created, the watershed councils were overseen by the state Strategic Water Management Group.
In 1995, the legislature adopted HB 3441, which shifted responsibility for the watershed councils to GWEB. The legislation:

- designated the GWEB chair as the Governor's Natural Resource Policy Advisor;
- allowed GWEB to designate high-priority watersheds;
- allowed for the establishment of local, voluntary watershed councils recognized by local government;
- required GWEB to grant funds for the support of watershed councils in assessing watershed conditions, developing action plans, implementing projects, and monitoring results; and,
- required GWEB to operate a program that relies on the establishment of voluntary local watershed councils comprised of residents, state and federal agency staff, members of federally recognized Indian tribes, and other citizens interested in the management of the watershed. The councils are to develop local plans that may include, but are not limited to, the assessment of watershed condition, the creation of a watershed action plan, and a strategy for implementing the action plan.

Today approximately 85 local watershed councils have been created—50 in western Oregon (25 in Willamette Valley), and the rest in eastern Oregon. At this time, about half of the existing watershed councils have prepared formal watershed assessments. Each watershed council has a technical advisory committee. A watershed assessment is prepared by the technical advisory committee or a hired consultant.

Applications for GWEB grants are reviewed by five interagency teams assigned to different geographic areas of the state. The teams represent different agency interests and include individuals with different areas of expertise: wildlife, fisheries, geomorphology, etc. The interagency teams independently evaluate each grant proposal based on its merits and how well it meets the general goals of the GWEB program. Issues considered generally include: Does the proposal address watershed issues? Are there partnerships between different interests? Does the proposal reach across jurisdictional lines? Is outreach included in the proposal?

GWEB does not have detailed grant approval criteria at this time. No targets or quotas have been established to guide the dispersal of these funds to different parts of the state. Better organized councils generally are more successful in applying for and receiving grants.

GWEB staff reports that watershed councils serve a dual purpose of identifying technical needs and priorities and of informing and educating different interest groups in a watershed area about the relation of the watershed to their own and others' activities and values.
The Oregon Plan: One million coho salmon spawned along the Oregon Coast at the turn of the century. By 1997 this number had dropped to about 24,000. In 1995, the National Marine Fisheries Service proposed listing Oregon's coastal coho and two other stocks as endangered under the federal Endangered Species Act. Governor Kitzhaber responded by initiating the development of a strategy to restore coastal coho salmon runs in an attempt to head off the listing. The governor unveiled the resulting "Oregon Plan" in August 1996. The Plan called on public and private interests to enforce environmental laws, form watershed councils, and give tax incentives to landowners, businesses and developers who protect salmon streams. The 1997 Oregon Legislature gave GWEB the responsibility to administer the Oregon Plan.

In 1997, the Oregon Forest Industries Council agreed to tax its members up to $15 million to help fund the Plan—on the condition that the federal government not list the coho as endangered. A subsequent lawsuit by environmental groups resulted in a ruling that led the federal government to list the coho as endangered in August 1998. Future funding for the Oregon Plan is uncertain. Moreover, whether the timber industry will continue to pay the voluntary tax that supports the plan is also uncertain.

In response to its broadened watershed responsibilities, GWEB is presently creating a state framework for monitoring watershed indicators. Watershed councils would carry out more refined monitoring within this framework. GWEB coordinates other key work with soil and water conservation districts and other public agencies, such as the Oregon Department of Environmental Quality, Oregon Department of Fish and Wildlife, the federal Environmental Protection Agency, and the U.S. Fish and Wildlife Service. GWEB staff predicts that the agency is likely to work closely in the future with land trusts to preserve and protect watershed resources. They report that GWEB will issue annual reports to the public on its watershed monitoring program and watershed protection and enhancement activities.

