SUMMARY

Increases maximum fees for commercial weighing or measuring instruments or devices. Limits rate of fee increases during licensing periods beginning before July 1, 2026.

A BILL FOR AN ACT

Relating to State Department of Agriculture maximum license fees; creating new provisions; and amending ORS 618.136 and 618.141.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 618.136 is amended to read:

618.136. (1) The license fee for each type or class of commercial weighing or measuring instrument or device shall be established by the State Department of Agriculture in an amount not to exceed the maximum limits [set forth in] under ORS 618.141. Such fees shall be established in the amounts necessary for the department to carry out and enforce the provisions of ORS 618.010 to 618.246 relating to the supervision of commercial weighing and measuring instruments or devices, and to maintain an emergency fund with an unencumbered balance in an amount not to exceed the cost of administering ORS 618.010 to 618.246 during a representative four-month period in order to [assure] ensure the orderly supervision of commercial weighing and measuring instruments or devices within this state.

(2) License fees become past due July 1 each year for renewals, and on the date of first commercial use for original installations.

(3) Except as provided in this subsection, the department may not establish a license fee under this section that is more than three per-

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
cent higher than the license fee charged during the preceding year for a commercial weighing or measuring instrument or device of the same type and class. Notwithstanding the three percent limit but subject to the maximum limits under ORS 618.141, when establishing a license fee under this section the department may round the fee amount to the next higher whole dollar amount. The department may not change the license fee for the same type and class of commercial weighing or measuring instrument or device more than once each year.

[(3)] (4) All moneys received by the department pursuant to ORS 618.010 to 618.246 shall be paid into the Department of Agriculture Service Fund. Such moneys are continuously appropriated to the department for the purpose of administering those provisions of ORS 618.010 to 618.246 relating to testing, inspection, licensing and regulation of commercial weighing and measuring instruments or devices.

SECTION 2. ORS 618.136, as amended by section 1 of this 2019 Act, is amended to read:

618.136. (1) The license fee for each type or class of commercial weighing or measuring instrument or device shall be established by the State Department of Agriculture in an amount not to exceed the maximum limits under ORS 618.141. Such fees shall be established in the amounts necessary for the department to carry out and enforce the provisions of ORS 618.010 to 618.246 relating to the supervision of commercial weighing and measuring instruments or devices, and to maintain an emergency fund with an unencumbered balance in an amount not to exceed the cost of administering ORS 618.010 to 618.246 during a representative four-month period in order to ensure the orderly supervision of commercial weighing and measuring instruments or devices within this state.

(2) License fees become past due July 1 each year for renewals, and on the date of first commercial use for original installations.

[(3) Except as provided in this subsection, the department may not establish a license fee under this section that is more than three percent higher than the
license fee charged during the preceding year for a commercial weighing or measuring instrument or device of the same type and class. Notwithstanding the three percent limit but subject to the maximum limits under ORS 618.141, when establishing a license fee under this section the department may round the fee amount to the next higher whole dollar amount. The department may not change the license fee for the same type and class of commercial weighing or measuring instrument or device more than once each year.]

[(4)] (3) All moneys received by the department pursuant to ORS 618.010 to 618.246 shall be paid into the Department of Agriculture Service Fund. Such moneys are continuously appropriated to the department for the purpose of administering those provisions of ORS 618.010 to 618.246 relating to testing, inspection, licensing and regulation of commercial weighing and measuring instruments or devices.

SECTION 3. ORS 618.141 is amended to read:

618.141. The license fees established pursuant to ORS 618.136 for commercial weighing or measuring instruments or devices [shall] may not exceed the following:

<table>
<thead>
<tr>
<th>Discrete Weighing Devices</th>
<th>Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Manufacturer's rated capacity)</td>
<td>Fee</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Not over 400 pounds</td>
<td>[$ 43] $ 49</td>
</tr>
<tr>
<td>Over 400 pounds, but not over 1,160 pounds</td>
<td>[$ 88] $ 101</td>
</tr>
<tr>
<td>Over 1,160 pounds, but not over 7,500 pounds</td>
<td>[$ 178] $ 205</td>
</tr>
<tr>
<td>Over 7,500 pounds, but not over 60,000 pounds</td>
<td>[$ 267] $ 307</td>
</tr>
<tr>
<td>Over 60,000 pounds</td>
<td>[$ 267] $ 307</td>
</tr>
<tr>
<td>Static railroad track scales</td>
<td>[$ 1,160] $ 1,334</td>
</tr>
</tbody>
</table>
Continuous Weighing Systems

(Manufacturer's rated capacity)

<table>
<thead>
<tr>
<th>Capacity Range</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 10 tons per hour</td>
<td>$336 - $386</td>
</tr>
<tr>
<td>10-150 tons per hour</td>
<td>$522 - $600</td>
</tr>
<tr>
<td>Over 150 tons per hour, but not over 1,000 tons per hour</td>
<td>$1,044 - $1,201</td>
</tr>
<tr>
<td>Over 1,000 tons per hour</td>
<td>$2,320 - $2,688</td>
</tr>
<tr>
<td>In-motion railroad track scales</td>
<td>$1,160 - $1,334</td>
</tr>
</tbody>
</table>

Liquid-Fuel Metering Devices for Noncorrosive Fuels Contained at Atmospheric Pressure (Maximum device flowrate)

<table>
<thead>
<tr>
<th>Flowrate Range</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20 gallons per minute</td>
<td>$35 - $40</td>
</tr>
<tr>
<td>20-150 gallons per minute</td>
<td>$178 - $205</td>
</tr>
<tr>
<td>Over 150 gallons per minute</td>
<td>$267 - $307</td>
</tr>
</tbody>
</table>

Special Liquid-Fuel Measuring Equipment (Type)

<table>
<thead>
<tr>
<th>Type</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquefied petroleum gas meters</td>
<td>$267 - $307</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Diameter</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>One inch pipe diameter or under</td>
<td>$267 - $307</td>
</tr>
<tr>
<td>Over one inch pipe diameter</td>
<td>$267 - $307</td>
</tr>
</tbody>
</table>

Tanks, under 500 gallons capacity

<table>
<thead>
<tr>
<th>Capacity</th>
<th>Price Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>when used as measure containers</td>
<td>$100 - $115</td>
</tr>
<tr>
<td>with or without gage rods or</td>
<td></td>
</tr>
<tr>
<td>markers</td>
<td></td>
</tr>
</tbody>
</table>

Tanks, 500 or more gallons capacity
when used as measure containers
with or without gage rods or
markers [§ 200] $230

SECTION 4. The amendments to ORS 618.136 by section 2 of this 2019 Act become operative on July 1, 2026.
SUMMARY

Eliminates reexamination administration fee for pesticide applicators and pesticide consultants.

A BILL FOR AN ACT
Relating to the charging of reexamination fees to applicants for licensing in pesticide trades; creating new provisions; and amending ORS 634.122 and 634.132.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 634.122 is amended to read:

634.122. (1) An applicant for a pesticide applicator’s license is entitled to be examined for or to be issued a license or supplements thereto by the State Department of Agriculture, if the applicant:
(a) Is at least 18 years of age; and
(b) Proves to the satisfaction of the department that the applicant:
(A) Has had experience as a pesticide trainee for the minimum period and in the manner prescribed by the department;
(B) Has educational qualifications, experience or training which is equal to the minimum standards and requirements established by the department; or
(C) Has been licensed in Oregon as a pesticide applicator and actively engaged in such work during the prior license period, as shall be prescribed by the department.
(2) An applicant for a pesticide applicator’s license shall be required to
demonstrate satisfactorily by written examination or any reexamination given by the department, an adequate knowledge of:

(a) The characteristics of pesticides and the effect of their application to particular crops.

(b) The practices of application of pesticides.

(c) The conditions and times of application of pesticides and the precautions to be taken in connection therewith.

(d) The applicable laws and rules relating to pesticides and their application in this state.

(e) Integrated pest management techniques, as defined in ORS 634.650, for pest control.

(f) Other requirements or procedures which will be of benefit to and protect the pesticide applicator, the persons who use the services of the pesticide applicator and the property of others.

(3) Based upon the license application and the request of the applicant, the department may examine the applicant only in any one or more of the classes of pest control or pesticide application businesses established by the department under ORS 634.306 (2).

(4)(a) A pesticide applicator license fee shall be established by the department not to exceed $50 for the first class of pest control or pesticide application business as prescribed in ORS 634.306 (2) and not to exceed $7.50 for each additional class.

(b) After a person makes first application for a license or renewal thereof for a specific license period, if later during the same license period such person desires to engage in additional classes of pest control or pesticide application business as prescribed in ORS 634.306 (2), such person shall pay the fee for each additional class established by the department not to exceed $12.50.

(5) Examinations or reexaminations for pesticide applicator's licenses shall be given by the department at such time and in any of its branch offices or other locations it deems expedient, and shall be under the supervision of
its employees or appointees. The department is authorized to:

(a) Appoint without pay or reimbursement, employees of other state agencies who are authorized to give examinations.

(b) Prepare and maintain various types of examinations and types and schedules of reexaminations and to take all other measures deemed necessary to insure that persons receiving passing grades thereto have been fairly and reasonably tested as to their ability and that there have been no fraudulent or dishonest means used by the applicants in applying for or in the taking of examinations or reexaminations.

(6) If it verifies an applicant has received a passing grade on the examination or reexamination and otherwise has complied with the provisions of this chapter, the department shall issue a pesticide applicator’s license.

[7) Each person who has failed to receive a passing grade or for other reasons was not issued a license as a result of an examination or reexamination given by the department, shall pay $5 to partially reimburse the department for its costs to administer each reexamination to the applicant.]

SECTION 2. ORS 634.132 is amended to read:

634.132. (1) The annual license fee for a pesticide consultant shall be established by the State Department of Agriculture not to exceed $40.

(2) An applicant for a pesticide consultant’s license shall be required to demonstrate satisfactorily by written examination or any reexamination given by the department, an adequate knowledge of:

(a) The characteristics of pesticides and the effect of their application to particular crops.

(b) The practices of application of pesticides.

(c) The conditions and times of application of pesticides and the precautions to be taken in connection therewith.

(d) The applicable laws and rules relating to pesticides and their application in this state.

(e) Other requirements or procedures which will be of benefit to and protect the pesticide applicators, the persons who use the services of the
pesticide applicator and the property of others.

(3) Based upon the license application and the request of the applicant, the department may examine the applicant only in any one or more of the classes of pesticides established by the department under ORS 634.306 (2).

(4) Examinations or reexaminations for pesticide consultant’s licenses shall be subject to ORS 634.122 (5) [to (7)] and (6).

(5) This section shall not apply to licensed pesticide applicators or operators.

SECTION 3. The amendments to ORS 634.122 and 634.132 by sections 1 and 2 of this 2019 Act apply to reexaminations given by the State Department of Agriculture on or after the effective date of this 2019 Act.

[4]
SUMMARY

Extends sunset on State Department of Agriculture authority to annually impose limited fee increases for certain licenses related to food production. Establishes maximum fee for license following new sunset date to be last fee for license in effect prior to new sunset date.

Corrects internal reference errors regarding licenses for various establishments dealing in meats.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to State Department of Agriculture food establishment licenses; creating new provisions; amending ORS 603.025, 616.706, 619.031, 621.072, 621.166, 625.180, 628.240, 632.720 and 635.030 and section 45, chapter 64, Oregon Laws 2012; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 603.025, as amended by section 36, chapter 64, Oregon Laws 2012, is amended to read:

603.025. (1) A person may not sell, offer to sell or expose for sale meat products or engage in any other activity described or identified in subsection (4) of this section without first obtaining and maintaining a license for that activity from the State Department of Agriculture. All such licenses shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. Renewal applications must be postmarked before the expiration date to be timely.

(2) Application for a license required by this section shall be made to the department on forms prescribed by the department and shall contain any

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
information the department deems necessary. The license is personal and nontransferable, with a separate license required for each establishment location. A new license is required each time there is a change in ownership, legal entity or establishment location.

(3) In addition to other license requirements of this section, if an applicant for a license under subsection (4)(c) of this section has an average weekly dollar value of meat animal purchases that exceeds $10,000, the applicant shall submit with the application a surety bond with one or more corporate sureties authorized to do business in this state, or an irrevocable letter of credit issued by an insured institution, as defined in ORS 706.008. The bond or letter of credit shall be in an amount equal to twice the average daily value of meat animal purchases during the preceding calendar year, or the amount of $20,000, whichever amount is greater. The department shall prescribe the form for the bond or letter of credit. A bond or letter of credit is subject to department approval and must be conditioned upon faithful performance by the licensee of all obligations to the producers of meat animals arising from the sale of meat animals by producers to the licensee.

(4) Each of the following activities must be licensed, and the fee established by the department paid with the license application:

(a) Operation of a meat seller establishment. A license under this section paragraph allows only the meat products preparation described in ORS 603.010 (8).

(b) Operation of a nonslaughtering processing establishment. A license under this section paragraph allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(c) Operation of a slaughterhouse. A license under this section paragraph allows selling meat products at the same location without obtaining the license described in paragraph (a) of this subsection.

(d) Operation of a custom slaughtering establishment or custom processing establishment. A license under this section paragraph does not allow
(e) Operation of a slaughterhouse, custom slaughtering establishment or custom processing establishment wherein only poultry or rabbits are slaughtered or prepared. A license under this section paragraph allows selling only poultry or rabbit products at the same location without obtaining the license described in paragraph (a) of this subsection.

(5) The license required by this section shall be displayed at all times in a conspicuous manner at the address shown on the license.

(6) The department may adopt rules establishing license fee schedules for establishments licensed under this section. The department may determine the license fee for an establishment based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an establishment, the State Department of Agriculture shall use the annual gross dollar volume of sales and services by that establishment within Oregon during the prior calendar year or, if the establishment maintains sales and service records on a fiscal basis, the prior fiscal year. If the establishment applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales and services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the establishment. If an establishment whose previous year’s fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual annual gross dollar volume of sales and services by the establishment.

(7) The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, [2018] 2025, for an establishment of the same type and having the same volume of gross sales and services. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.
SECTION 2. ORS 616.706, as amended by section 37, chapter 64, Oregon Laws 2012, is amended to read:

616.706. (1) Except as otherwise provided in ORS 616.695 to 616.755, a person may not operate a food establishment without first obtaining and thereafter maintaining a license under this section. A person shall make an application for a license to the State Department of Agriculture on forms prescribed by the department. Each license shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule.

(2) The department may, subject to the applicable provisions of ORS chapter 183, suspend, revoke or refuse to issue a license if the licensee has violated any of the provisions of ORS 616.695 to 616.755 or rules adopted under ORS 616.695 to 616.755.

(3) A license is personal to the applicant and may not be transferred. A new license is necessary if the business entity of the licensee is changed, or if the membership of a partnership is changed, irrespective of whether or not the business name is changed.

(4) The license shall cover all operations of the person licensed, under one entity or ownership. With prior approval of the department, the location of a licensed food establishment, or any part of a licensed food establishment, may be moved without the requirement of a new license if there is no change in the ownership or business entity.

(5) The license shall be posted in a conspicuous place in the main office of the food establishment. Duplicate copies of the license shall be conspicuously posted in branch offices, warehouses and other places owned or operated by the licensee at locations other than the main office. A license is automatically canceled if the food establishment ceases or discontinues operations or business.

(6) The department may adopt rules establishing license fee schedules for a food establishment:

(a) That is part of a domestic kitchen;
(b) That is a retail food store;
(c) That is a warehouse; or
(d) That is other than part of a domestic kitchen, retail food store or warehouse.

(7) The department may determine the license fee for a food establishment described in subsection (6)(b) to (d) of this section based upon the gross sales by the applicant. In establishing the amount of a license fee based upon gross sales by an applicant, the department shall use the annual gross dollar volume of sales of covered operations by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales of covered operations for a full calendar year, the department shall base the fee on estimated annual gross sales of covered operations by the applicant. If an applicant whose previous year’s fee was determined using an estimated gross sales of covered operations figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales of covered operations by the applicant.

(8) The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, [2018] \textbf{2025}, for an establishment of the same type and having the same volume of gross sales. License fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

SECTION 3. ORS 619.031, as amended by section 38, chapter 64, Oregon Laws 2012, is amended to read:

619.031. (1) A person may not operate an animal food slaughtering establishment or processing establishment without first obtaining a license for the establishment from the State Department of Agriculture.

(2) The department may adopt rules establishing license fee schedules for
establishments licensed under this section. The department may determine
the license fee for an establishment based upon the annual gross dollar vol-
ume of sales and services by the applicant. In establishing the amount of the
license fee for an applicant, the department shall use the annual gross dollar
volume of sales and services by that applicant within Oregon during the
prior calendar year or, if the applicant maintains sales and service records
on a fiscal basis, the prior fiscal year. If the applicant applying for an ori-
ginal license or for a renewal license cannot provide the annual gross dollar
volume of sales and services for a full calendar year, the department shall
base the fee on estimated annual gross sales and services by the applicant.
If an applicant whose previous year’s fee was determined using an estimated
gross sales and services figure applies for renewal of that license, the fee for
the previous license year shall be adjusted to reflect the actual gross dollar
volume of sales and services by the applicant. The license shall expire on
June 30 next following the date of issuance or on such date as may be
specified by department rule.

(3) The department may not adopt or enforce a rule under this section
establishing a license fee that is higher than the license fee charged for the
license year that began July 1, [2018] 2025, for an establishment of the same
type and having the same volume of gross sales and services. Fee schedules
adopted under this section may not change the amount of the same license
fee more frequently than once each year.

(4) The provisions of ORS 603.025 (2) and (5), 603.034 (1) and (2), 603.045
(7) and 603.075 shall apply to animal food slaughtering establishments or
processing establishments. Except as provided in this subsection, the re-
mainder of the provisions of ORS chapter 603 do not apply to such estab-
ishments.

(5) Notwithstanding subsection (1) of this section, a person licensed by
the department under ORS chapter 603 to slaughter meat animals and subject
to federal meat inspection, or a person licensed by the department under ORS
chapter 603 to slaughter only poultry and rabbits and subject to federal
poultry inspection, or a person licensed by the department under ORS chapter 603 as a nonslaughtering processor may, without being required to obtain
an additional license, also sell or dispose of meat products as animal food
provided that such licensees also comply with the provisions of subsection
(6) of this section, ORS 619.010 to 619.026 and 619.036 to 619.066.
(6) In accordance with the provisions of ORS chapter 183, the department
may promulgate rules necessary to carry out and enforce any procedures or
measures to protect the health of the animals that are fed or intended to be
fed the meat products sold or disposed of by animal food slaughtering es-
tablishments or processing establishments, and to protect the health of other
animals in this state. In addition to the provisions of ORS 619.046, for the
purposes of this section the department shall take into consideration:
(a) The provisions of ORS chapter 596.
(b) The procedures necessary to ensure that meat products that are only
fit for or destined for animal consumption are not sold for human consump-
tion.
(7) A person licensed as provided by this section:
(a) May not sell, hold or offer for sale any carcass of a meat animal or
part thereof that is unfit for or unwholesome as animal food.
(b) May not sell, hold or offer for sale a carcass of a meat animal or part
thereof for human consumption.
(c) Shall keep complete and accurate records of the meat animals pur-
chased for slaughter, including but not limited to their description, brands
if any, date of purchase and the name and address of the person from whom
the animals were purchased.
(d) Shall keep complete and accurate records of the sale of all meat ani-
mal carcasses or parts of meat animal carcasses, including the name and
address of the purchaser.
(e) Shall comply with the provisions of ORS 619.026.

SECTION 4. ORS 621.072, as amended by section 39, chapter 64, Oregon
Laws 2012, and section 22, chapter 203, Oregon Laws 2015, is amended to
621.072. (1) The State Department of Agriculture shall issue a license to use a grade designation to any person who:
   (a) Makes written application for a license on forms provided by the department;
   (b) Pays the designated license fee;
   (c) Is engaged in the business of producing or distributing fluid milk; and
   (d) Meets the requirements of the particular grade designation for which application is made.

(2) If a person carries on the activities of a producer and a producer-distributor, the person must obtain a separate license for each of those activities.

(3) Licenses issued under this section shall be personal and not transferable.

(4) Each milk hauler, milk receiver or other person who grades fluid milk as fit or unfit for processing as fluid milk due to quality, odor, flavor or wholesomeness must first obtain a license from the department authorizing that person to sample and grade fluid milk. Each applicant for a milk sampler’s and grader’s license shall, by written examination, demonstrate an adequate knowledge of milk sanitation as it relates to the sampling, grading and handling of fluid milk and cream for analysis. The department shall give examinations for licenses at such times and places as appears to be necessary and practicable.

(5) Before and after issuing a license to a person as a producer, producer-distributor, distributor or nonprocessing distributor of fluid milk, the department shall, as it deems necessary, inspect the physical facilities of the applicant’s dairy, milk processing plant or distribution center and investigate other factors the department determines may relate to the production, processing or distribution of fluid milk.

(6) Each license issued under this section expires on June 30 next following the date of its issuance unless sooner revoked and may be renewed.
upon application of the licensee. Each application for a license or annual
renewal of a license shall be accompanied by a license fee.

(7) The department may adopt rules establishing license fee schedules for:
(a) Milk samplers and graders;
(b) Producer-distributors, distributors and nonprocessing distributors; and
(c) Producers.

(8) The department may determine the license fee for a producer-
distributor, distributor or nonprocessing distributor based upon the annual
gross dollar volume of sales and services by the applicant. In establishing
the amount of the license fee for an applicant under this subsection, the de-
partment shall use the annual gross dollar volume of sales and services by
that applicant within Oregon during the prior calendar year or, if the ap-
plicant maintains sales and service records on a fiscal basis, the prior fiscal
year. If the applicant applying for an original license or for a renewal license
cannot provide the annual gross dollar volume of sales and services for a full
calendar year, the department shall base the fee on estimated annual gross
sales and services by the applicant. If an applicant whose previous year’s fee
was determined using an estimated gross sales and services figure applies for
renewal of that license, the fee for the previous license year shall be adjusted
to reflect the actual gross dollar volume of sales and services by the appli-
cant.

(9) The department may determine the license fee for a producer based
upon the annual gross sales by the applicant. In establishing the amount of
the license fee for an applicant under this subsection, the department shall
use the annual gross sales by that applicant within Oregon during the prior
calendar year or, if the applicant maintains sales records on a fiscal basis,
the prior fiscal year. If the applicant applying for an original license or for
a renewal license cannot provide the annual gross sales for a full calendar
year, the department shall base the fee on estimated annual gross sales by
the applicant. If an applicant whose previous year’s fee was determined using
an estimated gross sales figure applies for renewal of that license, the fee for
the previous license year shall be adjusted to reflect the actual gross sales by the applicant.

(10) The department may not adopt or enforce a rule under this section establishing a license fee for a milk sampler and grader that is higher than the license fee charged for the license year that began July 1, [2018] 2025, for a milk sampler and grader. The department may not adopt or enforce a rule under this section establishing a license fee for a producer-distributor, distributor or nonprocessing distributor that is higher than the license fee charged for the license year that began July 1, [2018] 2025, for a producer-distributor, distributor or nonprocessing distributor having the same volume of gross sales and services. The department may not adopt or enforce a rule under this section establishing a license fee for a producer that is higher than the license fee charged for the license year that began July 1, [2018] 2025, for a producer having the same volume of gross sales. Fee schedules adopted under this section may not change the amount of the same license fee more frequently than once each year.

(11) A distributor or producer-distributor must obtain a license and pay license fees for each physical facility used to produce, process or distribute fluid milk. A person is not required to obtain a distributor or producer-distributor license to act as a milk hauler or to operate receiving or transfer stations in conjunction with a milk processing plant.

(12) The department may refuse to issue or renew, or may suspend or revoke, a license for any violation of this section or ORS 621.062, 621.070, 621.076, 621.084, 621.088, 621.117, 621.122 or 621.259 or processes or standards established under ORS 621.060 or 621.083.

SECTION 5. ORS 621.166, as amended by section 40, chapter 64, Oregon Laws 2012, is amended to read:

(1) As used in this section, “mobile milk tanker” means a tank or other receptacle that attaches to a bulk tank truck or other equipment and is used to transport fluid milk, milk or milk products.

(2) Application for a dairy products plant license shall be made to the
State Department of Agriculture on forms provided by the department. Each license and each annual renewal shall expire on June 30 next following its issuance or on such date as may be specified by department rule. Dairy products plant licenses are personal and are not transferable.

(3) Each dairy products plant shall submit a separate fee established by the department for each mobile milk tanker. The fee does not apply to a mobile milk tanker owned and operated by a dairy products plant while transporting dairy products from the dairy products plant to wholesale or retail outlets for those products.

(4) The department may adopt rules establishing license fee schedules for:

(a) Mobile milk tankers; and

(b) Dairy products plants.

(5) The department may determine the license fee for a dairy products plant based upon the annual gross dollar volume of sales and services by the applicant. In establishing the amount of the license fee for an applicant, the department shall use the annual gross dollar volume of sales and services by that applicant within Oregon during the prior calendar year or, if the applicant maintains sales and service records on a fiscal basis, the prior fiscal year. If the applicant applying for an original license or for a renewal license cannot provide the annual gross dollar volume of sales or services for a full calendar year, the department shall base the fee on estimated annual gross sales and services by the applicant. If an applicant whose previous year’s fee was determined using an estimated gross sales and services figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross dollar volume of sales and services by the applicant.

(6) The department may not adopt or enforce a rule under this section establishing a license fee for a mobile milk tanker that is higher than the license fee charged for the license year that began July 1, 2018, for an equivalent mobile milk tanker. The department may not adopt or enforce a rule under this section establishing a license fee for a dairy products plant

[11]
that is higher than the license fee charged for the license year that began
July 1, [2018] 2025, for a dairy products plant having the same volume of
gross sales and services. Fee schedules adopted under this section may not
change the amount of the same license fee more frequently than once each
year.

SECTION 6. ORS 625.180, as amended by section 41, chapter 64, Oregon
Laws 2012, is amended to read:

625.180. (1) Every bakery or bakery distributor doing business in this state
shall pay a license fee.

(2) The State Department of Agriculture may adopt rules establishing li-
cense fee schedules for:

(a) A bakery distributor;

(b) A domestic kitchen bakery; and

(c) A bakery other than a domestic kitchen bakery.

(3) The department may determine the license fee for a bakery or bakery
distributor based upon the annual gross sales by the applicant. In establish-
ing the amount of the license fee for a bakery or bakery distributor, the de-
partment shall use the annual gross sales by that bakery or distributor
within Oregon during the prior calendar year or, if the bakery or distributor
maintains sales records on a fiscal basis, the prior fiscal year. If the bakery
or distributor applying for an original license or for a renewal license cannot
provide the annual gross sales for a full calendar year, the department shall
base the fee on estimated annual gross sales by the bakery or distributor. If
a bakery or distributor whose previous year’s fee was determined using an
estimated gross sales figure applies for renewal of that license, the fee for
the previous license year shall be adjusted to reflect the actual gross sales
by the bakery or distributor.

(4) The department may not adopt or enforce a rule under this section
establishing a license fee for a bakery distributor that is higher than the li-
cense fee charged for the license year that began July 1, [2018] 2025, for a
bakery distributor having the same volume of gross sales. The department
may not adopt or enforce a rule under this section establishing a license fee
for a bakery that is higher than the license fee charged for the license year
that began July 1, [2018] 2025, for a bakery of the same type and having the
same volume of gross sales. Fee schedules adopted under this section may
not change the amount of the same license fee more frequently than once
each year.

SECTION 7. ORS 628.240, as amended by section 42, chapter 64, Oregon
Laws 2012, is amended to read:

628.240. (1) An applicant for a refrigerated locker plant license shall pay
a license fee to the State Department of Agriculture. The department may
adopt rules establishing a license fee for a refrigerated locker plant. The
department may not adopt or enforce a rule under this section establishing
a license fee for a refrigerated locker plant that is higher than the license
fee charged for the license year that began July 1, [2018] 2025, for a refrig-
erated locker plant. The department may not change the amount of the re-
frigerated locker plant license fee more frequently than once each year.

   (2) If the license is issued after January 1 but before June 30 of the same
year, the license fee shall be one-half of the fee established by the depart-
ment by rule under subsection (1) of this section.

   (3) All fees received by the department under ORS 628.210 to 628.370 shall
be deposited in the Department of Agriculture Service Fund and are contin-
uously appropriated to the department for the purpose of administering and
enforcing those sections.

SECTION 8. ORS 632.720, as amended by section 43, chapter 64, Oregon
Laws 2012, is amended to read:

632.720. An applicant for an egg handler’s license shall pay an annual li-
cense fee to the State Department of Agriculture with each application. The
department may adopt rules establishing a license fee for an egg handler.
The department may not adopt or enforce a rule under this section estab-
lishing an egg handler license fee that is higher than the egg handler license
fee charged for the license year that began July 1, [2018] 2025. The depart-
ment may not change the amount of the egg handler's license fee more frequently than once each year.

SECTION 9. ORS 635.030, as amended by section 44, chapter 64, Oregon Laws 2012, is amended to read:

635.030. (1) Any person desiring to or who does engage in the business of a nonalcoholic beverage manufacturer shall apply to the State Department of Agriculture for a license for each plant operated by such person. The application shall be in such form and contain such information as the department may prescribe.

(2) The department may adopt rules establishing license fee schedules for nonalcoholic beverage manufacturers. The department may determine the license fee for a manufacturer based upon the annual gross sales by the manufacturer. In establishing the amount of the license fee for a manufacturer, the department shall use the annual gross sales by that manufacturer within Oregon during the prior calendar year or, if the manufacturer maintains sales records on a fiscal basis, the prior fiscal year. If the manufacturer applying for an original license or for a renewal license cannot provide the annual gross sales for a full calendar year, the department shall base the fee on estimated annual gross sales by the manufacturer. If a manufacturer whose previous year’s fee was determined using an estimated gross sales figure applies for renewal of that license, the fee for the previous license year shall be adjusted to reflect the actual gross sales by the manufacturer.

(3) The department may not adopt or enforce a rule under this section establishing a license fee that is higher than the license fee charged for the license year that began July 1, 2018, for a nonalcoholic beverage manufacturer having the same volume of gross sales. Fee schedules adopted under this section may not increase the amount of the same license fee more frequently than once each year.

(4) Licenses issued under this section shall expire on June 30 next following the date of issuance or on such date as may be specified by department rule. The department shall collect a license fee for each license and for
each renewal of a license. The fee shall be remitted by the department to
the State Treasurer. The State Treasurer shall place all moneys received
under this section in the Department of Agriculture Service Fund. Moneys
from fees imposed under this section are continuously appropriated to the
department for the purpose of administering and enforcing the provisions of
this chapter.

SECTION 10. Section 45, chapter 64, Oregon Laws 2012, is amended to
read:

Sec. 45. The amendments to ORS 603.025, 616.706, 619.031, 621.072, 621.166,
625.180, 628.240, 632.720 and 635.030 by sections 36 to 44, chapter 64, Oregon

SECTION 11. If this 2019 Act does not become law until after June
30, 2019:

(1) The Legislative Assembly intends that the amendments to ORS
603.025, 616.706, 619.031, 621.072, 621.166, 625.180, 628.240, 632.720 and
635.030 and section 45, chapter 64, Oregon Laws 2012, by sections 1 to
10 of this 2019 Act shall operate retroactively to June 30, 2019; and

(2) All fee increases between July 1, 2019, and the effective date of
this 2019 Act adopted in accordance with ORS 603.025, 616.706, 619.031,
621.072, 621.166, 625.180, 628.240, 632.720 and 635.030 as operative on June
30, 2019, are ratified and approved.

SECTION 12. This 2019 Act being necessary for the immediate
preservation of the public peace, health and safety, an emergency is
declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Authorizes State Department of Agriculture to order condemnation or closure of food establishment if department authorization required for operation of food establishment has not been obtained or has lapsed.

Makes violation of order for condemnation or closure of food establishment subject to civil penalty, not to exceed $10,000 per violation.

A BILL FOR AN ACT

Relating to food establishments lacking valid authorizations required for operation; creating new provisions; and amending ORS 616.997.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 616.

SECTION 2. (1) As used in this section:

(a) “Authorization” means a license, permit, certificate or other approval for the operation of a food establishment.

(b) “Food establishment” has the meaning given that term in ORS 616.695.

(2) In addition to any other authority granted to the State Department of Agriculture, including, but not limited to, condemnation or closure authority under ORS 632.705 to 632.815 or this chapter or ORS chapter 619, 621, 622, 624 or 625, the department may order the condemnation or closure of a food establishment if:

(a) Department authorization for operation of the food establishment is required by law; and

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(b) The authorization has not been obtained or has lapsed.

(3) Prior to ordering the condemnation or closure of a food establishment under this section, the department shall give notice to the owner or operator of the food establishment that the authorization required for operating the food establishment has not been obtained or has lapsed. The department shall send the notice to the owner or operator by certified mail addressed to the last-known address of the person on file with the department or, if none, to the address of the food establishment. The date of mailing must be at least 30 days prior to any order issued by the department under this section for condemnation or closure of the food establishment.

(4) Food establishments for which the department may issue an order for condemnation or closure under this section include, but are not limited to, establishments for which department authorization is required under ORS 603.025, 616.706, 619.031, 621.161, 621.335, 622.080, 625.020, 625.080, 625.180, 628.220, 632.715, 632.730 or 635.027.

SECTION 3. ORS 616.997 is amended to read:

616.997. (1) In addition to any penalty available under ORS 561.190, 616.992 or 616.994, the State Department of Agriculture may impose a civil penalty for a violation of this chapter, [or] of rules, regulations or standards adopted under this chapter or of an order issued under section 2 of this 2019 Act. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed $10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written application for a hearing must be...
received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account.
SUMMARY

Changes structure for annual permit fees for confined animal feeding operations. Allows State Department of Agriculture to establish tiers within size categories for confined animal feeding operations for purposes of determining amount of mandatory annual permit fee assessment. Provides for department to establish annual permit fee for confined animal feeding operations and concentrated animal feeding operations. Requires department to establish permit application fees for new confined animal feeding operations or concentrated animal feeding operations or for transfer of permits for confined animal feeding operations or concentrated animal feeding operations.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to fees for animal feeding operations; creating new provisions; amending ORS 468B.215 and 561.255; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468B.215 is amended to read:

468B.215. (1) Any person operating a confined animal feeding operation [shall pay a fee established] or concentrated animal feeding operation under an NPDES or WPCF permit shall annually pay a fee for a confined animal feeding operation permit or concentrated animal feeding operation permit as provided by State Department of Agriculture rules adopted under ORS 561.255. As used in this subsection, “NPDES” and “WPCF” have the meanings given those terms in ORS 561.255.

