

Ethics commission to pursue Kitzhaber for 10 violations

By **PARIS ACHEN**
Capital Bureau

SALEM — The Oregon Government Ethics Commission has found that former Gov. John Kitzhaber violated state ethics law 10 times.

The commission unanimously voted to pursue 10 out of 11 alleged violations by the former governor who resigned in February 2015 amid an influence-peddling scandal.

"In 26 years of elected office, he had all kinds of experience in facing these issues," Commissioner Charles Starr said Friday. "It's just unfortunate that he has come to this. I am convinced he is an honorable man, and he didn't purpose to do this, but the outcome was quite obvious."

Before the vote, Kitzhaber addressed the commission and apologized to his family, friends, former employees and the people of Oregon for his missteps, but he vigorously denied that he ever intentionally used his office to profit himself or first lady Cylvia Hayes's environmental consulting business.

"I have withstood the scrutiny of eight elections and 26 years in public office and this is the first time that my integrity has ever been questioned," Kitzhaber said. "To arrive at the conclusion that somehow,



Former Gov. John Kitzhaber testified Friday before the Oregon Government Ethics Commission.

at the end of my long career in public service I would suddenly stumble on a streak of corruption, is simply untrue and there is no evidence to support it. I have certainly made my share of mistakes, but using my office for the purpose of obtaining financial gain or avoiding financial detriment is not one of them."

The preliminary findings of violation were based on a report by state ethics investigators and prompted a period during which Kitzhaber may appeal the findings to an administrative law judge.

He faces up to \$50,000 in fines for the violations. The commission won't issue fines until an appeals process is

completed and they vote on a final order of violations. Until that point, negotiations for a settlement agreement can continue.

The commission Friday dismissed one proposed violation of misuse of office related to using a staffer to pet sit for the first couple when they left for personal trips. Kitzhaber said he had known the staffer for 15 years and that she had volunteered to care for the pets without pay.

Kitzhaber violated law prohibiting use of his office for personal financial gain when he took actions that benefited his fiancée's environmental consulting firm, 3E Strategies, investigators wrote in

the 135-page report released Wednesday.

The former governor included Hayes's income from the firm in his household income in 2011-13 on statements of economic interest, investigators said.

He also failed to publicly disclose his potential conflicts of interest and actual conflicts in several instances, as required by state law, they said.

Kitzhaber was "personally responsible to ensure that he did not engage in any policy decisions, discussions, speeches, meetings, directives to staff or official actions that would further the financial interest of 3E Strategies," investigators wrote.

However, Kitzhaber attended meetings for which Hayes was either being paid or was seeking contracts with environmental advocacy groups and promoted and advanced her business, they wrote. For instance, he gave a speech in May 2013 at a planning retreat at the governor's residence, Mahonia Hall, to discuss transitioning Oregon to a different economic measurement formula that factors in environmental health. Hayes was being paid by public policy organization Demos for facilitating the meeting. Kitzhaber asked that Hayes

be included in correspondence, meetings and policymaking on environmental matters for which she was seeking funding and being paid.

For example, he gave her access to the closed-door Pacific Coast Collaborative Leaders Forum in Vancouver, British Columbia, in March 2012, while she was being paid a \$118,000 fellowship with the Clean Economy Development Center.

"I believe Gov. Kitzhaber was not thinking, 'Hmm, how can I get money?' ... I don't think he was thinking, 'Hmm, how can I get Cylvia Hayes money,'" Commissioner Richard Burke said.

But under state law, it's irrelevant whether the violations took place on purpose or by accident, Burke said.

Kitzhaber and Hayes also used staff resources to book personal travel and help Hayes with her business activities, according to the report. Finally, Kitzhaber violated a state prohibition on public officials accepting gifts worth \$50 or more apiece when he accepted Premier Platinum status from United Airlines, which was valued at more than \$4,000, the report showed.

Kitzhaber testified Friday that he was unaware he had received platinum status from the airline.

He resigned under pressure by state lawmakers Feb. 18, 2015, a little more than a month into his fourth term as governor, as federal and state investigations into his conduct intensified.

In November, the commission rejected the proposed agreement with Kitzhaber that would have required him to pay \$1,000 to settle the case. At that time, Kitzhaber admitted he violated state ethics laws on four occasions and said he did so unintentionally. He said he did not disclose a conflict of interest related to Hayes' paid consulting contracts based on the advice of his attorney at the time.

News of the proposed settlement earlier that month spawned criticism that the penalty was too lenient on Kitzhaber's lack of accountability during his role as the state's highest elected official.

Friday's decision will send a message to public officials, and they will take more care, Burke said.

The commission in January found that Hayes violated state ethics laws 22 times while she served as first lady. The commission has yet to issue a final order and assess fines in her case.

The Capital Bureau is a collaboration between EO Media Group and Pamplin Media Group.

Legislators wary of optimistic revenue forecast

By **CLAIRE WITHYCOMBE**
Capital Bureau

SALEM — Oregon is expected to have about \$99 million more in general and lottery fund resources than state economists projected a few months ago.

The state's quarterly revenue forecast, presented to lawmakers Friday morning, is a key development of the short February session.

Lawmakers are working to ensure the state's two-year budget is on track and to deal with the implications of recent sweeping changes to the federal tax code.

The net increase of about \$99 million in available money is due to higher than expected beginning fund balances, personal income tax collections and lottery revenues. However, corporate tax collections are projected to be lower than expected in late November, when the last quarterly forecast was released.

