

Joint Committee on Ways and Means

Carrier – House: Rep. Buckley
Carrier – Senate: Sen. Devlin

Revenue:

Fiscal: Fiscal statement issued

Action: Do Pass as Amended and be Printed A-Engrossed

Vote:

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

Prepared By: Ken Rocco, Legislative Fiscal Office

Meeting Date: June 29, 2011

WHAT THE MEASURE DOES: This measure implements statutory changes necessary to support the legislatively approved budget and to clarify the application of statutes. This measure, relating to state financial administration, is not an appropriation bill and therefore does not include the appropriation of funds. The measure, however, is necessary to achieve a balanced budget for the 2011-13 biennium. The measure is effective on passage.

The fiscal or budgetary impacts of provisions of this measure are contained in SB 5508, which is the budget reconciliation bill for the 2011-13 biennium, or in other specific agency budget measures. Its major provisions, by program area, are:

Administration Program Area: Adds reporting requirements for three semi-independent agencies; transfers Secretary of State business registry fees to the General Fund; directs the Department of Administrative Services to adjust the allotment process to enable agencies to spend up to 54% of the General Fund appropriation; distributes Oregon Liquor Control Commission revenues from a per bottle surcharge to the General Fund; transfers tax amnesty program receipts to the General Fund; provides for the temporary transfer of funds from the Common School Fund to the Senior Property Tax Deferral account and for the repayment of funds to the Common School Fund; delays the implementation of the Government Ethics Commission electronic filing system for two years; limits legislative members from receiving allowances for the month of June 2011 when the Legislature is in session; increases the amount able to be retained in the ORS Revolving Account from \$400,000 to \$500,000; transfers funds from the Department of Administrative Services Operating Fund to the General Fund; transfers funds from the Oregon School Facilities Task Force Fund to the Administrative Services Economic Development Fund; suspends the transfer of the 2011-13 lottery ending balance to the School Capital Matching Fund; and transfers funds from the Department of Administrative Services Insurance Fund to the General Fund for general governmental purposes.

Human Services Program Area: Repeals part of HB 2049 (2011) related to post-TANF statutes and allows for post-TANF payments subject to available funding; provides for the continuation of a 2009-11 long-term care nursing facility rate reduction; modifies the principal uses of the Fairview Housing Trust Fund and allows for the transfer of funds to the Department of Human Services Account in the second year of the biennium; authorizes the adoption of rules by the Oregon Health Authority to impose fees for registration of marijuana grow sites; and transfers funds from the Tobacco Use Reduction Account to the General Fund.

Consumer and Business Services Program Area: Transfers the Board of Licensed Dietitians to the Health Licensing Agency and facilitates Construction Contractors Board use of mediation in dispute resolution processes.

Public Safety Program Area: Authorizes the Department of Justice to provide grants to Project Clean Slate and transfers funds from the agency's Legal Fund to the General Fund for use in the public safety program area.

Economic Development Program Area: Redirects \$18 million in gross revenue generated by the Department of Revenue audit units from the BOOST program to the General Fund.

Transportation Program Area: Directs the Aviation Department to obtain certain central business services from the Department of Transportation and changes the distribution of jet fuel taxes.

ISSUES DISCUSSED:

- Need for program change bill
- Transfers of funds from agency accounts to the General Fund
- Fiscal impact of the measure

EFFECT OF COMMITTEE AMENDMENT: Replaces the measure.

BACKGROUND: This measure is the Joint Committee on Ways and Means program change bill. Similar measures are introduced each legislative session. This measure, relating to state financial administration, is not an appropriation bill and therefore does not include the appropriation of funds.

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 939 - A**Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

Prepared by: John Borden
 Reviewed by: Ken Rocco, Kim To, John Terpening, Paul Siebert, Steve Bender, Susie Jordan, Michelle Deister, Daron Hill, Doug Wilson, Sheila Baker, Linda Ames, Laurie Byerly
 Date: June 29, 2011

Measure Description: SB 939-A implements statutory changes necessary to support the legislatively adopted budget and to clarify the application of statutes.

Government Unit(s) Affected: Semi-Independent Agencies; Board of Licensed Dieticians; Health Licensing Agency; Secretary of State; Department of Administrative Services; Aviation Department; Department of Transportation; Oregon Liquor Control Commission; Construction Contractors Board; Department of Justice; Department of Human Services; Oregon Health Authority; Department of Revenue; Legislative Assembly; Legislative Counsel; Business Development Department; and the Government Ethics Commission.

Local Government Mandate: This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis: This measure implements statutory changes necessary to support the legislatively approved budget and to clarify the application of statutes. This measure, relating to state financial administration, is not an appropriation bill and therefore does not include the appropriation of funds. The measure, however, is necessary to achieve a balanced budget for the 2011-13 biennium. The measure is effective on passage.

The budgetary impacts of provisions of this measure are contained in SB 5508, which is the budget reconciliation bill for the 2011-13 biennium, or specific agency budget measures.

Other Funds transfers provided in this measure are one-time in nature and only apply to the 2011-13 biennium. Unless otherwise noted, the transfers are to be made on the effective date of measure.

The following table summarizes, by section and agency, the fiscal impact of this measure.

Section/Gov't Unit	Program Change	Fiscal Impact
§1 to §3 Semi-Independent Agencies	Adds the Legislative Fiscal Office to list of recipients of annual/biennial reports from the Travel Information Council and Film and Video Office; adds reporting to Tourism Commission.	No fiscal impact
§4 to §26 Board of Licensed Dieticians	Transfers the Board of Licensed Dieticians (HB 5028) to the Health Licensing Agency (HB 5026).	No fiscal impact
§27 Secretary of State	Transfers Secretary of State business registry fees to the General Fund for general governmental purposes.	\$4,700,000
§28 Department of Administrative Services	Directs the Department of Administrative Services to adjust the allotment process to enable agencies to spend up to 54% of their General Fund appropriations in the first year of the 2011-13 biennium.	No fiscal impact

§29 to §36 Aviation Department/Department of Transportation	Directs the Aviation Department to obtain certain central business services from the Department of Transportation and changes the distribution of jet fuel taxes.	- \$132,000 Other Funds
§37 Oregon Liquor Control Commission	Directs extra bottle surcharge revenue to the General Fund for general governmental purposes.	\$29,000,000
§38 to §73 Construction Contractors Board	Facilitates Construction Contractors Board in performing "Mediations Only" in its Dispute Resolution Services process.	No fiscal impact
§74 Department of Justice	Authorizes the Department of Justice to continue to provide grants to Project Clean Slate.	No fiscal impact (\$300,000 General Fund provided in SB 5518)
§75 Department of Justice	Transfers \$6,000,000 from the Legal Fund of the Department of Justice to the General Fund for general governmental purposes (for the Public Safety programs).	\$6,000,000
§76 Department of Revenue	Transfers tax amnesty program receipts for personal, corporate, and inheritance taxes in the Tax Amnesty Fund to the General Fund for general governmental purposes.	\$2,600,000
§77 Department of Revenue	Provides for the transfer of \$19 million of unexpended moneys from the Common School Fund to the Senior Property Tax Deferral Revolving Account and for the repayment to the Common School Fund.	No fiscal impact
§78 to §79 Government Ethics Commission	Delays, for two years, the implementation date of the electronic filing system for the Government Ethics Commission.	No fiscal impact
§80 Legislative Assembly	Limits Legislative members from receiving allowance for the month of June 2011 when the Legislature is in session.	No fiscal impact
§81 Legislative Counsel	Changes the transfers of balances in the ORS Revolving Account to the General Fund for general governmental purposes from in excess of \$400,000 to in excess of \$500,000.	-\$100,000
§82 to §83 Department of Human Services (Children, Adults and Families)	Repeals part of HB 2049 related to post-TANF statutes and allows for post-TANF payments subject to availability of funding.	\$1,498,542 Federal Funds (in SB 5508)
§84-§85 Department of Human Services (Seniors and People with Disabilities)	Provides for the continuation of a 2009-11 long-term care nursing facility rate reduction; repeals reduction at the end of the 2011-13 biennium.	-\$31,797,280 General Fund; -\$4,773,575 Other Funds; -\$61,474,333 Federal Funds (in HB 5030)
§ 86 Department of Human Services (Seniors and People with Disabilities)	Modifies the principal uses of the Fairview Housing Trust Fund; allows the transfer of funds from the Community Housing Trust Account in the second year of the biennium to the Department of Human Services Account.	Up to \$6,950,134
§87 Department of Administrative Services	Transfers Oregon School Facilities Task Force funds to the Administrative Services Economic Development Fund.	\$1,361,248 Lottery Funds

§88-§90 Business Development Department	Redirects \$18 million in gross revenue generated by Department of Revenue audit units from the BOOST program to the General Fund for general governmental purposes.	\$18,000,000
§ 91 Department of Administrative Services	Transfers Oregon Department of Administrative Services Operating Fund to the General Fund for general governmental purposes.	\$9,101,000
§92 Oregon Health Authority (Public Health)	Authorizes the adoption of rules to impose fees for registration of marijuana grow sites.	No fiscal impact
§93 Oregon Health Authority (Public Health)	Transfers Tobacco Use Reduction Account resources from the Oregon Health Authority - Public Health to the General Fund for general governmental purposes (for Public Health Division).	\$1,733,000
§ 94 Administrative Services Economic Development Fund	Suspends the transfer of the 2011-13 biennium lottery ending balance to the School Capital Matching Fund.	Indeterminate fiscal impact
§ 95 Department of Administrative Services	Transfers \$5,000,000 from the Insurance Fund to the General Fund for general governmental purposes.	\$5,000,000
§ 96 Multiple Agencies	Limits Other Funds transfers to the General Fund to amounts available on the effective date of the act. Transfers also occur on the effective date, unless otherwise noted.	No fiscal impact
§ 97 to § 99	Captions and Emergency Clause	No fiscal impact

SB 939-9
(LC 3549)
6/29/11 (TR/ps)

**PROPOSED AMENDMENTS TO
SENATE BILL 939**

1 In line 2 of the printed bill, after "administration;" delete the rest of the
2 line and insert "creating new provisions; amending ORS 171.305, 184.642,
3 284.126, 284.335, 377.838, 475.304, 676.150, 676.160, 676.410, 676.606, 676.610,
4 676.612, 676.613, 676.622, 676.625, 676.992, 691.405, 691.415, 691.435, 691.445,
5 691.465, 691.485, 701.005, 701.068, 701.088, 701.117, 701.133, 701.139, 701.140,
6 701.145, 701.146, 701.149, 701.150, 701.153, 701.180, 701.235, 835.020, 835.035,
7 835.100, 835.106 and 836.072 and sections 8b and 9e, chapter 877, Oregon Laws
8 2007, section 5, chapter 755, Oregon Laws 2009, sections 19 and 20, chapter
9 827, Oregon Laws 2009, and sections 9 and 10, chapter 93, Oregon Laws 2010;
10 repealing ORS 87.058, 691.425, 691.455, 691.495, 691.505, 691.515, 691.535,
11 691.545, 691.555, 691.565, 691.575, 691.580, 691.585, 691.955 and 701.148 and
12 section 5, chapter 93, Oregon Laws 2010, section 6, chapter ____, Oregon Laws
13 2011 (Enrolled House Bill 2049), and sections 9 and 10, chapter ____, Oregon
14 Laws 2011 (Enrolled Senate Bill 18); and declaring an emergency."