E. Relevant City Club Positions

The City Club has published a number of reports that establish City Club positions relevant to our consideration of Measure 66. These reports include:

- 1984, Oregon State Measures 4 & 5, (constitutional amendments that established the State Lottery);
- 1988, the Oregon Scenic Waterway System (Oregon State Ballot Measure 7);
- 1994, Portland Measure 26-10: Portland Parks Bond Measure; and

The City Club has not published any reports that specifically examine issues of salmon, wildlife habitat, and watershed protection.
The Oregon Lottery: In 1984, the City Club formally opposed Ballot Measures 4 and 5, which created the Oregon Lottery. The position was based on the conclusion that:

...the public is being deceived about the purposes and results of the proposed Oregon lottery. A lottery will be economically harmful to the state...It will decrease the potential for the state to achieve needed real tax reform...[and] is an inequitable form of taxation and will place the state in the position of exploiting its own citizens.

The City Club has not adopted a new position on the Oregon Lottery since this vote in 1984.

Oregon’s Initiative System: In 1996, the City Club conducted an extensive study of Oregon’s initiative system. As a first priority, the committee recommended that:

• “Initiated amendments to the Oregon Constitution should relate only to the structure, organization and powers of government...and should not be used to dedicate revenue...”

• “Initiated amendments to the Oregon Constitution qualifying for the ballot should first be referred to the Legislative Assembly for deliberative consideration and then submitted to the people at the next general election.”

• “Amendments to the Oregon Constitution, whether initiated by the people or referred by the Legislative Assembly, should require a three-fifths majority for approval.”

Parks: In 1988, City Club adopted a report that supported statutory initiative Oregon State Ballot Measure 7, which increased the Scenic Waterways in Oregon by almost 500 miles. Of particular significance to the evaluation of Measure 66 is the report’s support of turning to the initiative when the legislature fails to respond to statewide concerns:

The established administrative and legislative processes for adding mileage to the Oregon Scenic Waterways Program has not worked effectively to protect many of the state’s key waterways because the position of local representatives has been allowed to override statewide concerns.

City Club has long supported funding for parks in general as an important public amenity vital to maintaining the quality of life in our communities.

In 1994, City Club adopted a report that supported Portland Measure 26-10 acknowledging that “funding for parks must either compete with other essential government services as part of a jurisdiction’s general fund or must compete at the ballot box for voter approval.”
III. ARGUMENTS PRO AND CON

A. Arguments Advanced in Favor of the Measure

- Since 1980 when the gas tax-funding source was lost, the State Park system’s infrastructure has deteriorated significantly. This has resulted in the need for significant upgrade to the parks in order to maintain their role in Oregon’s quality of life.
- Prior attempts to adequately fund the state park system, including allocation from general funds and a container tax, have failed.
- Stable funding would continue the legacy of special places, recreational facilities and opportunities for future generations.
- Increasing private development is eroding public beach access.
- No new campground has been added in 28 years. No significant new asset has been added to the Oregon State parks system in 30 years. Passage of stable funding over a period of several years will allow the state to purchase more areas and access routes.
- Dedication of lottery revenues is the most politically viable way to secure, stable funding for parks and watershed programs.
- Over 30,000 miles of Oregon’s rivers and streams are listed as polluted. The Willamette River has been listed as one of the five most toxic rivers in America. Twenty-five years after enactment of the Clean Water Act, more than half the streams surveyed in Oregon do not meet federal standards.
- Fish and wildlife are disappearing from Oregon—over 113 species native to Oregon have been listed as threatened or at risk. Salmon has virtually disappeared from the Willamette Valley, and wild steelhead populations in the lower Columbia have declined by 90 percent.

B. Arguments Advanced Against the Measure

- A constitutional amendment is not an appropriate avenue to fund operations of governmental agencies.
- Measure 66 allots dedicated resources without rigorous prioritization against other state needs through the legislative process.
- Measure 66 will take funding away from both education and economic development, with a particular impact in rural and Eastern Oregon.
- Voluntary efforts to improve state watershed management such as the timber industry self-tax contributions, and other efforts may be negatively affected by passage of Measure 66.
- Measure 66 is a divisive issue pitting counties with small populations and agricultural interests east of the Cascades against those in the I-5 corridor.
CITY CLUB OF PORTLAND

- The provisions of Measure 66 related to the administration of the fish and wildlife habitat enhancement are vaguely written raising concerns about the potential for inappropriate or ineffective use of funds.

- Adding popular programs like parks and fish enhancement to the lottery creates another constituency to work for increases in gambling revenues; this just causes more gambling addiction.