(2) Except for an animal feeding operation subject to regulation under 33
U.S.C. 1342, a fee shall not be assessed to nor a permit required under ORS 468B.050 (1)(d) of confined animal feeding operations of four months or less duration or that do not have waste water control facilities. A confined animal feeding operation of four months or less duration or that does not have waste water control facilities is subject to all requirements of ORS chapters 468, 468A and 468B if found to be discharging wastes into the waters of the state.

(3) The Department of Environmental Quality or the State Department of Agriculture may impose on the permit required for a confined animal feeding operation only those conditions necessary to ensure that wastes are disposed of in a manner that does not cause pollution of the surface and ground waters of the state.

(4) A permit for a confined animal feeding operation may be revoked or modified by the Department of Environmental Quality or the State Department of Agriculture or may be terminated upon request by the permit holder. An animal feeding operation may be inspected for compliance with water quality laws and regulations by the Department of Environmental Quality or the State Department of Agriculture.

SECTION 2. ORS 561.255 is amended to read:

561.255. (1) As used in this section:

(a) “Confined animal feeding operation” has the meaning given that term in rules adopted by the State Department of Agriculture.

(b) “Large confined animal feeding operation” has the meaning given that term in rules adopted by the department.

(c) “Medium confined animal feeding operation” has the meaning given that term in rules adopted by the department.

(d) “NPDES” means the National Pollutant Discharge Elimination System.

(e) “Small confined animal feeding operation” has the meaning given that term in rules adopted by the department.

(f) “WPCF” means a water pollution control facility operated under
a permit issued by the Director of the Department of Environmental Quality or a designee of the director. [(1) The State Department of Agriculture shall charge the following annual permit fees to be paid under ORS 468B.215 by any persons operating the following categories of confined animal feeding operations:]

(2) The State Department of Agriculture shall adopt rules establishing annual permit fees for payment under ORS 468B.215 by confined animal feeding operations or concentrated animal feeding operations that operate under a general NPDES or WPCF permit. The department may adopt rules that establish tiers within each confined animal feeding operation size category for purposes of annual permit fee assessment. Subject to subsection (3) of this section, the annual permit fees may not exceed:

(a) $500 for a small confined animal feeding operation or small concentrated animal feeding operation.

(b) $1,000 for a medium confined animal feeding operation or medium concentrated animal feeding operation.

(c) $3,500 for a large confined animal feeding operation or large concentrated animal feeding operation.

[(2) As used in this section:]

[(a) “Confined animal feeding operation” has the meaning given that term in rules adopted by the department.] [(b) “Large confined animal feeding operations” has the meaning given that term in rules adopted by the department.] [(c) “Medium confined animal feeding operations” has the meaning given that term in rules adopted by the department.] [(d) “Small confined animal feeding operations” has the meaning given that term in rules adopted by the department.]

(3) The department may not charge more than $10,000 in annual permit fees for payment under ORS 468B.215 by a person operating confined animal feeding operations or concentrated animal feeding operations.
operations under an individual NPDES or WPCF permit.

(4) The department shall charge a permit application fee for:

(a) A new confined animal feeding operation or concentrated animal
feeding operation proposing to operate under an NPDES or WPCF
permit; or

(b) The transfer of an NPDES or WPCF permit for a confined ani-
mal feeding operation or concentrated animal feeding operation.

(5) Subject to subsection (6) of this section, a permit application fee
charged under this section may not exceed:

(a) $75 for a small confined animal feeding operation or concen-
trated animal feeding operation.

(b) $100 for a medium confined animal feeding operation or con-
centrated animal feeding operation.

(c) $300 for a large confined animal feeding operation or concen-
trated animal feeding operation.

(6) The department may not charge more than $15,000 in permit
application fees for payment under ORS 468B.215 for new confined an-
imal feeding operations or concentrated animal feeding operations
proposed for operation under an individual NPDES or WPCF permit.

SECTION 3. (1) The amendments to ORS 468B.215 and 561.255 by
sections 1 and 2 of this 2019 Act become operative on January 1, 2020.

(2) The State Department of Agriculture may take any action prior
to January 1, 2020, that the department deems reasonable to facilitate
the administration of ORS 561.255 by the department on or after Jan-
uary 1, 2020.

SECTION 4. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.
SUMMARY

Requires Invasive Species Council to biennially report to interim committee of Legislative Assembly.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the Invasive Species Council; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Invasive Species Council shall biennially report to an interim committee of the Legislative Assembly related to natural resources in the manner provided by ORS 192.245. The council shall submit the report no later than June 30 of each even-numbered year. The report shall include, but need not be limited to, a summary of council activities during the biennial period.

SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Makes increases in aviation fuel taxes by House Bill 2075 (chapter 700, Oregon Laws 2015) permanent. Adds certain aviation education and training programs to portion of distributions made with increased tax revenue. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to aviation fuel; creating new provisions; amending ORS 319.020 and 319.330 and sections 3 and 7, chapter 700, Oregon Laws 2015; repealing sections 6 and 8, chapter 700, Oregon Laws 2015; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 3, chapter 700, Oregon Laws 2015, is amended to read:

Sec. 3. (1) The amendments to ORS 319.020 by section 1 [of this 2015 Act], chapter 700, Oregon Laws 2015, apply to aircraft fuel sold, used or distributed on or after January 1, 2016, and before [January 1, 2022] the effective date of this 2019 Act.

(2) The amendments to ORS 319.330 by section 2 [of this 2015 Act], chapter 700, Oregon Laws 2015, apply to fuel purchased and used in operating aircraft engines on or after January 1, 2016, and before [January 1, 2022] the effective date of this 2019 Act.

SECTION 2. ORS 319.020, as amended by section 4, chapter 700, Oregon Laws 2015, and section 41, chapter 750, Oregon Laws 2017, is amended to

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
319.020. (1) Subject to subsections (2) to (4) of this section, in addition to the taxes otherwise provided for by law, every dealer engaging in the dealer’s own name, or in the name of others, in the first sale, use or distribution of motor vehicle fuel or aircraft fuel or withdrawal of motor vehicle fuel or aircraft fuel for sale, use or distribution within areas in this state within which the state lacks the power to tax the sale, use or distribution of motor vehicle fuel or aircraft fuel, shall:

(a) Not later than the 25th day of each calendar month, render a statement to the Department of Transportation of all motor vehicle fuel or aircraft fuel sold, used, distributed or so withdrawn by the dealer in the State of Oregon as well as all such fuel sold, used or distributed in this state by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable license tax during the preceding calendar month. The dealer shall render the statement to the department in the manner provided by the department by rule.

(b) Except as provided in ORS 319.270, pay a license tax computed on the basis of 34 cents per gallon on the first sale, use or distribution of such motor vehicle fuel or aircraft fuel so sold, used, distributed or withdrawn as shown by such statement in the manner and within the time provided in ORS 319.010 to 319.430.

(2) When aircraft fuel is sold, used or distributed by a dealer, the license tax shall be computed on the basis of [nine] 11 cents per gallon of fuel so sold, used or distributed, except that when aircraft fuel usable in aircraft operated by turbine engines (turbo-prop or jet) is sold, used or distributed, the tax rate shall be [one cent] three cents per gallon.

(3) In lieu of claiming refund of the tax paid on motor vehicle fuel consumed by such dealer in nonhighway use as provided in ORS 319.280, 319.290 and 319.320, or of any prior erroneous payment of license tax made to the state by such dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.
(4) The license tax computed on the basis of the sale, use, distribution or withdrawal of motor vehicle or aircraft fuel may not be imposed wherever such tax is prohibited by the Constitution or laws of the United States with respect to such tax.

SECTION 3. ORS 319.330, as amended by section 5, chapter 700, Oregon Laws 2015, is amended to read:

319.330. (1) Whenever any statement and invoices are presented to the Department of Transportation showing that motor vehicle fuel or aircraft fuel has been purchased and used in operating aircraft engines and upon which the full tax for motor vehicle fuel has been paid, the department shall refund the tax paid, but only after deducting from the tax paid [nine] 11 cents for each gallon of such fuel so purchased and used, except that when such fuel is used in operating aircraft turbine engines (turbo-prop or jet) the deduction shall be [one cent] three cents for each gallon. No deduction provided under this subsection shall be made on claims presented by the United States or on claims presented where a satisfactory showing has been made to the department that such aircraft fuel has been used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States. The amount so deducted shall be paid on warrant of the Oregon Department of Administrative Services to the State Treasurer, who shall credit the amount to the State Aviation Account for the purpose of carrying out the provisions of the state aviation law. Moneys credited to the account under this section are continuously appropriated to the Oregon Department of Aviation.

(2) If satisfactory evidence is presented to the Department of Transportation showing that aircraft fuel upon which the tax has been paid has been purchased and used solely in aircraft operations from a point within the State of Oregon directly to a point not within any state of the United States, the department shall refund the tax paid.

SECTION 4. (1) The amendments to ORS 319.020 by section 2 of this 2019 Act apply to aircraft fuel sold, used or distributed on or after the
effective date of this 2019 Act.

(2) The amendments to ORS 319.330 by section 3 of this 2019 Act apply to fuel purchased and used in operating aircraft engines on or after the effective date of this 2019 Act.

SECTION 5. Section 6, chapter 700, Oregon Laws 2015, is repealed.

SECTION 6. Section 7, chapter 700, Oregon Laws 2015, as amended by section 80a, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 7. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

(2) Applications for distributions under this section may not be approved unless the applicant demonstrates a commitment to contribute at least five percent of the costs of the project to which the application relates. The Oregon Department of Aviation shall adopt rules for purposes of this subsection.

(3)(a) The State Aviation Board shall establish a review committee composed of one member from each of the area commissions on transportation chartered by the Oregon Transportation Commission.

(b) The review committee shall meet as necessary to review applications for distributions of amounts pursuant to this section. The criteria specified in ORS 367.084 (6) apply to the review process of the review committee.

(c) The review committee shall recommend applications to the State Aviation Board, which shall select applications with the following priority:

(A) First, to applications filed pursuant to subsection (5)(a)(A) of this
(B) Second, to applications filed with respect to safety and infrastructure development; and

(C) Third, to applications filed with respect to aviation-related economic benefits related to airports.

(4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated to the Oregon Department of Aviation for the costs of the department and the State Aviation Board in administering this section.

(b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be distributed pursuant to subsections (5) to (7) of this section.

(5)(a) Fifty percent of the amounts described in subsection (4)(b) of this section shall be distributed for the following purposes:

(A) To assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(B) To make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment.

(C) To make grants for:

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.

(iii) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(b) Priority in distributing grants shall be given to projects for which applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate.

(6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed for the following purposes:
1. (a) Assisting commercial air service to rural Oregon.
(b) Establishing and operating in this state:
(A) Aviation and space education programs in schools;
(B) Science, technology, engineering and mathematics programs related to aviation and aeronautics;
(C) Aviation flight training programs and certifications; and
(D) Aviation programs certified by the Federal Aviation Administration.

(c) Providing financial assistance for programs and certifications under paragraph (b) of this subsection.

(7) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed to state-owned airports for the purposes of:
(a) Safety improvements recommended by the State Aviation Board and local community airports.
(b) Infrastructure projects at public use airports.

(8)(a) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and paragraph (b) of this subsection, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section.

(b) The reports described in paragraph (a) of this subsection shall be submitted:
(A) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and
(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.

SECTION 7. The amendments to section 7, chapter 700, Oregon Laws 2015, by section 6 of this 2019 Act apply to distributions made on
or after the effective date of this 2019 Act.

SECTION 8. Section 8, chapter 700, Oregon Laws 2015, is repealed.

SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
Authorizes Director of the Oregon Department of Aviation to request Department of Transportation to provide certain central business services for Oregon Department of Aviation.

A BILL FOR AN ACT

Relating to the Oregon Department of Aviation; amending ORS 835.017.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 835.017 is amended to read:

835.017. (1) At the Director of the Oregon Department of Aviation’s request, the Department of Transportation shall provide any of the following central business operating services for the Oregon Department of Aviation:

(a) Budget preparation services;
(b) Daily processing for accounts payable, accounts receivable, payroll, receipts and disbursements;
(c) Records and inventory maintenance accounting services;
(d) Financial management reports and revenue and expenditure projections;
(e) Purchasing, leasing and contracting services;
(f) Internal audit services;
(g) Computer and information system services; and
(h) Human resource services.

(2) The Oregon Department of Aviation shall comply with all rules adopted by the Department of Transportation related to the services [de-
scribed in] provided by the Department of Transportation under subsection (1) of this section.

(3) The Department of Transportation may charge the Oregon Department of Aviation a fee for the services the Department of Transportation provides under this section. The Department of Transportation shall calculate the rate of the fee using the same methodology the Department of Transportation uses to calculate the central services assessment imposed within the Department of Transportation for similar services. The Oregon Department of Aviation shall pay any fees imposed under this section within 30 days of receiving the request for payment.

(4) All moneys received by the Department of Transportation under this section shall be paid into the State Treasury each month and credited to the Department of Transportation Operating Fund established by ORS 184.642.

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

Allows Oregon Department of Aviation to impose civil penalty for violations related to landing places for aircraft.

A BILL FOR AN ACT

Relating to enforcement of laws regarding landing places for aircraft.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) In addition to any other penalty provided by law, the Director of the Oregon Department of Aviation may impose a civil penalty not to exceed $2,500 for each violation of ORS 836.505 or any rule adopted or order issued under ORS 836.505.

(2) The director shall impose civil penalties under this section in the manner provided in ORS 183.745.

(3) All penalties recovered by the Oregon Department of Aviation under this section shall be paid into the State Treasury and deposited to the credit of the State Aviation Account. Such moneys shall be used by the department for the purpose of carrying out ORS 836.505.

SECTION 2. Section 1 of this 2019 Act applies to violations of ORS 836.505 or any rule adopted or order issued under ORS 836.505 on or after the effective date of this 2019 Act.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Modifies criteria for review of applications for distributions of certain aircraft fuel tax revenues. Prioritizes purposes for which grants may be made from portion of certain aircraft fuel tax revenues. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to distributions of certain aircraft fuel tax revenues; creating new provisions; amending section 7, chapter 700, Oregon Laws 2015; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 7, chapter 700, Oregon Laws 2015, as amended by section 80a, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 7. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines that is computed on a basis in excess of one cent per gallon and any amount of tax on all other aircraft fuel that is computed on a basis in excess of nine cents per gallon, under ORS 319.020 (2); and

(b) Any amount of tax on aircraft fuel usable in aircraft operated by turbine engines in excess of one cent per gallon and any amount of tax on all other aircraft fuel in excess of nine cents per gallon, that is deducted before the refunding of tax under ORS 319.330 (1).

(2) Applications for distributions under this section may not be approved unless the applicant demonstrates a commitment to contribute at least five

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
percent of the costs of the project to which the application relates. The
Oregon Department of Aviation shall adopt rules for purposes of this sub-
section.
(3)(a) The State Aviation Board shall establish a review committee com-
posed of one member from each of the area commissions on transportation
chartered by the Oregon Transportation Commission.
(b) The review committee shall meet as necessary to review applications
for distributions of amounts pursuant to this section. [The criteria specified
in ORS 367.084 (6) apply to the review process of the review committee.] In
reviewing applications, the review committee shall consider:
(A) Whether a proposed project:
   (i) Reduces transportation costs for businesses or improves access
       to jobs and sources of labor in this state;
   (ii) Results in an economic benefit to this state;
   (iii) Connects elements of Oregon’s aviation system in a way that
       will measurably improve utilization and efficiency of the system;
   (iv) Is ready for construction or implementation; and
   (v) Has a useful life expectancy that offers maximum benefit to the
       state; and
(B) How much of the cost of the proposed project can be borne by
   the distribution applicant from sources other than Oregon Department
   of Aviation funds or the Connect Oregon Fund.
(c) The review committee shall recommend applications to the State Avi-
ation Board, which shall select applications [with the following priority:] in
accordance with subsection (5)(a) of this section.
   [(A) First, to applications filed pursuant to subsection (5)(a)(A) of this
section;]
   [(B) Second, to applications filed with respect to safety and infrastructure
development; and]
   [(C) Third, to applications filed with respect to aviation-related economic
benefits related to airports.]
(4)(a) Five percent of the amounts described in subsection (1) of this section are appropriated to the Oregon Department of Aviation for the costs of the department and the State Aviation Board in administering this section.

(b) The remaining 95 percent of the amounts described in subsection (1) of this section shall be distributed pursuant to subsections (5) to (7) of this section.

(5)(a) Fifty percent of the amounts described in subsection (4)(b) of this section shall be prioritized in the following order and distributed for the following purposes:

(A) **First,** to assist airports in Oregon with match requirements for Federal Aviation Administration Airport Improvement Program grants.

(B) **Second,** to make grants for emergency preparedness and infrastructure projects, in accordance with the Oregon Resilience Plan, including grants for emergency management plan development, seismic studies and emergency generators and similar equipment or the Oregon Aviation Plan.

(C) **Third,** to make grants for:

(i) Services critical or essential to aviation, including, but not limited to, fuel, sewer, water and weather equipment.

(ii) Aviation-related business development, including, but not limited to, hangars, parking for business aircraft and related facilities.

(iii) Airport development for local economic benefit, including, but not limited to, signs and marketing.

(b) Priority in distributing grants shall be given to projects for which applicants demonstrate a commitment to contribute the greatest amounts toward the costs of the projects to which the applications relate.

(6) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed for the purpose of assisting commercial air service to rural Oregon.

(7) Twenty-five percent of the amounts described in subsection (4)(b) of this section shall be distributed to state-owned airports for the purposes of:
(a) Safety improvements recommended by the State Aviation Board and local community airports.
(b) Infrastructure projects at public use airports.

(8)(a) The State Aviation Board shall submit reports, in the manner provided in ORS 192.245 and paragraph (b) of this subsection, that describe in detail the projects for which applications have been submitted and approved, the airports affected, the names of the applicants and the persons who will perform the work proposed in the applications, the progress of projects for which applications have been approved and any other information the board considers necessary for a comprehensive analysis of the implementation of this section.

(b) The reports described in paragraph (a) of this subsection shall be submitted:
(A) Not later than February 10 of each year to the committees of the Legislative Assembly related to air transportation; and
(B) Not later than September 30 of each year to the interim committees of the Legislative Assembly related to air transportation.

SECTION 2. The amendments to section 7, chapter 700, Oregon Laws 2015, by section 1 of this 2019 Act apply to applications for distributions approved on or after the effective date of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Requires that person classified as level two or level three sex offender file petition for review no later than 60 days after notice provided or mailed to person.

A BILL FOR AN ACT

Relating to sex offender classification; amending ORS 163A.105.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 163A.105 is amended to read:

1 163A.105. (1) When a person convicted of a crime described in ORS 163.355 to 163.427 is sentenced to a term of imprisonment in a Department of Corrections institution for that crime, the State Board of Parole and Post-Prison Supervision shall assess the person utilizing the risk assessment methodology described in ORS 163A.100. The board shall apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 before the person is released from custody.

(2) When a person convicted of a sex crime is sentenced to a term of incarceration in a jail, or is discharged, released or placed on probation by the court, the supervisory authority as defined in ORS 144.087 shall assess the person utilizing the risk assessment methodology described in ORS 163A.100 and apply the results of the assessment to place the person in one of the levels described in ORS 163A.100 no later than 90 days after the person is released from jail or discharged, released or placed on probation by the court.

(3)(a) When a person is found guilty except for insanity of a sex crime,
the Psychiatric Security Review Board shall assess the person utilizing the
risk assessment methodology described in ORS 163A.100 and apply the results
of the assessment to place the person in one of the levels described in ORS
163A.100 no later than 90 days after the person is:
(A) Placed on conditional release by the Psychiatric Security Review
Board;
(B) Discharged from the jurisdiction of the Psychiatric Security Review
Board;
(C) Placed on conditional release by the court pursuant to ORS 161.327;
or
(D) Discharged by the court pursuant to ORS 161.329.
(b) If the State Board of Parole and Post-Prison Supervision previously
completed a risk assessment and assigned a classification level described in
ORS 163A.100 for a person described in paragraph (a) of this subsection, the
Psychiatric Security Review Board need not complete a reassessment for an
initial classification.
(c) The court shall notify the Psychiatric Security Review Board when the
court conditionally releases or discharges a person described in paragraph
(a) of this subsection.
(d) The Psychiatric Security Review Board shall notify the State Board
of Parole and Post-Prison Supervision no later than seven days after the
Psychiatric Security Review Board conditionally releases or discharges a
person who has a prior sex crime conviction that obligates the person to
report as a sex offender, unless the person has also been found guilty except
for insanity of a sex crime that obligates the person to report as a sex
offender.
(4)(a) Within 90 days after receiving notice of a person’s obligation to
report in this state from the Department of State Police, the State Board of
Parole and Post-Prison Supervision shall assess the person utilizing the risk
assessment methodology described in ORS 163A.100 and apply the results of
the assessment to place the person in one of the levels described in ORS
163A.100 if the person has been convicted in another United States court of
a crime:
(A) That would constitute a sex crime if committed in this state; or
(B) For which the person would have to register as a sex offender in that
court’s jurisdiction, or as required under federal law, regardless of whether
the crime would constitute a sex crime in this state.
(b) If a person has been convicted of a sex crime and was sentenced to a
term of imprisonment in a Department of Corrections institution for that sex
crime, but was not subjected to a risk assessment utilizing the risk assess-
ment methodology described in ORS 163A.100 before release under subsection
(1) of this section, within 90 days after the person’s release the State Board
of Parole and Post-Prison Supervision shall assess the person utilizing the
risk assessment methodology described in ORS 163A.100 and apply the results
of the assessment to place the person in one of the levels described in ORS
163A.100.
(5) When the State Board of Parole and Post-Prison Supervision, the
Psychiatric Security Review Board or a supervisory authority applies the
results of a risk assessment to place a person in one of the levels described
in ORS 163A.100, the agency shall notify the Department of State Police of
the results of the risk assessment within three business days after the
agency’s classification. Upon receipt, the Department of State Police shall
enter the results of the risk assessment into the Law Enforcement Data System.
(6) The State Board of Parole and Post-Prison Supervision, the Psychiatric
Security Review Board or a supervisory authority may reassess or re-
classify a person placed in one of the levels described in ORS 163A.100 under
this section if the classifying board or authority determines that a factual
mistake caused an erroneous assessment or classification.
(7)(a) A person classified under this section as a level two or level three
sex offender as described in ORS 163A.100 may petition the classifying board
or authority for review. The petition may be filed no later than 60 days after
the [person receives] notice of the classification is provided to the person or, if the notice is mailed, no later than 60 days after the notice is sent.

(b) Upon receipt of a petition described in this subsection, the classifying board or authority shall afford the person an opportunity to be heard as to all factual questions related to the classification.

(c) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board or authority shall classify the person in accordance with the classifications described in ORS 163A.100, based on all of the information available to the classifying board or authority.

(8)(a) If the State Board of Parole and Post-Prison Supervision, the Psychiatric Security Review Board or a supervisory authority does not classify a person under ORS 163A.100 because the person has failed or refused to participate in a sex offender risk assessment as directed by the board or authority, the classifying board or authority shall classify the person as a level three sex offender under ORS 163A.100 (3).

(b) If person classified as a level three sex offender under this subsection notifies the classifying board or authority of the willingness to participate in a sex offender risk assessment, the classifying board or authority shall perform the assessment and classify the person in one of the levels described in ORS 163A.100.

(9) The State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board may adopt rules to carry out the provisions of this section.
SUMMARY

Removes deadline by which State Board of Parole and Post-Prison Supervision must perform risk assessment and classification on existing sex offender registrants. Directs board to biennially report to Legislative Assembly beginning February 1, 2021, on assessment and classification progress.

Removes deadline by which Department of State Police must enter results of classification into Law Enforcement Data System. Directs department to enter results within reasonable time after receipt.

Restores until January 1, 2022, statutory references to predatory sex offenders for adult offenders not yet classified into risk level.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to sex offenders; creating new provisions; amending ORS 90.630, 144.641, 163.476 and 163.479 and section 7, chapter 708, Oregon Laws 2013; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 7, chapter 708, Oregon Laws 2013, as amended by section 27, chapter 820, Oregon Laws 2015, section 31, chapter 442, Oregon Laws 2017, and section 1, chapter 488, Oregon Laws 2017, is amended to read:

Sec. 7. (1) As used in this section and ORS 163A.200 to 163A.210:

(a) “Event triggering the obligation to make an initial report” has the meaning given that term in ORS 163A.110.

(b) “Existing registrant” means a person for whom the event triggering the obligation to make an initial report under ORS 163A.010 (3)(a)(A), 163A.015 (4)(a)(A) or 163A.020 (1)(a)(A), (2)(a)(A) or (3)(a)(A) occurs before January 1, 2014.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(2)(a) [No later than December 1, 2022,] The State Board of Parole and Post-Prison Supervision shall classify existing registrants in one of the levels described in ORS 163A.100. [No later than February 1, 2023,] The Department of State Police shall enter the results of the classifications described in this section into the Law Enforcement Data System within a reasonable time after receipt.

(b) The board shall classify an existing registrant as a level three sex offender under ORS 163A.100 (3), if:

(A) The person was previously designated a predatory sex offender and the designation was made after the person was afforded notice and an opportunity to be heard as to all factual questions at a meaningful time and in a meaningful manner; or

(B) The person is a sexually violent dangerous offender under ORS 137.765.

(c) The Psychiatric Security Review Board may complete the risk assessment of an existing registrant who is under the jurisdiction of the Psychiatric Security Review Board, regardless of whether the person has been found guilty except for insanity of a sex crime or was previously convicted of a sex crime, if the State Board of Parole and Post-Prison Supervision and the Psychiatric Security Review Board mutually agree that the Psychiatric Security Review Board has adequate resources to perform the assessment and that the performance of the assessment by the Psychiatric Security Review Board would assist in classifying the existing registrant in a more timely manner.

(3) As soon as practicable following the classification of an existing registrant under this section, the classifying board shall notify the person of the classification by mail.

(4)(a) An existing registrant who seeks review of a classification made under this section as a level two or level three sex offender as described in ORS 163A.100 may petition the classifying board for review. The petition may be filed no later than 60 days after the board provides the notice described
in subsection (3) of this section.

(b) Upon receipt of a petition described in this subsection, the classifying board shall afford the person an opportunity to be heard as to all factual questions related to the classification.

(c) After providing the person with notice and an opportunity to be heard in accordance with this subsection, the board shall classify the person in accordance with the classifications described in ORS 163A.100, based on all of the information available to the classifying board.

(5) The boards shall adopt rules to carry out the provisions of this section.

(6) An existing registrant may not petition for reclassification or relief from the obligation to report as a sex offender as provided in ORS 163A.125 until either all existing registrants have been classified in one of the levels described in ORS 163A.100 or December 1, 2018, whichever occurs first.

(7) Notwithstanding ORS 163A.225 or any other provision of law, the Department of State Police may until December 1, 2018, continue to use the Internet to make information available to the public concerning any adult sex offender designated as predatory as authorized by the law in effect on December 31, 2013.

(8)(a) If the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board does not classify an existing registrant under ORS 163A.100 because the person has failed or refused to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board, the appropriate board shall classify the person as a level three sex offender under ORS 163A.100 (3).

(b) If an existing registrant classified as a level three sex offender under this subsection notifies the State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board of the willingness to participate in a sex offender risk assessment, the appropriate board shall perform the assessment and classify the existing registrant in one of the
levels described in ORS 163A.100.

(9) The State Board of Parole and Post-Prison Supervision or the Psychiatric Security Review Board may reassess or reclassify an existing registrant placed in one of the levels described in ORS 163A.100 under this section if the classifying board determines that a factual mistake caused an erroneous assessment or classification.

SECTION 2. Beginning February 1, 2021, and biennially thereafter, the State Board of Parole and Post-Prison Supervision shall report to the Legislative Assembly, in the manner provided in ORS 192.245, on the progress made in assessing and classifying existing registrants, as defined in section 7, chapter 708, Oregon Laws 2013, and other unclassified sex offenders, and the efforts to reduce the cost and increase the efficiency and accuracy of the assessments.

SECTION 3. ORS 90.630, as amended by section 22, chapter 820, Oregon Laws 2015, is amended to read:

90.630. (1) Except as provided in subsection (4) of this section, the landlord may terminate a rental agreement that is a month-to-month or fixed term tenancy for space for a manufactured dwelling or floating home by giving to the tenant not less than 30 days’ notice in writing before the date designated in the notice for termination if the tenant:

(a) Violates a law or ordinance related to the tenant’s conduct as a tenant, including but not limited to a material noncompliance with ORS 90.740;

(b) Violates a rule or rental agreement provision related to the tenant’s conduct as a tenant and imposed as a condition of occupancy, including but not limited to a material noncompliance with a rental agreement regarding a program of recovery in drug and alcohol free housing;

(c) Is classified as a level three sex offender under ORS 163A.100 (3) or is an unclassified adult sex offender designated as predatory prior to January 1, 2014; or

(d) Fails to pay a:

(A) Late charge pursuant to ORS 90.260;
(B) Fee pursuant to ORS 90.302; or

(C) Utility or service charge pursuant to ORS 90.534 or 90.536.

(2) A violation making a tenant subject to termination under subsection (1) of this section includes a tenant’s failure to maintain the space as required by law, ordinance, rental agreement or rule, but does not include the physical condition of the dwelling or home. Termination of a rental agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS 90.632.

(3) The notice required by subsection (1) of this section shall state facts sufficient to notify the tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination by correcting the violation as provided in subsection (4) of this section.

(4) The tenant may avoid termination of the tenancy by correcting the violation within the 30-day period specified in subsection (1) of this section. However, if substantially the same act or omission that constituted a prior violation of which notice was given recurs within six months after the date of the notice, the landlord may terminate the tenancy upon at least 20 days’ written notice specifying the violation and the date of termination of the tenancy.

(5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of termination under subsection (1)(c) of this section does not have a right to correct the violation. A notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not have a right to avoid the termination.

(6) This section does not limit a landlord’s right to terminate a tenancy for nonpayment of rent under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying with ORS 105.105 to 105.168.

(7) A tenancy terminates on the date designated in the notice and without regard to the expiration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless otherwise agreed, rent is uniformly
apportionable from day to day.

(8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the landlord may terminate the rental agreement for space for a manufactured dwelling or floating home because of repeated late payment of rent by giving the tenant not less than 30 days’ notice in writing before the date designated in that notice for termination and may take possession as provided in ORS 105.105 to 105.168 if:

(a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b) in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of nonpayment;

(b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within a 12-month period. The warning must be contained in at least two nonpayment of rent termination notices that precede the third notice within a 12-month period or in separate written notices that are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termination notices; and

(c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for termination of the tenancy and is given to the tenant concurrent with or after the third or a subsequent nonpayment of rent termination notice.

(9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of termination pursuant to subsection (8) of this section does not have a right to correct the cause for the notice.

(10) The landlord may give a copy of the notice required by subsection (8) of this section to any lienholder of the manufactured dwelling or floating home by first class mail with certificate of mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for
any damages incurred by the tenant as a result of the landlord giving a copy of the notice in good faith to a lienholder. A lienholder’s rights and obligations regarding an abandoned manufactured dwelling or floating home shall be as provided under ORS 90.675.

SECTION 4. ORS 144.641, as amended by section 23, chapter 820, Oregon Laws 2015, is amended to read:

144.641. As used in this section and ORS 144.642, 144.644 and 144.646:

(1) “Dwelling” has the meaning given that term in ORS 469B.100.
(2) “Dwelling” does not include a residential treatment facility or a halfway house.
(3) “Halfway house” means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.
(4) “Locations where children are the primary occupants or users” includes, but is not limited to, public and private elementary and secondary schools and licensed child care centers.
(5) “Sex offender” means:
(a) A sexually violent dangerous offender as defined in ORS 137.765; [or]
(b) A level three sex offender under ORS 163A.100 (3); or
(c) An unclassified adult sex offender designated as predatory prior to January 1, 2014.
(6) “Transitional housing” means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration.

SECTION 5. ORS 163.476, as amended by section 24, chapter 820, Oregon Laws 2015, is amended to read:

163.476. (1) A person commits the crime of unlawfully being in a location where children regularly congregate if the person:
(a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;
(B) Has been classified as a level three sex offender under ORS 163A.100
(3) or is an unclassified adult sex offender designated as predatory
prior to January 1, 2014, and does not have written approval from the State
Board of Parole and Post-Prison Supervision or the person’s supervisory au-
thority or supervising officer to be in or upon the specific premises;
(C) Has been sentenced as a dangerous offender under ORS 161.725 upon
conviction of a sex crime; or
(D) Has been given a similar designation or been sentenced under a sim-
ilar law of another jurisdiction; and
(b) Knowingly enters or remains in or upon premises where persons under
18 years of age regularly congregate.
(2) As used in this section:
(a) “Premises where persons under 18 years of age regularly congregate”
means schools, child care centers, playgrounds, other places intended for use
primarily by persons under 18 years of age and places where persons under
18 years of age gather for regularly scheduled educational and recreational
programs.
(b) “Sex crime” has the meaning given that term in ORS 163A.005.
(3) Unlawfully being in a location where children regularly congregate is
a Class A misdemeanor.
SECTION 6. ORS 163.479, as amended by section 25, chapter 820, Oregon
Laws 2015, is amended to read:
163.479. (1) A person commits the crime of unlawful contact with a child
if the person:
(a)(A) Has been designated a sexually violent dangerous offender under
ORS 137.765;
(B) Has been classified as a level three sex offender under ORS 163A.100
(3);
(C) Is an unclassified adult sex offender designated as predatory
prior to January 1, 2014;
[(C)] (D) Has been sentenced as a dangerous offender under ORS 161.725
upon conviction of a sex crime; or
[(D)] (E) Has been given a similar designation or been sentenced under
a similar law of another jurisdiction; and
(b) Knowingly contacts a child with the intent to commit a crime or for
the purpose of arousing or satisfying the sexual desires of the person or an-
other person.

(2) As used in this section:
(a) “Child” means a person under 18 years of age.
(b) “Contact” means to communicate in any manner.
(c) “Sex crime” has the meaning given that term in ORS 163A.005.
(3) Unlawful contact with a child is a Class C felony.