15 Delete lines 4 through 19 and insert:

16

17

"SEMI-INDEPENDENT AGENCIES

18

19

"SECTION 1. ORS 284.126 is amended to read:

20

21

22

"284.126. (1) The Oregon Tourism Commission shall adopt budgets on a biennial basis using classifications of expenditures and revenue required by ORS 291.206 (1). That portion of the budget that is funded by appropriations

1 from the General Fund or by allocations of lottery funds is subject to review
2 and approval by the Legislative Assembly and to future modification by the
3 Emergency Board or the Legislative Assembly. The remainder of the budget
4 is subject to review and recommendation by the Legislative Assembly.

5 “(2) The commission shall adopt or modify a budget only after a public
6 hearing on the budget. At least 15 days prior to a public hearing, the com-
7 mission shall give notice of the hearing to all persons known to be interested
8 in the proceedings of the commission and to any person who has requested
9 a notice. **The commission shall file a copy of the adopted or modified**
10 **budget with the Legislative Fiscal Officer not later than five business**
11 **days after the commission adopts or modifies a budget.**

12 “(3) The commission shall follow generally accepted accounting principles
13 and keep such financial and statistical information as is necessary to com-
14 pletely and accurately disclose the financial condition and financial oper-
15 ations of the commission as may be required by the Secretary of State.

16 “(4) The commission shall prepare an annual financial statement of com-
17 mission revenues and expenses and shall make the statement available for
18 public review. **The commission shall file a copy of the annual financial**
19 **statement with the Legislative Fiscal Officer not later than five busi-**
20 **ness days after the statement is prepared or adopted by the commis-**
21 **sion.**

22 **“SECTION 2.** ORS 284.335 is amended to read:

23 “284.335. (1) Except as provided in subsection (2) of this section, when
24 carrying out the duties, functions and powers of the Oregon Film and Video
25 Office, the director of the office may contract with any state agency for the
26 performance of such duties, functions and powers that the director considers
27 appropriate.

28 “(2) The director of the office [*shall*] **may** not, without the prior approval
29 of the Film and Video Board:

30 “(a) Award any contract for goods or professional services in excess of

1 \$25,000;

2 “(b) Authorize any expenditure of moneys in excess of \$25,000;

3 “(c) Sell or otherwise dispose of real or personal property valued in excess
4 of \$25,000;

5 “(d) Commence a civil legal action or proceeding;

6 “(e) Sell, transfer and convey property to a buyer or lease property to a
7 tenant;

8 “(f) Borrow money and give guarantees;

9 “(g) Finance, conduct or cooperate in the financing of facilities and
10 projects to assist the film, video and emerging media industries; or

11 “(h) In accordance with ORS chapter 183, adopt rules necessary for the
12 administration of laws that the office is charged with administering.

13 “(3) The Film and Video Board shall approve the lease of property to a
14 tenant only when the sale, transfer or conveyance of the property cannot be
15 effected with reasonable promptness or at a reasonable price.

16 “(4) The Film and Video Board *[shall]* **may** not allow the director to
17 borrow money or give guarantees under subsection (2)(f) of this section un-
18 less the indebtedness or other obligations of the office are payable solely out
19 of its own resources and do not constitute a pledge of the full faith and
20 credit of the State of Oregon or any of the revenues of this state.

21 “(5) The office shall file with the Governor, *[and]* the Legislative Assem-
22 bly **and the Legislative Fiscal Officer** a biennial report of the activities
23 and operations of the office. The report shall include a full and complete
24 reporting of the financial activities and transactions of the office during the
25 biennium, including at least the information required under ORS 284.365 (5).

26 “**SECTION 3.** ORS 377.838 is amended to read:

27 “377.838. (1) Except as provided in subsection (2) of this section, in car-
28 rying out the duties, functions and powers of the Travel Information Council,
29 the director of the Travel Information Council may contract with any state
30 agency for the performance of such duties, functions and powers as the

1 council considers appropriate.

2 “(2) The director of the Travel Information Council [*shall*] **may** not,
3 without the prior approval of the council:

4 “(a) Award any contract for goods or professional services in excess of
5 \$25,000; or

6 “(b) Authorize any expenditure of moneys in excess of \$25,000.

7 “(3) The council shall file with the Governor, [*and*] the Legislative As-
8 sembly **and the Legislative Fiscal Officer** an annual report of the activities
9 and operations of the council.

10

11 **“OREGON HEALTH LICENSING AGENCY**

12

13 **“SECTION 4.** ORS 691.405 is amended to read:

14 “691.405. As used in ORS 691.405 to 691.585:

15 “[*(1) ‘American Dietetic Association’ means the national professional or-*
16 *ganization of dietitians that provides direction and leadership for quality*
17 *dietetic practice, education and research.*.]

18 “[*(2) ‘Board’ means the Board of Examiners of Licensed Dietitians estab-*
19 *lished under ORS 691.485.*.]

20 “[*(3) ‘Commission on Dietetic Registration’ means the commission on*
21 *dietetic registration that is a member of the National Commission for Certify-*
22 *ing Agencies.*.]

23 “[*(4)*] (1) ‘Dietetics practice’ means the integration and application of
24 principles derived from the sciences of nutrition, biochemistry, food, man-
25 agement, physiology and behavioral and social sciences to achieve and
26 maintain the health of people through:

27 “(a) Assessing the nutritional needs of clients;

28 “(b) Establishing priorities, goals and objectives that meet nutritional
29 needs of clients;

30 “(c) Advising and assisting individuals or groups on appropriate nutri-

1 tional intake by integrating information from a nutritional assessment with
2 information on food and other sources of nutrients and meal preparation; and

3 “(d) Evaluating[,] **and** making changes in [*and*] **food, diets and nutri-**
4 **tion services**, maintaining appropriate standards of **nutritional** quality in
5 food and **maintaining appropriate standards of** nutrition services.

6 “[*(5)*] (2) ‘Licensed dietitian’ means a dietitian licensed as provided in
7 ORS 691.435.

8 **“SECTION 5.** ORS 691.415 is amended to read:

9 “691.415. [*On or after the date stated in the administrative rules adopted*
10 *by the Board of Examiners of Licensed Dietitians, no*] **A** person who is not
11 licensed under ORS 691.435 [*shall*] **may not** practice or attempt to practice
12 as a licensed dietitian using in connection with the name of the person the
13 words or letters ‘L.D.’ or ‘Licensed Dietitian.’

14 **“SECTION 6.** ORS 691.485 is amended to read:

15 “691.485. (1) There is established [*a*], **within the Oregon Health Li-**
16 **icensing Agency, the** Board [*of Examiners*] of Licensed Dietitians [*for the*
17 *purpose of carrying out and enforcing the provisions of ORS 691.405 to*
18 *691.585*] **to advise the agency with regard to the regulation of**
19 **dietitians.** The board consists of seven members appointed by the Governor
20 [*and subject to confirmation by the Senate in the manner provided in ORS*
21 *171.562 and 171.565*]. All members of the board must be residents of this state.
22 Of the members of the board:

23 “(a) Two must be members of the general public who are not otherwise
24 qualified for membership on the board and who are not a spouse, domestic
25 partner, child, parent or sibling of a licensed dietitian;

26 “(b) One must be a physician trained in clinical nutrition; and

27 “(c) Four must be licensed dietitians who have been engaged in the
28 practice of dietetics for [*no fewer than*] **at least** five years.

29 “[*(2)(a)*] *Board members required to be licensed dietitians may be selected*
30 *by the Governor from a list of three to five nominees for each vacancy, sub-*

1 *mitted by a professional organization representing dietitians.]*

2 “*[(b) In selecting the members of the board, the Governor shall strive to*
3 *balance the representation on the board according to:]*

4 “*[(A) Geographic areas of this state; and]*

5 “*[(B) Ethnic group.]*

6 “*[(3)] (2) The term of office of each member is [three] **four** years, but a*
7 *member serves at the pleasure of the Governor. [The terms must be staggered*
8 *so that no more than three terms end each year.] A member is eligible for re-*
9 *appointment. **If a person serves two consecutive full terms, a period of***
10 ***at least four years must elapse before the person is again eligible for***
11 ***appointment to serve on the board.** If there is a vacancy on the board for*
12 *any reason, the Governor shall make an appointment to become immediately*
13 *effective for the unexpired term. **A member shall hold the member’s of-***
14 ***fice until the appointment and qualification of a successor.***

15 “*[(4)] (3) Members of the board are entitled to compensation and expenses*
16 *as provided in ORS 292.495. The [board] **agency** may provide by rule for*
17 *compensation to board members for the performance of official duties at a*
18 *rate that is greater than the rate provided in ORS 292.495.*

19 “**(4) The board shall meet at least once per year.**

20 “**SECTION 7.** ORS 691.435 is amended to read:

21 “691.435. *[An applicant shall be granted a license as a dietitian if the per-*
22 *son has:] **The Oregon Health Licensing Agency, in consultation with***
23 ***the Board of Licensed Dietitians, shall issue a dietitian license to an***
24 ***applicant who:***

25 “(1) *[Filed] **Files** an application [and paid the required application fee;]*
26 ***as prescribed by the agency;***

27 “(2) **Pays fees established by the agency; and**

28 “*[(2)] (3) **Demonstrates to the satisfaction of the agency that the***
29 ***applicant has:***

30 “(a) **Received a baccalaureate or post-baccalaureate degree from a re-**

1 gionally accredited college or university in the United States with a major
2 course of study in human nutrition, dietetics, foods and nutrition or food
3 systems management approved by the board [*of Examiners of Licensed*
4 *Dietitians*] as meeting the standards for approval of the course of study under
5 ORS 691.405 to 691.585;

6 “[*(3) Demonstrated knowledge of the Code of Ethics of the Dietetic Profes-*
7 *sion; and either*]

8 “[*(4) Satisfactorily completed continuing education requirements established*
9 *by the board; or*]

10 “[*(5)*] **(b)** Completed a planned, continuous program of dietetic experience
11 approved by the [*board*] **agency** of 900 hours under the supervision of a li-
12 censed dietitian; and

13 “[*(6)*] **(c)** Passed an examination prescribed by the [*board*] **agency**.