- Measure 66 is unnecessary for salmon restoration efforts because the state is committed to a funding plan at current levels ($30 million next biennium).

- If there is an economic downturn, the legislature would not have the flexibility to shift the funds dedicated by Measure 66 to other higher priorities.

IV. DISCUSSION: CRITICAL QUESTIONS AND ISSUES

All the individuals interviewed by your Committee agreed on one point—Oregon State Parks and fish and wildlife habitat in our state are significant and irreplaceable assets in terms of quality of life and economic value, and are in need of significant protection and enhancement. The primary question your Committee chose to address is whether Measure 66 is the right mechanism to meet these needs.

Your Committee initially was able to identify only a few individuals or groups who were willing to publicly state their opposition of Measure 66. As our interviews and research progressed, public awareness of Measure 66 increased and opposition began to crystallize. Some organizations that could be adversely affected by Measure 66's redistribution formula had not taken official positions by the time your Committee finished its work.

One exception was the Association of Oregon Counties (AOC) whose board opposes Measure 66. While AOC supports the general intent and purposes of the measure, counties were concerned that dedicating 15 percent of lottery revenues to parks and watersheds would interfere with the ability of local governments to access lottery funds for more important projects such as mandated and expensive water and sewer system projects, which are directly tied to local economic development opportunities.

An eastern Oregon legislator told the Committee that some people in Central and Eastern Oregon believe that Measure 66 will take away money from that "side" of the state. Additionally, individuals raised concerns that Measure 66 would take money away from public education funding in the state, at a time when new state standards are placing greater burdens on school districts.

The governor and interest groups that had previously opposed the Oregon Lottery voiced ongoing concerns about expanding the ranks of constituent and interest groups dependent on lottery revenue. Lottery opponents stated
concerns that as more constituent groups gain access to lottery revenues, pressure will mount to expand state lottery revenues, especially through the addition of video "line games"—already available in Native American casinos in Oregon, which have been proposed to prevent a decline in lottery revenues. A recent Oregon state revenue forecast showed that growth in lottery revenues is tapering off, lending some weight to this argument. Lottery representatives explained that video poker machines have been installed in most of the businesses interested in having them. Lottery revenues continue to increase but at around 2 to 4 percent rather than the earlier 15 percent per year.

Based on the information, research and testimony your Committee received in our evaluation of Measure 66, we believe that the following areas are critical in our consideration of Measure 66. Those three areas are:

- the use of the initiative to amend the state constitution and to dedicate a portion of the state budget,
- the use of lottery revenues,
- the absence of clarity on how the watershed money would be administered and managed.

A. Use of the Initiative Process

The City Club's 1996 *Initiative and Referendum in Oregon* report set the City Club's standards for the appropriate use of the initiative process. Specifically, the report recommends that initiated amendments to the Oregon Constitution should:

- relate only to the structure, organization, and powers of government, and the rights of the people with respect to their government;
- not be used to dedicate revenue or to make or repeal appropriations, or to require state expenditures above a limited amount; and
- be referred to the legislature to ensure that they receive deliberative consideration.

Measure 66 is inconsistent with all three City Club adopted recommendations. It seeks to amend the state constitution, but does not relate to the structure, organization, and powers of government, dedicates approximately one percent of the state's available non-dedicated annual revenues, and was not considered and drafted via a broad, deliberative legislative process.

The specific use of a state constitutional amendment as the funding mechanism in Measure 66 was not a direct focus of witnesses appearing before your Committee. Their testimony was mainly concerned with the state park system, watershed protection, salmon and wildlife habitat, and the lack of a solution to their funding concerns. However, some opponents of the measure did express concern about bypassing the legislative process by the use of citizen initiative and referendum.

In an informal discussion with proponents of Measure 66, two members of a
committee of eight former Oregon law school deans stated that Measure 66 does not appear to violate either the Oregon Constitution or the U.S. Constitution. The full Committee of Former Deans, however, did not take a formal position on this measure.

Measure 66 supporters argued that the legislature has had numerous opportunities over many years to evaluate and discuss proposed mechanisms for long-term stable funding for the state parks system—and has failed to act. While the City Club has supported using the initiative process in cases where the legislature fails to act (1988 Measure 7: Oregon Scenic Waterways), it is an important distinction that Measure 7 was a statutory measure and did not amend the state constitution.