SECTION 7. ORS 90.630, as amended by section 22, chapter 820, Oregon
Laws 2015, and section 3 of this 2019 Act, is amended to read:
90.630. (1) Except as provided in subsection (4) of this section, the land-
lord may terminate a rental agreement that is a month-to-month or fixed
term tenancy for space for a manufactured dwelling or floating home by
giving to the tenant not less than 30 days’ notice in writing before the date
designated in the notice for termination if the tenant:
(a) Violates a law or ordinance related to the tenant’s conduct as a ten-
ant, including but not limited to a material noncompliance with ORS 90.740;
(b) Violates a rule or rental agreement provision related to the tenant’s
conduct as a tenant and imposed as a condition of occupancy, including but
not limited to a material noncompliance with a rental agreement regarding
a program of recovery in drug and alcohol free housing;
(c) Is classified as a level three sex offender under ORS 163A.100 (3) [or
is an unclassified adult sex offender designated as predatory prior to January
1, 2014]; or
(d) Fails to pay a:
(A) Late charge pursuant to ORS 90.260;
(B) Fee pursuant to ORS 90.302; or
(C) Utility or service charge pursuant to ORS 90.534 or 90.536.
(2) A violation making a tenant subject to termination under subsection
(1) of this section includes a tenant’s failure to maintain the space as re-
quired by law, ordinance, rental agreement or rule, but does not include the physical condition of the dwelling or home. Termination of a rental agreement based upon the physical condition of a dwelling or home shall only be as provided in ORS 90.632.

(3) The notice required by subsection (1) of this section shall state facts sufficient to notify the tenant of the reasons for termination of the tenancy and state that the tenant may avoid termination by correcting the violation as provided in subsection (4) of this section.

(4) The tenant may avoid termination of the tenancy by correcting the violation within the 30-day period specified in subsection (1) of this section. However, if substantially the same act or omission that constituted a prior violation of which notice was given recurs within six months after the date of the notice, the landlord may terminate the tenancy upon at least 20 days’ written notice specifying the violation and the date of termination of the tenancy.

(5) Notwithstanding subsection (3) or (4) of this section, a tenant who is given a notice of termination under subsection (1)(c) of this section does not have a right to correct the violation. A notice given to a tenant under subsection (1)(c) of this section must state that the tenant does not have a right to avoid the termination.

(6) This section does not limit a landlord’s right to terminate a tenancy for nonpayment of rent under ORS 90.394 or for other cause under ORS 90.380 (5)(b), 90.396, 90.398 or 90.632 by complying with ORS 105.105 to 105.168.

(7) A tenancy terminates on the date designated in the notice and without regard to the expiration of the period for which, by the terms of the rental agreement, rents are to be paid. Unless otherwise agreed, rent is uniformly apportionable from day to day.

(8) Notwithstanding any other provision of this section or ORS 90.394, 90.396 or 90.398, the landlord may terminate the rental agreement for space for a manufactured dwelling or floating home because of repeated late pay-
ment of rent by giving the tenant not less than 30 days’ notice in writing before the date designated in that notice for termination and may take possession as provided in ORS 105.105 to 105.168 if:

(a) The tenant has not paid the monthly rent prior to the eighth day of the rental period as described in ORS 90.394 (2)(a) or the fifth day of the rental period as described in ORS 90.394 (2)(b) in at least three of the preceding 12 months and the landlord has given the tenant a nonpayment of rent termination notice pursuant to ORS 90.394 (2) during each of those three instances of nonpayment;

(b) The landlord warns the tenant of the risk of a 30-day notice for termination with no right to correct the cause, upon the occurrence of a third nonpayment of rent termination notice within a 12-month period. The warning must be contained in at least two nonpayment of rent termination notices that precede the third notice within a 12-month period or in separate written notices that are given concurrent with, or a reasonable time after, each of the two nonpayment of rent termination notices; and

(c) The 30-day notice of termination states facts sufficient to notify the tenant of the cause for termination of the tenancy and is given to the tenant concurrent with or after the third or a subsequent nonpayment of rent termination notice.

(9) Notwithstanding subsection (4) of this section, a tenant who receives a 30-day notice of termination pursuant to subsection (8) of this section does not have a right to correct the cause for the notice.

(10) The landlord may give a copy of the notice required by subsection (8) of this section to any lienholder of the manufactured dwelling or floating home by first class mail with certificate of mailing or by any other method allowed by ORS 90.150 (2) and (3). A landlord is not liable to a tenant for any damages incurred by the tenant as a result of the landlord giving a copy of the notice in good faith to a lienholder. A lienholder’s rights and obligations regarding an abandoned manufactured dwelling or floating home shall be as provided under ORS 90.675.
SECTION 8. ORS 144.641, as amended by section 23, chapter 820, Oregon Laws 2015, and section 4 of this 2019 Act, is amended to read:

144.641. As used in this section and ORS 144.642, 144.644 and 144.646:
(1) “Dwelling” has the meaning given that term in ORS 469B.100.
(2) “Dwelling” does not include a residential treatment facility or a halfway house.
(3) “Halfway house” means a publicly or privately operated profit or nonprofit residential facility that provides rehabilitative care and treatment for sex offenders.
(4) “Locations where children are the primary occupants or users” includes, but is not limited to, public and private elementary and secondary schools and licensed child care centers.
(5) “Sex offender” means:
(a) A sexually violent dangerous offender as defined in ORS 137.765; or
(b) A level three sex offender under ORS 163A.100 (3); or
(c) An unclassified adult sex offender designated as predatory prior to January 1, 2014.
(6) “Transitional housing” means housing intended to be occupied by a sex offender for 45 days or less immediately after release from incarceration.

SECTION 9. ORS 163.476, as amended by section 24, chapter 820, Oregon Laws 2015, and section 5 of this 2019 Act, is amended to read:

163.476. (1) A person commits the crime of unlawfully being in a location where children regularly congregate if the person:
(a)(A) Has been designated a sexually violent dangerous offender under ORS 137.765;
(B) Has been classified as a level three sex offender under ORS 163A.100 (3) [or is an unclassified adult sex offender designated as predatory prior to January 1, 2014], and does not have written approval from the State Board of Parole and Post-Prison Supervision or the person’s supervisory authority or supervising officer to be in or upon the specific premises;
(C) Has been sentenced as a dangerous offender under ORS 161.725 upon
conviction of a sex crime; or
(D) Has been given a similar designation or been sentenced under a sim-
ilar law of another jurisdiction; and
(b) Knowingly enters or remains in or upon premises where persons under
18 years of age regularly congregate.
(2) As used in this section:
(a) “Premises where persons under 18 years of age regularly congregate”
means schools, child care centers, playgrounds, other places intended for use
primarily by persons under 18 years of age and places where persons under
18 years of age gather for regularly scheduled educational and recreational
programs.
(b) “Sex crime” has the meaning given that term in ORS 163A.005.
(3) Unlawfully being in a location where children regularly congregate is
a Class A misdemeanor.
SECTION 10. ORS 163.479, as amended by section 25, chapter 820, Oregon
Laws 2015, and section 6 of this 2019 Act, is amended to read:
163.479. (1) A person commits the crime of unlawful contact with a child
if the person:
(a)(A) Has been designated a sexually violent dangerous offender under
ORS 137.765;
(B) Has been classified as a level three sex offender under ORS 163A.100
(3);
[(C) Is an unclassified adult sex offender designated as predatory prior to
January 1, 2014;]
[(D)] (C) Has been sentenced as a dangerous offender under ORS 161.725
upon conviction of a sex crime; or
[(E)] (D) Has been given a similar designation or been sentenced under
a similar law of another jurisdiction; and
(b) Knowingly contacts a child with the intent to commit a crime or for
the purpose of arousing or satisfying the sexual desires of the person or an-
other person.
(2) As used in this section:
(a) “Child” means a person under 18 years of age.
(b) “Contact” means to communicate in any manner.
(c) “Sex crime” has the meaning given that term in ORS 163A.005.

(3) Unlawful contact with a child is a Class C felony.

SECTION 11. The amendments to ORS 90.630, 144.641, 163.476 and 163.479 by sections 7 to 10 of this 2019 Act become operative January 1, 2022.

SECTION 12. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Expands scope of levels of education considered by Quality Education Commission. Modifies membership of commission.
Directs State Chief Information Officer to ensure state maintains data system related to education.
Changes name of Deputy Superintendent of Public Instruction to executive director of Department of Education.
Declares emergency, effective June 30, 2019.

A BILL FOR AN ACT
Relating to the public education system; creating new provisions; amending ORS 171.735, 171.857, 240.205, 244.050, 326.300, 327.497, 327.500, 327.502, 327.506, 357.021 and 458.558 and sections 2 and 11, chapter 519, Oregon Laws 2011, and section 72, chapter 774, Oregon Laws 2015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 327.500 is amended to read:

327.500. (1) There is established a Quality Education Commission consisting of [11] 13 members. [appointed by the Governor. The Governor may not appoint more than five members of the commission who are employed by a school district at the time of appointment.] The members shall be:
(a) The following voting, ex officio members of the commission:
(A) The Early Learning System Director, or a designee of the director;
(B) The executive director of the Department of Education, or a designee of the executive director; and

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(C) The executive director of the Higher Education Coordinating Commission, or a designee of the executive director; and
(b) Ten voting members appointed by the Governor.
(2) When appointing members of the commission, the Governor:
(a) Shall appoint one representative from each of the following:
   (A) The Early Learning Council;
   (B) The State Board of Education; and
   (C) The Higher Education Coordinating Commission.
(b) May not appoint more than five members who are employed at the time of appointment as a provider of early childhood education, by a school district or by a community college.
[(2)] (3) The term of office of each member appointed to the commission is four years, but a member appointed to the commission serves at the pleasure of the Governor. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on August 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the remainder of the unexpired term.
[(3)] (4) The appointment of members of the commission is subject to confirmation by the Senate in the manner prescribed in ORS 171.562 and 171.565.
[(4)] (5) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.
[(5) The Department of Education shall provide staff to the commission.]
SECTION 2. ORS 327.502 is amended to read:
327.502. (1) The Governor shall select one of the members of the Quality Education Commission as chairperson and another as vice chairperson, for such terms and with duties and powers necessary for the performance of the functions of those offices as the Governor determines.
(2) A majority of the members of the commission constitutes a quorum for the transaction of business.
[2]
(3) The commission shall meet at times and places specified by the call of the chairperson, the Governor or [of] a majority of the members of the commission.

SECTION 3. ORS 327.506 is amended to read:


(2) Each biennium the Quality Education Commission shall determine the amount of moneys sufficient to ensure that the state’s system of [kindergarten] prekindergarten through [grade 12] post-secondary public education meets the quality goals.

(3) In determining the amount of moneys sufficient to meet the quality goals, the commission shall identify best practices that lead to high student performance and the costs of implementing those best practices in the state’s [kindergarten] prekindergarten through [grade 12] post-secondary public schools. Those best practices shall be based on research, data, analytics, longitudinal data studies, professional judgment and public values.

(4) Prior to August 1 of each even-numbered year, the commission shall issue a report to the Governor and the Legislative Assembly that identifies:

(a) Current practices in the state’s system of [kindergarten] prekindergarten through [grade 12] post-secondary public education, the costs of continuing those practices and the expected student performance under those practices; [and]

(b) The best practices for meeting the quality goals, the costs of implementing the best practices and the expected student performance under the best practices[.]; and

(c) Longitudinal data studies undertaken at the direction of the commission for purposes of preparing the report.

(5) In addition, the commission shall provide in the report issued under subsection (4) of this section at least two alternatives for meeting the quality
goals. The alternatives may use different approaches for meeting the quality goals or use a phased implementation of best practices for meeting the quality goals.

SECTION 4. ORS 171.857 is amended to read:

171.857. (1) For each odd-numbered year regular session of the Legislative Assembly, the President of the Senate and the Speaker of the House of Representatives shall jointly appoint a special legislative committee to issue a report pursuant to section 8, Article VIII of the Oregon Constitution.

(2) The committee may not transact business unless a quorum is present. A quorum consists of a majority of committee members from the House of Representatives and a majority of committee members from the Senate.

(3) Action by the committee requires the affirmative vote of a majority of committee members from the House of Representatives and a majority of committee members from the Senate.

(4) Members of the committee are entitled to compensation and expense reimbursement as provided in ORS 171.072.

(5) The Legislative Assembly in the report shall:

(a) Demonstrate that the amount within the budget appropriated for the state’s system of kindergarten prekindergarten through grade 12 post-secondary public education is the amount of moneys as determined by the Quality Education Commission established by ORS 327.500 that is sufficient to meet the quality goals; or

(b) Identify the reasons that the amount appropriated for the state’s system of kindergarten prekindergarten through grade 12 post-secondary public education is not sufficient, the extent of the insufficiency and the impact of the insufficiency on the ability of the state’s system of kindergarten prekindergarten through grade 12 post-secondary public education to meet the quality goals. In identifying the impact of the insufficiency, the Legislative Assembly shall include in the report how the amount appropriated in the budget may affect both the current practices and student performance identified by the commission under ORS 327.506 (4)(a) and the
best practices and student performance identified by the commission under ORS 327.506 (4)(b).

(6)(a) Notwithstanding subsection (5) of this section, the Legislative Assembly may make a determination that the report of the Quality Education Commission should not be used as the basis for carrying out the reporting requirements of section 8, Article VIII of the Oregon Constitution, and subsection (5) of this section. If the report is not used, the Legislative Assembly shall identify the reasons for not using the report to meet the reporting requirements and shall outline an alternative methodology for making the findings required by section 8, Article VIII of the Oregon Constitution.

(b) The alternative methodology shall be based on:

(A) Research, data and public values; and

(B) The performance of successful schools, professional judgment or a combination of the performance of successful schools and professional judgment.

(c) The Legislative Assembly shall include in the report that uses the alternative methodology a determination of how the amount appropriated may affect the ability of the state’s system of kindergarten through grade 12 post-secondary public education to meet quality goals established by law, including expected student performance against those goals.

[(7) The Legislative Assembly shall identify in the report whether the state’s system of post-secondary public education has quality goals established by law. If there are quality goals, the Legislative Assembly shall include in the report a determination that the amount appropriated in the budget is sufficient to meet those goals or an identification of the reasons the amount appropriated is not sufficient, the extent of the insufficiency and the impact of the insufficiency on the ability of the state’s system of post-secondary public education to meet those quality goals.]

[(8)] (7) The report shall be issued within 180 days after the Legislative Assembly adjourns sine die.
The Legislative Assembly shall provide public notice of the report's issuance, including posting the report on the Internet and providing a print version of the report upon request.

SECTION 5. ORS 327.497 is amended to read:

327.497. The Legislative Assembly finds that:

1. Within the Oregon Educational Act for the 21st Century in ORS chapter 329 there are established goals for high academic excellence, the application of knowledge and skills to demonstrate achievement and the development of lifelong learning skills to prepare students for the ever-changing world.

2. Education is increasingly linked to economic and social issues.

3. The people of Oregon, through section 8, Article VIII of the Oregon Constitution, have established that the Legislative Assembly shall appropriate in each biennium a sum of money sufficient to ensure that the state's system of public education meets the quality goals established by law. Furthermore, the people of Oregon require that the Legislative Assembly publish a report that either demonstrates that the appropriation is sufficient or identifies the reasons for the insufficiency, its extent and its impact on the ability of the state's system of public education to meet those goals.

4. The Quality Education Commission should be established to define the costs sufficient to meet the established quality goals for kindergarten through grade 12 post-secondary public education.

SECTION 6. (1) The amendments to ORS 171.857, 327.497, 327.500, 327.502 and 327.506 by sections 1 to 5 of this 2019 Act become operative on July 1, 2020.

(2) Notwithstanding the term of office specified by ORS 327.500 (3):

(a) The term of office of the members of the Quality Education Commission who are serving on the effective date of this 2019 Act expires on the operative date specified in subsection (1) of this section.

(b) Of the members first appointed to the Quality Education Commission after the operative date specified in subsection (1) of this...
section:

(A) Five members appointed by the Governor shall serve for an initial term ending July 31, 2022.

(B) Five members appointed by the Governor shall serve for an initial term ending December 31, 2024.

SECTION 7. The State Chief Information Officer shall ensure that this state maintains an integrated, statewide data system that contains student-level outcomes for all public education institutions in order to allow for longitudinal analysis and research.

SECTION 8. Section 11, chapter 519, Oregon Laws 2011, as amended by section 2, chapter 37, Oregon Laws 2012, and section 6, chapter 774, Oregon Laws 2015, is amended to read:

Sec. 11. (1) On June 30, 2019, the Chief Education Officer shall deliver to the Early Learning System Director all records and property within the jurisdiction of the Chief Education Officer that relate to the duties, functions and powers of the Early Learning Council. The Early Learning System Director shall take possession of the records and property.

(2) On June 30, 2019, the Chief Education Officer shall deliver to the Superintendent of Public Instruction all records and property within the jurisdiction of the Chief Education Officer that relate to the duties, functions and powers of the State Board of Education. The superintendent shall take possession of the records and property.

(3) On June 30, 2019, the Chief Education Officer shall deliver to the executive director of the Higher Education Coordinating Commission all records and property within the jurisdiction of the Chief Education Officer that relate to the duties, functions and powers of the Higher Education Coordinating Commission. The executive director shall take possession of the records and property.

(4) On June 30, 2019, the Chief Education Officer shall deliver to the executive director of the Teacher Standards and Practices Commission all records and property within the jurisdiction of the Chief Education Officer.
that relate to the duties, functions and powers of the Teacher Standards and
Practices Commission. The executive director shall take possession of the
records and property.

(5) On June 30, 2019, the Chief Education Officer shall deliver to the
Youth Development Director all records and property within the jurisdiction
of the Chief Education Officer that relate to the duties, functions and powers
of the Youth Development Council. The Youth Development Director shall
take possession of the records and property.

(6) On June 30, 2019, the Chief Education Officer shall deliver to the
State Chief Information Officer all records and property within the
jurisdiction of the Chief Education Officer that relate to the duties,
functions and powers of the State Chief Information Officer. The State
Chief Information Officer shall take possession of the records and
property.

[(6)] (7) The Governor shall resolve any disputes relating to transfers of
records and property under this section, and the Governor's decision is final.

SECTION 9. Section 72, chapter 774, Oregon Laws 2015, as amended by
section 14, chapter 682, Oregon Laws 2015, section 20, chapter 763, Oregon
Laws 2015, section 27, chapter 639, Oregon Laws 2017, and section 4, chapter
113, Oregon Laws 2018, is amended to read:

Sec. 72. (1)(a) Section 1, chapter 519, Oregon Laws 2011, as amended by
section 8, chapter 519, Oregon Laws 2011, sections 20 and 21, chapter 36,
Oregon Laws 2012, and section 1, chapter 774, Oregon Laws 2015, is repealed
on June 30, 2019.

(b) Section 2, chapter 519, Oregon Laws 2011, as amended by section 1,
chapter 36, Oregon Laws 2012, section 29, chapter 747, Oregon Laws 2013, and
section 4, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.

(c) Section 3, chapter 519, Oregon Laws 2011, as amended by section 5,
chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.

(2) The amendments to ORS 326.021 by section 42, chapter 774, Oregon

[8]
(3) The amendments to ORS 326.300 by section 43, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(7) The amendments to ORS 327.380 by section 8, chapter 739, Oregon Laws 2013, become operative on June 30, 2019.

(8) The amendments to ORS 327.800 by section 67a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(9) The amendments to ORS 327.810 by section 68a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(10) The amendments to ORS 327.815 by section 69a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(11) The amendments to ORS 327.820 by section 70a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(15) The amendments to ORS 342.443 by section 56, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(16) The amendments to ORS 342.448 by section 76a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(17) The amendments to ORS 344.059 and 344.141 by sections 13 and 14, chapter 763, Oregon Laws 2015, become operative on June 30, 2019.

(18) The amendments to ORS 350.065 by section 60, chapter 774, Oregon

(20) The amendments to ORS 350.100 by section 75a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(21) The amendments to ORS 352.018 by section 58, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(29) Section 8, chapter 85, Oregon Laws 2014, becomes operative on June 30, 2019.

(30) Section 7 of this 2019 Act becomes operative on June 30, 2019.

SECTION 10. ORS 326.300 is amended to read:

326.300. (1) As provided by section 1, Article VIII of the Oregon Constitution, the Governor is the Superintendent of Public Instruction.

(a) The Governor, acting as Superintendent of Public Instruction, shall appoint [a Deputy Superintendent of Public Instruction] an executive director of the Department of Education. The [deputy superintendent]
executive director must have at least five years of experience in the administration of an elementary school or a secondary school. The appointment of the [deputy superintendent] executive director shall be subject to confirmation by the Senate as provided by ORS 171.562 and 171.565.

(b) The [deputy superintendent] executive director shall:
(A) Perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor, and the Governor is responsible for any acts of the [deputy superintendent] executive director.
(B) Coordinate with the Chief Education Officer as provided by section 2, chapter 519, Oregon Laws 2011.

(3) The [deputy superintendent] executive director may be removed from office by the Governor following consultation with the State Board of Education.

(4) The [deputy superintendent] executive director shall receive a salary set by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the [deputy superintendent] executive director in the performance of official duties.

SECTION 11. ORS 326.300, as amended by section 43, chapter 774, Oregon Laws 2015, is amended to read:
326.300. (1) As provided by section 1, Article VIII of the Oregon Constitution, the Governor is the Superintendent of Public Instruction.

(2)(a) The Governor, acting as Superintendent of Public Instruction, shall appoint [a Deputy Superintendent of Public Instruction] an executive director of the Department of Education. The [deputy superintendent] executive director must have at least five years of experience in the administration of an elementary school or a secondary school. The appointment of the [deputy superintendent] executive director shall be subject to confirmation by the Senate as provided by ORS 171.562 and 171.565.

(b) The [deputy superintendent] executive director shall perform any act or duty of the office of Superintendent of Public Instruction that is designated by the Governor, and the Governor is responsible for any acts of the
[deputy superintendent] executive director.

(3) The [deputy superintendent] executive director may be removed from office by the Governor following consultation with the State Board of Education.

(4) The [deputy superintendent] executive director shall receive a salary set by the Governor, and shall be reimbursed for all expenses actually and necessarily incurred by the [deputy superintendent] executive director in the performance of official duties.

SECTION 12. (1) The amendments to ORS 326.300 by sections 10 and 11 of this 2019 Act are intended to change the name of the “Deputy Superintendent of Public Instruction” to the “executive director of the Department of Education.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Deputy Superintendent of Public Instruction,” wherever they occur in statutory law, other words designating the “executive director of the Department of Education.”

SECTION 13. ORS 171.735 is amended to read:

171.735. ORS 171.740 and 171.745 do not apply to the following persons:

(1) News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge legislative action but that engage in no other activities in connection with the legislative action.

(2) Any legislative official acting in an official capacity.

(3) Any individual who does not receive compensation or reimbursement of expenses for lobbying, who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies.

(4) A person who does not:

(a) Agree to provide personal services for money or any other consider-
ation for the purpose of lobbying;
(b) Spend more than an aggregate amount of 24 hours during any calendar quarter lobbying; and
(c) Spend an aggregate amount in excess of $100 lobbying during any calendar quarter.

(5) The Governor, chief of staff for the Governor, deputy chief of staff for the Governor, legal counsel to the Governor, deputy legal counsel to the Governor, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State Treasurer, Deputy State Treasurer appointed pursuant to ORS 178.060, chief of staff for the office of the State Treasurer, Attorney General, Deputy Attorney General appointed pursuant to ORS 180.130, [Deputy Superintendent of Public Instruction] executive director of the Department of Education appointed pursuant to ORS 326.300, Commissioner of the Bureau of Labor and Industries, deputy commissioner of the Bureau of Labor and Industries appointed pursuant to ORS 651.060, members and staff of the Oregon Law Commission who conduct the law revision program of the commission or any judge.

SECTION 14. ORS 240.205 is amended to read:

240.205. The unclassified service shall comprise:

(1) One executive officer and one secretary for each board or commission, the members of which are elected officers or are appointed by the Governor.

(2) The director of each department of state government, each full-time salaried head of a state agency required by law to be appointed by the Governor and each full-time salaried member of a board or commission required by law to be appointed by the Governor.

(3) The administrator of each division within a department of state government required by law to be appointed by the director of the department with the approval of the Governor.

(4) Principal assistants and deputies and one private secretary for each executive or administrative officer specified in ORS 240.200 (1) and in subsections (1) to (3) of this section. “Deputy” means the deputy or deputies to
an executive or administrative officer listed in subsections (1) to (3) of this
section who is authorized to exercise that officer’s authority upon absence
of the officer. “Principal assistant” means a manager of a major agency or-
ganizational component who reports directly to an executive or administra-
tive officer listed in subsections (1) to (3) of this section or deputy and who
is designated as such by that executive or administrative officer with the
approval of the Director of the Oregon Department of Administrative Ser-
vices.

(5) Employees in the Governor’s office and the principal assistant and
private secretary in the Secretary of State’s division.

(6) The director, principals, instructors and teachers in the school oper-
ated under ORS 346.010.

(7) Apprentice trainees only during the prescribed length of their course
of training.

(8) Licensed physicians and dentists employed in their professional ca-
pacities and student nurses, interns, and patient or inmate help in state in-
stitutions.

(9) Lawyers employed in their professional capacities.

(10) All members of the Oregon State Police appointed under ORS
181A.050.

(11) The [Deputy Superintendent of Public Instruction] executive director
of the Department of Education appointed under ORS 326.300 and associ-
ate superintendents in the Department of Education.

(12) Temporary seasonal farm laborers engaged in single phases of agri-
cultural production or harvesting.

(13) Any individual employed and paid from federal funds received under
a federal program intended primarily to alleviate unemployment. However,
persons employed under this subsection shall be treated as classified em-
ployees for purposes of ORS 243.650 to 243.782.

(14) Managers, department heads, directors, producers and announcers of
the state radio and television network.
(15) Employees, including managers, of the foreign trade offices of the Oregon Business Development Department located outside the country.

(16) Any other position designated by law as unclassified.

SECTION 15. ORS 244.050 is amended to read:
244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Deputy Secretary of State.

(f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the House of Representatives.

(g) The president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(h) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of Department of Environmental Quality.

(F) Director of Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.
(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of Oregon Liquor Control Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

(S) Public Utility Commissioner.

(T) Director of Veterans’ Affairs.

(U) Executive director of Oregon Government Ethics Commission.

(V) Director of the State Department of Energy.

(W) Director and each assistant director of the Oregon State Lottery.

(X) Director of the Department of Corrections.

(Y) Director of the Oregon Department of Aviation.

(Z) Executive director of the Oregon Criminal Justice Commission.

(AA) Director of the Oregon Business Development Department.

(BB) Director of the Office of Emergency Management.

(CC) Director of the Employment Department.

(DD) Chief of staff for the Governor.

(EE) Director of the Housing and Community Services Department.

(FF) State Court Administrator.

(GG) Director of the Department of Land Conservation and Development.

(HH) Board chairperson of the Land Use Board of Appeals.

(II) State Marine Director.

(JJ) Executive director of the Oregon Racing Commission.

(KK) State Parks and Recreation Director.

(LL) Public defense services executive director.

(MM) Chairperson of the Public Employees’ Benefit Board.

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(NN) Director of the Department of Public Safety Standards and Training.

(OO) Executive director of the Higher Education Coordinating Commission.

(PP) Executive director of the Oregon Watershed Enhancement Board.

(QQ) Director of the Oregon Youth Authority.

(RR) Director of the Oregon Health Authority.

[(SS) Deputy Superintendent of Public Instruction.]

(SS) **Executive director of the Department of Education.**

(i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within the Governor’s office.

(j) Every elected city or county official.

(k) Every member of a city or county planning, zoning or development commission.

(L) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.

(m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.

(n) Every member of a governing body of a metropolitan service district and the auditor and executive officer thereof.

(o) Each member of the board of directors of the State Accident Insurance Fund Corporation.

(p) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.

(q) Every member of the following state boards and commissions:

(A) Governing board of the State Department of Geology and Mineral Industries.

(B) Oregon Business Development Commission.

(C) State Board of Education.

(D) Environmental Quality Commission.

(E) Fish and Wildlife Commission of the State of Oregon.
(F) State Board of Forestry.
(G) Oregon Government Ethics Commission.
(H) Oregon Health Policy Board.
(I) Oregon Investment Council.
(K) Oregon Liquor Control Commission.
(L) Oregon Short Term Fund Board.
(M) State Marine Board.
(N) Mass transit district boards.
(O) Energy Facility Siting Council.
(P) Board of Commissioners of the Port of Portland.
(Q) Employment Relations Board.
(R) Public Employees Retirement Board.
(S) Oregon Racing Commission.
(T) Oregon Transportation Commission.
(U) Water Resources Commission.
(V) Workers’ Compensation Board.
(W) Oregon Facilities Authority.
(X) Oregon State Lottery Commission.
(Z) Columbia River Gorge Commission.
(AA) Oregon Health and Science University Board of Directors.
(BB) Capitol Planning Commission.
(CC) Higher Education Coordinating Commission.
(DD) Oregon Growth Board.
(EE) Early Learning Council.
(r) The following officers of the State Treasurer:
(A) Deputy State Treasurer.
(B) Chief of staff for the office of the State Treasurer.
(C) Director of the Investment Division.
(s) Every member of the board of commissioners of a port governed by
ORS 777.005 to 777.725 or 777.915 to 777.953.

(t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.

(u) Every member of a governing board of a public university listed in ORS 352.002.

(v) Every member of the board of directors of an authority created under ORS 465.600 to 465.621.

(2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(4) Not later than the 40th day before the date of the statewide general election, each candidate described in subsection (1) of this section who will appear on the statewide general election ballot and who was not required to file a statement of economic interest under subsections (1) to (3) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.

(5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15.

(6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil pen-
SECTION 16. Section 2, chapter 519, Oregon Laws 2011, as amended by section 1, chapter 36, Oregon Laws 2012, section 29 chapter 747, Oregon Laws 2013, and section 4, chapter 774, Oregon Laws 2015, is amended to read:

Sec. 2. (1) The Governor shall appoint a Chief Education Officer who shall serve at the pleasure of the Governor.

(2) The Chief Education Officer shall serve as the administrative head of the Chief Education Office.

(3) The Chief Education Officer shall be a person who, by training and experience, is well qualified to:

(a) Perform the duties of the office, as determined by the Governor; and

(b) Assist in carrying out the purposes of the Chief Education Office.

(4) The Chief Education Officer shall:

(a) Have direction and control over the positions identified in paragraph (b) of this subsection for matters related to the design and organization of multiagency planning.

(b) Coordinate with the following persons for matters related to the other duties of the Chief Education Office:

(A) The Early Learning System Director.

[(B) The Deputy Superintendent of Public Instruction.]

(B) The executive director of the Department of Education.

(C) The executive director of the Higher Education Coordinating Commission.

(D) The executive director of the Teacher Standards and Practices Commission.

(E) The Youth Development Director.

SECTION 17. ORS 357.021 is amended to read:

357.021. (1) The State Library Board is established, consisting of nine voting members.

(2) The Governor, after consultation with the Oregon Library Association, shall appoint seven voting members as follows:

[20]
(a) Two members from two different state agencies;
(b) One member representing a public library in eastern Oregon;
(c) One member representing a public library in western Oregon;
(d) One public member from eastern Oregon;
(e) One public member from western Oregon; and
(f) One member representing a community college library or a public
university library in this state.

(3) The [Deputy Superintendent of Public Instruction] executive director
of the Department of Education, or a designee of the [deputy superinten-
dent] executive director, shall be a voting member of the board.

(4) The administrator of the Commission for the Blind, or a designee of
the administrator, shall be a voting member of the board.

(5) The State Librarian shall serve ex officio as a nonvoting member of
the board.

(6) A board member described in subsection (2) of this section shall serve
a four-year term, but a member described in subsection (2) of this section
serves at the pleasure of the Governor. Before the expiration of the term of
a member, the Governor shall appoint a successor whose term begins on July
1 next following. A member is eligible for reappointment. If there is a va-
cyancy for any cause, the Governor shall make an appointment to become
immediately effective for the unexpired term.

(7) A board member described in subsection (2) of this section shall be
eligible for reappointment for only one additional term, but any person may
be reappointed to the board after an interval of one year.

(8) The appointment of a board member described in subsection (2) of this
section is subject to confirmation by the Senate in the manner prescribed in
ORS 171.562 and 171.565.

(9) A member of the State Library Board is entitled to compensation and
expenses as provided in ORS 292.495.

SECTION 18. ORS 458.558 is amended to read:
458.558. (1) The members of the Oregon Volunteers Commission for Vol-

[21]
untary Action and Service must be citizens of this state who have a proven
commitment to community service and who have a demonstrated interest in
fostering and nurturing citizen involvement as a strategy for strengthening
communities and promoting the ethic of service in all sectors of this state.

(2) The Governor shall appoint as members of the commission at least one
of each of the following:

(a) An individual with experience in educational, training and develop-
ment needs of youth, particularly disadvantaged youth.

(b) An individual with experience in promoting involvement of older
adults in service and volunteerism.

(c) A representative of community-based agencies or organizations within
this state.

(d) The [Deputy Superintendent of Public Instruction] executive director
of the Department of Education or designee.

(e) A representative of local governments in this state.

(f) A representative of local labor unions in this state.

(g) A representative of business.

(h) A person at least 16, but not more than 25, years of age who is a
participant or supervisor in a national service program.

(i) A representative of a national service program described in 42 U.S.C.
12572(a).

(3) In addition to appointing members under subsection (2) of this section,
the Governor may appoint as members individuals from the following groups:

(a) Educators.

(b) Experts in the delivery of human, educational, environmental or public
safety services to communities and individuals.

(c) Members of Native American tribes.

(d) At-risk youths who are out of school.

(e) Entities that receive assistance under the Domestic Volunteer Service
Act of 1973 (42 U.S.C. 4950 et seq.).

(4) In making appointments of members described in subsections (2) and
(a) No more than 50 percent of the appointed members are from the same political party; and
(b) No more than 25 percent of the appointed members are state employees.

SECTION 19. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect June 30, 2019.
SUMMARY

Modifies duties and membership of Early Learning Council.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 326.425 is amended to read:

ORS 326.425. (1) The Early Learning Council is established.

(2) The council is established to oversee coordinate a unified and aligned system of early learning services for the purposes of ensuring that:

(a) Children enter school ready to learn; and

(b) Families are healthy, stable and attached.