14 **“SECTION 8.** ORS 691.445 is amended to read:

15 **“691.445. The Oregon Health Licensing Agency, in consultation with**
16 **the Board [*of Examiners*] of Licensed Dietitians, may waive the examination**
17 **requirement and grant a dietitian license to an applicant [*for a license as***
18 ***a dietitian*] who:**

19 **“(1) Files an application as prescribed by the agency;**

20 **“(2) Pays fees established by the agency; and**

21 “[*(1)*] **(3)** Presents satisfactory evidence [*to the board*] of:

22 **“(a) Current registration as a dietitian with [*the Commission on Dietetic***
23 ***Registration*]; a credentialing body approved by the board; or**

24 **“(b) Current licensure under the laws of any other state or territory**
25 **in the United States, if the requirements for licensure of dietitians in**
26 **the state or territory in which the applicant is licensed are not less**
27 **than those required by ORS 691.405 to 691.585.**

28 “[*(2)*] **Was a practicing dietitian before 1990 and has been employed in the**
29 **practice of dietetics for at least three of the 10 years prior to October 3, 1989;**
30 **or]**

1 *“[(3) At the time of application, received a doctorate degree in nutrition,*
2 *dietetics or related physical sciences under a curriculum approved by the board*
3 *and been involved in dietetics through practice, teaching or research related*
4 *to nutrition care.]*

5 **“SECTION 9.** ORS 691.465 is amended to read:

6 *“691.465. [(1) The Board of Examiners of Licensed Dietitians shall issue a*
7 *license with a duration of not more than two years to each person approved to*
8 *be licensed. The license shall be prima facie evidence of the right of the person*
9 *to whom it is issued to represent the person as a licensed dietitian subject to*
10 *the provisions of ORS 691.405 to 691.585.]*

11 *“[(2) Each licensed dietitian shall apply to the board for a renewal of the*
12 *license at least 30 days before the expiration date. Licenses shall expire on*
13 *October 31 of odd-numbered years or on such date as may be specified by board*
14 *rule. Each applicant for renewal shall submit the required fee and present*
15 *evidence of completion of at least 30 hours of continuing education or present*
16 *evidence of the minimum continuing education requirements of the American*
17 *Dietetic Association. Any license that is not renewed by the expiration date*
18 *shall be automatically suspended. The board may reinstate a suspended license*
19 *upon payment of a nonrefundable penalty fee and all past unpaid renewal*
20 *fees.]*

21 *“[(3) The license fee for a license issued for a period of less than 24 months*
22 *shall be prorated on a monthly basis to reflect the shorter licensing period.]*

23 *“[(4) A license that has been suspended by reason of nonpayment of fees for*
24 *a period of two years or more shall be renewed upon reapplication and payment*
25 *of all applicable fees.]*

26 *“[(5) Subject to prior approval of the Oregon Department of Administrative*
27 *Services and a report to the Emergency Board prior to adopting the fees and*
28 *charges, the fees and charges established under this section shall not exceed*
29 *the cost of administering the regulatory program for which the fee or charge*
30 *is established, as authorized by the Legislative Assembly within the board’s*

1 *budget to implement ORS 691.405 to 691.585, as the budget may be modified*
2 *by the Emergency Board.]*

3 **“(1) Except as provided in subsections (2) and (3) of this section, a**
4 **license issued under ORS 691.405 to 691.585 expires one year from the**
5 **date of issuance. To renew the license, the licensee must submit to the**
6 **Oregon Health Licensing Agency:**

7 **“(a) A completed renewal application;**

8 **“(b) The required renewal fee; and**

9 **“(c) Satisfactory evidence of having completed any required con-**
10 **tinuing education credits on or before the expiration date of the li-**
11 **cence as specified by agency rule.**

12 **“(2) The agency may vary the date of license renewal by giving the**
13 **applicant written notice of the renewal date being assigned and by**
14 **making prorated adjustments to the renewal fee.**

15 **“(3) The agency shall adopt by rule requirements for late renewal**
16 **of a license, reactivation of a dormant or expired license or rein-**
17 **statement of a license that has been expired for more than three**
18 **consecutive years.**

19 **“SECTION 10. Sections 11 to 13 of this 2011 Act are added to and**
20 **made a part of ORS 691.405 to 691.585.**

21 **“SECTION 11. The Oregon Health Licensing Agency, in consultation**
22 **with the Board of Licensed Dietitians, shall:**

23 **“(1) Adopt rules necessary for the administration of ORS 691.405 to**
24 **691.585;**

25 **“(2) Issue, deny, revoke, suspend and renew dietitian licenses;**

26 **“(3) Determine the qualifications, training, education and fitness**
27 **of applicants for licenses, renewals of licenses and reciprocal licenses**
28 **for dietitians;**

29 **“(4) Determine requirements for reciprocity and equivalency for li-**
30 **censed dietetics practice;**

1 “(5) Establish a code of professional responsibility and standards of
2 practice for licensed dietitians;

3 “(6) Develop, approve or recognize examinations to test an
4 applicant’s knowledge relating to dietitian techniques and methods
5 and any other subjects the board may determine to be necessary to
6 assess an applicant’s fitness to practice as a licensed dietitian;

7 “(7) Provide for waivers of examinations; and

8 “(8) Establish continuing education requirements for renewal of a
9 dietitian license.

10 “SECTION 12. (1) The Oregon Health Licensing Agency shall es-
11 tablish by rule and collect fees and charges for the following related
12 to licensed dietitians:

13 “(a) Application;

14 “(b) Original license;

15 “(c) License renewal;

16 “(d) Temporary practice registration;

17 “(e) Examinations;

18 “(f) License reactivation;

19 “(g) Late renewal;

20 “(h) Replacement or duplicate license;

21 “(i) Reciprocity; and

22 “(j) Providing copies of official documents or records and for re-
23 covering administrative costs associated with compiling, photocopying
24 or preparing and delivering the documents or records.

25 “(2) All moneys received by the agency under subsection (1) of this
26 section shall be paid into the General Fund of the State Treasury and
27 credited to the Oregon Health Licensing Agency Account.

28 “SECTION 13. In the manner prescribed in ORS chapter 183 for
29 contested cases and in consultation with the Board of Licensed
30 Dietitians, the Oregon Health Licensing Agency may impose a form

1 of discipline listed in ORS 676.612 against any person practicing
2 dietetics for any of the grounds listed in ORS 676.612 and for any vio-
3 lation of the provisions of ORS 691.405 to 691.585, or the rules adopted
4 under ORS 691.405 to 691.585.

5 **SECTION 14.** ORS 676.606 is amended to read:

6 “676.606. Pursuant to ORS 676.607, the Oregon Health Licensing Agency
7 shall provide administrative and regulatory oversight and centralized service
8 for the following boards, advisory councils and programs:

9 “(1) Board of Athletic Trainers, as provided in ORS 688.701 to 688.734;

10 “(2) Board of Cosmetology, as provided in ORS 690.005 to 690.235;

11 “(3) State Board of Denture Technology, as provided in ORS 680.500 to
12 680.565;

13 “(4) State Board of Direct Entry Midwifery, as provided in ORS 687.405
14 to 687.495;

15 “(5) Respiratory Therapist Licensing Board, as provided in ORS 688.800
16 to 688.840;

17 “(6) Environmental Health Registration Board, as provided in ORS chap-
18 ter 700;

19 “(7) Advisory Council for Electrologists and Permanent Color Technicians
20 and Tattoo Artists, as provided in ORS 690.350 to 690.430;

21 “(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to
22 694.185;

23 “(9) Body piercing technician registration program and body piercing fa-
24 cility licensing program, as provided in ORS 690.500 to 690.570;

25 “(10) Sex Offender Treatment Board, as provided in ORS 675.360 to
26 675.410; [and]

27 “(11) Nursing Home Administrators Board, as provided in ORS 678.710 to
28 678.820; and

29 “(12) Board of Licensed Dietitians, as provided in ORS 691.405 to
30 691.585.

1 **“SECTION 15.** ORS 676.610 is amended to read:

2 “676.610. (1)(a) The Oregon Health Licensing Agency is under the super-
3 vision and control of a director, who is responsible for the performance of
4 the duties, functions and powers and for the organization of the agency.

5 “(b) The Director of the Oregon Department of Administrative Services
6 shall establish the qualifications for and appoint the Director of the Oregon
7 Health Licensing Agency, who holds office at the pleasure of the Director
8 of the Oregon Department of Administrative Services.

9 “(c) The Director of the Oregon Health Licensing Agency shall receive a
10 salary as provided by law or, if not so provided, as prescribed by the Director
11 of the Oregon Department of Administrative Services.

12 “(d) The Director of the Oregon Health Licensing Agency shall be in the
13 unclassified service.

14 “(2) The Director of the Oregon Health Licensing Agency shall provide
15 the boards, councils and programs administered by the agency with such
16 services and employees as the agency requires to carry out the agency’s du-
17 ties. Subject to any applicable provisions of the State Personnel Relations
18 Law, the Director of the Oregon Health Licensing Agency shall appoint all
19 subordinate officers and employees of the agency, prescribe their duties and
20 fix their compensation.

21 “(3) The Director of the Oregon Health Licensing Agency shall be re-
22 sponsible for carrying out the duties, functions and powers under ORS
23 675.360 to 675.410, 676.605 to 676.625, 676.992, 678.710 to 678.820, 680.500 to
24 680.565, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840,
25 690.005 to 690.235, 690.350 to 690.430, 690.500 to 690.570, **691.405 to 691.585**
26 and 694.015 to 694.185 and ORS chapter 700.

27 “(4) The enumeration of duties, functions and powers in subsection (3) of
28 this section is not intended to be exclusive or to limit the duties, functions
29 and powers imposed on or vested in the Oregon Health Licensing Agency by
30 other statutes.

1 **“SECTION 16.** ORS 676.612 is amended to read:

2 “676.612. (1) In the manner prescribed in ORS chapter 183 for contested
3 cases and as specified in ORS 675.385, 678.780, 680.535, 687.445, 688.734,
4 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111 **and section 13 of this**
5 **2011 Act**, the Oregon Health Licensing Agency may refuse to issue or renew,
6 may suspend or revoke or may otherwise condition or limit a certificate, li-
7 cense, permit or registration to practice issued by the agency or may disci-
8 pline or place on probation a holder of a certificate, license, permit or
9 registration for commission of the prohibited acts listed in subsection (2) of
10 this section.

11 “(2) A person subject to the authority of a board, council or program
12 listed in ORS 676.606 commits a prohibited act if the person engages in:

13 “(a) Fraud, misrepresentation, concealment of material facts or deception
14 in applying for or obtaining an authorization to practice in this state, or in
15 any written or oral communication to the agency concerning the issuance
16 or retention of the authorization.

17 “(b) Using, causing or promoting the use of any advertising matter, pro-
18 motional literature, testimonial, guarantee, warranty, label, insignia or any
19 other representation, however disseminated or published, that is false, mis-
20 leading or deceptive.

21 “(c) Making a representation that the certificate, license, permit or reg-
22 istration holder knew or should have known is false or misleading regarding
23 skill or the efficacy or value of treatment or remedy administered by the
24 holder.

25 “(d) Practicing under a false, misleading or deceptive name, or
26 impersonating another certificate, license, permit or registration holder.

27 “(e) Permitting a person other than the certificate, license, permit or
28 registration holder to use the certificate, license, permit or registration.

29 “(f) Practicing with a physical or mental condition that presents an un-
30 reasonable risk of harm to the holder of a certificate, license, permit or

1 registration or to the person or property of others in the course of perform-
2 ing the holder's duties.

3 "(g) Practicing while under the influence of alcohol, controlled substances
4 or other skill-impairing substances, or engaging in the illegal use of con-
5 trolled substances or other skill-impairing substances so as to create a risk
6 of harm to the person or property of others in the course of performing the
7 duties of a holder of a certificate, license, permit or registration.

8 "(h) Failing to properly and reasonably accept responsibility for the
9 actions of employees.

10 "(i) Employing, directly or indirectly, any suspended, uncertified, unli-
11 censed or unregistered person to practice a regulated occupation or profes-
12 sion subject to the authority of the boards, councils and programs listed in
13 ORS 676.606.

14 "(j) Unprofessional conduct, negligence, incompetence, repeated violations
15 or any departure from or failure to conform to standards of practice in per-
16 forming services or practicing in a regulated occupation or profession subject
17 to the authority of the boards, councils and programs listed under ORS
18 676.606.