Measure 66 supporters point out that a redirection of lottery revenues cannot be accomplished through statute, but must be effected through a constitutional amendment. Other witnesses countered this argument by stating that it would have been more appropriate for the legislature to have considered this proposal and referred it to the voters rather than having it developed and initiated by citizens outside the deliberative legislative process. Such was the case in 1995 when voters approved the only prior expansion of the use of lottery revenue (for education purposes).

Finally, Governor John Kitzhaber wrote to your Committee that passage of Measure 66 would create “an unfunded mandate that commits state resources without addressing the tradeoffs that will be necessary within the overall General Fund budget.” It is clear that Measure 66 would lock up a guaranteed percentage of state lottery funds, and would further limit the legislature’s ability to establish spending priorities relative to the state’s needs.

Measure 66 proponents told us that, in effect, they could not get the legislature to commit to a stable and adequate funding without embedding this funding in the state constitution. They also emphasized that Measure 66 would sunset in 2014, and voters would have an opportunity to reinstate its provisions—unlike many other ballot measures that have amended the constitution without any provisions for future review and possible removal.

B. Use of Lottery Funds

The City Club opposed the creation of the Oregon Lottery in 1984. Measure 66 opponents echo many of the concerns raised by the City Club at that time. Groups concerned about the effects of gambling in Oregon and the increasing dependence of state government on gambling revenues oppose Measure 66 because it expands the number and types of organizations dependent on lottery revenues for operating funds. Some witnesses expressed concern about the growing reliance on gambling revenues to fund the operation of critical state programs, including education and the broad array of programs across the state that the legislature has funded as “economic development.” Measure 66 would expand the ranks of potential opponents to any efforts to limit or reduce gambling in Oregon.
Governor Kitzhaber wrote your Committee that while he supports the goals of Measure 66, he believes that “new commitments for lottery funding should be made for one-time capital expenditures, rather than ongoing government programs.” He noted that “while a substantial percentage of lottery funds for parks and salmon would be used for capital expenditures, some of it would be used to fund state government programs related to natural resources.” He chided legislators for their inaction and said that “this initiative would not be on the ballot this year” if the legislature had approved a long-term, dedicated source of funds for parks and salmon during the 1997 legislative session.

The proponents admitted to the Committee that they have some discomfort with using the Oregon Lottery as the funding source, but stated that citizen input and market research indicated that it is the only long-term funding mechanism that voters are likely to support as a ballot measure.

The proponents stated that taking a percentage of lottery funding for new purposes would not necessarily affect education or economic development. This reasoning strikes your Committee as disingenuous. Though the Oregon Lottery’s 1997-99 $540 million contribution to public education is significantly larger than the $92 million Measure 66 would direct to parks and watersheds, the legislature would need to redirect these new designated funds from other programs and projects, including public education, that are currently receiving lottery funds. Measure 66 supporters respond that public education has a much vaster and better-organized constituency that can more successfully push for general fund support to replace any reduction in lottery revenue, than state parks or watersheds. This is not the case for many of the other local economic development projects funding by the lottery as well as other critical programs that do not receive dedicated state funding.

Your Committee is also concerned with the potential for adverse effects of an economic downturn. Recent comments regarding the state’s economic forecasts indicate a slowing of the robust growth we have experienced over the past several years. In economic slowdowns or recessions, lottery revenues often show increases while the state general fund decreases. Your Committee notes that under the provisions of Measure 66, the legislature would be required to make the full 15-percent allocation to parks and watersheds and would have no authority to divert lottery funds to other areas—even if other needs were deemed more critical to the people of the state.

Finally, your Committee must acknowledge that it was not able to determine how passage of Measure 66 would influence current and future legislative efforts to fund restoration efforts. One legislator testified that the legislature is committed to continuing funding at the level of $30 million next biennium, for similar if not identical efforts currently managed under the Oregon Plan. This assertion appears in direct contrast with the proponents’ view that there is no agreement to designate significant funds to watershed management and restoration efforts. We note that Measure 66 might serve simply to replace the use of general fund and the dedicated timber tax revenues during the next
biennium. The transfer of voluntary restoration efforts, funded by the timber industry, among others, to lottery revenues, might be a net loss to taxpayers in the state. (Notwithstanding the listing of the salmon species under the Threatened and Endangered Species Act, the Oregon Forest Industry Council has indicated that it would consider reinstating the special tax for the current biennium, if the legislature held a special session.)