State economists are still trying to pin down the impact of the federal tax reforms passed in late December.

In response to the federal Tax Cuts and Jobs Act, some state lawmakers are pressing on with efforts to change Oregon's tax code to mitigate the

projected negative revenue effects. A bill passed on Tuesday by the state Senate would allow Oregon to tax overseas profits that companies are expected to bring back to the U.S. through a provision in the tax bill called repatriation. It has been referred to the House Revenue Committee for consideration.

Gov. Kate Brown said that the forecast was "good news" for the state, but warned that the state needed to demonstrate fiscal discipline and was critical of a second tax bill before the Legislature.

The bill would change how certain types of businesses are taxed. It was sent back to the Senate Finance and Revenue committee by state Senate President Peter Courtney, D-Salem, on Thursday.

Senate Republican Leader Jackie Winters said the forecast was evidence that it isn't necessary for lawmakers to pass new revenue measures in the short session. "This revenue forecast shows that Oregon's economy continues to prosper, eliminating the need for any new revenue package during this 35-day short session," Winters said. "Providing tax relief for small business and taxpaying Oregonians, while growing Oregon's economy, is our priority."

Malpractice suit over surgery settled

By **DERRICK DePLEDGE**
The Daily Astorian

A medical malpractice lawsuit by a Cowlitz County, Washington, woman against Columbia Memorial Hospital over a vaginal mesh surgery in 2015 has been settled.

Grace Mitchell had sought \$558,000 in medical expenses and damages for incapacity, pain and other trauma against the hospital and Dr. David Leibel. A trial had been scheduled for March.

The terms of the settlement were not publicly disclosed.

"I'm only able to tell you that it's resolved in a satisfactory manner," said Matthew Andersen, a Longview attorney who represented Mitchell.

In an email, Felicia Struve, a hospital spokeswoman, said "as part of the settlement agreement, CMH is not in a position to talk about this. However, CMH is committed to providing compassionate and quality medical care here in our community."

Eagle Creek Fire teen gets probation, pledges to learn from his mistake

By **MAXINE BERNSTEIN**
The Oregonian

HOOD RIVER — The Vancouver, Washington, teenager sat Friday in a cavernous courtroom between his lawyers, watched and listened as a parade of people harmed by the furious wildfire he started in the Columbia River Gorge last summer talked of their fear and loss.

Some spoke of being trapped overnight on the Eagle Creek trail, another told of suffering devastating financial setbacks to a small Cascades Locks tribal fishing business and a woman described how the fast-moving fire destroyed all her family's possessions when their home burned to the ground.

Then it was the 15-year-old boy's turn.

Referred to only by his initials, A.B., the dark-haired teen stood, holding a white sheet of paper in his shaking hand, and read from a typed, three-paragraph statement. His parents sat behind him, listening to a court-certified Russian interpreter on headphones.

"Every time I heard people talk about the fire, I put myself down. I know I will have to live with my bad decision for the rest of my life, but I have learned from this experience and will work hard to help rebuild the community in any way that I can," he said, his voice steady.

"I now realize how important it is to think before acting because my actions can have serious consequences. ... I apologize with all my heart to everyone in the gorge."

It will be the first of many apologies the teen will write. Hood River County Cir-



Tristan Fortsch/KATU-TV

The Eagle Creek Fire raged in September.

cuit Judge John A. Olson sentenced him to five years of probation and 1,920 hours of community service with the U.S. Forest Service after he admitted guilt to 12 misdemeanors for sparking the 49,000-acre Eagle Creek Fire with fireworks in September.

Among the conditions of his probation: a 6 p.m.-to-6 a.m. curfew unless he's accompanied by someone over 21, apology letters to the 152 people trapped on the trail because of the spreading flames, the city of Cascade Locks, the U.S. Forest Service, Oregon State Parks, the Oregon Department of Transportation, the Confederated Tribes of the Umatilla Reservation and many others.

He can't have fireworks or explosives and must undergo a psychological fire-setter evaluation and attend counseling. He also must have no social contact with other youths, except as necessary and approved by a juvenile officer.

In a negotiated plea agreement, he admitted to eight counts of reckless burning of public and private property, two counts of depositing burning material on forest land, one count of second-degree mischief and one count of recklessly endangering hikers on the Eagle Creek trail.

Because juveniles don't technically enter pleas, the teen said, "I admit" to the allegations when asked by the judge if he accepted responsibility.

The judge said the community service hours — the maximum 160 hours allowed for each misdemeanor count — is to help him "develop the love and respect for nature that you lacked last September."

Olson said the boy must be held accountable for monumental destruction to "a national treasure scarred for a generation."

The fire began about 4 p.m. on the Saturday of the Labor Day holiday week-

end. Witnesses reported seeing the teen throwing fireworks into the Eagle Creek Canyon. It was unseasonably hot, bringing scores of people that day to cool off in the creek along one of the most well-traveled trails in the gorge.

The flames spread rapidly, fueled by gusting winds and tinder dry forest conditions.

The teenager said he had two fireworks. He admitted throwing one that exploded in the air along the trail. The second one had a longer fuse and ignited the dry brush when it hit the ground.

Hood River County District Attorney John Sewell emphasized that he found no evidence that the 15-year-old intentionally set the blaze. The others in the group of seven teens were "onlookers" and did nothing to start the fire, he said.

"There was no evidence to support felony charges in this case," Sewell said.

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