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Sen. Lisa Brown
307 Legislative Building
PO Box 40403
Olympia, WA 98504-0403

Dear Senator Brown:

During your March 22 media advisory, several members of the Capitol Press Corps asked you questions about how the Legislature has conducted itself this session and whether you believe it has done so in a transparent matter. Since the purpose of the letter directly relates to those questions I am providing a copy to those reporters.

Your initial answer said that I was wrong for indicating there was a problem. However, your subsequent answers implied that you were unaware of the problems that I've highlighted throughout the session.

Since the duties of being Senate Majority Leader may take you away from the details of what is occurring in committees day-to-day it is plausible that these transparency transgressions were not brought to your attention.

Along with the routine waiving of Senate Rule 45's five-day public notice requirement, below are a few examples from this session that we believe illustrate the need for reforms to help put the public back into the legislative process.

Senate Bill 6853

This bill was introduced as title only on February 9. On the same day it was subject to a public hearing in the Senate Ways and Means Committee and was also adopted by the Committee – although it was a title only bill.

It wasn't until the bill had already been passed to the Rules Committee for second reading that a striker amendment was made available on the Legislature's website.

In fact, it was not until a work session on March 17 that the text of a striker amendment was made available in a public meeting. Even then, that striker was different than the one posted online while the bill sat in the Rules Committee.

The details on how the March 17 work session was publicly announced are also troubling. The first notice of the meeting occurred at 11:42 a.m. on March 16. At that time, however, the agenda for the March 17 meeting was blank. It was not until 7:28 p.m. the night before that details on the March 17 public hearing were available.

SB 6889

This bill was not officially introduced until March 18. However, it was heard by the Senate Ways and Means Committee in a public hearing on March 17.

Despite that fact that numerous government lobbyists were prepared to testify on the details of the proposal on March 17, details on the bill were not available to the public until the meeting started. The bill was later adopted by the Senate Ways and Means Committee on March 19 at a hearing that was not adequately announced to the public (details to be discussed).

After passage by the full Senate on March 20, the rules were suspended in the House and it was immediately placed on the second reading calendar. The House adopted the bill on March 22.

This means that outside of those government lobbyists that somehow knew what the details of the bill were to testify on March 17 prior to its introduction on March 18, the public was not provided the opportunity to testify.

As previously noted, the details on the agenda for that March 17 public hearing were not available until 7:28 p.m. the night before.

SB 6250

On March 4 the Senate Ways and Means Committee announced it would hold a public hearing on the same day to consider a substitute bill to create a state income tax.

Not only was the public provided less than five hours notice of this hearing, no details on the substitute bill were available prior to the hearing starting except for a blog post that you did.

Contrasting this behavior with the transparency requirements placed on local government, Tim Ford, Open Government Ombudsman for the Attorney General noted: "It would be illegal for a local government to provide less than 24 hours notice of a special meeting."

March 19 Ways and Means Hearing

Though there are more examples I could highlight the final one I'll draw to your attention was the public notification for the March 19 Senate Ways and Means Hearing.

Around 6 p.m. on March 18 a notice went out that there would be a Senate Ways and Means hearing on March 19. Despite this short notice the real problem was that when it came to the time of the hearing and the location, the notice merely said TBA.

It wasn't until the early afternoon of March 19 that the location of the hearing was announced as the Senate Rules room but the time of the meeting was never announced except for a brief statement on the floor of the Senate.

Also troubling is the fact that the Senate Rules room is not covered by TVW, meaning only those who managed to learn when the meeting started and attended in person were able to witness the debate on the bills adopted.

This is despite the fact that an agenda on the Electronic Bill Book (though incorrect on the time and location of the meeting) claimed in bold letters across the top that the meeting would be "Broadcast LIVE on TVW."

These are some of the examples of the transparency problems that I've been highlighting this session and are likely the basis for the questions you were asked at your March 22 media advisory.

While this may be what passes as normal and transparent for lawmakers, it is not what passes as transparency for the public. Although members may have been in the loop, the public has not been.

This is why we have drafted model language for a constitutional amendment to help put the public back into the legislative process (attached).

The Washington Policy Center and I look forward to assisting you with implementing reforms to help make the 2011 Session the most transparent ever.

Sincerely,



Jason Mercier
Director, Center for Government Reform at Washington Policy Center

cc: Capitol Press Corps
Dann Mead Smith, Washington Policy Center President



BE IT RESOLVED, BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF WASHINGTON, IN LEGISLATIVE SESSION ASSEMBLED:

THAT, Transparency and public disclosure in the legislative process is vital to a representative democracy. THAT, At the next general election to be held in this state the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, a new section amending Article 2, an amendment to Article 2, section 19, and an amendment to Article 2, section 22 of the Constitution of the state of Washington to read as follows:

Article II, new section. No bill shall be eligible for a public hearing until 72 hours after introduction. No bill shall be eligible for legislative action of any kind unless it has first been subject to a public hearing in the same session of consideration. No bill shall be eligible for legislative action on the floor of either house until 72 hours after it has been placed on the floor calendar. This section may be suspended with two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house.

Article II, section 19. No bill shall embrace more than one subject, and that shall be expressed in the title. No bill shall be eligible for public hearing or legislative consideration of any kind unless the bill shall lay forth in full the changes to any act or sections of law. Title only bills shall be prohibited.

Article II, section 22. No bill shall be eligible for final passage in either house unless copies of the bill in the form to be passed shall have been made available to the members of that house and the public for at least twenty-four hours, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house. No bill shall become a law unless on its final passage the vote be taken by yeas and nays, the names of the members voting for and against the same be entered on the journal of each house, and a majority of the members elected to each house be recorded thereon as voting in its favor.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this constitutional amendment to be published at least four times during the four weeks next preceding the election in every legal newspaper in the state.