

DWAYNE YUNKER
STATE REPRESENTATIVE
DISTRICT 3



OREGON HOUSE OF REPRESENTATIVES

April 21, 2005

Dear Colleagues,

I write to urge your **NO vote on House Bill 3029**, and on the **base version of House Bill 3669**, and to encourage your **YES vote on the Minority Report version of HB 3669**.

These bills attempt to make permanent the Prosperity 10,000 Program—originally created in 2002 with temporary COVID relief dollars under the American Rescue Plan Act. Unfortunately, both HB 3029 and the base version of HB 3669 carry forward unconstitutional language and practices embedded in Oregon law—specifically the definition of “priority populations” in ORS 660.300.

Currently, Oregon statute gives **preferential access to public workforce funds based on race, sex, and sexual orientation**. These classifications include “communities of color,” “women,” and “LGBTQ+ individuals.” HB 3029 expands that list even further to include “immigrant and refugee communities.” This is not only bad policy—it is likely illegal.

I requested formal legal opinions from Legislative Counsel on both bills. Their analysis is clear: these provisions would subject the state to **strict scrutiny under the Equal Protection Clause**. Legislative Counsel concludes that courts would likely find these statutes unconstitutional, as Oregon has not provided the kind of compelling evidence required to justify racial or identity-based preferences.

These programs are walking into a legal buzzsaw. Oregon’s risk is both legal **and financial**.

That’s why I have introduced a **Minority Report to HB 3669**. It keeps the program’s core functions—career readiness, job training, internships, wraparound services—but **revises the definition of “priority populations” to include only low-income communities and veterans**. This is a **race- and sex-neutral definition** that is fully consistent with federal civil rights law.

If we pass the base bills, we send a signal that the Oregon Legislature is willing to violate the Constitution in pursuit of political goals. If we adopt the Minority Report, we send a message that we can achieve workforce equity **without resorting to illegal discrimination**.

Vote NO on HB 3029. Vote NO on the base bill of HB 3669. Vote YES on the HB 3669 Minority Report.

Sincerely,

Dwayne Yunker, State Representative, Oregon House District 3

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[washingtonexaminer.com/op-eds/3384899/racial-discrimination-is-alive-and-well-among-oregon-democrats/](https://www.washingtonexaminer.com/op-eds/3384899/racial-discrimination-is-alive-and-well-among-oregon-democrats/)

Washington Examiner

Washington Examiner

Racial discrimination is alive and well among Oregon Democrats

By Dwayne Yunker

April 21, 2025 7:00 am

COVID isn't over.

At least not in deep-blue states such as [Oregon](#), where the state legislature believes programs conceived with American Rescue Plan Act dollars should continue in perpetuity. Worse, since COVID coincided with the so-called “racial reckoning” in the wake of George Floyd’s death, many of these programs are rife with rules that require racial discrimination.

On Monday, the Oregon House of Representatives will vote on two different bills, both introduced by Democrats, to expand one such program. The program, called Prosperity 10,000, provides workforce development services to so-called “priority populations.”

Oregon law currently defines “priority populations” not by income or need but by race, gender identity, and sexual orientation. That’s not compassion — it’s unconstitutional.

While the two bills modify the program in different ways, neither corrects the definition of “priority populations.”

While Oregon continues to double down on race- and sex-based discrimination, the Trump administration has signaled it will use every tool at its disposal to ensure states adhere to the principle of color-blind equality. If Oregon wants to continue to secure federal funding for programs such as Prosperity 10,000, it must rid itself of the race- and sex-based discrimination enshrined in its state statutes.

The Prosperity 10,000 program provides state and federal funds to Oregon’s Higher Education Coordinating Commission for its workforce development initiatives. The program includes conventional efforts to get people back to work, such as career readiness and job training. It also pays for paid internships and wraparound services, including child care, housing, transportation, and free laptops.

The program began back in 2022 with Senate Bill 1545 as part of Oregon’s \$200 million allocation of State Fiscal Recovery Funds under the American Rescue Plan Act of 2021. At the time, the proponents of Senate Bill 1545 told legislators that the “disparate impact of COVID” meant that certain groups needed special services or they were likely to “fall further behind.”

Thus, the program was set up to serve only certain “priority populations.” According to Oregon Revised Statute 660.300 Subsection 8, “priority populations” are defined as follows: communities of color, women, low-income communities, rural and frontier communities, veterans, persons with disabilities, incarcerated and formerly incarcerated individuals, members of Oregon’s nine federally recognized Indian tribes, individuals who disproportionately experience discrimination in employment on the basis of age, and individuals who identify as members of the LGBT community. In other words, if you’re black or gay, you go to the front of the line.

Last month, I asked my legislative counsel for a legal opinion on the constitutionality of all this.

I was told that using Oregon Revised Statute 660.300’s definition of “priority populations” to determine eligibility for services would leave the state vulnerable to a challenge under the equal protection clause. The Prosperity 10,000 program distributes public funds on the basis of an individual’s status as a member of a “community of color,” which invokes a suspect class. And that courts apply the most stringent form of judicial scrutiny to such classifications, requiring the state to prove the classifications are narrowly tailored to achieve a compelling governmental interest. Recent U.S. Supreme Court case law makes it unlikely that laws that discriminate on the basis of race, color, or nationality can withstand strict scrutiny.

In other words, the program violates the Civil Rights Act of 1964 and the U.S. Constitution. It’s illegal.

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Three weeks ago, on Thursday, March 27, in front of my House Committee on Higher Education and Workforce Development, the same committee that is advancing these bills, the legislative and policy affairs director for the Higher Education Coordinating Commission said the same thing.

In answering a Democratic committee member's question about "wanting more teachers who look like her," the HECC director stated, "The state has had goals related to the diversification of its education workforce that date back a few decades at this point, to 1991, and I think the challenge that we have today, is that the specific mechanisms that are at play in these bills to assist the state in meeting that workforce goal, have been determined through evolving jurisprudence to be difficult from a legal perspective."

"Difficult from a legal perspective" is code for "it's illegal."

We can debate continuing Covid-era programs into perpetuity. We can debate the use of federal funds for free laptops. But cleaning up our state statutes to remove Civil Rights Act violations should be a no-brainer. That's why I've introduced a "minority report" version of the Prosperity 10,000 program bill, which removes the illegal discrimination in the state statute's definition of "priority populations." We are scheduled to vote on my bill Monday morning.

Let's see which Oregon state representatives actually believe in equality and the Civil Rights Act of 1964.

Dwayne Yunker is a Republican member of the Oregon House of Representatives.

Sincerely,

Dwayne Yunker, State Representative, Oregon House District 3