19 "(k) Conviction of any criminal offense, subject to ORS 670.280. A copy
20 of the record of conviction, certified by the clerk of the court entering the
21 conviction, is conclusive evidence of the conviction. A plea of no contest or
22 an admission of guilt shall be considered a conviction for purposes of this
23 paragraph.

24 "(L) Failing to report any adverse action, as required by statute or rule,
25 taken against the certificate, license, permit or registration holder by an-
26 other regulatory jurisdiction or any peer review body, health care institu-
27 tion, professional association, governmental agency, law enforcement agency
28 or court for acts or conduct similar to acts or conduct that would constitute
29 grounds for disciplinary action as described in this section.

30 "(m) Violation of a statute regulating an occupation or profession subject

1 to the authority of the boards, councils and programs listed in ORS 676.606.

2 “(n) Violation of any rule regulating an occupation or profession subject
3 to the authority of the boards, councils and programs listed in ORS 676.606.

4 “(o) Failing to cooperate with the agency in any investigation, inspection
5 or request for information.

6 “(p) Selling or fraudulently obtaining or furnishing any certificate, li-
7 cense, permit or registration to practice in a regulated occupation or pro-
8 fession subject to the authority of the boards, councils and programs listed
9 in ORS 676.606, or aiding or abetting such an act.

10 “(q) Selling or fraudulently obtaining or furnishing any record related to
11 practice in a regulated occupation or profession subject to the authority of
12 the boards, councils and programs listed in ORS 676.606, or aiding or
13 abetting such an act.

14 “(r) Failing to pay an outstanding civil penalty or fee that is due or
15 failing to meet the terms of any order issued by the agency that has become
16 final.

17 “(3) For the purpose of requesting a state or nationwide criminal records
18 check under ORS 181.534, the agency may require the fingerprints of a person
19 who is:

20 “(a) Applying for a certificate, license, permit or registration that is is-
21 sued by the agency;

22 “(b) Applying for renewal of a certificate, license, permit or registration
23 that is issued by the agency; or

24 “(c) Under investigation by the agency.

25 “(4) If the agency places a holder of a certificate, license, permit or reg-
26 istration on probation under subsection (1) of this section, the agency, in
27 consultation with the appropriate board, council or program, may determine
28 and at any time modify the conditions of the probation.

29 “(5) If a certificate, license, permit or registration is suspended, the holder
30 may not practice during the term of suspension. Upon the expiration of the

1 term of suspension, the certificate, license, permit or registration may be
2 reinstated by the agency if the conditions of suspension no longer exist and
3 the holder has satisfied all requirements in the relevant statutes or admin-
4 istrative rules for issuance, renewal or reinstatement.

5 **SECTION 17.** ORS 676.613 is amended to read:

6 "676.613. (1) In addition to all other remedies, when it appears to the
7 Oregon Health Licensing Agency that a person is engaged in, has engaged
8 in or is about to engage in any act, practice or transaction that violates any
9 provision of ORS 675.360 to 675.410, 676.617, 678.710 to 678.820, 680.500 to
10 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to
11 690.235, 690.350 to 690.430, 690.500 to 690.570, **691.405 to 691.585** or 694.015 to
12 694.185 or ORS chapter 700, the agency may, through the Attorney General
13 or the district attorney of the county in which the act, practice or trans-
14 action occurs or will occur, apply to the court for an injunction restraining
15 the person from the act, practice or transaction.

16 "(2) A court may issue an injunction under this section without proof of
17 actual damages. An injunction issued under this section does not relieve a
18 person from any other prosecution or enforcement action taken for violation
19 of statutes listed in subsection (1) of this section.

20 **SECTION 18.** ORS 676.622 is amended to read:

21 "676.622. (1) A transaction conducted through a state or local system or
22 network that provides electronic access to the Oregon Health Licensing
23 Agency information and services is exempt from any requirement under ORS
24 675.360 to 675.410, 676.605 to 676.625, 676.992, 680.500 to 680.565, 687.405 to
25 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.235, 690.350 to
26 690.430, 690.500 to 690.570, **691.405 to 691.585** and 694.015 to 694.185 and ORS
27 chapter 700, and rules adopted thereunder, requiring an original signature
28 or the submission of handwritten materials.

29 "(2) Electronic signatures subject to ORS 84.001 to 84.061 and facsimile
30 signatures are acceptable and have the same force as original signatures.

1 “SECTION 19. ORS 676.625 is amended to read:

2 “676.625. (1) The Oregon Health Licensing Agency shall establish by rule
3 and shall collect fees and charges to carry out the agency’s responsibilities
4 under ORS 676.605 to 676.625 and 676.992 and any responsibility imposed on
5 the agency pertaining to the boards, councils and programs administered and
6 regulated by the agency pursuant to ORS 676.606.

7 “(2) The Oregon Health Licensing Agency Account is established in the
8 General Fund of the State Treasury. The account shall consist of the moneys
9 credited to the account by the Legislative Assembly. All moneys in the ac-
10 count are appropriated continuously to and shall be used by the Oregon
11 Health Licensing Agency for payment of expenses of the agency in carrying
12 out the duties, functions and obligations of the agency, and for payment of
13 the expenses of the boards, councils and programs administered and regu-
14 lated by the agency pursuant to ORS 676.606. The agency shall keep a record
15 of all moneys credited to the account and report the source from which the
16 moneys are derived and the activity of each board, council or program that
17 generated the moneys.

18 “(3) Subject to prior approval of the Oregon Department of Administrative
19 Services and a report to the Emergency Board prior to adopting fees and
20 charges credited to the account, the fees and charges may not exceed the cost
21 of administering the agency and the boards, councils and programs within
22 the agency, as authorized by the Legislative Assembly within the agency’s
23 budget, as the budget may be modified by the Emergency Board.

24 “(4) All moneys credited to the account pursuant to ORS 675.405, 676.617,
25 680.525, 687.435, 688.728, 688.834, 690.235, 690.415, 690.550, 694.185 and 700.080
26 **and section 12 of this 2011 Act**, and moneys credited to the account from
27 other agency and program fees established by the agency by rule, are con-
28 tinuously appropriated to the agency for carrying out the duties, functions
29 and powers of the agency under ORS 676.605 to 676.625 and 676.992.

30 “(5) The moneys received from civil penalties assessed under ORS 676.992

1 shall be deposited and accounted for as are other moneys received by the
2 agency and shall be for the administration and enforcement of the statutes
3 governing the boards, councils and programs administered by the agency.

4 **“SECTION 20.** ORS 676.992 is amended to read:

5 “676.992. (1) Except as provided in subsection (3) of this section, and in
6 addition to any other penalty or remedy provided by law, the Oregon Health
7 Licensing Agency may impose a civil penalty not to exceed \$5,000 for each
8 violation of the following statutes and any rule adopted thereunder:

9 “(a) ORS 688.701 to 688.734 (athletic training);

10 “(b) ORS 690.500 to 690.570 (body piercing);

11 “(c) ORS 690.005 to 690.235 (cosmetology);

12 “(d) ORS 680.500 to 680.565 (denture technology);

13 “(e) ORS 687.405 to 687.495 (direct entry midwifery);

14 “(f) ORS 690.350 to 690.430 (electrology and permanent coloring or
15 tattooing);

16 “(g) ORS 694.015 to 694.185 (dealing in hearing aids);

17 “(h) ORS 688.800 to 688.840 (respiratory therapy);

18 “(i) ORS chapter 700 (environmental sanitation);

19 “(j) ORS 676.617 (single facility licensure);

20 “(k) ORS 675.360 to 675.410 (sex offender treatment);

21 “(L) ORS 678.710 to 678.820 (nursing home administrators); *[and]*

22 **“(m) ORS 691.405 to 691.585 (dietitians); and**

23 **“[(m)] (n) ORS 676.612 (prohibited acts).**

24 “(2) The agency may take any other disciplinary action that it finds
25 proper, including but not limited to assessment of costs of disciplinary pro-
26 ceedings, not to exceed \$5,000, for violation of any statute listed in sub-
27 section (1) of this section or any rule adopted under any statute listed in
28 subsection (1) of this section.

29 “(3) Subsection (1) of this section does not limit the amount of the civil
30 penalty resulting from a violation of ORS 694.042.

1 “(4) In imposing a civil penalty pursuant to this section, the agency shall
2 consider the following factors:

3 “(a) The immediacy and extent to which the violation threatens the public
4 health or safety;

5 “(b) Any prior violations of statutes, rules or orders;

6 “(c) The history of the person incurring a penalty in taking all feasible
7 steps to correct any violation; and

8 “(d) Any other aggravating or mitigating factors.

9 “(5) Civil penalties under this section shall be imposed as provided in
10 ORS 183.745.

11 “(6) The moneys received by the agency from civil penalties under this
12 section shall be paid into the General Fund of the State Treasury and cred-
13 ited to the Oregon Health Licensing Agency Account established under ORS
14 676.625. Such moneys are continuously appropriated to the agency for the
15 administration and enforcement of the laws the agency is charged with ad-
16 ministering and enforcing that govern the person against whom the penalty
17 was imposed.

18 “**SECTION 21.** ORS 676.150 is amended to read:

19 “676.150. (1) As used in this section:

20 “(a) ‘Board’ means the:

21 “(A) State Board of Examiners for Speech-Language Pathology and
22 Audiology;

23 “(B) State Board of Chiropractic Examiners;

24 “(C) State Board of Licensed Social Workers;

25 “(D) Oregon Board of Licensed Professional Counselors and Therapists;

26 “(E) Oregon Board of Dentistry;

27 “(F) Board [*of Examiners*] of Licensed Dietitians;

28 “(G) State Board of Massage Therapists;

29 “(H) Oregon Board of Naturopathic Medicine;

30 “(I) Oregon State Board of Nursing;

1 “(J) Nursing Home Administrators Board;
2 “(K) Oregon Board of Optometry;
3 “(L) State Board of Pharmacy;
4 “(M) Oregon Medical Board;
5 “(N) Occupational Therapy Licensing Board;
6 “(O) Physical Therapist Licensing Board;
7 “(P) State Board of Psychologist Examiners;
8 “(Q) Board of Radiologic Technology;
9 “(R) State Board of Direct Entry Midwifery;
10 “(S) State Board of Denture Technology;
11 “(T) Respiratory Therapist Licensing Board;
12 “(U) Department of Human Services, to the extent that the department
13 certifies emergency medical technicians;
14 “(V) Oregon State Veterinary Medical Examining Board; or
15 “(W) State Mortuary and Cemetery Board.
16 “(b) ‘Licensee’ means a health professional licensed or certified by or
17 registered with a board.
18 “(c) ‘Prohibited conduct’ means conduct by a licensee that:
19 “(A) Constitutes a criminal act against a patient or client; or
20 “(B) Constitutes a criminal act that creates a risk of harm to a patient
21 or client.
22 “(d) ‘Unprofessional conduct’ means conduct unbecoming a licensee or
23 detrimental to the best interests of the public, including conduct contrary
24 to recognized standards of ethics of the licensee’s profession or conduct that
25 endangers the health, safety or welfare of a patient or client.
26 “(2) Unless state or federal laws relating to confidentiality or the pro-
27 tection of health information prohibit disclosure, a licensee who has rea-
28 sonable cause to believe that another licensee has engaged in prohibited or
29 unprofessional conduct shall report the conduct to the board responsible for
30 the licensee who is believed to have engaged in the conduct. The reporting

1 licensee shall report the conduct without undue delay, but in no event later
2 than 10 working days after the reporting licensee learns of the conduct.