The Management of Watershed Funds

Implicit in this measure is the recognition of ongoing needs in the state to remediate watershed degradation and to avoid future listing with either the Clean Water Act or the Endangered Species Act for native salmon populations. Long-term financing of watershed restoration is viewed by the proponents as a hedge against future problems. Your Committee is concerned that Measure 66 creates a funding stream to address a series of problems facing the state around watershed and salmon restoration issues, without considering the current status of federal overlays and other competing natural resource needs.

Additionally, we have concerns regarding how watershed funds would be managed and passed through to local existing watershed councils and other entities involved in fish and watershed restoration issues. While local decision-making regarding remediation efforts was seen by proponents as a positive element of the plan, your Committee regards the lack of specificity as a point of major concern. There is a notable lack of information regarding the accountability and effectiveness of the watershed councils from an overall strategic sense. If, as proponents wish, local bodies will apply for and use the funds for capital and technical assistance, what mechanisms will be put in place to determine and prioritize needs on a statewide basis? The Oregon Plan 1998 Annual Report notes that “some [local] councils lack broad-based support by stakeholder groups” and that “Some sites chosen for restoration have been prioritized based on landowner willingness rather than ecological need.” It is not clear whether local councils have the expertise to do the strategic planning and have developed the overarching awareness of priorities to maximize effectiveness.

Your Committee is aware of growing public demands for measurable results for costly ongoing efforts at remediation. Millions of dollars have been spent by government and private sources to restore wild salmon diminishing runs without satisfactory results.

The legislature has already committed to find the necessary funding for the next biennium to continue all efforts associated with the Oregon Plan. It remains to be seen whether passage of Measure 66 would add to or substitute for anticipated funding of $15 million annual contribution already promised. Your Committee emphasizes that all experienced observers and active participants agree that Measure 66 gives the legislature the freedom to develop whatever implementation strategy it chooses, as long as it meets the general goals and requirements set out in the measure. The legislature is not bound to follow the implementation approach suggested by measure proponents.
While Measure 66 sets out general goals for the use of both the parks and watershed funds, it does not specify which agencies would administer these funds. Statutes implementing new provisions under Measure 66 would allow the legislature to determine actual budget and expenditure authority of the new funding sources under the broad language in the constitutional amendment. According to information received from the Legislative Revenue Office “[T]he Legislature has great leeway in responding to Measure 66’s diversion of lottery funds.”

A final issue is the unanswered question of the single agency that will be responsible for the administration of the watershed portion of Measure 66. Proponents propose that GWEB would be the single agency. Your Committee points out that the legislature could technically select any agency it chooses or create a new agency to implement the measure. There has been discussion among some environmentalists favoring the creation of a new state agency to take over GWEB’s responsibilities. Creation of a new agency could be justified by the significant expansion of GWEB’s responsibilities and the dramatic increase in funding should Measure 66 pass. We are concerned that the creation of a new agency would divert funds away from local watershed projects.

V. MAJORITY CONCLUSIONS

Witnesses were unanimously concerned about accessing adequate and ongoing funding mechanisms to address the problems of the state park system. Everyone on your Committee accepted that concern as legitimate and worthy of attention. However, the majority of the Committee is uncomfortable with Measure 66 as the means to solve this problem.

The legislature has already committed to finding the necessary funding for the next biennium to continue all efforts associated with the Oregon Plan. It remains to be seen whether passage of Measure 66 would add to or substitute for the anticipated $15 million in funding from the voluntary timber industry tax. The Committee emphasizes that all experienced observers agree that the legislature can reorganize the way the funding is delivered and to whom, despite any expectations by measure proponents.