(3) The Early Learning Council shall accomplish the purposes described in subsection (2) of this section by:

(a) Designating a committee to serve as the state advisory council for purposes of the federal Head Start Act, as provided by ORS 417.796.

(b) Coordinating an integrated system that aligns the delivery of early learning services.

(c) Coordinating the Oregon Early Learning System created by ORS 417.727.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
The council consists of members appointed as provided by subsections [(4) and] (5) and (6) of this section.

[(4)(a)] (5)(a) The Governor shall appoint nine voting members who are appointed for a term of four years and serve at the pleasure of the Governor. A person appointed under this subsection may not be appointed to serve more than two consecutive full terms as a council member.

(b) When determining whom to appoint to the council under this subsection, the Governor shall:

(A) Ensure that each congressional district of this state is represented;

(B) Ensure that each member meets the following qualifications:

(i) Demonstrates leadership skills in civics or the member’s profession;

(ii) To the greatest extent practicable, contributes to the council’s representation of the geographic, ethnic, gender, racial and economic diversity of this state; and

(iii) Contributes to the council’s expertise, knowledge and experience in early childhood development, early childhood care, early childhood education, family financial stability, populations disproportionately burdened by poor education outcomes and outcome-based best practices; and

(C) Solicit recommendations from the Speaker of the House of Representatives for at least two members and from the President of the Senate for at least two members.

[(5)] (6) In addition to the members appointed under subsection [(4)] (5) of this section, the Governor shall appoint voting nonvoting, ex officio members who represent the relevant state agencies and other entities that are required to be represented on a state advisory council for purposes of the federal Head Start Act and who represent one nonvoting, ex officio member who represents the tribes of this state.

[(6)] (7) The activities of the council shall be directed and supervised by the Early Learning System Director who is appointed by the Governor and serves at the pleasure of the Governor.

[(7)] (8) In accordance with applicable provisions of ORS chapter 183, the
council may adopt rules necessary for the administration of the laws that the
council is charged with administering.

[(8)] (9) The council shall coordinate and collaborate with the Chief Ed-
ucation Office as provided by section 1, chapter 519, Oregon Laws 2011.

**SECTION 2.** ORS 326.425, as amended by section 44, chapter 774, Oregon
Laws 2015, is amended to read:

326.425. (1) The Early Learning Council is established.

(2) The council is established to [oversee] **coordinate** a unified and
aligned system of early learning services for the [purpose of ensuring that
children enter school ready to learn.] **purposes of ensuring that:**

(a) **Children enter school ready to learn; and**

(b) **Families are healthy, stable and attached.**

(3) The Early Learning Council shall [ensure that children enter school
ready to learn] **accomplish the purposes described in subsection (2) of
this section** by:

(a) [Serving] **Designating a committee to serve** as the state advisory
council for purposes of the federal Head Start Act, as provided by ORS
417.796.

(b) [Implementing and overseeing a] **Coordinating an integrated system**
that [coordinates] **aligns** the delivery of early learning services.

(c) [Overseeing] **Coordinating** the Oregon Early Learning System created
by ORS 417.727.

[(3)] (4) The council consists of members appointed as provided by sub-
sections [(4) and] (5) **and** (6) of this section.

[(4)(a)] (5)(a) The Governor shall appoint nine voting members who are
appointed for a term of four years and serve at the pleasure of the Governor.
A person appointed under this subsection may not be appointed to serve more
than two consecutive full terms as a council member.

(b) When determining whom to appoint to the council under this sub-
section, the Governor shall:

(A) Ensure that each congressional district of this state is represented;
(B) Ensure that each member meets the following qualifications:

(i) Demonstrates leadership skills in civics or the member’s profession;

(ii) To the greatest extent practicable, contributes to the council’s representation of the geographic, ethnic, gender, racial and economic diversity of this state; and

(iii) Contributes to the council’s expertise, knowledge and experience in early childhood development, early childhood care, early childhood education, family financial stability, populations disproportionately burdened by poor education outcomes and outcome-based best practices; and

(C) Solicit recommendations from the Speaker of the House of Representatives for at least two members and from the President of the Senate for at least two members.

(5) In addition to the members appointed under subsection (4) of this section, the Governor shall appoint nonvoting, ex officio members who represent the relevant state agencies and other entities that are required to be represented on a state advisory council for purposes of the federal Head Start Act and who represent one nonvoting, ex officio member who represents the tribes of this state.

(6) The activities of the council shall be directed and supervised by the Early Learning System Director who is appointed by the Governor and serves at the pleasure of the Governor.

(7) In accordance with applicable provisions of ORS chapter 183, the council may adopt rules necessary for the administration of the laws that the council is charged with administering.

SECTION 3. ORS 329.150 is amended to read:

329.150. A school district may provide services for children and families at the school site, which may include a community learning center. If the district chooses to provide services, the design of educational and other services to children and their families shall be the responsibility of the school district. School districts may coordinate services with programs provided through and coordinated by the Early Learning Council for the
purpose of providing services to families. To ensure that all educational and
other services for young children and their families offer the maximum op-
portunity possible for the personal success of the child and family members,
it is the policy of this state that the following principles for serving children
should be observed to the maximum extent possible in all of its educational
and other programs serving young children and their families, including
those programs delivered at community learning centers:

(1) Services for young children and their families should be located as
close to the child and the family's community as possible, encouraging com-
munity support and ownership of such services;

(2) Services for young children and their families should reflect the im-
portance of integration and diversity to the maximum extent possible in re-
gard to characteristics such as race, economics, gender, creed, capability and
cultural differences;

(3) Services should be designed to support and strengthen the welfare of
the child and the family and be planned in consideration of the individual
family's values;

(4) Services should be designed to ensure continuity of care among
caregivers in a given day and among service plans from year to year;

(5) Service systems should address the most urgent needs in a timely
manner including health, intervention and support services; and

(6) Service providers and sources of support should be coordinated and
collaborative, to reflect the knowledge that no single system can serve all
of the needs of the child and family.

SECTION 4. ORS 329.165 is amended to read:

329.165. (1) [In consultation with the advisory committee for the Oregon
prekindergarten program, the Early Learning Council, acting as the state ad-
visory council for purposes of the federal Head Start Act,] The Early
Learning Council shall develop a long-range plan for serving eligible chil-
dren and their families and shall report to each odd-numbered year regular
session of the Legislative Assembly on the funds necessary to implement the
long-range plan, including but not limited to regular programming costs, salary enhancements and program improvement grants. The council shall determine the rate of increase in funding for programs necessary each biennium to provide service to all children eligible for the Oregon prekindergarten program.

(2) Each biennial report shall include but not be limited to estimates of the number of eligible children and families to be served, projected cost of programs and evaluation of the programs.

SECTION 5. ORS 329.195 is amended to read:

329.195. (1)(a) The Early Learning Council, acting as the state advisory council for purposes of the federal Head Start Act, shall adopt rules for the establishment of the Oregon prekindergarten program.

(b) Rules adopted under this section specifically shall require:

(A) Performance standards and operating standards that are at a level no less than the level required under the federal Head Start program guidelines.

(B) Processes and procedures for recompetition that are substantially similar to the processes and procedures required under the rules and guidelines adopted under the federal Head Start Act.

(C) Implementation plans for any changes to the federal Head Start program rules or guidelines.

(c) Federal Head Start program guidelines shall be considered as guidelines for the Oregon prekindergarten program.

(d) Notwithstanding paragraph (b) of this subsection, the council may adopt rules that allow for the provision of a half-day program or a full-day program, or a combination thereof, to meet community needs, as determined by the council based on community assessments.

(2) In developing rules for the Oregon prekindergarten program, the council shall consult with the advisory committee established under ORS 329.190 and shall consider such factors as coordination with existing programs, the preparation necessary for instructors, qualifications of instructors, training of staff, adequate space and equipment and special
transportation needs.

(3) The Early Learning Division shall review applications for the Oregon prekindergarten program received and designate those programs as eligible to commence operation by July 1 of each year. When approving grant applications, to the extent practicable, the council shall distribute funds regionally based on percentages of unmet needs for the county or region.

SECTION 6. ORS 417.788 is amended to read:

417.788. (1) The Early Learning Division shall support Relief Nursery programs statewide as funding becomes available. Funding to support Relief Nursery programs may include, but is not limited to:

(a) Administrative costs;
(b) Costs for direct service personnel, equipment, supplies and operating expenses;
(c) Start-up costs;
(d) Classroom furniture and materials;
(e) Playground equipment;
(f) Computers; and
(g) Transportation vehicles.

(2) The division may encourage communities to establish Relief Nursery programs for young children who are at risk and their families. Communities may choose to establish regional Relief Nursery programs. The Relief Nursery programs shall be consistent with the voluntary early learning system [overseen] **coordinated** by the Early Learning Council.

(3) Relief Nursery programs shall participate in a statewide independent evaluation conducted by the Oregon Association of Relief Nurseries to document improved child safety, reduction in foster care placements, progress in healthy child development and improvement in family functioning and support.

(4) Each Relief Nursery program that receives state funding shall have financial support from the community that, excluding any amounts distributed to the Relief Nursery program pursuant to ORS 131A.360 (4)(d) and
131A.365 (3)(d), is at least equal to 25 percent of any state allocation.

(5) The division shall adopt rules necessary for the administration of this section, including rules requiring that any public funds received by Relief Nursery programs be used to achieve the outcomes identified in subsection (3) of this section.

SECTION 7. ORS 417.793 is amended to read:

417.793. The Early Learning Division shall support parents-as-teachers programs statewide as funding becomes available. If a program is offered, the program shall be part of a comprehensive, research-based approach to parent education and support. The program shall be consistent with the voluntary early learning system plan [overseen] coordinated by the Early Learning Council.

SECTION 8. ORS 417.796 is amended to read:

417.796. (1) [As the state advisory council for purposes of the federal Head Start Act,] The Early Learning Council shall:

(a) Conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school age, including an assessment of the availability of high-quality prekindergarten services for low-income children in this state.

(b) Identify opportunities for, and barriers to, collaboration and coordination among federally funded and state-funded child care and early childhood education and development programs and services, including collaboration and coordination among state agencies responsible for administering those programs and services.

(c) Develop recommendations for increasing the overall participation of children in existing federal, state and local early childhood education and development programs and services, including outreach to underrepresented and special populations.

(d) Develop recommendations for establishing a unified data collection system for public early childhood education and development programs and
services throughout this state.

(e) Develop recommendations regarding statewide professional development and career advancement plans for providers of early childhood education and development programs and services in this state.

(f) Assess the capacity and effectiveness of two-year and four-year public and private institutions of higher education in this state in supporting the development of early childhood educators, including the extent to which the institutions have articulation agreements, professional development and career advancement plans, and internships or other training opportunities that allow students to spend time with children enrolled in the federal Head Start program or another prekindergarten program. The assessment conducted under this paragraph must be conducted in coordination with appropriate higher education governance bodies, as identified by the Chief Education Office.

(g) Make recommendations for improvements in state early learning standards and undertake efforts to develop high-quality comprehensive early learning standards when appropriate.

(2) The council shall hold public hearings and provide an opportunity for public comment in relation to the actions described in subsection (1) of this section.

(3)(a) The council shall submit an annual statewide strategic report addressing the activities described in subsection (1) of this section to the State Director of Head Start Collaboration, the Chief Education Office, the Legislative Assembly and the Governor.

(b) Following submission of a statewide strategic report described in paragraph (a) of this subsection, the council may meet periodically to review the implementation of the recommendations in the report and to review any changes in state or local needs.

SECTION 9. ORS 417.796, as amended by section 62, chapter 774, Oregon Laws 2015, is amended to read:

417.796. (1) [As the state advisory council for purposes of the federal Head
The Early Learning Council shall:

(a) Conduct a periodic statewide needs assessment concerning the quality and availability of early childhood education and development programs and services for children from birth to school age, including an assessment of the availability of high-quality prekindergarten services for low-income children in this state.

(b) Identify opportunities for, and barriers to, collaboration and coordination among federally funded and state-funded child care and early childhood education and development programs and services, including collaboration and coordination among state agencies responsible for administering those programs and services.

(c) Develop recommendations for increasing the overall participation of children in existing federal, state and local early childhood education and development programs and services, including outreach to underrepresented and special populations.

(d) Develop recommendations for establishing a unified data collection system for public early childhood education and development programs and services throughout this state.

(e) Develop recommendations regarding statewide professional development and career advancement plans for providers of early childhood education and development programs and services in this state.

(f) Assess the capacity and effectiveness of two-year and four-year public and private institutions of higher education in this state in supporting the development of early childhood educators, including the extent to which the institutions have articulation agreements, professional development and career advancement plans, and internships or other training opportunities that allow students to spend time with children enrolled in the federal Head Start program or another prekindergarten program. The assessment conducted under this paragraph must be conducted in coordination with appropriate higher education governance bodies.

(g) Make recommendations for improvements in state early learning
standards and undertake efforts to develop high-quality comprehensive early learning standards when appropriate.

(2) The council shall hold public hearings and provide an opportunity for public comment in relation to the actions described in subsection (1) of this section.

(3)(a) The council shall submit an annual statewide strategic report addressing the activities described in subsection (1) of this section to the State Director of Head Start Collaboration, the Legislative Assembly and the Governor.

(b) Following submission of a statewide strategic report described in paragraph (a) of this subsection, the council may meet periodically to review the implementation of the recommendations in the report and to review any changes in state or local needs.

SECTION 10. ORS 417.827 is amended to read:

417.827. (1) As used in this section and ORS 417.829:

(a) “Early Learning Hub” means any entity designated by regional partners to coordinate early learning services, as determined by rules adopted by the Early Learning Council.

(b) “Regional partners” includes counties, cities, school districts, education service districts, community colleges, public universities, private educational institutions, faith-based organizations, nonprofit service providers and tribes.

(2) The council shall implement and [oversee] coordinate a system that coordinates the delivery of early learning services to the communities of this state through the direction of Early Learning Hubs. The system may not include more than 16 Early Learning Hubs.

(3) The system implemented and [overseen] coordinated by the council must ensure that:

(a) Providers of early learning services are accountable for outcomes;

(b) Services are provided in a cost-efficient manner; and

(c) The services provided, and the means by which those services are
provided, are focused on the outcomes of the services.

(4) The council shall develop and implement a process for requesting proposals from entities to become Early Learning Hubs. Proposals submitted under this subsection must comply with criteria and requirements adopted by the council by rule, including:

(a) The entity will be able to coordinate the provision of early learning services to the community that will be served by the entity. An entity may meet the requirement of this paragraph by submitting evidence that local stakeholders, including but not limited to service providers, parents, community members, county governments, local governments and school districts, have participated in the development of the proposal and will maintain a meaningful role in the Early Learning Hub.

(b) The services coordinated by the entity will be in alignment with the services provided by the public schools of the community that will be served by the entity.

(c) The entity will be in alignment with, and make advantageous use of, the system of public health care and services available through local health departments and other publicly supported programs delivered through, or in partnership with, counties and coordinated care organizations.

(d) The entity will be able to integrate efforts among education providers, providers of health care, providers of human services and providers of other programs and services in the community.

(e) The entity will use coordinated and transparent budgeting.

(f) The entity will operate in a fiscally sound manner.

(g) The entity must have a governing body or community advisory body that:

(A) Has the authority to initiate audits, recommend the terms of a contract and provide reports to the public and to the council on the outcomes of the provision of early learning services to the community served by the entity.

(B) Has members selected through a transparent process and includes
both public and private entities, locally based parents and service recipients, human social service providers, child care providers, health care providers and representatives of local governments from the service area.

(h) The entity will collaborate on documentation related to coordinated services with public and private entities that are identified by the council as providers of services that advance the early learning of children.

(i) The entity will serve a community that is based on the population and service needs of the community and will demonstrate the ability to improve results for at-risk children, including the ability to identify, evaluate and implement coordinated strategies to ensure that a child is ready to succeed in school.

(j) The entity will be able to raise and leverage significant funds from public and private sources and to secure in-kind support to support early learning services coordinated by the entity and operate in a fiscally sound manner.

(k) The entity meets any other qualifications established by the council.

(5) The council may adopt by rule requirements that are in addition to the requirements described in subsections (3) and (4) of this section that an entity must meet to qualify as an Early Learning Hub. When developing the additional requirements, the council must use a statewide public process of community engagement that is consistent with the requirements of the federal Head Start Act.

(6) When determining whether to designate an entity as an Early Learning Hub, the council shall balance the following factors:

(a) The entity’s ability to engage the community and be involved in the community.

(b) The entity’s ability to produce outcomes that benefit children.

(c) The entity’s resourcefulness.

(d) The entity’s use, or proposed use, of evidence-based practices.

(7) The council shall develop metrics for the purpose of providing funding to Early Learning Hubs designated under this section. The metrics must:
(a) Focus on community readiness, high capacity development and progress toward tracking child outcomes;
(b) Establish a baseline of information for the area to be served by the Early Learning Hub, including information about the inclusion of community partners in the governance structure of the Early Learning Hub, the availability of data on local programs and outcomes and the success in leveraging private, nonprofit and other governmental resources for early learning; and
(c) Include child performance metrics.

(8) The council may require that, as a condition of receiving funding as a designated Early Learning Hub under this section, the Early Learning Hub provide matching funding. The percentage of matching funding shall be determined by the council and may vary for each fiscal year. Any moneys received by an Early Learning Hub are subject to the restrictions of this section.

(9) For any community in this state that is not served by an Early Learning Hub, the council shall oversee coordinate and administer the delivery of early learning services for that community and, to the extent practicable, shall regionalize service administration.

(10) The council may alter the lines of the territory served by an Early Learning Hub only to ensure that all children of this state are served by an Early Learning Hub.

(11) An entity designated as part of an Early Learning Hub may not use more than 15 percent of the moneys received by the entity from the council to pay administrative costs of the entity.

(12) The Department of Human Services or the Oregon Health Authority may not transfer any authority for determining eligibility for a state or federal program to an Early Learning Hub.
SUMMARY

Directs Department of Education, in collaboration with Higher Education Coordinating Commission, to administer Accelerated College Credit Planning Partnership Grant Program to encourage partnerships between school districts and post-secondary institutions of education to offer accelerated college credit programs.

Directs Department of Education, in collaboration with Higher Education Coordinating Commission, to administer Accelerated College Credit Partnership Enhancement Grant Program for purpose of enhancing accelerated college credit programs and partnerships.

Directs Department of Education, in collaboration with Higher Education Coordinating Commission, to administer Accelerated College Credit Instructor Grant Program for purpose providing education or training to teachers who will provide or are providing instruction in accelerated college credit programs.

Directs Higher Education Coordinating Commission to study current and best practices to recommend range of content area graduate courses to meet dual credit program instructor qualifications.

Directs Teacher Standards and Practices Commission to consult with educator preparation program providers to determine whether providers should provide accelerated learning specialization.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to accelerated college credit programs; creating new provisions; amending ORS 340.320 and 340.330; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in ORS 340.320 and sections 2 and 3 of this 2019 Act, “accelerated college credit programs” includes dual credit programs, two-plus-two programs, advanced placement programs and
International Baccalaureate programs.

SECTION 2. (1) The Department of Education, in collaboration with the Higher Education Coordinating Commission, shall administer the Accelerated College Credit Planning Partnership Grant Program as provided by this section.

(2) Grants shall be distributed under this section for the purpose of encouraging partnerships, formed for offering accelerated college credit programs, between:

(a) A school district, a consortium of school districts or an education service district; and

(b) A post-secondary institution of education or a consortium of post-secondary institutions of education.

(3) A school district, a consortium of school districts or an education service district may apply to the department for a grant under this section if the school district, or at least one of the school districts in a consortium of school districts or an education service district, has:

(a)(A) Less than five percent of the school district’s high school students participating in an accelerated college credit program; or

(B) A low percentage of the school district’s historically underrepresented students attending a post-secondary institution of education;

(b) A plan to offer accelerated college credit program courses that:

(A) Have been previously unavailable through the school district;

(B) Conform with standards established for accelerated college credit program courses as described in subsection (6) of this section; and

(C) Align with statewide requirements for transferable courses or reflect local needs for a career and technical education program; and

(c) A partnership agreement with a post-secondary institution of education or a consortium of post-secondary institutions of education to offer accelerated college credit program courses as described in
paragraph (b) of this subsection.

(4) A school district, a consortium of school districts or an education service district that receives a grant under this section may use moneys from the grant to:

(a) Distribute information to students and families about opportunities related to accelerated college credit programs, including implications for financial aid, costs to families and credit transferability;

(b) Provide academic advising to students taking an accelerated college credit program course;

(c) Promote a culture that encourages students to continue education at a post-secondary institution of education;

(d) Develop courses offered as part of an accelerated college credit program and ensure horizontal and vertical curriculum alignment;

(e) Hire staff to provide instruction of courses that are part of an accelerated college credit program and any other staff necessary to provide support for the accelerated college credit program;

(f) Encourage collaboration between teachers and staff at high schools and faculty at post-secondary institutions of education for accelerated college credit programs;

(g) Coordinate regional offerings of accelerated college credit programs to create coherence across this state;

(h) Leverage emerging best practices;

(i) Purchase books and materials and pay for other costs, other than test fees, related to accelerated college credit programs; and

(j) Provide classroom supplies for accelerated college credit programs.

(5) Grants shall be awarded under this section based on rules of the State Board of Education.

(6) Accelerated college credit program courses funded by a grant distributed under this section must comply with any standards developed to ensure that credits earned for the course transfer to any public
post-secondary institution of education in this state as if the credits were earned at that institution.

(7)(a) For the purposes of grants distributed under this section, the department may accept contributions of funds and assistance from the United States Government and its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of this section; and

(b) All funds received by the department under this section shall be paid into the Accelerated College Credit Account established under ORS 340.330 for the purposes described in this section.

(8) No later than December 1 of each year, the department shall submit a report on the issuance of grants under this section to an interim committee of the Legislative Assembly related to education.

SECTION 3. (1) The Department of Education, in collaboration with the Higher Education Coordinating Commission, shall administer the Accelerated College Credit Partnership Enhancement Grant Program as provided by this section.

(2) Grants shall be distributed under this section for the purpose of enhancing accelerated college credit programs and partnerships.

(3) A school district, a post-secondary institution of education or a consortium of post-secondary institutions of education may apply to the department for a grant under this section.

(4) A school district, a post-secondary institution of education or a consortium of post-secondary institutions of education that receives a grant under this section may use moneys from the grant to:

(a) Establish equitable and sustainable funding for accelerated college credit programs;

(b) Encourage collaboration between teachers and staff at high schools and faculty at post-secondary institutions of education for accelerated college credit programs;

(c) Ensure information is distributed to students and families about
opportunities related to accelerated college credit programs, including implications for financial aid, costs to families and credit transferability; and

(d) Coordinate accelerated college credit program within and across regions of this state.

(5) Grants shall be awarded under this section based on rules of the State Board of Education and shall take into account:

(a) The previous school year’s student enrollment in accelerated college credit program courses; and

(b) Credits earned by historically underrepresented students in post-secondary institutions of education during the previous school year.

(6)(a) For the purposes of grants distributed under this section, the department may accept contributions of funds and assistance from the United States Government and its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of this section; and

(b) All funds received by the department under this section shall be paid into the Accelerated College Credit Account established under ORS 340.330 for the purposes described in this section.

(7) No later than December 1 of each year, the department shall submit a report on the issuance of grants under this section to an interim committee of the Legislative Assembly related to education.

SECTION 4. ORS 340.320 is amended to read:

340.320. [(1) As used in this section, “accelerated college credit programs” includes dual credit programs, two-plus-two programs, advanced placement programs and International Baccalaureate programs.]

[(2) The Department of Education shall administer a grant program that provides grants for the purposes of:]

[(a) Providing education or training to teachers who will provide or are providing instruction in accelerated college credit programs;]
(b) Assisting students in paying for books, materials and other costs, other than test fees, related to accelerated college credit programs; and]
[(c) Providing classroom supplies for accelerated college credit programs.]

(1) The Department of Education, in collaboration with the Higher Education Coordinating Commission, shall administer the Accelerated College Credit Instructor Grant Program as provided by this section.

(2) Grants shall be distributed under this section for the purpose of providing education or training to teachers who will provide or are providing instruction in accelerated college credit programs.

(3) Any school district, education service district, community college district or state institution of higher education public post-secondary institution of education in this state may individually or jointly apply for a grant under this section.

(4) If a grant is awarded for the purpose of providing education or training to teachers who will provide or are providing instruction in an accelerated college credit program:

[a] The amount of the grant may not exceed one-third of the total cost of the education or training; and]

[b] The department may award the grant on the condition that the teacher, school district, community college district and state institution of higher education pay the balance of the cost of the education or training in a proportion agreed to by the teacher, districts and institution.]

(4) A school district, an education service district, a community college district or a public post-secondary institution of education may use moneys from the grant to:

[a] Expand support for school districts, education service districts and public post-secondary institutions of education to provide professional learning opportunities for high school instructors of accelerated college credit program courses;

[b] Ensure high school teachers have dependable online access to graduate courses meeting community college requirements for dual
credit instructors;

c) Improve professional relationships among instructors of accelerated college credit programs courses; and

d) Develop online graduate courses in content areas identified by the department in collaboration with the commission as needing development.

(5) For the purposes described in subsection (2) of grants distributed under this section, the department may:

(a) Accept contributions of funds and assistance from the United States Government and its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of subsection (2) of this section; and

(b) Enter into agreements with school districts, education service districts, community college districts and public and private post-secondary institutions of education related to the funding to provide education or training to teachers who will provide or are providing instruction in an accelerated college credit program.

(6) All funds received by the department under this section shall be paid into the Accelerated College Credit Account established under ORS 340.330 to be used for the purposes described in subsection (2) of this section.

(7) No later than December 1 of each year, the department shall submit a report on the issuance of grants under this section to an interim committee of the Legislative Assembly related to education.

SECTION 5. ORS 340.330 is amended to read:

340.330. The Accelerated College Credit Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Accelerated College Credit Account shall be credited to the account. Moneys in the Accelerated College Credit Account are continuously appropriated to the Department of Education for the purposes described in ORS 340.320 [(2)] and sections 2 and 3 of this 2019 Act.

SECTION 6. For the 2019-2021 biennium, the Department of Educa-
tion shall provide grants under the Accelerated College Credit Instructor Grant Program to:

(1) School districts and education service districts for tuition costs of up to 65 high school instructors to become qualified as instructors of accelerated college credit program courses; and

(2) Institutions of post-secondary education for at least six content areas for graduate course offerings.

SECTION 7. (1) The Higher Education Coordinating Commission, in collaboration with post-secondary institutions of education, shall study current and best practices to recommend a range of content areas of graduate courses to meet dual credit program qualifications in this state.

(2) The commission shall submit a report on the study to an interim committee of the Legislative Assembly related to education no later than September 15, 2020.

SECTION 8. (1) The Teacher Standards and Practices Commission shall consult with educator preparation program providers to determine whether providers should provide an accelerated learning specialization.

(2) The commission shall submit a report on the study to an interim committee of the Legislative Assembly related to education no later than September 15, 2020.

SECTION 9. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Approves adoption of and modifications to rules of Oregon Criminal Justice Commission.

A BILL FOR AN ACT

Relating to the Oregon Criminal Justice Commission.

Be It Enacted by the People of the State of Oregon:


NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Directs Oregon Criminal Justice Commission to study subjects relating to pretrial detention and report results to interim committees of Legislative Assembly related to judiciary on or before September 15, 2020.

A BILL FOR AN ACT

Relating to pretrial detention.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Oregon Criminal Justice Commission shall study methods of safely reducing the number of persons held in pretrial detention, the involvement of risk assessments and pretrial service agencies when making pretrial detention decisions, and methods of reducing racial and economic disparities within the pretrial detention system. The commission shall submit a report detailing the results of the study to the interim committees of the Legislative Assembly related to the judiciary in the manner provided by ORS 192.245 no later than September 15, 2020.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Eliminates certain duties of Oregon Department of Administrative Services and other state agencies related to tracking and reporting of travel awards earned as part of official state business.

Permits department to rent space other than office quarters to public or private persons at market rates. Consolidates multiple statutes relating to rental by department of unused space.

Adjusts definition of “office building” for purposes of certain public facilities laws to include portions of buildings. Provides that exemption for state agencies from local parking code requirements extends to newly acquired buildings in addition to newly constructed or renovated buildings.

Standardizes definitions of “state agency” used in portions of laws related to administration of public funds.

Modifies references to discontinued Consumer Price Index in certain statutes.

Modifies duties of department relating to telecommuting of state employees.

A BILL FOR AN ACT

Relating to the administration of state agencies; creating new provisions; amending ORS 240.855, 276.005, 276.007, 276.093, 276.095, 276.097, 276.110, 276.137, 276.440, 291.407, 292.230, 293.226, 293.227, 293.229, 293.234, 293.235, 293.252, 293.254, 293.256 and 565.447 and section 3, chapter 390, Oregon Laws 2017; and repealing ORS 276.135, 276.431 and 276.435.

Be It Enacted by the People of the State of Oregon:

MANAGEMENT OF TRAVEL AWARDS

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SECTION 1. ORS 292.230 is amended to read:

292.230. (1) It is the policy of the state that all out-of-state travel by state agency personnel shall be allowed only when the travel is essential to the normal discharge of the agency’s responsibilities. Out-of-state travel shall be conducted in the most efficient and cost-effective manner resulting in the best value to the state. The travel must comply with requirements of rules adopted under subsection [(5)] [(2)] of this section. State agencies shall adhere to the following guidelines when using out-of-state travel:

(a) All out-of-state travel must be for official state business.

(b) Use of out-of-state travel must be related to the agency’s scope of responsibilities.

(c) Each state agency is charged with the responsibility for determining the necessity and justification for and method of travel.

(d) Each state agency shall make every effort possible to minimize employee time spent on out-of-state travel.

[(2) Notwithstanding any other law, including but not limited to ORS 243.650 to 243.782, it is the policy of the state that travel awards earned while conducting state business shall be used to reduce the costs of state travel expenses except as otherwise required as a prerequisite to receipt of federal or other granted funds. The use of travel awards obtained while conducting state business for personal travel constitutes personal gain from state employment and violates ORS 244.040.]

[(3) The Oregon Department of Administrative Services shall work with commercial airlines to make travel awards available to the state rather than individual employees.]

[(4) Notwithstanding subsection (5) of this section, each state agency shall manage all travel awards earned by personnel employed by them who travel for the state. Agencies shall establish procedures in accordance with Oregon Department of Administrative Services rules to monitor the earning and use of awards by individual employees.]

[(5)] [(2)] The Oregon Department of Administrative Services shall adopt
by rule standards regulating out-of-state travel including but not limited to:
(a) Limiting the number of officers and employees who may attend the same meeting;
(b) Requiring state agencies to establish practices for travel that are consistent with the agency’s resources;
(c) Requiring agencies to develop information sharing for reporting and other aspects that have benefits to more than one agency;
(d) Developing telecommunication resources to be used in lieu of travel; and
(e) Requiring agency administrators or their designees, as designated in writing, to approve out-of-state travel; and.

(f) Setting up procedures to audit agency use of travel and travel awards including appropriate sanctions for misuse.]

[(6)] (3) As used in this section:
(a) “Official state business” means activity conducted by any agency personnel that has been authorized by that agency in support of approved state programs.
(b) “Out-of-state travel” means all travel from a point of origin in Oregon to a point of destination in another state and return therefrom.
(c) “Travel award” means any object of value awarded by any business providing commercial transportation or accommodations to an individual or agency which can be used to reduce the cost of travel including, but not limited to, frequent flier miles, discounts or coupons.]

SECTION 2. The amendments to ORS 292.230 by section 1 of this 2019 Act apply to travel occurring on or after the effective date of this 2019 Act.

BUILDING RENTALS

SECTION 3. ORS 276.135, 276.431 and 276.435 are repealed.
SECTION 4. ORS 276.440 is added to and made a part of ORS 276.420
to 276.429.

SECTION 5. ORS 276.440 is amended to read:

276.440. (1) For any building under its jurisdiction, as described in ORS 276.004, the Oregon Department of Administrative Services may:

(a) Rent [space not needed or available to state agencies] office quarters that the department determines are not appropriate to the needs of state agencies in order of priority first to other public agencies, then to private [citizens] persons, at rates established under ORS 276.385 and 276.390.

(b) Rent space [designated for public use to private concessions, when such use will not interfere with the orderly conduct of state business and is consistent with the public interest.] other than office quarters to any person, whether public or private, at rates appropriate to the local market, as determined by the department, notwithstanding ORS 276.385 (1), if the department determines that such space is not appropriate to the needs of state agencies.

(c) Permit the occasional use of any unoccupied or vacant room or space [by persons or organizations] for conventions, assemblies or other public meetings.

(d) With the advice of the occupying agency, rent the auditoriums, meeting rooms, courtyards and other outdoor spaces, suitable rooftops or lobbies of buildings occupied by state agencies to persons, whether public or private, engaged in commercial, cultural, educational or recreational activities that will not disrupt the building operations or the orderly conduct of state business.

(2) Terms of rentals authorized under this section may not exceed 10 years. Rentals authorized under this section may be negotiated without competitive bid.

(3) The department shall, by lease or otherwise, impose terms and conditions on rentals authorized under this section as necessary to protect the public interest.
The Director of the Oregon Department of Administrative Services may fix and collect a rental sufficient to defray the cost of janitor service and other expenses, including debt service. Receipts from rentals of space permitted under subsection (1) of this section shall be deposited in the Oregon Department of Administrative Services Operating Fund and are continuously appropriated for the purposes of that fund.

SECTION 6. ORS 276.093 is amended to read:

276.093. As used in ORS 276.093 to 276.098, 276.135, 276.431 and 276.435:

(1) “Commercial activities” includes, but is not limited to, restaurants, food stores, craft stores, dry goods stores and display facilities.

(2) “Cultural activities” includes, but is not limited to, film, dramatic, dance and musical presentations, fine arts exhibits, studios and public meeting places, whether or not used by persons, firms or organizations intending to make a profit.

(3) “Director” means the Director of the Oregon Department of Administrative Services.

(4) “Educational activities” includes, but is not limited to, libraries, schools, child care facilities, laboratories and lecture and demonstration facilities.

(5) “Historical, architectural or cultural significance” includes, but is not limited to, buildings listed or eligible to be listed on the National Register of Historic Places under section 101 of the National Historic Preservation Act of October 15, 1966 (16 U.S.C. 470a).

(6) “Recreational activities” includes, but is not limited to, gymnasiums and related facilities.

(7) “State building” means all state buildings under the control of the Oregon Department of Administrative Services.