3 “(3) A licensee who is convicted of a misdemeanor or felony or who is
4 arrested for a felony crime shall report the conviction or arrest to the
5 licensee’s board within 10 days after the conviction or arrest.

6 “(4) The board responsible for a licensee who is reported to have engaged
7 in prohibited or unprofessional conduct shall investigate in accordance with
8 the board’s rules. If the board has reasonable cause to believe that the
9 licensee has engaged in prohibited conduct, the board shall present the facts
10 to an appropriate law enforcement agency without undue delay, but in no
11 event later than 10 working days after the board finds reasonable cause to
12 believe that the licensee engaged in prohibited conduct.

13 “(5) A licensee who fails to report prohibited or unprofessional conduct
14 as required by subsection (2) of this section or the licensee’s conviction or
15 arrest as required by subsection (3) of this section is subject to discipline
16 by the board responsible for the licensee.

17 “(6) A licensee who fails to report prohibited conduct as required by
18 subsection (2) of this section commits a Class A violation.

19 “(7) Notwithstanding any other provision of law, a report under sub-
20 section (2) or (3) of this section is confidential under ORS 676.175. A board
21 may disclose a report as provided in ORS 676.177.

22 “(8) Except as part of an application for a license or for renewal of a li-
23 cense and except as provided in subsection (3) of this section, a board may
24 not require a licensee to report the licensee’s criminal conduct.

25 “(9) The obligations imposed by this section are in addition to and not in
26 lieu of other obligations to report unprofessional conduct as provided by
27 statute.

28 “(10) A licensee who reports to a board in good faith as required by sub-
29 section (2) of this section is immune from civil liability for making the re-
30 port.

1 “(11) A board and the members, employees and contractors of the board
2 are immune from civil liability for actions taken in good faith as a result
3 of a report received under subsection (2) or (3) of this section.

4 “**SECTION 22.** ORS 676.160 is amended to read:

5 “676.160. As used in ORS 676.165 to 676.180, ‘health professional regula-
6 tory board’ means the:

7 “(1) State Board of Examiners for Speech-Language Pathology and
8 Audiology;

9 “(2) State Board of Chiropractic Examiners;

10 “(3) State Board of Licensed Social Workers;

11 “(4) Oregon Board of Licensed Professional Counselors and Therapists;

12 “(5) Oregon Board of Dentistry;

13 “(6) Board [*of Examiners*] of Licensed Dietitians;

14 “(7) State Board of Massage Therapists;

15 “(8) State Mortuary and Cemetery Board;

16 “(9) Oregon Board of Naturopathic Medicine;

17 “(10) Oregon State Board of Nursing;

18 “(11) Nursing Home Administrators Board;

19 “(12) Oregon Board of Optometry;

20 “(13) State Board of Pharmacy;

21 “(14) Oregon Medical Board;

22 “(15) Occupational Therapy Licensing Board;

23 “(16) Physical Therapist Licensing Board;

24 “(17) State Board of Psychologist Examiners;

25 “(18) Board of Medical Imaging;

26 “(19) Oregon State Veterinary Medical Examining Board; and

27 “(20) Oregon Health Authority to the extent that the authority certifies
28 emergency medical technicians.

29 “**SECTION 23.** ORS 676.410 is amended to read:

30 “676.410. (1) As used in this section, ‘healthcare workforce regulatory

1 board' means the:

2 "(a) Occupational Therapy Licensing Board;

3 "(b) Oregon Medical Board;

4 "(c) Oregon State Board of Nursing;

5 "(d) Oregon Board of Dentistry;

6 "(e) Physical Therapist Licensing Board;

7 "(f) State Board of Pharmacy; and

8 "(g) Board [*of Examiners*] of Licensed Dietitians.

9 "(2)(a) An applicant for a license from a healthcare workforce regulatory
10 board or renewal of a license by a healthcare workforce regulatory board
11 shall provide the information prescribed by the Office for Oregon Health
12 Policy and Research pursuant to subsection (3) of this section.

13 "(b) Except as provided in subsection (4) of this section, a healthcare
14 workforce regulatory board may not approve a subsequent application for a
15 license or renewal of a license until the applicant provides the information.

16 "(3) The Administrator for the Office for Oregon Health Policy and Re-
17 search shall collaborate with the healthcare workforce regulatory boards to
18 adopt rules for the manner, form and content for reporting, and the infor-
19 mation that must be provided to a healthcare workforce regulatory board
20 under subsection (2) of this section, which may include:

21 "(a) Demographics, including race and ethnicity.

22 "(b) Education information.

23 "(c) License information.

24 "(d) Employment information.

25 "(e) Primary and secondary practice information.

26 "(f) Anticipated changes in the practice.

27 "(g) Languages spoken.

28 "(4)(a) A healthcare workforce regulatory board shall report healthcare
29 workforce information collected under subsection (2) of this section to the
30 Office for Oregon Health Policy and Research.

1 “(b) A healthcare workforce regulatory board shall keep confidential and
2 not release personally identifiable data collected under this section for a
3 person licensed, registered or certified by a board. This paragraph does not
4 apply to the release of information to a law enforcement agency for investi-
5 gative purposes or to the release to the Office for Oregon Health Policy and
6 Research for state health planning purposes.

7 “(5) The requirements of subsection (2) of this section apply to an appli-
8 cant for issuance or renewal of a license who is or who is applying to be-
9 come:

10 “(a) An occupational therapist or certified occupational therapy assistant
11 as defined in ORS 675.210;

12 “(b) A physician as defined in ORS 677.010;

13 “(c) A physician assistant as defined in ORS 677.495;

14 “(d) A nurse or nursing assistant licensed or certified under ORS 678.010
15 to 678.410;

16 “(e) A dentist or dental hygienist as defined in ORS 679.010;

17 “(f) A physical therapist or physical therapist assistant as defined in ORS
18 688.010;

19 “(g) A pharmacist or pharmacy technician as defined in ORS 689.005; or

20 “(h) A licensed dietitian, as defined in ORS 691.405.

21 “(6) A healthcare workforce regulatory board may adopt rules as neces-
22 sary to perform the board’s duties under this section.

23 “(7) In addition to licensing fees that may be imposed by a healthcare
24 workforce regulatory board, the Oregon Health Policy Board shall establish
25 fees to be paid by applicants for issuance or renewal of licenses reasonably
26 calculated to reimburse the actual cost of obtaining or reporting information
27 as required by subsection (2) of this section.

28 “**SECTION 24. ORS 691.425, 691.455, 691.495, 691.505, 691.515, 691.535,**
29 **691.545, 691.555, 691.565, 691.575, 691.580, 691.585 and 691.955 are repealed.**

30 “**SECTION 25. The unexpended balance of the Board of Examiners**

1 of Licensed Dietitians Account established in ORS 691.565 is trans-
2 ferred to the Oregon Health Licensing Agency Account established in
3 ORS 676.625 for expenditure by the agency for the biennium beginning
4 July 1, 2011, as provided in ORS 676.625.

5 **SECTION 26.** (1) The repeal of ORS 691.505, 691.535, 691.545, 691.555
6 and 691.995 by section 24 of this 2011 Act does not affect any proceeding
7 under ORS 691.505, 691.535, 691.545, 691.555 or 691.995 begun before and
8 pending on the effective date of this 2011 Act, except that the Oregon
9 Health Licensing Agency is substituted for the Board of Examiners of
10 Licensed Dietitians in the proceeding.

11 **“(2)** The amendments to ORS 691.485 by section 6 of this 2011 Act
12 are intended to change the name of the Board of Examiners of Li-
13 censed Dietitians to the Board of Licensed Dietitians.

14 **“(3)** For the purpose of harmonizing and clarifying statutory law,
15 the Legislative Counsel may substitute for words designating the
16 Board of Examiners of Licensed Dietitians, wherever they occur in
17 statutory law, other words designating the Board of Licensed
18 Dietitians.

19
20 **“SECRETARY OF STATE**

21
22 **SECTION 27.** Notwithstanding ORS 56.041 and in addition to the
23 transfers required by ORS 56.041 (4), the amount of \$4,700,000 is trans-
24 ferred from the Operating Account to the General Fund for general
25 governmental purposes. The transfer shall be made on May 31, 2012.

26
27 **“STATE FINANCE**

28
29 **SECTION 28.** (1) Notwithstanding any provision of ORS 291.232 to
30 291.260, state agencies may submit estimates for allotment periods, and

1 the Oregon Department of Administrative Services shall approve esti-
2 mates and administer the allotment system provided for in ORS 291.232
3 to 291.260 in a manner that allows state agencies to expend, during the
4 period beginning July 1, 2011, and ending June 30, 2012, up to 54 percent
5 of the amount appropriated to the agency for the biennium beginning
6 July 1, 2011.

7 “(2) Notwithstanding any provision of law, the Oregon Department
8 of Administrative Services shall establish a process for allocating
9 available moneys in the Administrative Services Economic Develop-
10 ment Fund in a manner that allows state agencies to expend, during
11 the period beginning July 1, 2011, and ending June 30, 2012, up to 54
12 percent of the amount allocated to the agency for the biennium be-
13 ginning July 1, 2011.

14
15 “AVIATION DEPARTMENT

16
17 “SECTION 29. (1) The Department of Transportation shall provide
18 the following central business operating services for the Oregon De-
19 partment of Aviation:

20 “(a) Budget preparation services;

21 “(b) Daily processing for accounts payable, accounts receivable,
22 payroll, receipts and disbursements;

23 “(c) Records and inventory maintenance accounting services;

24 “(d) Financial management reports and revenue and expenditure
25 projections;

26 “(e) Purchasing, leasing and contracting services;

27 “(f) Internal audit services;

28 “(g) Computer and information system services; and

29 “(h) Human resource services.

30 “(2) The Oregon Department of Aviation shall comply with all rules

1 adopted by the Department of Transportation related to the services
2 described in subsection (1) of this section.

3 “(3) The Department of Transportation may charge the Oregon
4 Department of Aviation a fee for the services the Department of
5 Transportation provides under this section. The Department of
6 Transportation shall calculate the rate of the fee using the same
7 methodology the Department of Transportation uses to calculate the
8 central services assessment imposed within the Department of Trans-
9 portation for similar services. The Oregon Department of Aviation
10 shall pay any fees imposed under this section within 30 days of re-
11 ceiving the request for payment.

12 “(4) All moneys received by the Department of Transportation un-
13 der this section shall be paid into the State Treasury each month and
14 credited to the Department of Transportation Operating Fund estab-
15 lished by ORS 184.642.

16 “(5) The Department of Transportation shall adopt rules for the
17 administration and implementation of this section.

18 “SECTION 30. ORS 835.020 is amended to read:

19 “835.020. Subject to section 29 of this 2011 Act, the Director of the
20 Oregon Department of Aviation may enter into any contracts authorized by
21 the State Aviation Board and necessary to the execution of the powers
22 granted by this chapter. All contracts made by the director, either as the
23 agent of the state or as the agent of any municipality, shall be made pursu-
24 ant to the laws of the state governing the making of like contracts; however,
25 where the planning, acquisition, construction, improvement, maintenance or
26 operation of any airport, or any navigation facility is financed wholly or in
27 part with federal money, the director as the agent of the state or any
28 municipality may let contracts in the manner prescribed by the federal au-
29 thorities acting under the laws of the United States and any rules or regu-
30 lations made thereunder.