Voters cannot be assured that funds would be put to best use. If, as proponents state, local bodies would apply for and use the funds for capital and technical assistance, what mechanisms would be put in place to determine and prioritize needs on a statewide basis? It is not clear under the language where oversight authority would reside beyond statutory requirements for biennial independent audits. Additional concerns are raised in the Oregon Plan 1998 Annual Report, which notes that “some [local] councils lack broad-based support by stakeholder groups” and that “[s]ome sites chosen for restoration have been prioritized based on landowner willingness rather than ecological need.”
There was no cohesive plan put forth by proponents regarding planning for the accountability and effectiveness of efforts, especially in light of the recent federal listing of coastal coho. It is not clear whether local councils have the expertise to do the strategic planning and have developed the overarching awareness of priorities to maximize effectiveness. Your Committee is aware of growing public demands for measurable results for costly ongoing efforts at remediation. Millions of dollars have been spent by government and private sources to restore wild salmon diminishing runs without satisfactory results.

The City Club has taken the position that constitutional amendments should “related only to the structure, powers and limitations of government and the rights of the people with respect to their government.” The City Club has also taken the position that initiated measures that require significant new spending should provide new revenues to supply the necessary funds. The majority notes that Measure 66 fails to meet either of these criteria.

And finally, the City Club has taken the position that “the initiative process should be integrated with the legislative process to allow consideration and study...before constitutional amendments...proceed to the general election ballot.” The majority notes that Measure 66 fails to meet this criterion, as well.

VI. MAJORITY RECOMMENDATION

Five of seven members of the Research Committee recommend a NO vote on Measure 66.

Respectfully submitted,

Jayme Armstrong
Dr. David August
Kathryn Root
Glyn Thomas
Jeanette Fruen, chair

VII. MINORITY CONCLUSION

Oregon’s state parks and watersheds are critical assets that need a source of stable funding now and into the future. The state park system has been
languishing since 1980 when voters removed the system’s gas tax money. The urgency of restoring the health of our watersheds increased dramatically with the federal government’s listing of various fish species as endangered—an action that could have severe negative consequences both for rural and urban areas of the state. The legislature has repeatedly failed to provide stable funding for state parks and could do the same with regard to watershed programs. Measure 66 ensures that these programs will be funded—at least until voters revisit the measure in 2014.

The majority expresses concern about amending the state constitution to dedicate funding to parks and watersheds and about bypassing the deliberative legislative process. The only way to dedicate lottery revenue is through a constitutional amendment because directions for the use of lottery revenues are already embodied in the state constitution. The legislature has had repeated opportunities to engage in a deliberative process and to establish long-term, stable funding for parks—and has failed to do so.

The use of lottery profits for funding government operations raises significant social and moral issues. Oregon voters, however, have approved the Oregon Lottery and play lottery games in large numbers. They are unlikely to abolish the lottery any time soon. While, the City Club adopted a position against the creation of the Oregon Lottery in 1984, the City Club has not formally reviewed the impacts of the lottery since that time. The 1984 position does not reflect that lottery revenues have been used successfully for years to fund both state and local capital expenditures and programs. Measure 66 is not the appropriate vehicle to debate the broader issue of the ethics of funding government activities with the Oregon Lottery.

The majority raises a valid concern about how well local watershed councils represent a balance of interests, and how able these groups will be to effectively carry out elements the state’s watershed program. The measure also leaves unclear how the provisions of salmon and watershed enhancement programs would be managed. However, 85 watershed councils are already up and running and half have already completed watershed assessment. GWEB is already taking the lead in working with a broad range of local, state and federal agencies and private groups to manage the implementation of the Oregon Plan and to meet the state’s watershed goals. Measure 66 does not put detailed management direction in the state constitution, where it does not belong. It sets out overall goals that the state legislature must meet, and leaves the legislature to craft the management and implementation elements in statute, where they should be.

This ballot measure deserves passage based on the strong and urgent need to provide long-term, stable funding for state parks and assessment and protection of Oregon’s watersheds. City Club members and Oregon voters should not turn their backs on state parks and watersheds for the sake of tangential issues.
VIII. MINORITY RECOMMENDATION

The Minority of your Committee recommends a YES vote on Measure 66.