(8) “Unit of local government” means any city or county, or other political subdivision of the state.

SECTION 7. ORS 276.095 is amended to read:

[5]
276.095. With respect to operating, maintaining, altering and otherwise managing or acquiring space to meet the office needs of state government and to accomplish the purposes of ORS 276.094, the Director of the Oregon Department of Administrative Services may:

(1) Acquire or lease and utilize space in suitable buildings of historical, architectural or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives, taking into consideration the purposes of ORS 276.093 to 276.098[, 276.135, 276.431 and 276.435] and 276.440;

(2) Provide and maintain space, facilities and activities to the extent practicable that encourage public access to and stimulate public pedestrian traffic around, into and through state buildings, permitting cooperative improvements to and uses of the area between the building and the street, thereby complementing and supplementing commercial, cultural, educational and recreational resources in the neighborhood of state buildings;

(3) Encourage the location of compatible commercial, cultural, educational and recreational facilities and activities within or near state buildings; and

(4) Encourage multipurpose public use of state buildings for the benefit of children and community activities, including commercial, cultural, educational and recreational use of such buildings, providing such use would not be disruptive to state government.

Section 8. ORS 276.097 is amended to read:

276.097. The Director of the Oregon Department of Administrative Services, where practicable, shall give priority in the assignment of ground floor space not leased under the terms of ORS [276.431] 276.440 to state activities requiring regular contact with members of the public. To the extent ground floor space is not available, the director shall provide space with maximum ease of access to building entrances.

MULTITENANT BUILDINGS
SECTION 9. ORS 276.110 is amended to read:

276.110. As used in ORS 276.009, 276.013, 276.015 and 276.110 to 276.137, unless the context requires otherwise:

(1) “Cost of acquisition” includes the costs of sites, plans, specifications, architects’ fees, interest on investments of the investing funds and all other costs related to the erection and equipping of office buildings or to the purchase, alteration, repair and equipping of buildings for office purposes.

(2) “Investing agency” means the board, commission, department or other agency whose funds are defined as investment funds in ORS 293.701.

(3) “Investing funds” means those funds enumerated in ORS 293.701 (2), when invested pursuant to ORS 276.009, 276.013, 276.015 and 276.110 to 276.137.

(4) “Office building” means any building, or portion thereof, in the State of Oregon acquired under ORS 276.009, 276.013, 276.015 and 276.110 to 276.137, by appropriation therefor, or as otherwise provided by law, to provide [centralized] office quarters for state agencies and may include parking, storage, motor pool, [and] service and other facilities.

(5) “State Treasurer” means the State Treasurer in the capacity of investment officer for the Oregon Investment Council.

SECTION 10. ORS 291.407 is amended to read:

291.407. (1) The Mass Transit Assistance Account is established in the General Fund of the State Treasury. The account shall consist of moneys deposited in the account under ORS 291.405 and as otherwise provided by law. The moneys in the account are continuously appropriated to the Oregon Department of Administrative Services to be used as provided in this section.

(2) The Oregon Department of Administrative Services shall distribute moneys from the account established under this section to districts described in ORS 291.405 on the last day of each calendar quarter. Subject to the limitations in this section, the amount distributed to each district shall be equal to the total assessments received by the department during the immediate preceding three months under ORS 291.405 from agencies with employees
performing subject services within that district.

(3) Distributions under this section are subject to the following limitations:

(a) Except for newly formed districts, the Oregon Department of Administrative Services shall not distribute to a district during a calendar year an amount that exceeds the amount received by the district under the district’s own taxes during the immediate preceding fiscal year of the district.

(b) The Oregon Department of Administrative Services shall not distribute to a newly formed district during a calendar year an amount that exceeds the amount the budget approved by the district board proposes as revenue for the district from the district’s own taxes during the current fiscal year of the district. If the district does not collect the proposed amount, the department shall make adjustments in the distributions during subsequent years to recover any amount paid under this section that is over the amount the district actually received under the district’s own taxes.

(4) The limitations imposed under this section that are based on amounts received by a district under its own taxes do not include amounts received by the district from farebox revenues, federal moneys, state moneys, gifts, investments, bonds or similar moneys received by the district.

(5) The Department of Transportation shall provide the Oregon Department of Administrative Services with any information concerning a mass transit district or transportation district that the Oregon Department of Administrative Services determines necessary for the performance of its duties under this section and ORS 291.405. The Department of Transportation shall provide the information in the form and at times determined by the Oregon Department of Administrative Services.

(6) In exchange for payments authorized under this section to transit districts, the State of Oregon and its agencies shall be exempt [from any parking code requirements for existing state-owned buildings, construction of new state buildings or the renovation of existing state buildings, which], with respect to existing state buildings and newly constructed, acquired or
renovated state buildings, from any parking code requirements that
have been or may be established by any political subdivision within the
boundaries of a transit district receiving such payments.

(7) As used in this section, “state buildings” includes office
buildings as defined in ORS 276.110.

SECTION 11. ORS 276.005 is amended to read:
276.005. (1) The Oregon Department of Administrative Services through
funds appropriated therefor, from balances in the Capital Projects Fund, or
as otherwise provided by law, may enter into all contracts or agreements
deemed necessary to:
   (a) Purchase, construct, improve, repair, equip and furnish office buildings
as defined in ORS 276.110;
   (b) Purchase, construct, improve and repair utility and service facilities;
   (c) Execute such other buildings, grounds and public works projects for
state government as may be necessary to accomplish the purposes of this
chapter; and
   (d) Acquire land by purchase, gift, exchange, lease, condemnation or oth-
erwise for the purposes of paragraphs (a), (b) and (c) of this subsection and
to improve sites therefor.

(2) There is established in the State Treasury a Capital Projects Fund,
separate and distinct from the General Fund. The moneys in the Capital
Projects Fund may be invested as provided in ORS 293.701 to 293.857. Interest
earnings on the fund assets shall be credited to the fund. All moneys credited
to the fund by law are appropriated continuously to the department for the
purposes set out in subsection (1) of this section.

(3) The Oregon Department of Administrative Services on behalf of the
State of Oregon may accept gifts, grants and donations from public and pri-
tate sources for the purposes set out in subsection (1) of this section. Such
gifts, grants and donations shall be deposited by the department in appro-
priate separate trust accounts until such time as required to meet the obli-
gations for which the gift, grant or donation was intended. When so
required, the department shall deposit such amounts in the Capital Projects
Fund, subject to any limitations imposed by the donor.

(4) Moneys loaned by an investing fund under ORS 276.009, 276.013,
276.015 and 276.110 to 276.137 shall be deposited in the Capital Projects Fund
and are appropriated continuously for the purposes set out in subsection (1)
of this section.

SECTION 12. ORS 276.007 is amended to read:

ORS 276.007. (1) Moneys credited to the Oregon Department of Administrative
Services Operating Fund by law are appropriated continuously to the Oregon
Department of Administrative Services and may be used to:

(a) Repay investing funds for moneys loaned under ORS 276.009, 276.013,
276.015 and 276.110 to 276.137, and the interest thereon; and

(b) Pay all the expenses associated with operating, maintaining, repairing,
equipping and furnishing the buildings and facilities described in ORS
276.004.

(2) For any biennium any moneys collected by the department pursuant
to ORS 276.385 and 276.412 as rental payments for depreciation reserves for
space in buildings, parking facilities and mall houses specified in ORS
276.004 and any net profit from mall houses shall be transferred from the
Oregon Department of Administrative Services Operating Fund to the Cap-
tal Projects Fund for any of the purposes enumerated in ORS 276.005 (1).

(3) Except as provided in subsection (2) of this section, and except an
amount as determined by the department for operating capital for the man-
agement of such office space, for any biennium any moneys collected by the
department pursuant to ORS 276.385 and 276.412 as rental payments for space
in buildings specified in ORS 276.004 that exceed the amounts required by
law to be paid out of such moneys with respect to that biennium, shall be
used to adjust rental rates in the current or subsequent biennia.

SECTION 13. ORS 276.137 is amended to read:

ORS 276.137. On repayment of all moneys loaned by investing funds to acquire
a building under ORS 276.009, 276.013, 276.015 and 276.110 to 276.137, title
to such building shall vest automatically in the Oregon Department of Ad-
ministrative Services in the name of the State of Oregon.

DEFINITIONS OF STATE AGENCY

SECTION 14. ORS 293.226 is amended to read:
293.226. (1) Subject to subsection (2) of this section, a state agency may
request that a person voluntarily supply the person’s Social Security number
for use in collecting debts owed to the State of Oregon on any document
relating to any monetary obligation or transaction. A state agency that so
requests shall include on the document a notice disclosing that the Social
Security number is requested for and may be used for state agency debt col-
lection activities.
(2) The Oregon Department of Administrative Services shall adopt rules:
(a) Specifying the form of the notice, including provisions specifying when
the notice must state whether the disclosure of a Social Security number is
voluntary or mandatory; and
(b) Setting procedures for the sharing of Social Security numbers between
state agencies, and between the Department of Revenue and private col-
lection agencies, for the purpose of collecting debts owed state agencies.
(3) If a person is required to provide the person’s Social Security number
to a state agency under federal or state law for purposes other than col-
lection of a debt owed to the State of Oregon, the agency may not use the
Social Security number for debt collection purposes, except:
(a) When the agency requests that the person voluntarily disclose the
person’s Social Security number for the purpose of collecting debts owed to
the State of Oregon, the agency provides the notice required under sub-
section (1) of this section and the person subsequently voluntarily provides
the person’s Social Security number; or
(b) When otherwise allowed under state or federal law.
(4) A state agency, the Department of Revenue or a private collection
agency that is collecting a liquidated and delinquent account may use a So-
cial Security number collected under this section, or collected as otherwise
allowed by law, to collect any debt owed a state agency or local government
by the person associated with the Social Security number.

(5) Nothing in this section authorizes a state agency, the Department of
Revenue or a private collection agency that is collecting a liquidated and
delinquent account to use or disclose a Social Security number for any rea-
son other than a reason specified in this section.

(6) Rules adopted under subsection (2) of this section do not apply to
[state courts and commissions, departments and divisions in the judicial
branch of state government] the judicial department as defined in ORS
174.113, the Secretary of State or the State Treasurer.

[(7) Except as provided in subsection (6) of this section, as used in this
section, “state agency” means any state officer, board, commission, corporation,
institution, department or other state organization.]

(7)(a) As used in this section, “state agency” means any state offi-
cer, board, commission, corporation, institution, department or other
state organization.

(b) Notwithstanding ORS 182.460, 284.118, 284.375, 377.836, 421.352,
656.753 and 757.552, “state agency” includes semi-independent state
agencies listed in ORS 182.454, the Oregon Tourism Commission, the
Oregon Film and Video Office, the Travel Information Council, the
Children’s Trust Fund of Oregon Foundation, Oregon Corrections En-
terprises, the State Accident Insurance Fund Corporation and the
Oregon Utility Notification Center.

SECTION 15. ORS 293.227 is amended to read:

293.227. As used in ORS 293.227 to 293.233, unless the context requires
otherwise:

(1) “Payment” means a voluntary amount of money paid by a debtor to a
state agency or an involuntary amount of money paid by a debtor through
offset or garnishment.
(2) “State agency” [means any officer, board, commission, department, di-
vision or institution in the executive or administrative branch of state govern-
ment] has the meaning given that term in ORS 293.226, except that it
does not include the judicial department as defined in ORS 174.113, the
legislative department as defined in ORS 174.114 or entities described
in ORS 293.226 (7)(b).

SECTION 16. ORS 293.229 is amended to read:
293.229. (1) Not later than October 1 of each fiscal year, each state agency
shall submit a report to the Legislative Fiscal Office that describes the sta-
tus of that agency’s liquidated and delinquent accounts and efforts made by
that agency to collect liquidated and delinquent accounts during the previous
fiscal year. The report required under this subsection shall be in a form
prescribed by the Legislative Fiscal Office and shall include but not be lim-
ited to:
(a) Beginning balance and total number of all liquidated and delinquent
accounts;
(b) New liquidated and delinquent accounts added during the last pre-
ceeding fiscal year;
(c) Total collections of liquidated and delinquent accounts;
(d) Total amount and total number of liquidated and delinquent accounts
that have been written off;
(e) Total number and ending balance of all liquidated and delinquent ac-
counts;
(f) Total amount of liquidated and delinquent accounts assigned to the
Department of Revenue and the total amount collected by the department
under ORS 293.250;
(g) Total amount of liquidated and delinquent accounts assigned to pri-
ivate collection agencies and the total amount collected by private collection
agencies under ORS 293.231;
(h) Total number and total amount of all liquidated and delinquent ac-
counts exempted under ORS 293.233;
(i) Total number and ending balance of all liquidated and delinquent accounts that have been placed in suspended collection status under ORS 305.155; and

(j) A statement indicating whether the agency has liquidated and delinquent accounts that are not exempt under ORS 293.233, or are otherwise prohibited or exempted by law from assignment, for which no payment has been received for more than 90 days and that have not been assigned to the Department of Revenue under ORS 293.231.

(2) If a state agency reports under subsection (1) of this section that the total ending balance of its liquidated and delinquent accounts is $50 million or greater, the state agency shall, not later than three months after it submits the report under subsection (1) of this section, submit an additional report to the committees or interim committees of the Legislative Assembly related to ways and means that:

(a) Describes major categories of liquidated and delinquent accounts held by the state agency;

(b) Describes circumstances under which the state agency writes off or adjusts liquidated and delinquent amounts or removes an account from liquidated and delinquent status;

(c) Describes actions undertaken by the state agency to reduce the amount of liquidated and delinquent debt owed to it at the end of each fiscal year; and

(d) Sets forth a plan for future actions that will reduce the amount of liquidated and delinquent debt owed to the state agency at the end of each fiscal year and describes any additional resources that are necessary to carry out the plan.

(3) The Legislative Fiscal Office shall produce an annual report not later than December 31 of each fiscal year on the status of liquidated and delinquent accounts of state agencies and the judicial branch of state government. The report shall be based on the reports submitted by state agencies as required in this section and on reports submitted by the judicial branch of
state government under ORS 1.195.

(4) The report required under subsection (3) of this section shall:

(a) List those state agencies, including the judicial branch of state government, that have liquidated and delinquent accounts that are not exempt under ORS 1.198, 1.199 or 293.233, or are otherwise prohibited or exempted by law from assignment, for which no payment has been received for more than 90 days and that have not been assigned to a private collection agency or to the Department of Revenue under ORS 1.197 or assigned to the Department of Revenue under 293.231;

(b) List separately information about the liquidated and delinquent accounts of the Secretary of State, the State Treasurer, other state agencies in the executive branch of state government and the judicial branch of state government; and

(c) Include any other information the Legislative Fiscal Office determines is necessary to describe the status of liquidated and delinquent accounts across offices and branches of state government.

(5) Notwithstanding ORS 182.460, 284.118, 284.375, 352.138, 353.100, 377.836, 421.352, 656.753 and 757.552, for purposes of this section, “state agency” also includes semi-independent state agencies listed in ORS 182.454, the Oregon Tourism Commission, the Oregon Film and Video Office, the Travel Information Council, the Children’s Trust Fund of Oregon Foundation, Oregon Corrections Enterprises, Oregon Health and Science University, the State Accident Insurance Fund Corporation, the Oregon Utility Notification Center and public universities listed in ORS 352.002.

(5) Notwithstanding ORS 293.227, as used in this section, “state agency” has the meaning given that term in ORS 293.226, except that it:

(a) Does not include the judicial department as defined in ORS 174.113 or the legislative department as defined in ORS 174.114; and

(b) Includes public universities listed in ORS 352.002 and Oregon Health and Science University, notwithstanding ORS 352.138 and
SECTION 17. ORS 293.234 is amended to read:

293.234. (1) The Oregon Department of Administrative Services shall, no later than December 31 of each year and in the manner provided by ORS 192.245, report to the Legislative Assembly the amounts of liquidated and delinquent debt that, in the previous fiscal year:

(a) Were written off by a state agency under ORS 293.240;
(b) Were abated by a state agency; and
(c) Were canceled by the Department of Revenue under ORS 305.155.

(2) Each state agency shall certify to the Oregon Department of Administrative Services that the debts described in subsection (1) of this section were written off, abated or canceled in accordance with applicable statutes and rules.

(3) All state agencies shall provide to the department any information that the department considers necessary or convenient for carrying out its duties under this section, to the extent permitted by laws relating to confidentiality.

(4) The department may adopt rules necessary to carry out the provisions of this section.

(5) As used in this section:

(a) “Abated” means waived, settled or determined not to be owed.
(b) “State agency” [means:]

[(A) Any state officer, board, commission, corporation, institution, department or other state organization having power to collect state funds; and]

[(B) Semi-independent state agencies listed in ORS 182.454, the Oregon Tourism Commission, the Oregon Film and Video Office, the Travel Information Council, the Children’s Trust Fund of Oregon Foundation, Oregon Corrections Enterprises, the State Accident Insurance Fund Corporation and the Oregon Utility Notification Center.] has the meaning given that term in ORS 293.226.

SECTION 18. ORS 293.235 is amended to read:
293.235. As used in ORS 293.240 and 293.245, “state agency” [means any state officer, board, commission, corporation, institution, department or other state organization having power to collect state funds.] **has the meaning given that term in ORS 293.226.**

**SECTION 19.** ORS 293.252 is amended to read:

293.252. (1) The Oregon Department of Administrative Services shall monitor state agency debt collection functions described by law and assist state agencies in efforts to improve the collection of delinquent debts owed to state agencies. The department’s duties under this subsection include, but are not limited to:

(a) Providing training to state agencies regarding processing and managing accounts receivable in compliance with applicable law and state policies.

(b) Providing technical assistance to state agencies in resolving challenges in processing and managing accounts receivable and developing financial administrative systems to improve the handling of liquidated and delinquent accounts.

(c) Developing performance standards for state debt collection, including but not limited to standards defining what constitutes liquidated and delinquent accounts and when debt may be written off pursuant to ORS 293.240.

(d) Working with state agencies to improve the quality and value of data that each state agency submits to the Legislative Fiscal Office for purposes of ORS 293.229.

(e) Submitting an annual management report to the Legislative Assembly not later than December 31 of each fiscal year, in conjunction with the report of the Legislative Fiscal Office produced under ORS 293.229, that identifies important issues and significant trends in state agency debt collection practices and describes and evaluates efforts by state agencies to improve the collection of delinquent debt.

(2) The department shall adopt policies:

(a) Providing guidance for the collection of liquidated and delinquent accounts owing to state agencies.
(b) Setting procedures for state agencies to account for and manage information regarding the agency’s liquidated and delinquent accounts.
(c) After consultation with the Attorney General, setting criteria for effective and efficient assignment of liquidated and delinquent accounts to the Department of Revenue or private collection agencies, and setting performance measurements to be used in the application of the criteria.
(d) For the allocation, form and amount of charges or fees added to liquidated and delinquent accounts under ORS 293.231, 293.250 and 697.105.
(e) Setting exemptions or adjustments for state agencies that are prohibited by law from adding or collecting fees under ORS 293.231, 293.250 or 697.105 and for agencies for which the addition or collection of the fees is not feasible given the agency resources available for collection of accounts receivable.
(f) For the improvement of communications regarding liquidated and delinquent accounts among state agencies and between private collection agencies and the Department of Revenue.
(g) Describing conditions under which a state agency may request and collect Social Security numbers in accordance with state and federal law when it is reasonably foreseeable that a person may owe the state agency a liquidated and delinquent amount as a result of a transaction or activity.
(h) After consultation with the Attorney General, setting criteria under which state agencies, the Department of Revenue and private collection agencies may propose and accept offers of compromise as provided in ORS 293.240.

(3) As used in this section:

[(a) “State agency” means any state officer, board, commission, corporation, institution, department or other state organization.]
[(b) “State agency” does not include all state courts and all commissions, departments and divisions in the judicial branch of state government, the Secretary of State and the State Treasurer.], “state agency” has the meaning given that term in ORS 293.226, except that it does not in-
clude the judicial department as defined in ORS 174.113, the Secretary of State or the State Treasurer.

SECTION 20. ORS 293.254 is amended to read:

293.254. (1) Subject to ORS 293.250, a state agency shall make all reasonable efforts to collect liquidated and delinquent accounts owing to the state agency, including the use of Social Security numbers made available by state agencies pursuant to ORS 293.226, and the setoff of any refunds or sums due to the debtor from the state agency, the Department of Revenue or from any other state agency.

(2) The Oregon Department of Administrative Services shall adopt rules establishing procedures for the setoff of amounts between state agencies under this section. Prior to adopting rules under this subsection, the Director of the Oregon Department of Administrative Services shall consult with the Chief Justice regarding the application of the rules to state courts and all commissions, departments and divisions in the judicial branch of state government.

(3) Rules adopted under subsection (2) of this section do not apply to the Secretary of State or the State Treasurer.

(4) Except as provided in subsection (3) of this section, as used in this section, “state agency” means any state officer, board, commission, corporation, institution, department or other state organization has the meaning given that term in ORS 293.226.

SECTION 21. ORS 293.256 is amended to read:

293.256. (1) The Oregon Department of Administrative Services shall estimate in advance the expenses that the department will incur during a biennium in carrying out the provisions of ORS 293.226 and 293.252 to 293.256.

(2) The department shall charge each state agency for the agency’s share of the expenses described in subsection (1) of this section for the biennium. The department shall determine the rate to be charged state agencies.

(3) Each state agency shall pay to the credit of the department the charge
described in this section as an administrative expense from funds or appropriations available to the state agency in the same manner as other claims against the state agency are paid.

(4) All moneys received by the department under this section shall be credited to the Delinquent Accounts Administration Fund established under ORS 293.258.

(5) The department shall adopt rules specifying the methods for calculating and collecting the rates and charges described in this section.

(6) As used in this section[.]

[(a) “State agency” means any state officer, board, commission, corporation, institution, department or other state organization.]

[(b) “State agency” does not include all state courts and all commissions, departments and divisions in the judicial branch of state government, the Secretary of State and the State Treasurer.], “state agency” has the meaning given that term in ORS 293.226, except that it does not include the judicial department as defined in ORS 174.113, the Secretary of State or the State Treasurer.

CONSUMER PRICE INDEX

SECTION 22. ORS 565.447 is amended to read:

565.447. (1) Subject only to the availability of unobligated net lottery proceeds, there is allocated from the Administrative Services Economic Development Fund to the County Fair Account created under ORS 565.445 an amount equal to one percent of the net proceeds from the Oregon State Lottery, but not to exceed $1.53 million annually, adjusted biennially pursuant to the change in the West Region Size Class A Consumer Price Index[, as defined in ORS 327.006] for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor, between January 1, 2001, and January 1 immediately preceding commencement of the biennium.

[20]
(2) The allocation of moneys from the Administrative Services Economic Development Fund under this section is subject to the requirements in section 4, Article XV of the Oregon Constitution, for deposit of specified amounts of the net proceeds from the Oregon State Lottery into the Education Stability Fund and into the Parks and Natural Resources Fund and shall be made only after satisfaction or payment of:

(a) Amounts allocated to Westside lottery bonds issued under ORS 391.140 or to the reserves or any refunding related to the Westside lottery bonds in accordance with the priority for allocation and disbursement established by ORS 391.130;

(b) All liens, pledges or other obligations relating to lottery bonds or refunding lottery bonds due or payable during the year for which an allocation is to be made; and

(c) Amounts required by any other pledges of, or liens on, net proceeds from the Oregon State Lottery.

SECTION 23. Section 3, chapter 390, Oregon Laws 2017, is amended to read:

Sec 3. (1) On January 1, 2021, the Oregon Department of Administrative Services shall determine the cumulative percentage increase or decrease in the cost of living for the previous four years, based on changes in the [Portland-Salem, OR-WA,] West Region Size Class A Consumer Price Index for All Urban Consumers for All Items as published by the Bureau of Labor Statistics of the United States Department of Labor. The Oregon Department of Administrative Services shall adjust the fees under ORS 21.300 (1) and (4) as follows:

(a) If the cost of living has increased, the department shall adjust the fees by multiplying the fee amounts by the percentage amount determined under this subsection. The department shall round the adjusted fees up to the nearest $1. The adjusted fees become effective on July 1, 2021, and apply to all fees incurred on or after July 1, 2021.

(b) If the cost of living has not increased, the department may not change
the fees.

(2) After the department adjusts the fees under ORS 21.300 (1) and (4) as provided in subsection (1) of this section, the department shall promptly notify the Oregon State Sheriffs’ Association of the adjusted fees.

**TELECOMMUTING**

**SECTION 24.** ORS 240.855 is amended to read:

240.855. (1) As used in this section:

(a) “State agency” means any state office, department, division, bureau, board and commission, whether in the executive, legislative or judicial branch.

(b) “Telecommute” means to work from the employee’s home or from an office near the employee’s home, rather than from the principal place of employment.

(2) It is the policy of the State of Oregon to encourage state agencies to allow employees to telecommute when there are opportunities for improved employee performance, reduced commuting miles or agency savings.

(3) Each state agency shall adopt a written policy that:

(a) Defines specific criteria and procedures for telecommuting;

(b) Is applied consistently throughout the agency; and

(c) Requires the agency, in exercising its discretion, to consider an employee request to telecommute in relation to the agency’s operating and customer needs.

(4) Each state agency that has an electronic bulletin board, home page or similar means of communication shall post the policy adopted under subsection (3) of this section on the bulletin board, home page or similar site.

(5) The Oregon Department of Administrative Services, in consultation with the State Department of Energy, shall provide a biennial report to the Joint Committee on Technology, or a similar committee of the Legislative Assembly, containing at least the following:

[22]
[(a) The number of employees telecommuting;]
[(b) The number of trips, miles and hours of travel time saved annually;]
[(c) A summary of efforts made by the state agency to promote and encourage telecommuting;]
[(d) An evaluation of the effectiveness of efforts to encourage employees to telecommute; and]
[(e) Such other matters as may be requested by the committee.]

(5) The Oregon Department of Administrative Services, in consultation with the State Chief Information Officer and state agencies, shall work to identify barriers to telecommuting for state employees and identify solutions to promote telecommuting.

UNIT CAPTIONS

SECTION 25. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.
SUMMARY

Permits Oregon Department of Administrative Services to enter into financing agreements that exceed $100,000 without needing to comply with requirements concerning state borrowing if financing agreements include nonrecourse provision.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to requirements for financing agreements executed in connection with obtaining office quarters for the state; creating new provisions; amending ORS 283.087; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 283.087 is amended to read:

283.087. (1) The Director of the Oregon Department of Administrative Services may enter into financing agreements in accordance with ORS 283.085 to 283.092.

(2) Financing agreements [entered] the director enters into under ORS 283.085 to 283.092 are subject to the following limitations:

(a) Neither the director nor any other agency of the state may pay amounts due under a financing agreement from any source other than available funds. If there are insufficient available funds to pay amounts due under a financing agreement, the lender may exercise any property rights which the state has granted to [it] the lender in the financing agreement, against the property which was purchased with the proceeds of the financing agreement, and apply the amounts so received toward payments scheduled to

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
be made by the state under the financing agreement.  
(b) Neither the director nor any other agency of the state may grant property rights in property unless the property is being acquired, substantially improved or refinanced with proceeds of a financing agreement entered into under ORS 283.085 to 283.092 or the property is land on which improvements financed, in whole or in part, under ORS 283.085 to 283.092 are located. 
(c)(A) Except as provided in subparagraph (B) of this paragraph, a financing agreement with a principal amount in excess of $100,000 is subject to the requirements of ORS chapter 286A, and the director may exercise the powers granted to a related agency, as defined in ORS 286A.001, with respect to a financing agreement described in this paragraph.  
(B) A financing agreement is exempt from the requirements of ORS chapter 286A if: 
(i) The Oregon Department of Administrative Services enters into the financing agreement in connection with a lease purchase or an installment purchase, or in exercising a purchase option, under ORS 276.429 (4); and 
(ii) The financing agreement includes a nonrecourse provision. 
(3) The expenditure of funds used to finance previously executed financing agreements or to pay costs incurred to issue a financing agreement must be recorded using administrative budget limitations. 
(4) For purposes of this section, the principal amount of a financing agreement, other than a financing agreement to refinance a financing agreement, exceeds $100,000 if the principal amount, when combined with the principal amount of a financing agreement, other than a financing agreement to refinance a financing agreement, previously issued for the same project exceeds $100,000. 
(5) Upon the request and with the approval of the Chief Justice of the Supreme Court or the State Court Administrator, the director [of the Oregon Department of Administrative Services] may enter into financing agreements
in accordance with ORS 283.085 to 283.092 on behalf of the Judicial Department.

SECTION 2. The amendments to ORS 283.087 by section 1 of this 2019 Act apply to financing agreements into which the Oregon Department of Administrative Services enters on and after the effective date of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Permits Oregon Department of Administrative Services to contract with other entity, and to participate in, sponsor, conduct or administer cooperative procurements, for purpose of acquiring, installing, maintaining or operating devices or facilities to deliver electricity to public for electric motor vehicles. Specifies that solely for purpose of contracting agency’s participating in, sponsoring, conducting or administering cooperative procurement, device or facility for delivering electricity to public for electric motor vehicles is not public improvement.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to procurements for facilities that deliver electricity to the public for electric motor vehicles; creating new provisions; amending ORS 276.255; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 276.255, as amended by section 1, chapter 90, Oregon Laws 2018, is amended to read:

276.255. (1)(a) A state agency may locate, on premises the state agency owns or controls, devices or facilities that the state agency installs, or has installed, specifically to deliver electricity to the public for electric motor vehicles.

(b) A state agency may contract with a vendor that will distribute, dispense or otherwise make available electricity from devices or facilities described in paragraph (a) of this subsection.

(2)(a) The Oregon Department of Administrative Services may install or

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have installed devices or facilities described in subsection (1)(a) of this section in as many locations as are sufficient to meet demand for the devices or facilities.

(b) The department by rule shall establish criteria by means of which a state agency shall determine an appropriate number of locations at which the state agency may install or have installed devices or facilities described in subsection (1)(a) of this section.

(c) Notwithstanding paragraph (b) of this subsection, a state agency may install or have installed devices or facilities described in subsection (1)(a) of this section at more than the number of locations determined in accordance with the department’s rule if the state agency obtains a grant to support the installations at each additional location.

(3)(a) The department may contract or otherwise agree with another entity to acquire, install, maintain or operate devices or facilities described in subsection (1)(a) of this section. The department may also participate in, sponsor, conduct or administer cooperative procurements in accordance with ORS 279A.200 to 279A.225 under which public bodies, as defined in ORS 174.109, and other purchasers the department authorizes by rule may acquire, install, maintain or operate devices or facilities to deliver electricity to the public for electric motor vehicles.

(b) Solely for the purpose of a contracting agency’s participating in, sponsoring, conducting or administering a cooperative procurement under paragraph (a) of this subsection and notwithstanding the definition of “public improvement” in ORS 279A.010, a device or facility for delivering electricity to the public for electric motor vehicles is not a public improvement.

[(3)] (4) A state agency that contracts with a vendor under subsection (1)(b) or (3)(a) of this section shall require in the contract that the vendor:

(a) Indemnify the state agency against any claim related to or arising out of the vendor’s operations on premises that the state agency owns or con-
trols; and

(b) Obtain a policy of liability insurance in an amount sufficient to pay foreseeable claims that relate to or arise out of the vendor's operations, name the state agency as an insured party in the policy and maintain coverage under the policy during the term of the contract and for two years after the contract term expires.

[(4)] (5) A state agency may by order establish and adjust prices for using devices or facilities described in subsection (1)(a) of this section that are located on premises the state agency owns or controls. The state agency shall endeavor to set the price for using the devices or facilities at a level that:

(a) Recovers to the maximum extent practicable the cost of operating and administering the devices or facilities described in subsection (1)(a) of this section; and

(b) Does not exceed 110 percent of the average market price for delivering electricity to the public for the purpose described in subsection (1)(a) of this section in the county in which the device or facility is located.

[(5)] (6) Subject to subsection [(4)] (5) of this section, a state agency shall set [a uniform] the price for delivering electricity at devices and facilities located on premises that the state agency owns or controls. The state agency shall use criteria and a methodology that the department specifies for calculating the [uniform] price.

[(6)] (7) The department shall report to the Legislative Assembly in the manner provided by ORS 192.245 not later than February 1, 2019, February 1, 2021, and February 1, 2023, concerning state agency implementation of the authority granted in subsections (1), (2), (4), (5) and (6) of this section. Each report must, as of the date of the report:

(a) List the number of devices or facilities for delivering electricity to the public for electric motor vehicles that state agencies installed or had installed in the previous two years and the total number of installations that have occurred since June 2, 2018;

(b) List the number of devices or facilities that state agencies have
planned for installation in the next two years;

(c) List the cost to the state agency of each installation and calculate:
   (A) An average cost for installations that state agencies have completed or had completed; and
   (B) An overall trend line for costs that state agencies have incurred;

(d) Specify the current [uniform] price that each state agency charges under subsection [(5)] (6) of this section and any changes in the [uniform] price that occurred in the previous two years;

(e) Specify for each state agency an average rate of utilization for all of the devices or facilities located on premises that the state agency owns or controls, calculated as the ratio of the time each day during which a person is actually using the devices or facilities and the time each day in which the devices and facilities are available for use; and

(f) Specify whether and to what extent using electric motor vehicles and devices or facilities located on premises that state agencies own or control to provide electricity for state agency electric motor vehicles results in a cost savings to the state agency in comparison to using motor vehicles that do not use electricity for propulsion.


(2) The Oregon Department of Administrative Services or a contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the department or the contracting agency, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the department or the contracting agency by the amendments to ORS 276.255 by section 1 of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Permits contracting agency to consider at any time before executing public contract with bidder or proposer whether bidder or proposer owes debt to state.


Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to considering whether persons seeking public contracts owe a debt to the state; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 279A.

SECTION 2. In addition to making a determination concerning a bidder’s or proposer’s responsibility under ORS 279B.110 or 279C.375, a contracting agency as part of the contracting agency’s evaluation of a bid or proposal may consider at any time before executing a public contract with the bidder or proposer whether the bidder or proposer owes a debt to the state.

SECTION 3. Section 2 of this 2019 Act applies to procurements that a contracting agency advertises or otherwise solicits or, if the contracting agency does not advertise or otherwise solicit the procurement, to public contracts into which the contracting agency enters on or after the operative date specified in section 4 of this 2019 Act.