1 **SECTION 31.** ORS 835.035 is amended to read:

2 “835.035. (1) **Subject to section 29 of this 2011 Act**, the State Aviation
3 Board may perform such acts, adopt or amend and issue such orders, rules
4 and regulations, and make, promulgate and amend such minimum standards,
5 all consistent with the provisions of this chapter, as it considers necessary
6 to carry out the provisions of this chapter and to perform its duties there-
7 under.

8 “(2) No such rule, regulation or order of the board shall apply to airports
9 or air navigation facilities owned or operated by the United States.

10 “(3) All authority, power and duty delegated to the board by the pro-
11 visions of this section shall be exercised and performed in all respects
12 commensurate with and for the purpose of protecting and insuring the gen-
13 eral public interest and safety, the safety of persons receiving instruction
14 concerning, or operating, or using or traveling in aircraft, and of persons or
15 property on land or water, and to develop and promote aviation in this state.

16 “(4) Promulgation of rules, conduct of hearings and issuance and judicial
17 review of rules and orders shall be in accordance with ORS chapter 183.

18 **SECTION 32.** ORS 835.100 is amended to read:

19 “835.100. (1) The Oregon Department of Aviation is established.

20 “(2) The department is under the supervision and control of a director,
21 who is responsible for the performance of the duties, functions and powers
22 of the department, **subject to section 29 of this 2011 Act**.

23 “(3) For purposes of administration, subject to the approval of the State
24 Aviation Board, the director may organize and reorganize the department as
25 the director considers necessary to conduct properly the work of the de-
26 partment.

27 **SECTION 33.** ORS 835.106 is amended to read:

28 “835.106. (1) The Governor shall appoint the Director of the Oregon De-
29 partment of Aviation, subject to confirmation by the Senate pursuant to ORS
30 171.562 and 171.565, who holds office at the pleasure of the Governor.

1 “(2) Subject to **section 29 of this 2011 Act and the** policy direction by
2 the State Aviation Board, the director shall:

3 “(a) Be the administrative head of the department;

4 “(b) Have power, within applicable budgetary limitations, and in accord-
5 ance with ORS chapter 240, to hire, assign, reassign and coordinate person-
6 nel of the department and prescribe their duties and fix their compensation,
7 subject to the State Personnel Relations Law;

8 “(c) Administer the laws of the state concerning aviation; and

9 “(d) Intervene, as authorized by the board, pursuant to the rules of prac-
10 tice and procedure, in the proceedings of state and federal agencies that may
11 substantially affect the interests of the consumers and providers of aviation
12 services within Oregon.

13 “(3) **Subject to section 29 of this 2011 Act**, in addition to duties other-
14 wise required by law, the director shall prescribe regulations for the gov-
15 ernment of the department, the conduct of its employees, the assignment and
16 performance of its business and the custody, use and preservation of its re-
17 cords, papers and property in a manner consistent with applicable law.

18 “(4) The director may delegate to any of the employees of the department
19 the exercise or discharge in the director’s name of any duty, function or
20 power of whatever character, vested in or imposed by law upon the director,
21 including duties, functions or powers delegated to the director by the board.
22 The official act of any person acting in the director’s name and by the au-
23 thority of the director shall be considered to be an official act of the direc-
24 tor.

25 “(5) The director shall have authority to require a fidelity bond of any
26 officer or employee of the department who has charge of, handles or has ac-
27 cess to any state money or property, and who is not otherwise required by
28 law to give a bond. The amounts of the bonds shall be fixed by the director,
29 except as otherwise provided by law, and the sureties shall be approved by
30 the director. The department shall pay the premiums on the bonds.

1 “(6) The director shall prepare and submit to the board on or about De-
2 cember 31 of each year an annual report for the 12 months ending the prior
3 June 30. The annual report shall set forth all that the department has done
4 during the year. The report shall contain a statement of the parts of the
5 state aviation system that were constructed, reconstructed or improved dur-
6 ing the period, together with a statement showing in a general way the sta-
7 tus of the state aviation system.

8 “**SECTION 34.** ORS 184.642 is amended to read:

9 “184.642. (1) The Department of Transportation Operating Fund is estab-
10 lished in the State Treasury separate and distinct from the General Fund and
11 separate and distinct from the State Highway Fund. Except as otherwise
12 provided in subsection (3)(e) of this section, moneys in the Department of
13 Transportation Operating Fund are continuously appropriated to the De-
14 partment of Transportation to pay expenses of the department that are in-
15 curred in the performance of functions the department is statutorily required
16 or authorized to perform and that may not constitutionally be paid from
17 revenues described in section 3a, Article IX of the Oregon Constitution.

18 “(2) The operating fund shall consist of the following:

19 “(a) Taxes paid on motor vehicle fuels or on the use of fuel in a motor
20 vehicle for which a person is entitled to a refund under a provision described
21 in this paragraph but for which no refund is claimed, in amounts determined
22 under ORS 184.643. This paragraph applies to refund entitlements described
23 in ORS 319.280 (1)(a) and (e), 319.320 (1)(a) and 319.831 (1)(b).

24 “(b) Fees collected under ORS 822.700 for issuance or renewal of:

25 “(A) Dismantler certificates;

26 “(B) Vehicle dealer certificates;

27 “(C) Driver training certificates;

28 “(D) Commercial driver training school certificates; and

29 “(E) Appraiser certificates.

30 “(c) Fees collected under ORS 822.705.

1 “(d) Moneys from civil penalties imposed under ORS 822.009.

2 “(e) Fees collected under ORS 807.410 for identification cards.

3 “(f) Fees collected by the department for issuance of permits to engage in
4 activities described in ORS 374.305 to 374.330 that are not directly connected
5 to the construction, reconstruction, improvement, repair, maintenance, oper-
6 ation and use of a public highway, road, street or roadside rest area.

7 **“(g) Fees collected under section 29 of this 2011 Act for services
8 provided to the Oregon Department of Aviation.**

9 “[(g)] (h) Interest and other earnings on moneys in the operating fund.

10 “(3) Moneys in the Department of Transportation Operating Fund estab-
11 lished by subsections (1) and (2) of this section may be spent only as follows:

12 “(a) Taxes described in subsection (2)(a) of this section may be used only
13 for payment of expenses of the Department of Transportation that:

14 “(A) May not constitutionally be paid from revenues described in section
15 3a, Article IX of the Oregon Constitution;

16 “(B) Are incurred in the performance of functions the department is
17 statutorily required or authorized to perform; and

18 “(C) Are not payable from moneys described in paragraphs (b) to (e) of
19 this subsection.

20 “(b) Fees collected under subsection (2)(b) of this section may be used
21 only to carry out the regulatory functions of the department relating to the
22 businesses that generate the fees.

23 “(c) Fees collected under ORS 822.705 may be used only for the purposes
24 described in ORS 822.705.

25 “(d) Moneys collected from civil penalties imposed under ORS 822.009 may
26 be used only for regulation of vehicle dealers.

27 “(e) Moneys collected under ORS 807.410 from fees for identification cards
28 shall be used first to pay the expenses of the department for performing the
29 functions of the department relating to identification cards. After paying the
30 expenses related to identification cards, the department shall transfer the

1 remaining moneys collected under ORS 807.410 to the Elderly and Disabled
2 Special Transportation Fund established in ORS 391.800.

3 “(f) Moneys from the permits described in subsection (2)(f) of this section
4 may be used for costs of issuing the permits and monitoring the activities
5 that generate the fees.

6 “(g) Moneys from interest and other earnings on moneys in the operating
7 fund may be used for any purpose for which other moneys in the fund may
8 be used.

9 **SECTION 35.** ORS 836.072, as amended by sections 7 and 8, chapter 107,
10 Oregon Laws 2010, is amended to read:

11 “836.072. (1) Moneys from the increases in taxes by the amendments to
12 ORS 319.020 by sections 1 and 3, chapter 1037, Oregon Laws 1999, shall be
13 used by the Oregon Department of Aviation to establish and fund a program
14 to maintain and preserve the pavements used for runways, taxiways and
15 aircraft parking areas at public use airports in this state.

16 “(2) Projects for maintenance and preservation of pavements at public use
17 airports that are identified in the plan developed under ORS 835.015 are eli-
18 gible for funding under this section. The following expenses of projects se-
19 lected may be funded under this section:

20 “(a) Construction expenses;

21 “(b) Engineering expenses; and

22 “(c) Administrative expenses.

23 “(3) The Director of the Oregon Department of Aviation shall prepare a
24 list of recommended projects. Factors to be used by the director include, but
25 are not limited to:

26 “(a) The age and condition of pavements;

27 “(b) An airport’s role in the state’s aviation system, as described by the
28 plan developed under ORS 835.015; and

29 “(c) Local financial participation in projects.

30 “(4) The director shall forward the list of recommended projects to the

1 State Aviation Board for approval.

2 “(5) The department may adopt such rules as it deems necessary for im-
3 plementation of the airport pavement preservation program.

4 “(6) No more than 55 percent of the combined tax revenue from
5 aircraft fuel used or distributed by a dealer and aircraft fuel usable in
6 aircraft operated by turbine engines may be used for operating ex-
7 penses of the department.

8 “(7) For purposes of this section, ‘operating expenses of the de-
9 partment’ includes, but is not limited to, expenses for personal ser-
10 vices, central business operating services described in section 29 (1) of
11 this 2011 Act, supplies and capital outlay.

12 “SECTION 36. The amendments to ORS 836.072 by section 35 of this
13 2011 Act become operative July 1, 2012.

14

15

“OLCC BOTTLE SURCHARGE

16

17 “SECTION 37. For the biennium beginning July 1, 2011, notwith-
18 standing ORS 471.810, amounts to be distributed from the Oregon Li-
19 quor Control Commission Account that are attributable to a per bottle
20 surcharge imposed by the Oregon Liquor Control Commission on June
21 3, 2009, and extended on May 27, 2011, shall be credited to the General
22 Fund.

23

24

“CONSTRUCTION CONTRACTORS BOARD

25

26 “SECTION 38. ORS 701.005, as amended by section 4, chapter 77, Oregon
27 Laws 2010, is amended to read:

28 “701.005. As used in this chapter:

29 “(1) ‘Board’ means the Construction Contractors Board.

30 “(2) ‘Commercial contractor’ means a licensed contractor that holds an

1 endorsement as a:

2 “(a) Commercial general contractor level 1;

3 “(b) Commercial specialty contractor level 1;

4 “(c) Commercial general contractor level 2;

5 “(d) Commercial specialty contractor level 2; or

6 “(e) Commercial developer.

7 “(3) ‘Commercial developer’ means a developer of property that is zoned
8 for or intended for use compatible with a small commercial or large com-
9 mercial structure.

10 “(4) ‘Construction debt’ means an amount owed under:

11 “(a) An order or arbitration award issued by the board that has become
12 final by operation of law;

13 “(b) A judgment, **arbitration award** or civil penalty that has become
14 final by operation of law arising from construction activities within the
15 United States; or

16 “(c) A judgment or civil penalty that has become final by operation of law
17 arising from a failure to comply with ORS 656.017.

18 “(5) ‘Contractor’ means any of the following:

19 “(a) A person that, for compensation or with the intent to sell, arranges
20 or undertakes or offers to undertake or submits a bid to construct, alter,
21 repair, add to, subtract from, improve, inspect, move, wreck or demolish, for
22 another, a building, highway, road, railroad, excavation or other structure,
23 project, development or improvement attached to real estate, or to do any
24 part thereof.