Respectfully submitted,

Roger F. Smith
Jane Hardy Cease

Rhidian Morgan, research advisor (for the majority and minority)
Paul Leistner, research director (for the majority and minority)

ACKNOWLEDGEMENTS

The City Club acknowledges the cooperative and collaborative work of the Measure 66 Research Committee, the Club staff and research advisors, and the many witnesses who participated in this study.

XI. APPENDICES

APPENDIX A: WITNESS LIST

Ken Bierly, program manager, GWEB

Brian Booth, chair, Oregon Parks and Recreation Commission

Robert C. (Bob) Cannon, attorney, treasurer, The Former Dean's Committee

Michael W. Dewey, lobbyist, Oregon Wheat Growers League

Ted Ferrioli, Oregon state senator, co-chair, Oregon Senate Salmon and Stream Enhancement Committee

Caroline Fitchett, campaign manager, The Friends of Parks & Salmon (YES ON 66)

David Hooper, public affairs manager, Oregon Lottery

Liz Kaufman, executive director, The Oregon Education Coalition

John Ledger, Associated Oregon Industries

Judge Mike McArther, Sherman County Board of Commissioners, representing
the Association of Oregon Counties

Michael H. McCracken, executive director, Council on Mental Health
Robert L. Meinen, director, Oregon Parks and Recreation Department
Geoff Pampush, executive director, Oregon Trout
L.L. "Stub" Stewart, former vice-chair, Oregon State Parks Commission

APPENDIX B: RESOURCE MATERIALS

City Club of Portland:

- The Initiative and Referendum in Oregon, Vol. 77, No. 36, March 1, 1996.

Other materials:

Booth, Brian. “Will we let our parks wither?” Oregonian, July 30, 1996.


Oregon Lottery. Oregon Lottery Overview.


Editorial, “Schools, parks and fish: Measure 66 sets up a conflict with schools only if that’s how the Legislature frames the budget discussion,” Oregonian, July 19, 1998.
APPENDIX C: GOVERNOR'S WATERSHED ENHANCEMENT BOARD MEMBERS

GWEB Chair:
Governor's Watershed Advisor

Voting (a representative from):
Environmental Quality Commission
Board of Forestry
Water Resources Commission
Soil & Water Conservation Commission
Fish & Wildlife Commission

Non-Voting:
USDI Bureau of Land Management
Department of Agriculture
OSU Cooperative Extension Service
Natural Resource Conservation Service
USDA Forest Service

Technical Advisory Committee:
Department of Environmental Quality
USDA Forest Service
OSU Cooperative Extension Service
Department of Agriculture
Department of Forestry
USDI Corps of Engineers
Water Resources Department
Department of Fish and Wildlife
USDI Bureau of Land Management
Division of State Lands
USDI Bureau of Reclamation
Department of Transportation
Natural Resources Conservation Service

Education Advisory Committee:
Natural Resources Conservation Service
APPENDIX D: GOVERNOR KITZHABER'S WRITTEN STATEMENT TO THE COMMITTEE

The following statement was sent via email to your Committee from the Governor's office:

Governor Kitzhaber's statement on Parks and Salmon Funding for the Portland City Club program who are addressing the issue of Parks and Salmon Funding and Measure 66.

The Governor supports the goals of Ballot Measure 66 to provide for a long-term dedicated source of funding for parks and salmon and watershed protection. He supports a fully funded state parks system that provides a quality recreational experience for all Oregonians. He supports full funding for the Oregon Plan for Salmon and Watersheds, Oregon's plan to recover salmon, steelhead and trout and improve water quality throughout the state. However, he does not support BM 66 for two reasons:

- It is an unfunded mandate that commits state resources without addressing the trade-offs that will be necessary within the overall General Fund budget.

- The Governor believes new commitments for lottery funding should be made for one-time capital expenditures, rather than ongoing government programs.
While a substantial percentage of lottery funds for parks and salmon would be used for capital expenditures, some of it would be used to fund state government programs related to natural resources. During the 1995-97 session the Governor proposed a 3 cent beverage container tax to fund parks and salmon recovery over the long-term. He has also indicated a willingness to look at alternative funding sources. Had the legislature approved a long-term dedicated source of funding for parks and salmon, this initiative would not be on the ballot this year.