SECTION 4. (1) Section 2 of this 2019 Act becomes operative on

(2) The Attorney General, the Director of the Oregon Department of Administrative Services, the Director of Transportation and the director or other head of a contracting agency that adopts rules under ORS 279A.065 or 279A.070 may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the Attorney General or the director or other head to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the Attorney General or the director or other head by section 2 of this 2019 Act.

SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
Summary

Establishes Building Maintenance Account in State Treasury, separate and distinct from General Fund. Directs State Treasurer to create subaccounts within account for specified state agencies. Continuously appropriates amounts in subaccounts to state agencies for purposes of repairing and maintaining buildings owned by state agencies.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to maintenance of buildings owned by state agencies; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Building Maintenance Account is established in the State Treasury, separate and distinct from the General Fund. The State Treasurer shall create a subaccount within the Building Maintenance Account for each of the agencies specified in subsection (2) of this section. Interest earned by a subaccount within the Building Maintenance Account must be credited to the subaccount. Each subaccount consists of moneys deposited in the subaccount from any source and may include moneys appropriated, allocated, deposited or transferred to the subaccount by the Legislative Assembly or otherwise and interest earned on moneys in the subaccount. The moneys in each subaccount are continuously appropriated to the agency for which the subaccount is created for the purposes of repairing and maintaining buildings owned by the agency.

(2) The Building Maintenance Account consists of subaccounts

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
created for each of the following agencies:

(a) Department of Corrections.
(b) Department of Education.
(c) Department of Public Safety Standards and Training.
(d) Department of State Lands.
(e) Department of State Police.
(f) Department of Transportation.
(g) Department of Veterans’ Affairs.
(h) Employment Department.
(i) Oregon Department of Administrative Services.
(j) Oregon Department of Aviation.
(k) Oregon Health Authority.
(L) Oregon Liquor Control Commission.
(m) Oregon Military Department.
(n) Oregon Youth Authority.
(o) Public Employees Retirement System.
(p) State Department of Agriculture.
(q) State Department of Fish and Wildlife.
(r) State Forestry Department.
(s) State Parks and Recreation Department.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.
A BILL FOR AN ACT

Relating to insurance regulation by the Department of Consumer and Business Services; creating new provisions; amending ORS 446.676, 705.141, 731.509, 731.510, 731.511, 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619, 744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015, 822.070 and 822.105; repealing ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028, 744.031, 744.033, 744.037 and 744.535; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 731.

SECTION 2. (1) A ceding insurer shall manage the ceding insurer’s reinsurance recoverables in proportion to the ceding insurer’s book of business. A domestic ceding insurer shall notify the Director of the Department of Consumer and Business Services within 30 days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds or is likely to exceed 50 percent

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
of the domestic ceding insurer's surplus, as last reported to the ceding
insurer's policyholders. In the notification, the domestic ceding
insurer shall demonstrate that the domestic ceding insurer is safely
managing the exposure.

(2) A ceding insurer shall diversify the ceding insurer's reinsurance
program. A domestic ceding insurer shall notify the director within
30 days after ceding to any single assuming insurer or group of affil-
iated assuming insurers more than 20 percent of the ceding insurer's
gross written premium in the previous calendar year or after deter-
mining that the ceded reinsurance will likely exceed this percentage.
In the notification, the domestic ceding insurer shall demonstrate that
the domestic ceding insurer is safely managing the exposure.

SECTION 3. Sections 4 to 10, 11 to 17 and 18 of this 2019 Act are
added to and made a part of ORS chapter 744.

SECTION 4. As used in ORS 744.505, 744.515, 744.525, 744.528, 744.531,
744.538, 744.541, 744.555 and 744.575 and sections 4 to 10 and 18 of this
2019 Act:

(1) “Adjuster” means a person that receives a fee, a commission or
other compensation to investigate, negotiate or settle first party or
third party losses that arise as claims under the terms of an insurance
contract that insures a domestic risk.

(2) “Business entity” means a corporation, limited liability com-
pany, partnership, limited liability partnership, association or other
legal entity that is incorporated, organized or authorized to engage in
business in this state.

(3) “Catastrophe” means an event that the Governor declares as
having resulted, in a particular district, county, region or area of this
state, in:

(a) A large number of injuries or deaths;

(b) Extensive damage to or destruction of facilities that provide for
and sustain human needs;
(c) An overwhelming demand on state and local resources for meeting human needs, responding to injuries or deaths, repairing or reconstructing facilities or otherwise assisting victims of the event;

(d) A severe, long-term effect on general economic activity within this state; or

(e) A severe effect on state, local and private capabilities to respond to the event.

(4) “Designated home state” means a state, district or territory of the United States in which a person qualifies for a license to engage in business as an adjuster despite not residing in or maintaining a principal place of business in the state, district or territory.

(5) “Home state” means a state, district or territory of the United States in which an adjuster resides or a state, district or territory of the United States from which a person obtained a license to engage in business as an adjuster and in which the person maintains a principal place of business.

(6) “Insurance consultant” means a person that meets the description in ORS 744.605 of a person that engages in business as an insurance consultant.

(7) “Licensee” means a person that holds a valid and unexpired license to engage in business as an adjuster that the person obtained under section 6 of this 2019 Act.

(8) “Person” means an individual or a business entity.

(9) “Resident” means a licensee that resides or maintains a principal place of business in this state and does not hold a license to engage in business as an adjuster in any other state, district or territory of the United States.

SECTION 5. (1) An applicant for a license to engage in business as an adjuster shall submit to the Director of the Department of Consumer and Business Services, on a form, in a format and in the manner that the director specifies by rule, an application that:
(a) Lists the applicant’s name, residence and business address, present occupation and occupation during the previous year and the names of the applicant’s employers for the previous five years;

(b) Lists the street address of the applicant’s principal place of business and of all other locations in which the applicant will engage in business as an adjuster;

(c) Lists any assumed business name under which the applicant intends to engage in business as an adjuster;

(d) Discloses whether the applicant:
   (A) Is under indictment for, or has previously been convicted of, a crime;
   (B) Is or was subject to a judgment for fraud;
   (C) Owes a debt to any insurer or insurance producer, together with the nature and details of the indebtedness; and
   (D) Has had any occupational or professional license the applicant holds or held in this or another state suspended or revoked or has had a renewal of the license denied;

(e) Includes the applicant’s fingerprints, unless the applicant submitted the applicant’s fingerprints to another state as part of a successful application for a license to engage in business as an adjuster in the other state;

(f) Identifies the class or classes of insurance that the applicant intends to transact in this state; and

(g) Includes any other information the director requires by rule.

(2) An applicant that is a business entity, in addition to providing the information specified in subsection (1) of this section in an application for a license to engage in business as an adjuster, shall:

(a) List the names and addresses of each director, member and officer, and any person that owns, directly or indirectly, more than 10 percent of any class of equity security of the business entity; and

(b) Designate each individual who is responsible for ensuring that
the business entity complies with the Insurance Code and all admin-
istrative rules that regulate insurance in this state and who will oth-
erwise exercise the powers that the license confers on the licensee.

(3) The applicant shall pay to the Director of the Department of
Business Services as part of an application under this section a fee in
an amount that the director specifies by rule. Unless the director by
rule specifies otherwise, the fee is not refundable.

SECTION 6. (1) The Director of the Department of Consumer and
Business Services may issue a license for a person to engage in busi-
ness as an adjuster in this state if the director finds that the person:
(a) Submitted a complete and accurate application in accordance
with section 5 of this 2019 Act;
(b) Paid all required fees to the director and to any other provider
or entity the director specifies by rule;
(c) Met the qualifications set forth in ORS 744.525 or 744.528, as ap-
propriate;
(d) Met the qualifications for each category of insurance business
and class of insurance that the license will authorize the applicant to
transact; and
(e) Has not engaged in conduct that would subject the person to
discipline under section 10 of this 2019 Act.

(2)(a) The director may renew a license the director issues under
this section if the licensee:
(A) Pays all fees the director by rule requires for the renewal;
(B) Demonstrates, if the licensee is an individual, that the licensee
has satisfactorily completed a minimum of 24 hours of continuing ed-
ucation courses, including continuing education courses required for
any other insurance license in this state, of which three hours must
consist of instruction in ethics and three hours must consist of in-
struction in Oregon law or in continuing education subjects that the
licensee’s home state requires;
(C) Proves to the director that the licensee continues to hold a valid license or other evidence of an authorization to engage in each category of insurance business and class of insurance authorized in the license that the licensee intends to renew, if the licensee is not a resident;

(D) Has not engaged in any conduct that would subject the licensee to discipline under section 10 of this 2019 Act; and

(E) Satisfies any other requirement the director by rule establishes for renewing a license under this subsection.

(b) The director may renew a license that has expired within one year after the expiration date if:

(A) The director did not revoke the former licensee’s license or did not refuse to renew the license for failing the condition stated in paragraph (a)(D) of this subsection;

(B) The director determines, by examination or otherwise, that the former licensee knows the portions of the Insurance Code that apply to a licensee;

(C) The former licensee pays double the amount of the fee the director has specified in accordance with paragraph (a)(A) of this subsection; and

(D) The former licensee otherwise satisfies all applicable requirements for renewal.

(c) A former licensee may renew a license that has expired during a period of suspension as provided in paragraph (b) of this subsection.

(d) A person that does not renew a license as provided in paragraph (a) or (b) of this subsection may obtain a license only as provided in subsection (1) of this section.

(3) The director may amend a license to add a category of insurance business or a class or classes of insurance if the licensee applies for the amendment in accordance with procedures the director specifies by rule. The director may require a licensee that applies for an
amendment to the license to follow the application procedures set forth in section 5 of this 2019 Act.

(4) A license that the director issues or renews under this section shall specify whether the licensee is a resident or a nonresident and the class or classes of insurance, as described in ORS 744.531, under which the licensee may engage in business as an adjuster.

(5)(a) A license that the director issues under subsection (1) of this section expires on the last day of the month in which the anniversary of the date on which the director issued the license occurs, unless the director specifies a different date by rule or order.

(b) A license that the director renews as provided in subsection (2) of this section expires two years after the renewal date, unless the director specifies a different date by rule or order.

(c) Adding a category of insurance business to a license under subsection (3) of this section does not change the expiration date for the license.

(6) The director may reinstate a licensee’s license under the following circumstances:

(a) If the director revoked the license, removed a category of insurance business or removed a class of insurance, the director may reinstate the license, category or class if the licensee satisfies all of the conditions that the director prescribes for reinstatement; and

(b) If a licensee has voluntarily surrendered a license, the director may reinstate the license without requiring the former licensee to take an examination otherwise required for the license if the former licensee applies for the license as provided in section 5 of this 2019 Act within two years after surrendering the previous license and demonstrates that the former licensee has satisfied any continuing education requirements that would have applied had the former licensee renewed the previous license.

(7) If the director has suspended a license, the director may modify
or lift the suspension at a time certain or upon the licensee's satisfying the conditions the director prescribes for modifying or lifting the suspension.

SECTION 7. (1) The Director of the Department of Consumer and Business Services may issue, renew or amend a business entity's license to engage in business as an adjuster under section 6 of this 2019 Act only if the director finds that, for each category of insurance business or class of insurance in which the business entity engages or intends to engage, the business entity employs and acts through an individual who has obtained a license under section 6 of this 2019 Act that authorizes the individual to engage in the same category of insurance business or class of insurance.

(2) An individual licensee that a business entity employs or engages by means of a contract may engage in business as an adjuster only to the extent permitted under the individual licensee's license.

SECTION 8. (1)(a) A licensee that is a resident shall maintain a principal place of business in this state in which the licensee engages in business as an adjuster. The principal place of business may be the licensee's residence, but the principal place of business must be accessible to the public.

(b) If a licensee that is not a resident has a place of business in this state in which the licensee transacts insurance, the place of business is the licensee's principal place of business in this state.

(2) A licensee shall keep at the licensee's place of business all of the usual and customary records for the business in which the licensee engages and must make the records available to the Director of the Department of Consumer and Business Services for inspection during business hours. The licensee shall keep the records of each business transaction for three years after the conclusion of the transaction.

SECTION 9. (1)(a) A licensee shall notify the Director of the Department of Consumer and Business Services not later than 30 days
after:

(A) The licensee opens or closes a place of business in this state or changes the location or contact information for the licensee’s residence or any of the licensee’s places of business in this state;

(B) The licensee begins or stops using or changes an assumed business name under which the licensee engages in business as an adjuster;

(C) A government agency or regulator in this or another state has taken a final action against the licensee;

(D) The licensee receives notice of an initiation or prosecution of criminal charges against the licensee in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust; or

(E) The licensee’s authority to act for a business entity begins or terminates.

(b) In the notice a licensee submits under paragraph (a) of this subsection, the licensee shall:

(A) Update any information that has changed from the time the licensee submitted an application for a license or submitted a previous notice under this section; and

(B) Include any relevant documents that describe, support, are evidence of or otherwise illustrate the contents of the notice, including but not limited to copies of complaints, informations or indictments, motions, orders, consents and consent decrees, judgments and any other relevant records or legal documents.

(2) Not later than December 31 of each year, a licensee that is a business entity shall notify the director of any change during the previous calendar year in the licensee’s directors, members or officers, or other persons that own, directly or indirectly, more than 10 percent of any class of equity security of the licensee.

(3) The director by rule may establish a different period within
which a licensee must notify the director under subsection (1) or (2) of this section.

SECTION 10. (1) A licensee or an applicant for a license to engage in business as an adjuster may not:

(a) Act in an incompetent or untrustworthy manner.

(b) Falsify or act dishonestly with respect to an application for a license or an amendment to the license or with respect to an examination related to obtaining, renewing or reinstating a license.

(c) Misappropriate, withhold illegally or convert to the applicant’s or licensee’s own use any money or property that belongs to or that the applicant or licensee receives from a policyholder, insurer, beneficiary or other person while the applicant or licensee engages in business as an adjuster or otherwise transacts insurance in this state.

(d) Commit an offense that results in a conviction in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust. For the purpose of this paragraph, a record of a conviction is conclusive evidence of the conviction.

(e) Materially misrepresent the terms of an insurance policy or proposed insurance policy.

(f) Engage in a fraudulent or dishonest practice in the course of transacting insurance or cause injury or loss to the public because the applicant or licensee is incompetent or untrustworthy.

(g) Fail to pay a fee or charge or a civil penalty that the Director of the Department of Consumer and Business Services has assessed and that has become final after appeal or by operation of law.

(h) Effect insurance on the applicant’s or licensee’s property or against the applicant’s or licensee’s liability.

(i) Commit an act that results in another jurisdiction’s canceling, suspending, revoking or refusing to renew a license or other evidence of authority to act as an adjuster, an insurance consultant or an in-
surance producer. For the purpose of this paragraph, a record of the
cancellation, suspension, revocation or refusal is conclusive evidence
of the cancellation, suspension, revocation or refusal.

(j) Commit an act that results in a state or federal agency cancel-
ing, suspending, revoking or refusing to renew a license to practice
law or a license that authorizes the applicant or licensee to engage in
business under another regulatory authority if the cancellation, sus-
pension, revocation or refusal related to the business of an adjuster,
insurance consultant or insurance producer or if the act involved dis-
honesty, fraud or deception. For the purpose of this paragraph, a re-
cord of the cancellation, suspension, revocation or refusal is
conclusive evidence of the cancellation, suspension, revocation or re-
fusal.

(k) Fail to comply with continuing education requirements that
apply to the license or to a category of insurance business or class of
insurance, unless the director has waived the requirements.

(L) Act dishonestly, fraudulently or deceptively in a business that
is not related to engaging in business as an adjuster, an insurance
consultant or an insurance producer.

(m) Fail to comply with an administrative or court order that im-
poses a child support obligation.

(n) Fail to pay state income tax or to comply with an administrative
or court order that directs the applicant or licensee to pay state in-
come tax that remains unpaid.

(o) Evade a provision of ORS chapter 746 or violate or fail to comply
with an applicable provision of the Insurance Code.

(2)(a) If a licensee or an applicant for a license to engage in busi-
ness as an adjuster engages in an action or practice prohibited under
subsection (1) of this section, the director by order or otherwise may:

(A) Refuse to issue a license to an applicant to engage in business
as an adjuster;
(B) Suspend, revoke or refuse to renew a licensee’s license;
(C) Suspend or revoke a licensee’s authority to transact a category
of insurance business or class of insurance; or
(D) Refuse to authorize an applicant or licensee to transact a cate-
gory of insurance business or class of insurance.
(b) Before taking a disciplinary action against a licensee under
paragraph (a) of this subsection, the director shall notify the licensee
and offer the licensee an opportunity for a hearing in accordance with
ORS chapter 183.
(3) The Director of the Department of Consumer and Business Ser-
vices may take a disciplinary action described in subsection (2) of this
section if the director finds that:
(a) A director, member or officer of a licensee that is a business
entity, or another person that directly or indirectly has the power to
direct the management, control or activities of the business entity,
engaged in an action prohibited under subsection (1) of this section;
or
(b) The Director of the Department of Consumer and Business
Services erred in approving, issuing, renewing or reinstating a license
under section 6 of this 2019 Act.
(4)(a) For a violation of a prohibition described in subsection (1) of
this section and in lieu of taking a disciplinary action against a
licensee under subsection (2) of this section, the director may set a
period of probation with respect to a license to engage in business as
an adjuster or with respect to an authorization to engage in any cat-
egory of insurance business or class of insurance. In setting the
probationary period, the director shall specify conditions that a
licensee must meet in order to end the probationary period.
(b) The director may set the probationary period to begin at the
time the director issues, renews, amends or reinstates a license or
adds a category of insurance business or class of insurance to the li-
(c) Before setting a period of probation for a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(d) During any probationary period, the director may take any disciplinary action described in subsection (2) of this section.

SECTION 11. As used in ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 and sections 11 to 17 of this 2019 Act:

(1) “Adjuster” means a person that receives a fee, a commission or other compensation to investigate, negotiate or settle first party or third party losses that arise as claims under the terms of an insurance contract that insures a domestic risk.

(2) “Business entity” means a corporation, limited liability company, partnership, limited liability partnership, association or other legal entity that is incorporated, organized or authorized to engage in business in this state.

(3) “Insurance consultant” means a person that meets the description in ORS 744.605 of a person that engages in business as an insurance consultant.

(4) “Licensee” means a person that holds a valid and unexpired license to engage in business as an insurance consultant that the person obtained under section 13 of this 2019 Act.

(5) “Person” means an individual or a business entity.

(6) “Resident” means a licensee that resides or maintains a principal place of business in this state and does not hold a license to engage in business as an insurance consultant in any other state, district or territory of the United States.

SECTION 12. (1) An applicant for a license to engage in business as an insurance consultant shall submit to the Director of the De-
partment of Consumer and Business Services, on a form, in a format and in the manner that the director specifies by rule, an application that:

(a) Lists the applicant’s name, residence and business address, previous experience transacting insurance, present occupation and occupation during the previous year and the names of the applicant’s employers for the previous five years;

(b) Lists the street address of the applicant’s principal place of business and of all other locations in which the applicant will engage in business as an insurance consultant;

(c) Lists any assumed business name under which the applicant intends to engage in business as an insurance consultant;

(d) Specifies the portion of the applicant’s time that the applicant will devote to engaging in business as an insurance consultant;

(e) Discloses whether the applicant:

(A) Is under indictment for, or has previously been convicted of, a crime;

(B) Is or was subject to a judgment for fraud;

(C) Owes a debt to any insurer or insurance producer, together with the nature and details of the indebtedness; and

(D) Has had any occupational or professional license the applicant holds or held in this or another state suspended or revoked or has had a renewal of the license denied;

(f) Includes the applicant’s fingerprints, unless the applicant submitted the applicant’s fingerprints to another state as part of a successful application for a license to engage in business as an insurance consultant in the other state;

(g) Identifies the class or classes of insurance that the applicant intends to transact in this state; and

(h) Includes any other information the director requires by rule.

(2) An applicant that is a business entity, in addition to providing
the information specified in subsection (1) of this section in an application for a license to engage in business as an insurance consultant, shall:

(a) List the names and addresses of each director, member and officer, and any person that owns, directly or indirectly, more than 10 percent of any class of equity security of the business entity; and

(b) Designate each individual who is responsible for ensuring that the business entity complies with the Insurance Code and all administrative rules that regulate insurance in this state and who will otherwise exercise the powers that the license confers on the licensee.

(3) The applicant shall pay to the Director of the Department of Consumer and Business Services as part of an application under this section a fee in an amount that the director specifies by rule. Unless the director by rule specifies otherwise, the fee is not refundable.

SECTION 13. (1) The Director of the Department of Consumer and Business Services may issue a license for a person to engage in business as an insurance consultant in this state if the director finds that the person:

(a) Submitted a complete and accurate application in accordance with section 12 of this 2019 Act;

(b) Paid all required fees to the director and to any other provider or entity the director specifies by rule;

(c) Met the qualifications set forth in ORS 744.619 or 744.621, as appropriate;

(d) Met the qualifications for each category of insurance business and class of insurance that the license will authorize the applicant to transact; and

(e) Has not engaged in conduct that would subject the person to discipline under section 17 of this 2019 Act.

(2)(a) The director may renew a license the director issues under this section if the licensee:
(A) Pays all fees the director by rule requires for the renewal;
(B) Demonstrates, if the licensee is an individual, that the licensee has satisfactorily completed the number of continuing education hours in subjects that the director specifies by rule;
(C) Proves to the director that the licensee continues to hold a valid license or other evidence of an authorization to engage in each category of insurance business and class of insurance authorized in the license that the licensee intends to renew, if the licensee is not a resident;
(D) Provides satisfactory evidence that the licensee has in effect the insurance required under ORS 744.635;
(E) Has not engaged in any conduct that would subject the licensee to discipline under section 17 of this 2019 Act; and
(F) Satisfies any other requirement the director by rule establishes for renewing a license under this subsection.
(b) The director may renew a license that has expired within one year after the expiration date if:
(A) The director did not revoke the former licensee’s license or did not refuse to renew the license for failing the condition stated in paragraph (a)(E) of this subsection;
(B) The director determines, by examination or otherwise, that the former licensee knows the portions of the Insurance Code that apply to a licensee;
(C) The former licensee pays double the amount of the fee the director has specified in accordance with paragraph (a)(A) of this subsection; and
(D) The former licensee otherwise satisfies all applicable requirements for renewal.
(c) A former licensee may renew a license that has expired during a period of suspension as provided in paragraph (b) of this subsection.
(d) A person that does not renew a license as provided in paragraph
(a) or (b) of this subsection may obtain a license only as provided in subsection (1) of this section.

(3) The director may amend a license to add a category of insurance business or a class or classes of insurance if the licensee applies for the amendment in accordance with procedures the director specifies by rule. The director may require a licensee that applies for an amendment to the license to follow the application procedures set forth in section 12 of this 2019 Act.

(4) A license that the director issues or renews under this section shall specify whether the licensee is a resident or a nonresident and the class or classes of insurance, as described in ORS 744.626, under which the licensee may engage in business as an insurance consultant.

(5)(a) A license that the director issues under subsection (1) of this section expires on the last day of the month in which the anniversary of the date on which the director issued the license occurs, unless the director specifies a different date by rule or order.

(b) A license that the director renews as provided in subsection (2) of this section expires two years after the renewal date, unless the director specifies a different date by rule or order.

(c) Adding a category of insurance business to a license under subsection (3) of this section does not change the expiration date for the license.

(6) The director may reinstate a licensee's license under the following circumstances:

(a) If the director revoked the license, removed a category of insurance business or removed a class of insurance, the director may reinstate the license, category or class if the licensee satisfies all of the conditions that the director prescribes for reinstatement; and

(b) If a licensee has voluntarily surrendered a license, the director may reinstate the license without requiring the former licensee to take an examination otherwise required for the license if the former
licensee applies for the license as provided in section 12 of this 2019 Act within two years after surrendering the previous license and demonstrates that the former licensee has satisfied any continuing education requirements that would have applied had the former licensee renewed the previous license.

(7) If the director has suspended a license, the director may modify or lift the suspension at a time certain or upon the licensee’s satisfying the conditions the director prescribes for modifying or lifting the suspension.

SECTION 14. (1) The Director of the Department of Consumer and Business Services may issue, renew or amend a business entity’s license to engage in business as an insurance consultant under section 13 of this 2019 Act only if the director finds that, for each category of insurance business or class of insurance in which the business entity engages or intends to engage, the business entity employs and acts through an individual who has obtained a license under section 13 of this 2019 Act that authorizes the individual to engage in the same category of insurance business or class of insurance.

(2) An individual licensee that a business entity employs or engages by means of a contract may engage in business as an insurance consultant only to the extent permitted under the individual licensee’s license.

SECTION 15. (1)(a) A licensee that is a resident shall maintain a principal place of business in this state in which the licensee engages in business as an insurance consultant. The principal place of business may be the licensee’s residence, but the principal place of business must be accessible to the public.

(b) If a licensee that is not a resident has a place of business in this state in which the licensee transacts insurance, the place of business is the licensee’s principal place of business in this state.

(2) A licensee shall keep at the licensee’s place of business all of the
usual and customary records for the business in which the licensee engages and must make the records available to the Director of the Department of Consumer and Business Services for inspection during business hours. The licensee shall keep the records of each business transaction for three years after the conclusion of the transaction.

SECTION 16. (1)(a) A licensee shall notify the Director of the Department of Consumer and Business Services not later than 30 days after:

(A) The licensee opens or closes a place of business in this state or changes the location or contact information for the licensee’s residence or any of the licensee’s places of business in this state;

(B) The licensee begins or stops using or changes an assumed business name under which the licensee engages in business as an insurance consultant;

(C) A government agency or regulator in this or another state has taken a final action against the licensee;

(D) The licensee receives notice of an initiation or prosecution of criminal charges against the licensee in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust; or

(E) The licensee’s authority to act for a business entity begins or terminates.

(b) In the notice a licensee submits under paragraph (a) of this subsection, the licensee shall:

(A) Update any information that has changed from the time the licensee submitted an application for a license or submitted a previous notice under this section; and

(B) Include any relevant documents that describe, support, are evidence of or otherwise illustrate the contents of the notice, including but not limited to copies of complaints, informations or indictments, motions, orders, consents and consent decrees, judgments and any

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other relevant records or legal documents.

(2) Not later than December 31 of each year, a licensee that is a business entity shall notify the director of any change during the previous calendar year in the licensee's directors, members or officers, or other persons that own, directly or indirectly, more than 10 percent of any class of equity security of the licensee.

(3) The director by rule may establish a different period within which a licensee must notify the director under subsection (1) or (2) of this section.

SECTION 17. (1) A licensee or an applicant for a license to engage in business as an insurance consultant may not:

(a) Act in an incompetent or untrustworthy manner.

(b) Falsify or act dishonestly with respect to an application for a license or an amendment to the license or with respect to an examination related to obtaining, renewing or reinstating a license.

(c) Misappropriate, withhold illegally or convert to the applicant's or licensee's own use any money or property that belongs to or that the applicant or licensee receives from a policyholder, insurer, beneficiary or other person while the applicant or licensee engages in business as an insurance consultant or otherwise transacts insurance in this state.

(d) Commit an offense that results in a conviction in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust. For the purpose of this paragraph, a record of a conviction is conclusive evidence of the conviction.

(e) Materially misrepresent the terms of an insurance policy or proposed insurance policy.

(f) Engage in a fraudulent or dishonest practice in the course of transacting insurance or cause injury or loss to the public because the applicant or licensee is incompetent or untrustworthy.
(g) Fail to pay a fee or charge or a civil penalty that the Director of the Department of Consumer and Business Services has assessed and that has become final after appeal or by operation of law.

(h) Effect insurance on the applicant or licensee’s property or against the applicant’s or licensee’s liability.

(i) Commit an act that results in another jurisdiction’s canceling, suspending, revoking or refusing to renew a license or other evidence of authority to act as an adjuster, an insurance consultant or an insurance producer. For the purpose of this paragraph, a record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(j) Commit an act that results in a state or federal agency canceling, suspending, revoking or refusing to renew a license to practice law or a license that authorizes the applicant or licensee to engage in business under another regulatory authority if the cancellation, suspension, revocation or refusal related to the business of an adjuster, insurance consultant or insurance producer or if the act involved dishonesty, fraud or deception. For the purpose of this paragraph, a record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(k) Fail to comply with continuing education requirements that apply to the license or to a category of insurance business or class of insurance, unless the director has waived the requirements.

(L) Act dishonestly, fraudulently or deceptively in a business that is not related to engaging in business as an adjuster, an insurance consultant or an insurance producer.

(m) Fail to comply with an administrative or court order that imposes a child support obligation.

(n) Fail to pay state income tax or to comply with an administrative or court order that directs the applicant or licensee to pay state in-
come tax that remains unpaid.

(o) Evade a provision of ORS chapter 746 or violate or fail to comply with an applicable provision of the Insurance Code.

(2)(a) If a licensee or an applicant for a license to engage in business as an insurance consultant engages in an action or practice prohibited under subsection (1) of this section, the director by order or otherwise may:

(A) Refuse to issue a license to an applicant to engage in business as an insurance consultant;

(B) Suspend, revoke or refuse to renew a licensee’s license;

(C) Suspend or revoke a licensee’s authority to transact a category of insurance business or class of insurance; or

(D) Refuse to authorize an applicant or licensee to transact a category of insurance business or class of insurance.

(b) Before taking a disciplinary action against a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(3) The Director of the Department of Consumer and Business Services may take a disciplinary action described in subsection (2) of this section if the director finds that:

(a) A director, member or officer of a licensee that is a business entity, or another person that directly or indirectly has the power to direct the management, control or activities of the business entity, engaged in an action prohibited under subsection (1) of this section; or

(b) The Director of the Department of Consumer and Business Services erred in approving, issuing, renewing or reinstating a license under section 13 of this 2019 Act.

(4)(a) For a violation of a prohibition described in subsection (1) of this section and in lieu of taking a disciplinary action against a
licensee under subsection (2) of this section, the director may set a period of probation with respect to a license to engage in business as an insurance consultant or with respect to an authorization to engage in any category of insurance business or class of insurance. In setting the probationary period, the director shall specify conditions that a licensee must meet in order to end the probationary period.

(b) The director may set the probationary period to begin at the time the director issues, renews, amends or reinstates a license or adds a category of insurance business or class of insurance to the license.

(c) Before setting a period of probation for a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(d) During any probationary period, the director may take any disciplinary action described in subsection (2) of this section.

SECTION 18. (1) As used in this section, “licensee” means a person that has obtained a license to engage in business as an adjuster, an insurance consultant or an insurance producer.

(2) A license expiration or a licensee’s voluntary surrender of a license does not prevent the Director of the Department of Consumer and Business Services from investigating or initiating disciplinary proceedings against a licensee. The director may also at any time revise or vacate an order to suspend or revoke a license.

SECTION 19. ORS 705.141 is amended to read:

705.141. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Consumer and Business Services may require the fingerprints of a person who is applying for a license, or applying to renew a license, under ORS 744.001, 744.059 or 744.326 or section 5 or 12 of this 2019 Act or a person who:

(1)(a) Is employed or applying for employment by the department; or
(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;

(c) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(d) That has mailroom duties as a primary duty or job function;

(e) In which the person has responsibility for auditing the department;

(f) That has personnel or human resources functions as a primary responsibility;

(g) In which the person has access to Social Security numbers, dates of birth or criminal background information of employees or members of the public; or

(h) In which the person has access to tax or financial information about individuals or business entities.

SECTION 20. ORS 731.509 is amended to read:

731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and 731.516 is to protect the interests of insureds, claimants, ceding insurers, assuming insurers and the public generally. The Legislative Assembly declares that [its] the intent of the Legislative Assembly is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom [they] insurers and reinsurers owe obligations. In furtherance of that state interest, the Legislative Assembly mandates that upon the
insolvency of an alien insurer or reinsurer that provides security to fund

its alien insurer's or reinsurer's United States obligations in accordance with ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the assets representing the security [shall] must be maintained in the United States and claims [shall] must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets [shall] must be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurers. The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and 1012.

(2) The Director of the Department of Consumer and Business Services [shall] may not allow credit for reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the reinsurer meets the requirements of:

(a) Subsection [(3)] (4) of this section;

(b) Subsection [(4)] (5) of this section and ORS 731.511 (1);

(c) [Subsections (5) and (8)] Subsection (6) of this section;

(d) Subsections [(6)] (7) and (8) of this section;

(e) [Subsection (7) of this section] ORS 731.511; or

(f)(A) Subsection (9) of this section[.]; and

(B) Additional requirements that the director specifies by rule, which may include:

(i) The valuation of assets or reserve credits;

(ii) The amount and forms of security that support reinsurance arrangements; and

(iii) The circumstances under which the director will reduce or eliminate credit.

(3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS 731.511 only with respect to cessions of the
kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in the state in which the assuming insurer is domiciled or, if the assuming insurer is an alien insurer, the state in which the assuming insurer is entered and is licensed or authorized to transact insurance or reinsurance. The director may allow credit under subsection (6) or (7) of this section only if the assuming insurer satisfies applicable requirements under subsection (10) of this section.

(3) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an authorized assuming insurer that accepts reinsurance of risks[,] and retains the risk [thereon] of the reinsurance within such limits[,] as the assuming insurer is otherwise authorized to insure in this state, as provided in ORS 731.508.

(4) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state, as provided in ORS 731.511. The director may not allow credit to a domestic ceding insurer if the director has revoked accreditation of the assuming insurer [has been revoked by the director] after notice and opportunity for hearing.

(5) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to a foreign assuming insurer or a United States branch of an alien assuming insurer meeting all of the following requirements:

(a) The foreign assuming insurer must be domiciled in a state employing standards regarding credit for reinsurance that equal or exceed the standards applicable under this section. The United States branch of an alien assuming insurer must be entered through a state employing such standards.

(b) The foreign assuming insurer or United States branch of an alien assuming insurer must maintain a combined capital and surplus in an amount not less than $20,000,000. The requirement of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among
insurers in the same holding company system.

(c) The foreign assuming insurer or United States branch of an alien assuming insurer must submit to the authority of the director to examine its foreign assuming insurer’s or alien assuming insurer’s books and records.

[(6) (7) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund meeting the requirements of this subsection and subsection (8) of this section and additionally that also complies with other requirements of this subsection and subsection (8) of this section. The trust fund must be maintained in a qualified United States financial institution, as defined in ORS 731.510 (1), for the payment of the valid claims of the assuming insurer’s United States policyholders and ceding insurers and their assigns and successors in interest of the policyholders and ceding insurers. The assuming insurer must report annually to the director information that is substantially the same as [that required to be reported] information authorized insurers must report on the annual statement form [by] under ORS 731.574 [by authorized insurers], in order to enable the director to determine the sufficiency of the trust fund. The assuming insurer shall submit to the director’s examination of the assuming insurer’s books and records and shall pay to the director the expenses of the examination.