25 “(b) A person that purchases or owns property and constructs or for
26 compensation arranges for the construction of one or more residential
27 structures or small commercial structures with the intent of selling the
28 structures.

29 “(c) A school district, as defined in ORS 332.002, that permits students to
30 construct a residential structure or small commercial structure as an edu-

1 cational experience to learn building techniques and sells the completed
2 structure.

3 “(d) A community college district, as defined in ORS 341.005, that permits
4 students to construct a residential structure or small commercial structure
5 as an educational experience to learn building techniques and sells the
6 completed structure.

7 “(e) A person except a landscape contracting business, nurseryman,
8 gardener or person engaged in the commercial harvest of forest products,
9 that is engaged as an independent contractor to remove trees, prune trees,
10 remove tree limbs or stumps or to engage in tree or limb guying.

11 “(f) A business that supplies the services of a home inspector certified
12 under ORS 701.350 or a cross-connection inspector and backflow assembly
13 tester certified under ORS 448.279.

14 “(g) A person that for compensation arranges, undertakes, offers to
15 undertake or submits a bid to clean or service chimneys.

16 “(6) ‘Developer’ means a contractor that owns property or an interest in
17 property and engages in the business of arranging for construction work or
18 performing other activities associated with the improvement of real property,
19 with the intent to sell the property.

20 “(7)(a) ‘General contractor’ means a contractor whose business operations
21 require the use of more than two unrelated building trades or crafts that the
22 contractor supervises or performs in whole or part, whenever the sum of all
23 contracts on any single property, including materials and labor, exceeds an
24 amount established by rule by the board.

25 “(b) ‘General contractor’ does not mean a specialty contractor or a resi-
26 dential limited contractor.

27 “(8)(a) ‘Home improvement’ means a renovation, remodel, repair or alter-
28 ation by a residential contractor to an existing owner-occupied:

29 “(A) Residence that is a site-built home;

30 “(B) Condominium, rental residential unit or other residential dwelling

1 unit that is part of a larger structure, if the property interest in the unit is
2 separate from the property interest in the larger structure;

3 “(C) Modular home constructed off-site;

4 “(D) Manufactured dwelling; or

5 “(E) Floating home, as defined in ORS 830.700.

6 “(b) ‘Home improvement’ does not include a renovation, remodel, repair
7 or alteration by a residential contractor:

8 “(A) To a structure that contains one or more dwelling units and is four
9 stories or less above grade; or

10 “(B) That the residential contractor performed in the course of con-
11 structing a new residential structure.

12 “(9)(a) ‘Home inspector’ means a person who, for a fee, inspects and pro-
13 vides written reports on the overall physical condition of a residential
14 structure and the appurtenances of the residential structure.

15 “(b) ‘Home inspector’ does not include persons certified under ORS chap-
16 ter 455 to inspect new, repaired or altered structures for compliance with the
17 state building code.

18 “(10) ‘Key employee’ means an employee or owner of a contractor who is
19 a corporate officer, manager, superintendent, foreperson or lead person or
20 any other employee the board identifies by rule.

21 “(11) ‘Large commercial structure’ means a structure that is not a resi-
22 dential structure or small commercial structure.

23 “(12) ‘Officer’ means any of the following persons:

24 “(a) A president, vice president, secretary, treasurer or director of a cor-
25 poration.

26 “(b) A general partner in a limited partnership.

27 “(c) A manager in a manager-managed limited liability company.

28 “(d) A member of a member-managed limited liability company.

29 “(e) A trustee.

30 “(f) A person the board defines by rule as an officer. The definition of

1 officer adopted by board rule may include persons not listed in this sub-
2 section who may exercise substantial control over a business.

3 “(13) ‘Residential contractor’ means a licensed contractor that holds an
4 endorsement as a:

- 5 “(a) Residential general contractor;
- 6 “(b) Residential specialty contractor;
- 7 “(c) Residential limited contractor; or
- 8 “(d) Residential developer.

9 “(14) ‘Residential developer’ means a developer of property that is zoned
10 for or intended for use compatible with a residential or small commercial
11 structure.

12 “(15)(a) ‘Residential structure’ means:

- 13 “(A) A residence that is a site-built home;
- 14 “(B) A structure that contains one or more dwelling units and is four
15 stories or less above grade;
- 16 “(C) A condominium, rental residential unit or other residential dwelling
17 unit that is part of a larger structure, if the property interest in the unit is
18 separate from the property interest in the larger structure;
- 19 “(D) A modular home constructed off-site;
- 20 “(E) A manufactured dwelling; or
- 21 “(F) A floating home as defined in ORS 830.700.

22 “(b) ‘Residential structure’ does not mean:

- 23 “(A) Subject to paragraph (a)(C) of this subsection, a structure that con-
24 tains both residential and nonresidential units;
- 25 “(B) Transient lodging;
- 26 “(C) A residential school or residence hall;
- 27 “(D) A state or local correctional facility other than a local facility for
28 persons enrolled in work release programs maintained under ORS 144.460;
- 29 “(E) A youth correction facility as defined in ORS 420.005;
- 30 “(F) A youth care center operated by a county juvenile department under

1 administrative control of a juvenile court pursuant to ORS 420.855 to 420.885;

2 “(G) A detention facility as defined in ORS 419A.004;

3 “(H) A nursing home;

4 “(I) A hospital; or

5 “(J) A place constructed primarily for recreational activities.

6 “(16) ‘Responsible managing individual’ means an individual who:

7 “(a) Is an owner described in ORS 701.094 or an employee of the business;

8 “(b) Exercises management or supervisory authority, as defined by the
9 board by rule, over the construction activities of the business; and

10 “(c)(A) Successfully completed the training and testing required for li-
11 censing under ORS 701.122 within a period the board identifies by rule;

12 “(B) Demonstrated experience the board requires by rule; or

13 “(C) Complied with the licensing requirements of ORS 446.395.

14 “(17) ‘Small commercial structure’ means:

15 “(a) A nonresidential structure that has a ground area of 10,000 square
16 feet or less, including exterior walls, and a height of not more than 20 feet
17 from the top surface of the lowest flooring to the highest interior overhead
18 finish of the structure;

19 “(b) A nonresidential leasehold, rental unit or other unit that is part of
20 a larger structure, if the unit has a ground area of 12,000 square feet or less,
21 excluding exterior walls, and a height of not more than 20 feet from the top
22 surface of the lowest flooring to the highest interior overhead finish of the
23 unit; or

24 “(c) A nonresidential structure of any size for which the contract price
25 of all construction contractor work to be performed on the structure as part
26 of a construction project does not total more than \$250,000.

27 “(18) ‘Specialty contractor’ means a contractor who performs work on a
28 structure, project, development or improvement and whose operations as such
29 do not fall within the definition of ‘general contractor.’ ‘Specialty
30 contractor’ includes a person who performs work regulated under ORS

1 446.395.

2 “(19) ‘Zero-lot-line dwelling’ means a single-family dwelling unit con-
3 structed in a group of attached units in which:

4 “(a) Each attached unit extends from foundation to roof with open space
5 on two sides; and

6 “(b) Each dwelling unit is separated by a property line.

7 “**SECTION 39.** ORS 701.068 is amended to read:

8 “701.068. (1) An applicant for issuance or renewal of a contractor license
9 shall file with the Construction Contractors Board a surety bond with one
10 or more corporate sureties authorized to do business in this state in the
11 amount set forth in ORS 701.081 or 701.084.

12 “(2) If an applicant for issuance, renewal or an additional endorsement
13 of a license will hold endorsements as both a residential contractor and a
14 commercial contractor, the applicant shall file with the board a surety bond
15 for each endorsement in the amount set forth in ORS 701.081 or 701.084.

16 “(3) The surety bond for a residential contractor must provide that the
17 applicant, with regard to work subject to this chapter, will pay amounts
18 [*ordered paid*] **determined** by the board **as provided** under ORS 701.145. The
19 surety bond for a commercial contractor must provide that the applicant,
20 with regard to work subject to this chapter, will pay amounts [*ordered*
21 *paid*] **determined** by the board **as provided** under ORS 701.146. Bonds filed
22 under this section shall remain in effect for at least one year or until de-
23 pleted by payments under ORS 701.150, 701.153 and 701.157, unless the surety
24 sooner cancels the bond. At the discretion of the surety the bond may be
25 continued for an additional period by continuation certificate. Except as
26 provided in subsection (4) of this section, the aggregate liability of the surety
27 under the bond for complaints against the contractor may not exceed the
28 penal sum of the bond no matter how many years the bond is in force. Except
29 as provided in subsection (4) of this section, an extension by continuation
30 certificate, reinstatement, reissue or renewal of the bond may not increase

1 the liability of the surety.

2 “(4) The board, by rule, may require a licensee to obtain a new surety
3 bond if, pursuant to a board [*order for payment of a complaint described in*
4 *ORS 701.140*] **determination issued under ORS 701.145 or 701.146**, the
5 surety pays an amount out of the bond of the licensee. The new surety bond
6 must be in the applicable amount set forth in ORS 701.081 or 701.084 unless
7 a higher amount is required by a board condition or rule described in sub-
8 section (5) or (6) of this section. The board may allow a licensee to obtain,
9 instead of a new bond, a certification that the surety remains liable for the
10 full penal sum of the bond, notwithstanding payment by the surety on the
11 complaint.

12 “(5) If the amount the licensee must pay against the bond under sub-
13 section (3) of this section exceeds the amount of the bond, the board shall
14 suspend the contractor’s license until the amount owed is paid. The board,
15 as a condition of ending the suspension, may require a contractor requesting
16 reinstatement of a license to file a bond of an amount up to five times as
17 much as the amount required ordinarily of a licensee under ORS 701.081 or
18 701.084.

19 “(6) The board by rule may establish conditions for applicants or persons
20 licensed under this chapter under which the applicant or licensee must file
21 a bond of an amount up to five times as much as the amount required ordi-
22 narily of an applicant or licensee under ORS 701.081 or 701.084. The board
23 may reduce the amount of bond it would otherwise require if the contractor
24 demonstrates satisfactory completion of approved elective classes on dispute
25 resolution and prevention, basic accounting and record keeping or such other
26 classes as the board may prescribe.

27 “[*(7) The bond required under this section is for the exclusive purpose of*
28 *payment of final orders and arbitration awards of the board in accordance*
29 *with this chapter.*]

30 “[*(8) Upon determination under ORS 701.145 or 701.146 of a complaint*

1 *against a contractor who holds a bond required under this section, the board*
2 *shall notify the surety on the bond of the final order in a manner determined*
3 *by the board by rule. The notification shall include a list of all complaints*
4 *upon which a final order has been issued.]*

5 **“(7) The bond required under this section is for the exclusive pur-**
6 **pose of payment of amounts for which the board has determined the**
7 **surety to have responsibility.**

8 **“(8) Upon issuance of a determination under ORS 701.145 or 701.146**
9 **for a complaint against a contractor who holds a bond required under**
10 **this section, the board shall notify the surety on the bond of the de-**
11 **termination in a manner determined by the board by rule. The notifi-**
12 **cation shall include a list of all board determinations for payment by**
13 **the surety from the bond.**

14 **“(9) A court action may not be commenced against a surety on a bond**
15 **required under this section until 30 days after the date that the surety is**
16 **notified by the board under ORS 701.150 that payment is due on the [final**
17 **order] determination.**

18 **“(10) In any action against a surety on a bond under this section that is**
19 **based on the failure of the surety to pay [a final order] an amount deter-**
20 **mined by the board, the court may award:**

21 **“(a) Costs;**

22 **“(b) Reasonable attorney fees to the prevailing party as part of the costs;**
23 **and**

24 **“(c) Twice the amount of any damages that the board ordered the surety**
25 **to pay on the complaint, if the surety arbitrarily and capriciously refused to**
26 **pay upon order of the board.]**

27 **“(c) Twice the amount that the board determined the surety must**
28 **pay on the complaint, if the surety arbitrarily and capriciously refused**
29 **to pay.**

30 **“SECTION 40. ORS 701.088 is amended to read:**

1 "701.088. (1) As used in this section:

2 "(a) 'Illegal drug manufacturing site' has the meaning given that term in
3 ORS 453.858.

