Statement of Intent:
Separate Section in the Vehicle Code for Automated Vehicles

The Subcommittee on Vehicle Code Amendments and Public Safety recommends that the existing laws for conventional vehicles and driving roles should remain intact and separate from statutes created to support the deployment of highly automated vehicles (HAVs). First, we recognize the need to clarify definitions and user roles in relation to HAVs. However, we are concerned that the language necessary to define roles and responsibilities related to HAVs will not seamlessly integrate into the existing laws and conventional definitions. Finally, we are also concerned that if Oregon attempts to combine conventional and HAV definitions for important terms such as driver, operator, and passenger, we may weaken existing definitions and create conflict between statute and existing case law.

Currently, the Vehicle Code does not contemplate a situation in which an automated driving system (ADS), rather than a human driver, is in control of a vehicle. The deployment of HAVs will necessitate the incorporation of new concepts and language into the Vehicle Code. For example, Oregon may want to create a definition for a "fallback-ready user," a human being seated in the driver's seat of a Level 3 automated vehicle; the fallback-ready user may not be in control of the vehicle but must be prepared at all times to retake control if alerted by the ADS. Existing terminology, such as "driver," "operator," or "passenger," does not clearly encapsulate the role and responsibilities of a "fallback-ready user." The Vehicle Code needs to include new language that clearly delineates the distribution of responsibilities between human users and HAVs with different levels of automation.

However, we are concerned that it may not be possible to smoothly integrate HAV-specific language into our existing laws and conventional definitions. For example, in Oregon the act of "driving" arguably requires a person to exercise "actual physical control" over a vehicle. It is unclear how this requirement would apply to an automated driving system or a remote operator, both of which control a vehicle's movement without operating the physical mechanisms, such as a steering wheel or pedals, that a conventional driver would use.

We are also concerned that integrating new HAV-specific definitions into the current Vehicle Code may undermine the strength of existing definitions or create a conflict between statute and case law. For example, the terms "drive" and "driver" are not defined in the Vehicle Code, but decades of case law have clarified the meaning of "driver" for specific purposes. State v. Cruz (1993) established the meaning of "driver" for the purposes of DUII violations, and other case law has clarified the meaning of "driver" for the purposes of insurance. Creating a definition of “driver” that incorporates HAV considerations or amending other existing definitions to address HAVs could interfere with established case law around issues such as
DUIIs and insurance. This could have unintended consequences for cases pertaining to conventional vehicles.

Therefore, the Subcommittee believes the Legislature should exercise extreme caution when deciding how to incorporate new definitions related to HAV technology and user roles into the Vehicle Code. We recommend creating a separate section of the Vehicle Code to address HAVs. This approach would allow for the creation of new terms and definitions tailored for HAV operation, and it would also preserve and protect the existing case law around conventional vehicles.