(8) The following requirements apply to [such a trust fund] the following categories of assuming insurers:

(a)(A) [In the case of] For a single assuming insurer, the trust fund must consist of funds in trust in an amount not less than the assuming insurer’s liabilities attributable to reinsurance ceded by United States ceding insurers. In addition, except as provided in subparagraph (B) of this paragraph, the assuming insurer must maintain a trusteed surplus of not less than $20,000,000.

(B) At any time after the assuming insurer permanently discontin-
ues underwriting, for at least three full years, new business that the
trust secures, the commissioner that has principal regulatory over-
sight over the trust may authorize a reduction in the required trusteed
surplus, but only after finding based on an assessment of the risk that
the new required surplus level is adequate to protect United States
ceding insurers, policyholders and claimants in light of reasonably
foreseeable adverse loss development. The risk assessment may involve
an actuarial review, including an independent analysis of reserves and
cash flows, and must consider all material risk factors, including, if
applicable, the lines of business involved, the stability of the incurred
loss estimates and the effect of the surplus requirements on the as-
suming insurer’s liquidity or solvency. The commissioner may not re-
duce the amount of the minimum required trusteed surplus below 30
percent of the assuming insurer’s liabilities that are attributable to
reinsurance that United States ceding insurers covered by the trust
have ceded.

(b) [In the case of] For a group [including] that includes incorporated
and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an incep-
tion, amendment or renewal date on or after August 1, 1995, the trust
[shall] must consist of a trusteed account in an amount not less than the
group’s several liabilities attributable to business [ceded by] United States
domiciled ceding insurers have ceded to any member of the group.

(B) For reinsurance ceded under reinsurance agreements with an incep-
tion date on or before July 31, 1995, and not amended or renewed after that
date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511,
731.512 and 731.516, the trust [shall] must consist of a trusteed account in
an amount not less than the group’s several insurance and reinsurance li-
abilities attributable to business written in the United States.

(C) In addition to the trusts described in subparagraphs (A) and (B) of
this paragraph, the group shall maintain in trust a trusteed surplus of which
$100,000,000 [shall] must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(D) The incorporated members of the group [shall not be engaged] may not engage in any business other than underwriting as a member of the group and [shall be] are subject to the same level of regulation and solvency control by the group’s domiciliary regulator as are the unincorporated members.

(E) Within 90 days after the group’s financial statements are due to be filed with the group’s domiciliary regulator, the group shall provide to the director an annual certification by the group’s domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable, financial statements of each underwriter member of the group prepared by independent certified public accountants.

(c) [In the case of a] For the group of incorporated insurers described in this paragraph, the trust must be in an amount equal to the group’s several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. This paragraph applies to a group of incorporated insurers under common administration that complies with the annual reporting requirements contained in [this] subsection (7) of this section and that has continuously transacted an insurance business outside the United States for at least three years immediately [prior to making application] before applying for accreditation. Such a group must have an aggregate policyholders’ surplus of $10,000,000,000 and must submit to the authority of this state to examine [its] the group’s books and records and bear the expense of the examination. The group shall also maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities. Each member of the group shall make available to the director an annual certification of the member’s solvency by the member’s
domiciliary regulator and [its] the member's independent certified public accountant.

(d) The form of the trust and any amendment to the trust [shall have been] must be approved by the insurance commissioner of the state in which the trust is domiciled or by the insurance commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(e) The form of the trust and any trust amendments also [shall] must be filed with the insurance commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims [shall be] are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to [its] the trust's assets in [its] the trust's trustees for the benefit of the assuming insurer's United States ceding insurers and [their] the assigns and successors in interest of the ceding insurers. The trust and the assuming insurer are subject to examination as determined by the director. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(f) Not later than March 1 of each year, the trustees of each trust shall report to the director in writing the balance of the trust, [and listing] list the trust's investments at the preceding year end[,] and [shall] certify the date of termination of the trust, if [so] a termination is planned, or certify that the trust will not expire prior to the following December 31.

[(7)] (9) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer [not meeting] that does not meet the requirements of subsection [(3), (4), (5) or (6)] (4), (5), (6) or (7) of this section or ORS 731.511 (1) or (4), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required by applicable law or regulation of that jurisdiction.

[(8)] (10) If the assuming insurer is not [authorized] licensed, accredited
or certified to transact insurance or reinsurance in this state [or accredited as a reinsurer in this state], the director [shall] may not allow the credit permitted by subsections [(5) and] (6) and (7) of this section unless the assuming insurer agrees in the reinsurance agreement to the provisions stated in this subsection. This subsection [is not intended to] does not conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate [their] the parties’ disputes, if such an obligation is created in the agreement. The assuming insurer must agree in the reinsurance agreement:

(a) That [in the event of the failure of] if the assuming insurer fails to perform [its] the assuming insurer’s obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(b) To designate the director or a designated attorney as [its] the assuming insurer’s true and lawful attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company may be served.

[(9)] (11) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to the Oregon Reinsurance Program established in section 18, chapter 538, Oregon Laws 2017.

[(10)] (12) If the assuming insurer does not meet the requirements of subsection [(3), (4) or (5)] (4), (5) or (6) of this section or ORS 731.511 (1) or (4), the director may not allow the credit permitted by subsection [(6)] (7) of this section [shall not be allowed] unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because [it] the trust fund contains an amount less than the applicable amount required by subsection [(6)(a)] (8)(a), (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or
placed into receivership, rehabilitation, liquidation or similar proceedings
under the laws of the grantor’s state or country of domicile, the trustee shall
comply with an order of the insurance commissioner with regulatory over-
sight over the trust or with an order of a court of competent jurisdiction
directing the trustee to transfer to the insurance commissioner with regula-
tory oversight all the assets of the trust fund.

(b) The assets [shall] must be distributed by and claims [shall] must be
filed with and valued by the insurance commissioner with regulatory over-
sight in accordance with the laws of the state in which the trust is domiciled
that [are applicable] apply to the liquidation of domestic insurance compa-
nies.

(c) If the insurance commissioner with regulatory oversight determines
that the assets of the trust fund or any part [thereof are] of the assets is
not necessary to satisfy the claims of the United States ceding insurers of
the grantor of the trust, the insurance commissioner of the state in
which the trust is domiciled shall return the assets or part [thereof shall
be returned by the insurance commissioner according to] of the assets in
accordance with the laws of [that] the state and [according to] the terms
of the trust agreement [not inconsistent] that are consistent with the laws
of [that] the state.

(d) The grantor shall waive any right otherwise available to [it] the
grantor under United States law that is inconsistent with this subsection.

SECTION 21. ORS 731.509, as amended by section 25, chapter 538, Oregon
Laws 2017, is amended to read:

731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and
731.516 is to protect the interests of insureds, claimants, ceding insurers,
assuming insurers and the public generally. The Legislative Assembly de-
clarates that [its] the intent of the Legislative Assembly is to ensure ade-
quate regulation of insurers and reinsurers and adequate protection for those
to whom [they] insurers and reinsurers owe obligations. In furtherance of
that state interest, the Legislative Assembly mandates that upon the

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insolvency of an alien insurer or reinsurer that provides security to fund its alien insurer's or reinsurer's United States obligations in accordance with ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the assets representing the security shall must be maintained in the United States and claims shall must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets shall must be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurers. The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and 1012.

(2) The Director of the Department of Consumer and Business Services shall may not allow credit for reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the reinsurer meets the requirements of:

(a) Subsection [(3)] (4) of this section;
(b) Subsection [(4)] (5) of this section and ORS 731.511 (1);
(c) [Subsections (5) and (8)] Subsection (6) of this section;
(d) Subsections [(6)] (7) and (8) of this section; [or]
(e) [Subsection (7) of this section.] ORS 731.511; or
(f)(A) Subsection (9) of this section; and
(B) Additional requirements that the director specifies by rule, which may include:
(i) The valuation of assets or reserve credits;
(ii) The amount and forms of security that support reinsurance arrangements; and
(iii) The circumstances under which the director will reduce or eliminate credit.

(3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS 731.511 only with respect to cessions of the
kinds or classes of business that the assuming insurer is licensed or
otherwise permitted to write or assume in the state in which the as-
suming insurer is domiciled or, if the assuming insurer is an alien
insurer, the state in which the assuming insurer is entered and is li-
censed or authorized to transact insurance or reinsurance. The direc-
tor may allow credit under subsection (6) or (7) of this section only if
the assuming insurer satisfies applicable requirements under sub-
section (10) of this section.

[(3)] (4) [Credit shall be allowed when] The director shall allow credit
if the reinsurance is ceded to an authorized assuming insurer that accepts
reinsurance of risks[,] and retains the risk [thereon] of the reinsurance
within such limits[,] as the assuming insurer is otherwise authorized to in-
sure in this state, as provided in ORS 731.508.

[(4)] (5) [Credit shall be allowed when] The director shall allow credit
if the reinsurance is ceded to an accredited assuming insurer in this state as provided in ORS 731.511. The director [shall] may
not allow credit to a domestic ceding insurer if the director has revoked
accreditation of the assuming insurer [has been revoked by the director] after
notice and opportunity for hearing.

[(5)] (6) [Credit shall be allowed when] The director shall allow credit
if the reinsurance is ceded to a foreign assuming insurer or a United States
branch of an alien assuming insurer meeting all of the following require-
ments:

(a) The foreign assuming insurer must be domiciled in a state employing
standards regarding credit for reinsurance that equal or exceed the standards
applicable under this section. The United States branch of an alien assuming
insurer must be entered through a state employing such standards.

(b) The foreign assuming insurer or United States branch of an alien as-
suming insurer must maintain a combined capital and surplus in an amount
not less than $20,000,000. The requirement of this paragraph does not apply
to reinsurance ceded and assumed pursuant to pooling arrangements among
insurers in the same holding company system.

(c) The foreign assuming insurer or United States branch of an alien assuming insurer must submit to the authority of the director to examine its foreign assuming insurer's or the alien assuming insurer's books and records.

[(6) (7) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund meeting the requirements of this subsection and subsection (8) of this section and additionally that also complies with other requirements of this subsection and subsection (8) of this section. The trust fund must be maintained in a qualified United States financial institution, as defined in ORS 731.510 (1), for the payment of the valid claims of its assuming insurer's United States policyholders and ceding insurers and their assigns and successors in interest of the policyholders and ceding insurers. The assuming insurer must report annually to the director information that is substantially the same as that required to be reported information authorized insurers must report on the annual statement form by authorized insurers, in order to enable the director to determine the sufficiency of the trust fund. The assuming insurer shall submit to the director's examination of the assuming insurer's books and records and shall pay to the director the expenses of the examination.

(8) The following requirements apply to such a trust fund the following categories of assuming insurers:

(a)(A) [In the case of] For a single assuming insurer, the trust fund must consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers. In addition, except as provided in subparagraph (B) of this paragraph, the assuming insurer must maintain a trusteed surplus of not less than $20,000,000.

(B) At any time after the assuming insurer permanently discontinu-
ues underwriting, for at least three full years, new business that the
trust secures, the commissioner that has principal regulatory over-
sight over the trust may authorize a reduction in the required trusteed
surplus, but only after finding based on an assessment of the risk that
the new required surplus level is adequate to protect United States
ceding insurers, policyholders and claimants in light of reasonably
foreseeable adverse loss development. The risk assessment may involve
an actuarial review, including an independent analysis of reserves and
cash flows, and must consider all material risk factors including, if
applicable, the lines of business involved, the stability of the incurred
loss estimates and the effect of the surplus requirements on the as-
suming insurer’s liquidity or solvency. The commissioner may not re-
duce the amount of the minimum required trusteed surplus below 30
percent of the assuming insurer’s liabilities that are attributable to
reinsurance that United States ceding insurers covered by the trust
have ceded.

(b) [In the case of] For a group [including] that includes incorporated
and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an incep-
tion, amendment or renewal date on or after August 1, 1995, the trust
[shall] must consist of a trusteed account in an amount not less than the
group’s several liabilities attributable to business [ceded by] United States
domiciled ceding insurers have ceded to any member of the group.

(B) For reinsurance ceded under reinsurance agreements with an incep-
tion date on or before July 31, 1995, and not amended or renewed after that
date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511,
731.512 and 731.516, the trust [shall] must consist of a trusteed account in
an amount not less than the group’s several insurance and reinsurance li-
abilities attributable to business written in the United States.

(C) In addition to the trusts described in subparagraphs (A) and (B) of
this paragraph, the group shall maintain in trust a trusteed surplus of which
$100,000,000 [shall] must be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(D) The incorporated members of the group [shall not be engaged] may not engage in any business other than underwriting as a member of the group and [shall be] are subject to the same level of regulation and solvency control by the group’s domiciliary regulator as are the unincorporated members.

(E) Within 90 days after the group’s financial statements are due to be filed with the group’s domiciliary regulator, the group shall provide to the director an annual certification by the group’s domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable, financial statements of each underwriter member of the group prepared by independent certified public accountants.

(c) [In the case of a] For the group of incorporated insurers described in this paragraph, the trust must be in an amount equal to the group’s several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. This paragraph applies to a group of incorporated insurers under common administration that complies with the annual reporting requirements contained in [this] subsection (7) of this section and that has continuously transacted an insurance business outside the United States for at least three years immediately [prior to making application] before applying for accreditation. Such a group must have an aggregate policyholders’ surplus of $10,000,000,000 and must submit to the authority of this state to examine [its] the group’s books and records and bear the expense of the examination. The group shall also maintain a joint trusteed surplus of which $100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities. Each member of the group shall make available to the director an annual certification of the member’s solvency by the member’s
domiciliary regulator and [its] the member's independent certified public accountant.

(d) The form of the trust and any amendment to the trust [shall have been] must be approved by the insurance commissioner of the state in which the trust is domiciled or by the insurance commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(e) The form of the trust and any trust amendments also [shall] must be filed with the insurance commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims [shall be] are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to [its] the trust's assets in [its] the trust's trustees for the benefit of the assuming insurer's United States ceding insurers and [their] the assigns and successors in interest of the ceding insurers. The trust and the assuming insurer are subject to examination as determined by the director. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(f) Not later than March 1 of each year, the trustees of each trust shall report to the director in writing the balance of the trust, [and listing] list the trust’s investments at the preceding year end[,] and [shall] certify the date of termination of the trust, if [so] a termination is planned, or certify that the trust will not expire prior to the following December 31.

[(7)] (9) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer [not meeting] that does not meet the requirements of subsection [(3), (4), (5) or (6)] (4), (5), (6) or (7) of this section or ORS 731.511 (1) or (4), but only as to the insurance of risks located in jurisdictions in which the reinsurance is required by applicable law or regulation of that jurisdiction.

[(8)] (10) If the assuming insurer is not [authorized] licensed, accredited
or certified to transact insurance or reinsurance in this state [or accredited as a reinsurer in this state], the director [shall] may not allow the credit permitted by subsections [(5) and] (6) and (7) of this section unless the assuming insurer agrees in the reinsurance agreement to the provisions stated in this subsection. This subsection [is not intended to] does not conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate [their] the parties’ disputes, if such an obligation is created in the agreement. The assuming insurer must agree in the reinsurance agreement:

(a) That [in the event of the failure of] if the assuming insurer fails to perform [its] the assuming insurer’s obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(b) To designate the director or a designated attorney as [its] the assuming insurer’s true and lawful attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company may be served.

[(9)] (11) If the assuming insurer does not meet the requirements of subsection [(3), (4) or (5)] (4), (5) or (6) of this section or ORS 731.511 (1) or (4), the director may not allow the credit permitted by subsection [(6)] (7) of this section [shall not be allowed] unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because [it] the trust fund contains an amount less than the applicable amount required by subsection [(6)(a)] (8)(a), (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of the grantor’s state or country of domicile, the trustee shall comply with an order of the insurance commissioner with regulatory over-
sight over the trust or with an order of a court of competent jurisdiction
directing the trustee to transfer to the insurance commissioner with regula-
tory oversight all the assets of the trust fund.

(b) The assets [shall] **must** be distributed by and claims [shall] **must** be
filed with and valued by the insurance commissioner with regulatory over-
sight in accordance with the laws of the state in which the trust is domiciled
that [are applicable] **apply** to the liquidation of domestic insurance compa-
nies.

(c) If the insurance commissioner with regulatory oversight determines
that the assets of the trust fund or any part [thereof are] of the assets is
not necessary to satisfy the claims of the United States ceding insurers of
the grantor of the trust, the insurance commissioner of the state in
which the trust is domiciled shall return the assets or part [thereof shall
be returned by the insurance commissioner according to] of the assets in
accordance with the laws of [that] the state and [according to] the terms
of the trust agreement [not inconsistent] that are consistent with the laws
of [that] the state.

(d) The grantor shall waive any right otherwise available to [it] the
grantor under United States law that is inconsistent with this subsection.

SECTION 22. ORS 731.510 is amended to read:

731.510. (1) Subject to the provisions of ORS 731.508 relating to allowance
of credit for reinsurance, the Director of the Department of Consumer and
Business Services shall allow a reduction from liability for the reinsurance
[ceded by] a domestic insurer **cedes** to a reinsurer [not meeting] **that does
not meet** the requirements of ORS 731.509 in an amount [not exceeding] **that
does not exceed** the liabilities [carried by] the ceding insurer **carries**, as
provided in this section. The reduction [shall] **must** be in the amount of
funds held by or on behalf of the ceding insurer, including funds **a reinsurer
holds** [held] in trust for the ceding insurer[, ] as **security for payment of**
**obligations** under a reinsurance contract with the reinsurer [as security for
the payment of obligations thereunder], if the security:
(a) Is held in the United States subject to withdrawal solely by and under
the exclusive control of the ceding insurer; or
(b) In the case of a trust, is held in a qualified United States financial
institution. For purposes of this paragraph, a qualified United States finan-
cial institution is an institution that:

(A) Is organized, or, in the case of a United States branch or agency office
of a foreign banking organization, is licensed, under the laws of the United
States or any state [thereof] and has been granted authority to operate with
fiduciary powers; and
(B) Is regulated, supervised and examined by federal or state authorities
having regulatory authority over banks and trust companies.

(2) The security for purposes of subsection (1) of this section may be in
any of the following forms:

(a) Cash.
(b) Securities listed by the Securities Valuation Office of the National
Association of Insurance Commissioners and qualifying as allowed assets.
(c) Clean, irrevocable, unconditional letters of credit, issued or confirmed
by a qualified United States financial institution, effective not later than
December 31 of the year for which filing is being made, and in the possession
of, or in trust for, the ceding company on or before the filing date of [its]
the ceding company's annual statement. Letters of credit issued or con-
firmed by an institution meeting applicable standards of issuer acceptability
as of the dates of [their] issuance or confirmation of the letters of credit
[shall continue to be] are acceptable as security, notwithstanding the subse-
dquent failure of the issuing or confirming institution to meet applicable
standards of issuer acceptability, until [their expiration, extension, renewal,
modification or amendment] the letters of credit expire or are extended,
renewed, modified or amended, whichever occurs first. For purposes of
this paragraph, a qualified United States financial institution is an institu-
tion that:

(A) Is organized or, in the case of a United States office of a foreign
banking organization, is licensed, under the laws of the United States or any state [thereof];

(B) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by the director to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director. For the purpose of making a determination under this subparagraph, the director shall consider and may accept determinations made by the Securities Valuation Office of the National Association of Insurance Commissioners as to whether a financial institution meets [its] the office's standards of financial conditions and standing.

(d) Any other form of security acceptable to the director.

(3) The director by rule may specify additional requirements for:

(a) Valuing assets or reserve credits;

(b) Setting the amount and forms of security to support reinsurance arrangements; and

(c) The circumstances under which the director will reduce or eliminate credit.

SECTION 23. ORS 731.511 is amended to read:

731.511. (1) For purposes of allowing credit to a ceding domestic insurer under ORS 731.509 [when] if the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state, an insurer may be accredited as a reinsurer in this state if the insurer:

(a) Files and maintains with the Director of the Department of Consumer and Business Services evidence of [its] the insurer's submission to the jurisdiction of this state;

(b) Submits to the authority of the director to examine [its] the insurer's books and records;

(c) Is authorized or licensed to transact insurance or reinsurance in at
least one state or, in the case of a United States branch of an alien assuming
insurer, is entered through and authorized or licensed to transact insurance
or reinsurance in at least one state;

(d) Files annually with the director a copy of [its] the insurer’s annual
statement filed with the insurance department of [its] the insurer’s state
of domicile and a copy of [its] the insurer’s most recent audited financial
statement; and

(e) Satisfies either of the following requirements:

(A) Maintains combined capital and surplus in an amount that is not less
than $20,000,000. An application for accreditation by an insurer who main-
tains the amount of combined capital and surplus specified in this subpara-
graph is [considered to be] approved if the application is not disapproved on
or before the 90th day after the application is complete and is filed with the
director.

(B) Maintains combined capital and surplus in an amount less than
$20,000,000. An insurer applying for accreditation who maintains the amount
of combined capital and surplus specified in this subparagraph is not ac-
credited until the application for accreditation is approved by the director.

(2) An insurer that is accredited as a reinsurer in this state may accept
reinsurance only of those risks and retain the risk [thereon] of the reins-
surance within such limits as the accredited reinsurer is otherwise author-
ized to insure directly in a state in which the accredited reinsurer is
authorized or licensed to transact insurance.

(3) The director may revoke the accreditation of an assuming insurer if
the director determines that the assuming insurer has failed to continue to
meet any of the requirements of subsection (1) of this section.

(4)(a) The director shall allow credit if the reinsurance is ceded to
an assuming insurer that the director certifies has:

(A) Maintained a minimum amount of capital and a surplus, or the
equivalent, in an amount the director specifies by rule;

(B) Maintained a financial strength rating from two or more rating
agencies that the director by rule deems acceptable for this purpose;

(C) Agreed to submit to the jurisdiction of the state, to appoint the
director as the assuming insurer's agent for the service of process in
this state and to provide security for 100 percent of the assuming
insurer's liabilities that are attributable to reinsurance that ceding
insurers have ceded, if the assuming insurer resists enforcement of a
United States judgment;

(D) Agreed to meet applicable information filing requirements that
the director specifies by rule;

(E) Included a covenant in the language of any trust the assuming
insurer maintains to secure the assuming insurer's obligations under
ORS 731.509 (8), and in the language of an agreement between the as-
suming insurer and the commissioner with principal regulatory au-
thority over the assuming insurer, that requires the assuming insurer
to fund out of the remaining surplus of the trust any deficiency in a
trust account that terminates; and

(F) Satisfied any other requirements that the director specifies for
certification.

(b) The director may accredit an association as a reinsurer, in-
cluding an incorporated underwriter or individual unincorporated
underwriters, if the association, the incorporated underwriter or the
individual unincorporated underwriter, as appropriate, meets the re-
quirements set forth in paragraph (a) of this subsection and, in addi-
tion:

(A) Satisfies minimum capital and surplus requirements by means
of the capital and surplus equivalents, net of liabilities, of the associ-
ation and the association's members, which must include a joint cen-
tral fund with an amount that the director determines is adequate to
satisfy any unsatisfied obligation of the association or a member of the
association;

(B) Does not engage, as an incorporated member of the association,
in any business other than underwriting and is subject to the same
level of regulation and solvency control as the association’s unincor-
porated members are under the association’s domiciliary regulator;
and
(C) Provides to the director each year, within 90 days after the as-
sociation must file financial statements with the association’s
domiciliary regulator, a certification from the association’s
domiciliary regulator as to the solvency of each underwriting member
of the association or, if a certification is not available, financial
statements of each underwriting member of the association that cer-
tified public accounts have prepared.

(5)(a) The director shall publish a list of jurisdictions that the di-
rector considers qualified for the purpose of accrediting as a reinsurer
an assuming insurer that is licensed and domiciled in the jurisdiction.

(b) To determine whether a domiciliary jurisdiction outside the
United States is qualified for the purpose described in paragraph (a)
of this subsection, the director shall:

(A) Evaluate and monitor how appropriate and effective the
jurisdiction’s insurance supervisory system is and the extent to which
the jurisdiction affords reinsurers that are licensed and domiciled in
the United States rights, benefits and reciprocal recognition;

(B) Require that the jurisdiction share information and cooperate
with the director in any matter that concerns a reinsurer that the di-
rector accredits and that is domiciled within the jurisdiction;

(C) Refuse to accredit a jurisdiction if the jurisdiction does not
promptly and adequately enforce final United States judgments and
arbitration awards; and

(D) Consider other criteria the director deems appropriate.

(c) To determine whether a domiciliary jurisdiction inside the
United States is qualified for the purpose described in paragraph (a)
of this subsection, the director shall:
(A) Consider the list of qualified jurisdictions that the National Association of Insurance Commissioners publishes and, if the director accredits a jurisdiction that does not appear on the National Association of Insurance Commissioners’ list, justify the director’s accreditation with appropriate documentation in accordance with rules the director adopts for this purpose; and

(B) Accredit United States jurisdictions that meet the requirements of the National Association of Insurance Commissioners’ financial standards and accreditation program.

(d) If an assuming insurer’s domiciliary jurisdiction ceases to qualify under paragraph (b) or (c) of this subsection, the director may suspend indefinitely the assuming insurer’s accreditation as a reinsurer.

(6)(a) The director by rule shall designate rating agencies upon which the director will rely for financial strength ratings for accredited reinsurers and shall give appropriate consideration to the rating agencies’ financial strength ratings in assigning ratings to each accredited reinsurer. The director shall publish a list of the accredited reinsurers together with the director’s corresponding rating for each.

(b) An accredited reinsurer shall secure obligations the accredited reinsurer assumes from ceding insurers at a level that is consistent with the rating the director assigns and in accordance with rules the director adopts.

(7)(a) In order for a ceding domestic insurer to qualify for full financial statement credit for reinsurance that the ceding domestic insurer cedes to an accredited reinsurer, the accredited reinsurer must maintain security in a form that is acceptable to the director and that is consistent with the requirements of ORS 731.510 or maintain security in a trust fund in accordance with ORS 731.509 (8), except as otherwise provided in this section.

(b) If an accredited reinsurer maintains a trust fund to fully secure
the accredited reinsurer’s obligations under ORS 731.509 (8) and the
trust fund is a multibeneficiary trust, the accredited reinsurer shall
maintain separate trust accounts for the obligations the accredited
reinsurer incurs under reinsurance agreements the accredited re-
insurer issued or renewed as an accredited reinsurer with reduced se-
curity, as provided under this section or under comparable laws of
other United States jurisdictions, and for obligations the accredited
reinsurer incurs that are subject to ORS 731.509 (8).

(c) The minimum trusteed surplus requirements under ORS 731.509
(8) do not apply to an accredited reinsurer that maintains a multi-
beneficiary trust for the purpose of securing obligations under this
subsection, except that the trust must maintain a minimum trusteed
surplus of $100,000,000.

(8) The director shall reduce the allowable credit for ceding insurers
by an amount that is proportionate to any deficiency in the security
required for an accredited reinsurer under this section. The director
may also reduce the allowable credit further if the director finds that
a material risk exists that the accredited reinsurer will not pay the
accredited reinsurer’s obligations in full when due.

(9)(a) Except as provided in paragraph (b) of this subsection, the
director shall require an accredited reinsurer that has become inactive
or has voluntarily surrendered accreditation as an accredited re-
insurer, or for which the director has revoked or suspended accredi-
tation, to secure 100 percent of the reinsurer’s obligations.

(b) The security requirement described in paragraph (a) of this
subsection does not apply to an accredited reinsurer that is inactive,
or for which the director has suspended accreditation, if the director
maintains a high rating for the reinsurer under subsection (6) of this
section.

(10) The director may accredit an assuming insurer as a reinsurer
in this state if a jurisdiction that the National Association of Insur-

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ance Commissioners has qualified as meeting the association’s financial standards and accreditation has certified the assuming insurer as a reinsurer. The director may also assign to the accredited reinsurer the rating that the qualifying jurisdiction assigned to the accredited reinsurer.

(11) An accredited reinsurer that ceases to assume new business in this state may apply to the director to become inactive and to qualify for a reduction in security for the business the accredited reinsurer maintains. An inactive accredited reinsurer shall comply with all other applicable requirements of this section and the director shall assign a rating to the accredited reinsurer that accounts for the reasons that the accredited reinsurer is not assuming new business, if the reasons are relevant to the rating.

(12)(a) The director may suspend or revoke an assuming insurer’s accreditation as a reinsurer in this state if the assuming insurer fails to meet applicable requirements for accreditation.

(b) The director shall give an accredited reinsurer notice and an opportunity for a hearing before taking action under paragraph (a) of this subsection and a suspension or revocation is not effective until after the director’s final order unless:

(A) The accredited reinsurer waives the opportunity for a hearing;

(B) The director bases the final order on regulatory action by the accredited reinsurer’s domiciliary jurisdiction or on the accredited reinsurer's having voluntarily surrendered or terminated the accredited reinsurer's authorization to transact insurance or reinsurance in the domiciliary jurisdiction or in a jurisdiction whose certification of the reinsurer formed the basis upon which the director accredited the reinsurer in this state under subsection (10) of this section; or

(C) The director finds that an emergency requires immediate action and a court does not stay the director’s action.

(13) A reinsurance contract issued or renewed after the director
suspends an accredited reinsurer's certification does not qualify for credit unless the reinsurer secures the reinsurer's obligations in accordance with ORS 731.510. The director may not grant credit for reinsurance after the effective date of the director's revocation of accreditation unless the reinsurer secures the reinsurer's obligations in accordance with subsections (6), (7) and (9) of this section or ORS 731.510.

(14) The director may adopt rules to implement the provisions of this section.

SECTION 24. ORS 744.505 is amended to read:

744.505. [(1)] Except as provided in ORS 744.515, a person [shall] may not act or attempt to act as an adjuster of losses claimed under insurance policies, whether acting for the insurer or the insured, unless the person holds a valid license issued by the Director of the Department of Consumer and Business Services that authorizes the person to act as an adjuster. A license under this section authorizes an adjuster to adjust losses for or against authorized insurers or insurers with which policies were placed under a surplus line insurance license as provided in ORS 735.400 to 735.495 engage in business as an adjuster unless the person has obtained a license to engage in business as an adjuster under section 6 of this 2019 Act.

[(2) A license under this section does not authorize a person to act as an adjuster for any person other than the insurer or insured.]

SECTION 25. ORS 744.515 is amended to read:

744.515. [(1) A licensed resident insurance producer or salaried employee or officer of an authorized insurer may adjust and settle losses for the insurer that the insurance producer, employee or officer represents, without obtaining an adjuster's license.]

[(2) A person may make one adjustment before obtaining an adjuster's license if the person applies for the license within two days after entering upon the adjustment, and in all other respects complies with the provisions of this chapter governing adjusters.]
[(3) A person holding a temporary permit under ORS 744.555 may perform acts authorized under ORS 744.555 without obtaining an adjuster's license.]

[(4) Any average adjuster or adjuster of maritime losses may adjust maritime losses without obtaining an adjuster's license.]

[(5) A person may perform or provide repair or replacement service under home protection insurance without obtaining an adjuster's license.]

[(6)(a) An individual may act as an adjuster without obtaining an adjuster's license if the individual:]

[(A) Collects claim information from, or furnishes claim information to, insureds or claimants, and conducts data entry, including entry of data into an automated claims adjudication system; and]

[(B) Is an employee of a licensed adjuster, or its affiliate, where no more than 25 such individuals are under the supervision of one licensed adjuster or one licensed insurance producer.]

[(b) A licensed insurance producer acting as a supervisor as described in paragraph (a) of this subsection is not required to obtain an adjuster's license.]

[(7) As used in this section:]

[(a) “Automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation and final resolution of portable electronics insurance claims that:]

[(A) Is utilized only by a licensed adjuster, licensed insurance producer or individuals supervised by a licensed adjuster or licensed insurance producer; and]

[(B) Is compliant with all requirements of the Insurance Code.]

[(b) “Portable electronics” means an electronics device that is portable and includes accessories and services related to the use of the device.]

[(c) “Portable electronics insurance” means insurance that provides coverage for the repair or replacement of portable electronics in the event of loss, theft, mechanical failure, malfunction, damage or need for repair or replacement as a result of some other covered source of peril but does not include:]}
(A) A service contract as described in ORS 646A.154 that is subject to the provisions of ORS 646A.150 to 646A.172;]

[(B) A warranty;]

[(C) A maintenance agreement as defined in ORS 646A.152; or]

[(D) A policy of insurance covering the obligations of a vendor or of a portable electronics manufacturer under a warranty.]

(1) As used in this section:

(a) “Automated claims adjudication system” means a preprogrammed computer system that a licensee or licensed insurance producer, or a person under a licensee's or licensed insurance producer’s supervision, uses to collect, enter data concerning, calculate and finally resolve a portable electronics insurance claim and that complies with all requirements of the Insurance Code.

(b)(A) “Portable electronics insurance” means insurance that covers repairing or replacing a portable electronic device or accessories and services related to using a portable electronic device upon a loss, theft, mechanical failure, malfunction, damage or other peril.

(B) “Portable electronics insurance” does not include:

(i) A service contract, as described in ORS 646A.154, that is subject to the provisions of ORS 646A.150 to 646A.172;

(ii) A warranty;

(iii) A maintenance agreement, as defined in ORS 646A.152; or

(iv) Insurance that covers a vendor’s or manufacturer's obligations under a warranty.

(2) The requirement under ORS 744.505 to obtain a license to engage in business as an adjuster does not apply:

(a) To an individual, including an individual who has a license to engage in business as an insurance producer, whom an insurer that insures domestic risks employs or appoints and authorizes in writing to adjust losses under the insurer’s insurance policies;

(b) For a period during which a person adjusts one loss before ob-
maintaining the license, if the person applies for the license within two
days after beginning the adjustment and in all other respects complies
with the provisions of this chapter that govern adjusters;
(c) To a person that holds a temporary permit under ORS 744.555,
if the person performs only actions authorized under ORS 744.555;
(d) To an average adjuster or adjuster of maritime losses;
(e) To an individual who performs or provides repair or replacement
services under home protection insurance;
(f) To an individual who collects or provides claim information from
or to an insured or claimant and who enters data into an automated
claims adjudication system, if a licensee or an affiliate of a licensee
employs the individual and does not supervise or allow an insurance
producer to supervise more than 25 individuals who collect or provide
claim information and enter data into an automated claims adjudica-
tion system;
(g) To an insurance producer during a period in which the insur-
ance producer supervises an individual described in paragraph (f) of
this subsection;
(h) To a person that provides, without compensation, an estimate,
investigation or report by or on behalf of a principal;
(i) To a person that provides to an insurer or an insured a valuation
or estimate that is not connected to a claim;
(j) To a person that provides, without compensation, an estimate
for repairs that the person will perform, even if the person receives
compensation for the repairs under the claim; or
(k) To an attorney-at-law that renders services while performing
duties as an attorney-at-law.