4 "(b) 'Nonprofit organization' means an organization or group of organ-
5 izations described in section 501(c)(3) of the Internal Revenue Code that is
6 exempt from income tax under section 501(a) of the Internal Revenue Code.

7 "(2) The Construction Contractors Board shall adopt rules prescribing
8 terms and conditions under which a general or specialty contractor that is
9 a nonprofit organization engaged in rehabilitating an illegal drug manufac-
10 turing site may substitute a letter of credit from a bank authorized to do
11 business in this state, or substitute a cash deposit, for a bond required under
12 ORS 701.068. A letter of credit or cash deposit described in this section
13 substitutes for a bond only for purposes of work the contractor performs on
14 an illegal drug manufacturing site. The letter of credit or cash deposit must
15 be equivalent in amount to the bond that would otherwise be required of the
16 contractor under ORS 701.068.

17 "(3) The board may charge a contractor a fee to cover any expense in-
18 curred by the board in allowing the contractor to substitute a letter of credit
19 or cash deposit under this section.

20 "(4) A contractor that supplies a letter of credit or cash deposit under this
21 section is considered to be bonded under ORS 701.068 for purposes of per-
22 forming rehabilitation work on illegal drug manufacturing sites. A letter of
23 credit or cash deposit that a contractor supplies under this section is con-
24 sidered to be a surety bond issued under ORS 701.068 for purposes of claims
25 involving the contractor's rehabilitation work on illegal drug manufacturing
26 sites. The issuer of a letter of credit described in this section is considered
27 to be a surety for a bond only for purposes of receiving [notice] **notification**
28 **of a determination** under ORS 701.068 or 701.146.

29 "**SECTION 41.** ORS 701.117 is amended to read:

30 "701.117. A contractor shall notify the Construction Contractors Board

1 of any change of address while licensed and for one year following the date
2 the contractor's license expires or otherwise becomes inactive. The contrac-
3 tor shall so notify the board within 10 days of the date upon which the
4 change of address occurs. Initial notice of a contested case [*or arbitration*]
5 directed by the board to the last-known address of record shall be considered
6 delivered when deposited in the United States mail and sent registered or
7 certified or post office receipt secured. Any other communication directed
8 by the board to the last-known address of record shall be considered deliv-
9 ered when deposited in the United States mail, regular mail.

10 **SECTION 42.** ORS 701.133, as amended by section 49, chapter 107,
11 Oregon Laws 2010, is amended to read:

12 "701.133. (1) Unless otherwise provided by the Construction Contractors
13 Board by rule, before filing a complaint under ORS 701.139, a person must
14 send notice to the contractor that the person intends to file the complaint.
15 The person must send the notice at least 30 days before filing the complaint.
16 The notice must be mailed by certified mail to the last known address of the
17 contractor as shown in board records. The board by rule may:

18 "(a) Specify the manner in which the person may show compliance with
19 this subsection at the time of filing the complaint.

20 "(b) Provide that all or part of the requirements for sending a notice un-
21 der this subsection may be waived if the contractor, by other means, has
22 actual notice of the dispute with the person filing the complaint.

23 "(2) If the notice described in subsection (1) of this section is mailed to
24 the contractor fewer than 45 days before expiration of the time limitation
25 under ORS 701.143 for the board to receive the complaint, the time limitation
26 for the board to receive the complaint does not expire until 60 days after the
27 notice is mailed.

28 "(3) The board by rule may impose a processing fee for complaints filed
29 under ORS 701.139. The fee amount may not exceed the amount of the filing
30 fee provided by ORS 21.110 (6) for a plaintiff filing a civil action in circuit

1 court. The board may impose different processing fees for complaints pro-
2 cessed under ORS 701.145 than for complaints processed under ORS 701.146.

3 “(4) If the board adopts rules under subsection (3) of this section, the
4 rules:

5 “(a) Except as provided in paragraphs (b) and (c) of this subsection, must
6 provide that a prevailing complainant recover processing fees [*as damages*
7 *in the final order of the board*].

8 “(b) Must provide that the board may waive or defer all or part of the
9 processing fee upon application by the person filing the complaint that shows
10 the person is unable to pay all or part of the fee. The application must be
11 made under oath and notarized. The application must show the average
12 monthly income and expenses of the complainant, assets and liabilities of the
13 complainant and any other information required by board rule.

14 “(c) May provide for the processing fee to be waived for all complaints
15 that are based on the furnishing of labor by a complainant to a contractor.
16 The board may provide for processing fee waiver under this paragraph only
17 if, in the opinion of the board, a majority of complainants who file com-
18 plaints based on the furnishing of labor to contractors are eligible for fee
19 waivers as described in paragraph (b) of this subsection.

20 “**SECTION 43.** ORS 701.133, as amended by sections 49 and 50, chapter
21 107, Oregon Laws 2010, is amended to read:

22 “701.133. (1) Unless otherwise provided by the Construction Contractors
23 Board by rule, before filing a complaint under ORS 701.139, a person must
24 send notice to the contractor that the person intends to file the complaint.
25 The person must send the notice at least 30 days before filing the complaint.
26 The notice must be mailed by certified mail to the last known address of the
27 contractor as shown in board records. The board by rule may:

28 “(a) Specify the manner in which the person may show compliance with
29 this subsection at the time of filing the complaint.

30 “(b) Provide that all or part of the requirements for sending a notice un-

1 der this subsection may be waived if the contractor, by other means, has
2 actual notice of the dispute with the person filing the complaint.

3 “(2) If the notice described in subsection (1) of this section is mailed to
4 the contractor fewer than 45 days before expiration of the time limitation
5 under ORS 701.143 for the board to receive the complaint, the time limitation
6 for the board to receive the complaint does not expire until 60 days after the
7 notice is mailed.

8 “(3) The board by rule may impose a processing fee for complaints filed
9 under ORS 701.139. The fee amount may not exceed the amount of the filing
10 fee provided by ORS 21.110 (1) for a plaintiff filing a civil action in circuit
11 court. The board may impose different processing fees for complaints pro-
12 cessed under ORS 701.145 than for complaints processed under ORS 701.146.

13 “(4) If the board adopts rules under subsection (3) of this section, the
14 rules:

15 “(a) Except as provided in paragraphs (b) and (c) of this subsection, must
16 provide that a prevailing complainant recover processing fees [*as damages*
17 *in the final order of the board*].

18 “(b) Must provide that the board may waive or defer all or part of the
19 processing fee upon application by the person filing the complaint that shows
20 the person is unable to pay all or part of the fee. The application must be
21 made under oath and notarized. The application must show the average
22 monthly income and expenses of the complainant, assets and liabilities of the
23 complainant and any other information required by board rule.

24 “(c) May provide for the processing fee to be waived for all complaints
25 that are based on the furnishing of labor by a complainant to a contractor.
26 The board may provide for processing fee waiver under this paragraph only
27 if, in the opinion of the board, a majority of complainants who file com-
28 plaints based on the furnishing of labor to contractors are eligible for fee
29 waivers as described in paragraph (b) of this subsection.

30 **SECTION 44.** ORS 701.139 is amended to read:

1 "701.139. The Construction Contractors Board may determine the validity
2 of a complaint described in ORS 701.140 filed against a licensed contractor.
3 A person must file the complaint within the applicable time limitation de-
4 scribed in ORS 701.143. The complaint must be filed and resolved as follows:

5 "(1) A complaint against a residential contractor that is not also endorsed
6 as a commercial contractor involving work on a residential or small com-
7 mercial structure or an appurtenance to a residential or small commercial
8 structure must be resolved as provided in ORS 701.145.

9 "(2) A complaint against a commercial contractor that is not also en-
10 dorsed as a residential contractor involving work on a small commercial or
11 large commercial structure or an appurtenance to a small commercial or
12 large commercial structure must be resolved as provided in ORS 701.146.

13 "(3) A complaint against a contractor that is endorsed as both a residen-
14 tial contractor and a commercial contractor:

15 "(a) Involving work on a residential structure or an appurtenance to a
16 residential structure must be resolved as provided under ORS 701.145.

17 "(b) Involving work on a small commercial structure or an appurtenance
18 to a small commercial structure may be resolved as provided in ORS 701.145
19 or 701.146, at the complainant's election.

20 "(c) Involving work on a large commercial structure or an appurtenance
21 to a large commercial structure must be resolved as provided in ORS 701.146.

22 "[*(4) Notwithstanding subsections (1) to (3) of this section and except as*
23 *provided in ORS 701.148, with prior agreement of the complainant and the li-*
24 *censed contractor, a complaint may be resolved by the board through binding*
25 *arbitration under ORS 701.148.]*

26 "**SECTION 45.** ORS 701.140 is amended to read:

27 "701.140. A complaint under ORS 701.139 must arise from the performance,
28 or a contract for the performance, of work that requires a contractor license
29 issued by the Construction Contractors Board. The complaint must be of one
30 or more of the following types:

1 “(1) A complaint against a contractor by the owner of a structure or other
2 real property for the following:

3 “(a) Negligent work.

4 “(b) Improper work.

5 “(c) Breach of contract.

6 “(2) A complaint against a contractor by the owner of a structure or other
7 real property to discharge, or to recoup funds expended in discharging, a lien
8 established under ORS 87.010 to 87.060 and 87.075 to 87.093 under circum-
9 stances described under this subsection. [*If the complaint is processed under*
10 *ORS 701.145, the Construction Contractors Board may reduce the amount of*
11 *the complaint by any amount the complainant owes the contractor.*] The board
12 shall process complaints described in this subsection under ORS 701.145 only
13 if:

14 “(a) The owner paid the contractor for that contractor’s work subject to
15 this chapter;

16 “(b) A lien is filed against the property of the owner under ORS 87.010
17 to 87.060 and 87.075 to 87.093 because the contractor failed to pay the person
18 claiming the lien for that person’s contribution toward completion of the
19 improvement; and

20 “(c) The complaint is described in ORS 701.139 (1) or (3)(a) or (b).

21 “(3) A complaint against a licensed subcontractor by a licensed contractor
22 for the following:

23 “(a) Negligent work;

24 “(b) Improper work; or

25 “(c) Breach of contract.

26 “(4) A complaint by a person furnishing labor to a contractor or owed
27 employee benefits by a contractor.

28 “(5) A complaint, as limited by rule of the board, by a person furnishing
29 material or renting or supplying equipment to a contractor. The minimum
30 limit set by the board may not exceed \$150.