SECTION 26. ORS 744.525 is amended to read:
744.525. [An applicant for a license as a resident adjuster shall apply for
the license as provided in ORS 744.001 and must meet the following require-
ments:]
[(1) If the applicant is an individual, the applicant must establish a residence or place of transacting insurance business in this state prior to filing an application. If the applicant is a firm or corporation, the applicant must establish an office in this state that employs an individual licensed under ORS 744.002 as an adjuster.]

[(2) If the applicant is an individual, the applicant must pass any examination required by ORS 744.535.]

[(3) The applicant must satisfy all other requirements established by the Director of the Department of Consumer and Business Services by rule.]

(1) An individual who applies for a license to engage in business as a resident adjuster must:

(a) Establish a residence or place of business in which the applicant intends to transact insurance in this state before submitting an application;

(b) Pass an examination that the Director of the Department of Consumer and Business Services by rule recognizes as adequately testing the applicant’s qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant’s knowledge of an adjuster’s duties and responsibilities under the Insurance Code and other laws of this state;

(c) Be trustworthy and reliable and have a good reputation, evidence of which the director will evaluate; and

(d) Be 18 years of age or older at the time the applicant becomes a licensee.

(2) A business entity that applies for a license to engage in business as a resident adjuster must:

(a) Establish an office in this state that employs a licensee; and

(b) Employ or act under the direction of owners or officers who are trustworthy and reliable and have good reputations, evidence of which the director will evaluate.
(3) In addition to the requirements set forth in subsection (1) or (2) of this section, as appropriate, an applicant must satisfy any other requirement the director specifies by rule.

(4) The director may agree or contract with another jurisdiction, regulatory body, private vendor or other person to administer any required examinations and to collect fingerprints, documentation and any fees that an applicant or licensee submits under section 5 or 6 of this 2019 Act and that the director by rule specifies that the jurisdiction, regulatory body, vendor or person may collect.

SECTION 27. ORS 744.528 is amended to read:

744.528. (1) The Director of the Department of Consumer and Business Services may issue a license to engage in business as an adjuster in this state to a person who resides in another state or a province of Canada and is licensed [in that state or province] as an adjuster in the state or province or in a designated home state [may be licensed to act as a nonresident adjuster in this state as provided in this section] if the state, [or] province or designated home state in which the person [resides] is licensed gives the same privilege to a resident adjuster [of this state].

(2) An applicant for a license to [act] engage in business as a nonresident adjuster must [do the following]:

(a) Apply for the license [on forms designed and furnished by the Director of the Department of Consumer and Business Services as provided in ORS 744.001.] as provided in section 5 of this 2019 Act; and

[(b) If the applicant is an individual, pass an examination required by ORS 744.535.]

(b) Pass an examination that the director by rule recognizes as adequately testing the applicant’s qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant’s knowledge of an adjuster’s duties and responsibilities under the Insurance Code and other laws of this state, if the applicant is an
individual and has not passed an examination with respect to a cate-
gory of insurance business or class of insurance that the applicant
intends to transact in this state.

SECTION 28. ORS 744.531 is amended to read:

744.531. [When the Director of the Department of Consumer and Business
Services issues a license authorizing a person to act as an adjuster, the di-
rector shall indorse on the license the class or classes of insurance described
in this section with respect to which the person is authorized to adjust losses.
The classes of insurance are as follows:] The classes of insurance that the
Director of the Department of Consumer and Business Services may
authorize a licensee to transact under a license to engage in business
as an adjuster are:

(1) Property and casualty insurance. Under this class, in addition to
property and casualty insurance, an adjuster may also adjust losses with
respect to marine and transportation and surety insurance.

(2) Health insurance, whether provided by an insurer or a health care
service contractor, as defined in ORS 750.005.

(3) Any class of insurance [designated by] the director specifies by rule.

SECTION 29. ORS 744.538 is amended to read:

744.538. (1) A nonresident adjuster [shall not act as] may not engage in
business as an adjuster in this state [when] if the adjuster no longer holds
a valid license as an adjuster in the state, [or] province or designated home
state in which the adjuster [resides] was licensed. If the adjuster’s license
[of the adjuster] in the state, province or designated home state in which
the adjuster [resides] was licensed is reinstated and has not expired, [and
if the nonresident adjuster's license has not expired,] the adjuster may apply
to the Director of the Department of Consumer and Business Services for
reinstatement [of the nonresident license] as a licensee.

(2) A nonresident adjuster who establishes residence in this state [shall]
may not transact business as an adjuster in this state under [the] a nonres-
ident license [following the 30th] after the 90th day after the adjuster es-
tablishes the residence. An adjuster [under this subsection may thereafter act as an adjuster in this state only under a license to act as a resident adjuster] who is a resident may thereafter engage in business as an adjuster in this state only after becoming a resident licensee.

(3) A nonresident adjuster who changes residence to another state [other than this state] or to a province [must apply to the director for a license as a nonresident adjuster as if the adjuster were initially applying for such a license] shall notify the director not later than 30 days after the change.

SECTION 30. ORS 744.555 is amended to read:

744.555. (1)(a) To facilitate the settlement of claims under insurance policies when there is widespread property loss in this state arising out of a catastrophe, the Director of the Department of Consumer and Business Services may issue a temporary permit to engage in business as an adjuster in this state to any person authorized in another state to adjust losses claimed under insurance policies [to act as an adjuster] in the catastrophe area for or against an authorized insurer. A temporary permit [issued pursuant to] the director issues under this section [shall be] is effective for 90 days or for such additional time as the director determines is necessary. [and shall be] A person may engage in business as an adjuster under the permit in lieu of the license and fee requirements otherwise applicable.

(b) The director may also issue a temporary permit to a person that is licensed or otherwise authorized to engage in business as an adjuster in the person’s home state or designated home state and that an authorized insurer or insured sends to this state to investigate or adjust a particular loss claimed under an insurance policy.

(2) [A temporary permit may be obtained by filing with the director a written application therefor in the form prescribed by the director. The application shall contain the name and address of the applicant, the name of the state in which the applicant is authorized to adjust losses claimed under in-
surance policies and any other information the director may require.] A person may apply for a temporary permit by submitting an application to the director on a form, in a format and in the manner the director specifies by rule. The application, at a minimum, must list the applicant's name and address and the state in which the applicant is licensed or otherwise authorized to engage in business as an adjuster.

[(3) Such a permit may also be issued in respect to any adjuster who is licensed or permitted to act as such in the state of domicile of the adjuster and who is sent into this state on behalf of an authorized insurer or insured for the purpose of investigating or making adjustment of a particular loss under policies of insurance.]

SECTION 31. ORS 744.605 is amended to read:

744.605. (1) A person [shall not act] may not engage in business as an insurance consultant unless the person holds a valid license [issued by] the Director of the Department of Consumer and Business Services issues under section 13 of this 2019 Act that authorizes the person to [act] engage in business as an insurance consultant. For purposes of this section, a person [acts] engages in business as an insurance consultant if:

(a) The person purports or offers to engage in any of the activities described in paragraph (b) of this subsection by using, in conjunction with the person's name, the title or designation of insurance planner, consultant, adviser or counselor, or financial and insurance planner, consultant, adviser or counselor, or any similar title or designation; or

(b) The person, for compensation other than commission from the sale of insurance, engages, attempts to engage or offers to engage in any of the following activities:

(A) Acting as a consultant regarding insurance.

(B) Giving advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages of insurance that may be issued in this state.

(C) In any other manner providing information about insurance.

(2) For the purposes of subsection (1)(b) of this section, compensation in-
includes consideration paid for financial and other related services [provided by] the person provides in connection with services referred to in subsection (1)(b) of this section.

SECTION 32. ORS 744.619 is amended to read:

744.619. [An applicant for a license as a resident insurance consultant shall apply for the license as provided in ORS 744.001 and must meet the following requirements:]

[(1) The applicant must provide satisfactory evidence to the Director of the Department of Consumer and Business Services that the insurance required under ORS 744.635 has been procured and is in effect.]

[(2) The applicant, if an individual, must establish a residence or place of transacting insurance business in this state prior to filing an application. If the application is a firm or corporation, the applicant must establish an office in this state that is managed by an individual licensed as an insurance consultant.]

[(3) The applicant, if an individual, must have had at least five years’ experience in the insurance business relating to the class or classes of insurance for which the applicant is applying to be an insurance consultant or have equivalent educational qualifications as prescribed by the director.]

[(4) The applicant, if an individual, must pass a written examination given by the director. The examination requirement does not apply to an applicant who is licensed as a resident insurance producer to transact the class or classes of insurance for which the applicant is applying to be an insurance consultant.]

[(5) The applicant must satisfy any other requirements established by the director by rule.]

(1) An individual who applies for a license to engage in business as a resident insurance consultant must:

(a) Establish a residence or place of business in which the applicant intends to transact insurance in this state before submitting an application;
(b) Have at least five years’ experience in the insurance business that relates to the categories of insurance business or classes of insurance that the applicant intends to transact under the license or have equivalent education or qualifications that the Director of the Department of Consumer and Business Services specifies by rule;

(c) Provide satisfactory evidence to the director that the applicant has procured and has in effect the insurance required under ORS 744.635; and

(d) Pass an examination that the director by rule recognizes as adequately testing the applicant’s qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant’s knowledge of an insurance consultant’s duties and responsibilities under the Insurance Code and other laws of this state. The requirement in this paragraph does not apply to an insurance producer who holds a license to transact the categories of insurance business or classes of insurance that the insurance producer intends to transact as an insurance consultant.

(2) A business entity that applies for a license to engage in business as a resident insurance consultant must establish an office in this state in which the business entity employs a licensee to manage the office.

(3) In addition to the requirements set forth in subsection (1) or (2) of this section, as appropriate, an applicant must satisfy any other requirement the director specifies by rule.

(4) The director may agree or contract with another jurisdiction, regulatory body, private vendor or other person to administer any required examinations and to collect fingerprints, documentation and any fees that an applicant or licensee submits under section 12 or 13 of this 2019 Act and that the director by rule specifies that the jurisdiction, regulatory body, vendor or person may collect.
SECTION 33. ORS 744.621 is amended to read:

744.621. (1) The Director of the Department of Consumer and Business Services may issue a license to engage in business as an insurance consultant to a person who resides in another state or province of Canada and is licensed in that state or province as an insurance consultant or is registered under a regulatory program of the other state or province that the director determines is similar to the regulatory program for insurance consultants under this chapter, as determined by the Director of the Department of Consumer and Business Services, may be licensed to act as a nonresident insurance consultant in this state as provided in this section] if the state or province in which the person resides gives the same privilege to a resident insurance consultant [of this state].

(2) An applicant for a license to [act] engage in business as a nonresident insurance consultant shall apply for the license as provided in [ORS 744.001] section 12 of this 2019 Act and must [meet the following requirements]:

[(a) The applicant must provide satisfactory evidence to the director that the insurance required under ORS 744.635 has been procured and is in effect.]

[(b) If the applicant is an individual, the applicant must have had at least five years' experience in the insurance business relating to the class or classes of insurance for which the applicant is applying to be an insurance consultant or have equivalent educational qualifications as prescribed by the director.]

[(c) If the applicant is an individual, the applicant must take and pass a written examination given by the director, unless the state or province in which the applicant resides licenses or registers insurance consultants of this state without examination. The examination requirement does not apply to an applicant who is licensed as a nonresident insurance producer to transact the class or classes of insurance for which the applicant is applying to be an insurance consultant.]

[(d) The applicant must satisfy any other requirements established by the director by rule.]
(a) Have at least five years’ experience in the insurance business that relates to the categories of insurance business or classes of insurance that the applicant intends to transact under the license or have equivalent education or qualifications that the director specifies by rule;

(b) Provide satisfactory evidence to the director that the applicant has procured and has in effect the insurance required under ORS 744.635; and

(c) Pass an examination that the director by rule recognizes as adequately testing the applicant’s qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant’s knowledge of an insurance consultant’s duties and responsibilities under the Insurance Code and other laws of this state. The requirement in this paragraph does not apply to an insurance producer who holds a license to transact the categories of insurance business or classes of insurance that the insurance producer intends to transact as an insurance consultant.

(3) In addition to the requirements set forth in subsection (2) of this section, an applicant must satisfy any other requirement the director specifies by rule.

SECTION 34. ORS 744.626 is amended to read:

744.626. [When the Director of the Department of Consumer and Business Services issues a license authorizing a person to act as an insurance consultant, the director shall indorse on the license the class or classes of insurance described in this section with respect to which the person is authorized to act as an insurance consultant. The classes of insurance are as follows:] The classes of insurance that the Director of the Department of Consumer and Business Services may authorize a licensee to transact under a license to engage in business as an insurance consultant are:

(1) Life insurance.
(2) Health insurance.

(3) Property and casualty insurance. Under this class, in addition to property and casualty insurance, an insurance consultant may also [act as] engage in business as an insurance consultant with respect to marine and transportation and surety insurance.

(4) Any class of insurance [designated by] the director specifies by rule.

SECTION 35. ORS 744.631 is amended to read:

744.631. (1) A nonresident insurance consultant [shall not act] may not engage in business as an insurance consultant in this state [when] if the insurance consultant no longer holds a valid license as an insurance consultant in the state or province in which the insurance consultant resides. If the insurance consultant's license [of the insurance consultant] in the state in which the insurance consultant resides is reinstated and [if the nonresident license] has not expired, the insurance consultant may apply to the Director of the Department of Consumer and Business Services for reinstatement [of the nonresident license] as a licensee.

(2) A nonresident insurance consultant who establishes residence in this state [shall not transact] may not engage in business as an insurance consultant in this state under [the] a nonresident license [following] after the 30th day after the insurance consultant establishes the residence. An insurance consultant [under this paragraph may act as a resident insurance consultant in this state if the insurance consultant obtains the appropriate license] who is a resident may thereafter engage in business as an insurance consultant in this state only after becoming a resident licensee.

(3) A nonresident insurance consultant who changes residence to another state [other than this state] or to a province [must apply to the director for a license as a nonresident insurance consultant as if the insurance consultant were initially applying for such a license] shall notify the director not later than 30 days after the change.

SECTION 36. ORS 744.704 is amended to read:

[62]
744.704. (1) The following persons are exempt from the licensing require-
ment for third party administrators in ORS 744.702 and from all other pro-
visions of ORS 744.700 to 744.740 applicable to third party administrators:
(a) A person licensed under [ORS 744.002 as] section 6 of this 2019 Act
to engage in business as an adjuster, whose activities are limited to ad-
justment of claims and whose activities do not include the activities of a
third party administrator.
(b) A person licensed as an insurance producer as required by ORS 744.053
and authorized to transact life or health insurance in this state, whose ac-
tivities are limited exclusively to the sale of insurance and whose activities
do not include the activities of a third party administrator.
(c) An employer acting as a third party administrator on behalf of:
   (A) [Its] The employer’s employees;
   (B) The employees of one or more subsidiary or affiliated corporations of
       the employer; or
   (C) The employees of one or more persons with a dealership, franchise,
distributorship or other similar arrangement with the employers.
(d) A union, or an affiliate thereof, acting as a third party administrator
on behalf of [its] the union’s or the affiliate’s members.
(e) An insurer that is authorized to transact insurance in this state with
   respect to a policy issued and delivered in and pursuant to the laws of this
   state or another state.
(f) A creditor acting on behalf of [its] the creditor’s debtors with respect
to insurance covering a debt between the creditor and [its] the creditor’s
debtors.
(g) A trust and the trustees, agents and employees of the trust, when
   acting pursuant to the trust, if the trust is established in conformity with
(h) A trust exempt from taxation under section 501(a) of the Internal
   Revenue Code, [its] the trust’s trustees and employees acting pursuant to
   the trust, or a voluntary employees beneficiary association described in sec-
tion 501(c) of the Internal Revenue Code, [its] the association’s agents and employees and a custodian and the custodian’s agents and employees acting pursuant to a custodian account meeting the requirements of section 401(f) of the Internal Revenue Code.

(i) A financial institution that is subject to supervision or examination by federal or state financial institution regulatory authorities, or a mortgage lender, to the extent the financial institution or mortgage lender collects and remits premiums to licensed insurance producers or authorized insurers in connection with loan payments.

(j) A company that issues credit cards and advances for and collects premiums or charges from [its] the company’s credit card holders who have authorized collection. The exemption under this paragraph applies only if the company does not adjust or settle claims.

(k) A person who adjusts or settles claims in the normal course of practice or employment as an attorney at law. The exemption under this subsection applies only if the person does not collect charges or premiums in connection with life insurance or health insurance coverage.

(L) A person who acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for which the Insurance Code is preempted pursuant to the Employee Retirement Income Security Act of 1974. A person to whom this paragraph applies must comply with the requirements of ORS 744.714.

(m) An entity or association owned by or composed of like employers who administer partially or fully self-insured plans for employees of the employers or association members.

(n) A trust established by a cooperative body formed between cities, counties, districts or other political subdivisions of this state, or between any combination of such entities, and the trustees, agents and employees acting pursuant to the trust.

(o) Any person designated by the Director of the Department of Consumer and Business Services by rule.

[64]
(2) A third party administrator is not required to be licensed as a third party administrator in this state if the following conditions are met:

(a) The third party administrator has its principal place of business in another state;

(b) The third party administrator is not soliciting business as a third party administrator in this state; and

(c) In the case of any group policy or plan of insurance serviced by the third party administrator, the lesser of five percent or 100 certificate holders reside in this state.

SECTION 37. ORS 750.055, as amended by section 9, chapter 7, Oregon Laws 2018, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.


(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498,
743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680
2 to 743.689, 743.788 and 743.790.
3 (i) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036,
4 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
5 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
6 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
7 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
8 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188,
9 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2, chapter
10 771, Oregon Laws 2013.
11 (j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to
12 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253,
13 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285,
14 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341,
15 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420,
16 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505,
17 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 and section 5, chapter 7,
18 Oregon Laws 2018.
19 (k) The following provisions of ORS chapter 744:
20 (A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to
21 744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regu-
22 lation of insurance producers;
23 (B) ORS 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.541,
24 744.555 and 744.575 and sections 4 to 10 of this 2019 Act, relating to the regu-
25 lation of insurance adjusters;
26 [(B)] (C) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635,
27 744.650, 744.655 and 744.665 and sections 11 to 17 of this 2019 Act, relating
28 to the regulation of insurance consultants; and
29 [(C)] (D) ORS 744.700 to 744.740, relating to the regulation of third party
30 administrators.
31 (L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605,

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor’s classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

**SECTION 38.** ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws
2015, section 30, chapter 515, Oregon Laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017, section 22, chapter 479, Oregon Laws 2017, and section 10, chapter 7, Oregon Laws 2018, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.
(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.
(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.
(e) ORS 734.014 to 734.440.
(f) ORS 735.600 to 735.650.
(g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.
(h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.204, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

(k) The following provisions of ORS chapter 744:

(A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.541, 744.555 and 744.575 and sections 4 to 10 of this 2019 Act, relating to the regulation of insurance adjusters;

[(B)] (C) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 and sections 11 to 17 of this 2019 Act, relating to the regulation of insurance consultants; and

[(C)] (D) ORS 744.700 to 744.740, relating to the regulation of third party administrators.


(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

[69]
(b) ORS 743A.024, unless the patient is referred by a physician, physician
assistant or nurse practitioner associated with a group practice health
maintenance organization.

(3) For the purposes of this section, health care service contractors are
insurers.

(4) Any for-profit health care service contractor organized under the laws
of any other state that is not governed by the insurance laws of the other
state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company
for the purpose of determining whether the health care service contractor is
a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor’s classification as a domestic insur-
ance company under paragraph (a) of this subsection does not subject the
health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services
may, after notice and hearing, adopt reasonable rules not inconsistent with
this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary
for the proper administration of these provisions.

SECTION 39. ORS 750.333 is amended to read:

750.333. (1) The following provisions apply to trusts carrying out a mul-
tiple employer welfare arrangement:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316,
731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414,
731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620,
731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680
and 733.695 to 733.780.

(d) ORS 734.014 to 734.440.

(e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023,

(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034,
743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060,
743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070,
743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104,
743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148,
743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.180, 743A.185,

(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127),
743B.195 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250,
743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310,
743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344,
743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451,

(i) The following provisions of ORS chapter 744:

(A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to
744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regu-
lation of insurance producers;

(B) ORS 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.541,
744.555 and 744.575 and sections 4 to 10 of this 2019 Act, relating to the regu-
lation of insurance adjusters;

[(B)] (C) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635,
744.650, 744.655 and 744.665 and sections 11 to 17 of this 2019 Act, relating

to the regulation of insurance consultants; and

[(C)] (D) ORS 744.700 to 744.740, relating to the regulation of third party
administrators.

(j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

(2) For the purposes of this section:

(a) A trust carrying out a multiple employer welfare arrangement [shall
be considered] is an insurer.

(b) References to certificates of authority [shall be considered] are refer-
ences to certificates of multiple employer welfare arrangement.

(c) Contributions [shall be considered] are premiums.

(3) The provision of health benefits under ORS 750.301 to 750.341 [shall be considered to be] is the transaction of health insurance.

(4) The Department of Consumer and Business Services may adopt rules that are necessary to implement the provisions of ORS 750.301 to 750.341.

SECTION 40. ORS 446.676 is amended to read:

446.676. ORS 446.671 does not apply to the following manufactured structures or persons:

(1) A unit of government or a public or private utility.

(2) The owner of a manufactured structure, as shown by a document evidencing ownership issued by any jurisdiction if the person owned the manufactured structure for personal, family or household purposes. If the person sells, trades, displays or offers for sale, trade or exchange two or more manufactured structures during a calendar year, the person has the burden of proving that the person owned the structures primarily for personal, family or household purposes.

(3) A conservator, receiver, trustee, personal representative or public officer while performing any official duties. The exemption provided by this subsection applies to actions taken for the purposes of winding up the affairs of a manufactured structure dealer or dealership and not to the continuing operation of a dealership.

(4) A real estate licensee representing a buyer or seller in a transaction involving real property under ORS 308.875 or a manufactured structure that is recorded in the deed records of a county.

(5) An escrow agent making an application for an ownership document as described under ORS 446.591 (5).

(6) The security interest holder of a manufactured structure as shown by a document evidencing ownership issued by any jurisdiction.

(7) The sale of a manufactured structure by the manufacturer to a manufactured structure dealer. However, a manufacturer must obtain a manu-
factured structure dealer license under ORS 446.691 in order to sell manufactured structures to retail customers.

(8) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 or section 6 of this 2019 Act who is disposing of a manufactured structure for salvage.

(9) A person who sells or trades or offers to sell or trade a manufactured structure that has been used in the operation of the person's business unless the person's business is the buying, selling, brokering, trading or exchanging of manufactured structures, displaying new or used manufactured structures for sale or acting as agent for an owner selling a manufactured structure or for a person interested in buying a manufactured structure.

(10) A person who is licensed as a manufactured structure dealer in another jurisdiction and is participating in a temporary exhibition of manufactured structures, if the exhibition includes at least two other manufactured structure dealers licensed in this state or another jurisdiction, lasts 10 days or less and charges admission to the public. An exemption may be claimed under this subsection for a total of not more than 10 days during a calendar year.

(11) A person who receives no money, goods or services, either directly or indirectly, for displaying a manufactured structure or acting as an agent in the selling or buying of a manufactured structure.

(12) A manufactured dwelling park or mobile home park owner that consigns a manufactured structure for sale by a licensed manufactured structure dealer.

(13) The sale of an abandoned manufactured dwelling by a manufactured dwelling park owner pursuant to ORS 90.675 (10) if the park owner makes a reasonable effort to transfer the title for the manufactured dwelling to the purchaser.

(14) A licensed real estate broker acting in the employ of, on behalf of or under the supervision of an individual who is both a licensed principal real estate broker and a licensed manufactured structure dealer.
(15) A financial institution or trust company acting as attorney in fact under a duly executed power of attorney from the owner or purchaser authorizing the selling, leasing or exchanging of the owner’s or purchaser’s assets. As used in this subsection, “financial institution” and “trust company” have the meanings given those terms in ORS 706.008.

SECTION 41. ORS 746.275 is amended to read:

746.275. As used in ORS 746.275 to 746.300:

(1) “Adjuster” means a person authorized to do business under ORS [744.505 or] 744.515 or section 6 of this 2019 Act.

(2) “Motor vehicle liability insurance policy” means an insurance policy which provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on motor vehicles, but does not include any insurance policy:

(a) Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards; or

(b) Issued principally to cover personal or premises liability of an insured, even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining such premises.

(3) “Motor vehicle body and frame repair shop” means a business or a division of a business organized for the purpose of effecting repairs to motor vehicles which have been physically damaged.

SECTION 42. ORS 819.482 is amended to read:

819.482. (1) A person commits the offense of acting as a vehicle appraiser without a certificate if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 and the person, for consideration, issues an opinion as to the value of a vehicle.

(2) This section does not apply to:

(a) A person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 and who appraises vehicles in the operation of a motor vehicle body and frame repair shop.
of the vehicle dealer’s business;

(b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;

(c) An insurance adjuster authorized to do business under ORS \[744.505 or 744.515\] or section 6 of this 2019 Act; or

(d) A person licensed or certified to appraise real estate under ORS 674.310 and who appraises the value of manufactured structures.

(3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation.

SECTION 43. ORS 822.015 is amended to read:

822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or less.

(b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes that the Department of Transportation, by rule, defines as constituting an exemption under this section.

(c) A receiver, trustee, personal representative or public officer while performing any official duties.

(d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from obtaining a vehicle dealer certif-
icate under ORS 822.020. This paragraph does not exempt a manufacturer who sells or trades campers or travel trailers.

(f) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 or section 6 of this 2019 Act who is disposing of vehicles for salvage.

(g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person’s business. This paragraph does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

(h) A person who receives no money, goods or services, either directly or indirectly, for displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

(i) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts for the person’s own use in order to preserve, restore and maintain vehicles for the person’s own use or for hobby or historical purposes.

(j) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer accepted in trade as part of a manufactured structure transaction. A manufactured structure dealership or exempt person may not directly sell more than three vehicles per calendar year under authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 or 822.040 may sell an unlimited number of vehicles acquired as described in this paragraph.

(k) A lien claimant who sells vehicles in order to foreclose possessory liens.

(L) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant acquired through possessory liens if the vehicles are sold at the business location of the lien claimant.
(m) Electric personal assistive mobility devices.

(n) A tower that received title for a vehicle under ORS 822.235.

(2) Notwithstanding ORS 822.005, the following may participate with
other dealers in a display of vehicles, including but not limited to an auto
show, if the display is an event that lasts for 10 days or less and is an event
for which the public is charged admission:

(a) A person who is licensed as a vehicle dealer in another jurisdiction;

or

(b) Any employee of a person who is licensed as a vehicle dealer in an-
other jurisdiction.

(3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle
dealer in another jurisdiction or an employee of a person who is certified
or licensed as a vehicle dealer may participate in a vehicle auction if the
vehicle auction is:

(a) Conducted by a vehicle dealer who holds a vehicle dealer certificate
issued or renewed under ORS 822.020 or 822.040; and

(b) Open only to certified or licensed vehicle dealers or their employees.

(4) The department shall adopt rules to carry out the provisions of this
section, including but not limited to specifying which dealers may take ve-
hicles on consignment from other jurisdictions.

SECTION 44. ORS 822.070 is amended to read:

822.070. (1) A person commits the offense of conducting an illegal vehicle
rebuilding business if the person is not the holder of a valid current dealer
certificate issued under ORS 822.020 and the person does any of the following
as part of a business:

(a) Buys, sells or deals in assembled, reconstructed or substantially al-
terred motor vehicles.

(b) Engages in making assembled, reconstructed or substantially altered
vehicles from motor vehicle components.

(2) This section does not apply to the following persons or vehicles:

(a) An insurance adjuster authorized to do business under ORS [744.505
or section 6 of this 2019 Act who is disposing of vehicles for
salvage.
(b) Vehicles or persons exempt from the vehicle dealer certificate re-
quirements by ORS 822.015 (1)(a) or (i).
(c) Motor vehicles that are not of a type required to be registered under
the vehicle code.
(d) The holder of a dismantler certificate issued under ORS 822.110.
(3) The offense described in this section, conducting an illegal vehicle
rebuilding business, is a Class A misdemeanor.

SECTION 45. ORS 822.105 is amended to read:
ORS 822.105. In addition to exemptions from the vehicle code under ORS
801.026, ORS 822.100 does not apply to the following:
(1) An insurance adjuster authorized to do business under ORS [744.505
or] 744.515 or section 6 of this 2019 Act who is disposing of vehicles for
salvage.
(2) Road rollers, farm tractors, trolleys or traction engines.
(3) Implements of husbandry, well-drilling machinery and wheelchairs.
(4) Golf carts.

SECTION 46. ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008,
744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028,
744.031, 744.033, 744.037 and 744.535 are repealed.

SECTION 47. Section 2 of this 2019 Act and the amendments to ORS
731.509, 731.510 and 731.511 by sections 20 to 23 of this 2019 Act apply
to all cessions that occur after the operative date specified in section
48 of this 2019 Act under reinsurance agreements that have an incep-
tion, anniversary or renewal date that occurs not less than six months
after the operative date specified in section 48 of this 2019 Act.

SECTION 48. (1) Sections 2, 3, 4 to 10, 11 to 17 and 18 of this 2019
Act, the amendments to ORS 446.676, 705.141, 731.509, 731.510, 731.511,
744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619,
744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015,
822.070 and 822.105 by sections 19 to 45 of this 2019 Act and the repeal of ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028, 744.031, 744.033, 744.037 and 744.535 by section 46 of this 2019 Act become operative on January 1, 2020.

(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by sections 2, 3, 4 to 10, 11 to 17 and 18 of this 2019 Act and the amendments to ORS 446.676, 705.141, 731.509, 731.510, 731.511, 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619, 744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015, 822.070 and 822.105 by sections 19 to 45 of this 2019 Act.

SECTION 49. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Adopts Fry Graph Readability Formula for health insurance policies and materials approved by Department of Consumer and Business Services. Repeals mandatory terms for certain policy provisions and requires department to prescribe or approve terms.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 743.405 to 743.498.

SECTION 2. A health insurance policy containing any of the following provisions must explain the provision in terms prescribed or approved by the Department of Consumer and Business Services:

(1) Changes in indemnification of injuries or sickness or to the amount of premiums owed resulting from the insured's change to a more hazardous or less hazardous occupation.

(2) Adjustments to amounts payable under the health insurance policy if the age of the insured has been misstated.

(3) Limits on coverage provided by the health insurance policy if the insured has another policy or policies issued by the insurer or another

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
insurer or has other valid coverage for the loss.

(4) The right of the insurer to deduct unpaid premiums from the payment on a claim.

(5) Conditions for the insurer to cancel the health insurance policy.

(6) That any provision of the health insurance policy that conflicts with the statutes of the state in which the insured resides may be amended to conform to the minimum requirements of the statutes.

(7) Limits on losses caused by the insured's commission of or attempt to commit a felony or to which a contributing factor was the insured's engagement in an illegal occupation.

SECTION 3. ORS 743.010 is amended to read:

743.010. [(1)] In addition to all other powers of the Director of the Department of Consumer and Business Services [with respect thereto], the director may [issue] adopt rules with respect to policy forms and health benefit plan forms described in ORS 742.005 (6)(a) and (b):

[(a)] (1) Establishing minimum benefit standards;

[(b)] (2) Requiring the ratio of benefits to premiums to be not less than a specified percentage in order to be considered reasonable, and requiring the periodic filing of data that will demonstrate the insurer's compliance;

[(c)] (3) Establishing requirements intended to discourage duplication or overlapping of coverage and replacement, without regard to the advantage to policyholders, of existing policies by new policies; [and]

(4) Prescribing the provisions described in ORS 743.405 to 743.498 and 743.406 or standards applicable to the provisions; and

[(d)] (5)(a) Establishing requirements for carriers offering health benefit plans that spend less than 12 percent of total medical expenditures on payments for primary care to submit with each rate filing a plan to increase spending on payments for primary care as a percentage of total medical expenditures by at least one percent each plan year.

[(2)] (b) As used in this [section] subsection:

[(a)] (A) “Primary care” means family medicine, general internal medi-
cine, naturopathic medicine, obstetrics and gynecology, pediatrics or general psychiatry.

[(b) (B)] “Total medical expenditures” means payments to reimburse the cost of physical and mental health care provided to enrollees, excluding prescription drugs, vision care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type of payment mechanism.

SECTION 4. ORS 743.010, as amended by section 15, chapter 489, Oregon Laws 2017, is amended to read:

743.010. [(1)] In addition to all other powers of the Director of the Department of Consumer and Business Services [with respect thereto], the director may [issue] adopt rules with respect to policy forms and health benefit plan forms described in ORS 742.005 (6)(a) and (b):

[(a)] (1) Establishing minimum benefit standards;
[(b)] (2) Requiring the ratio of benefits to premiums to be not less than a specified percentage in order to be considered reasonable, and requiring the periodic filing of data that will demonstrate the insurer’s compliance;
[(c)] (3) Establishing requirements intended to discourage duplication or overlapping of coverage and replacement, without regard to the advantage to policyholders, of existing policies by new policies; [and]

(4) Prescribing the provisions described in ORS 743.405 to 743.498 and 743.406 or standards applicable to the provisions; and
[(d)] (5)(a) Establishing requirements for carriers offering health benefit plans to spend at least 12 percent of total medical expenditures on payments for primary care.
[(2)] (b) As used in this [section] subsection:
[(a)] (A) “Primary care” means family medicine, general internal medicine, naturopathic medicine, obstetrics and gynecology, pediatrics or general psychiatry.
[(b)] (B) “Total medical expenditures” means payments to reimburse the cost of physical and mental health care provided to enrollees, excluding
prescription drugs, vision care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type of payment mechanism.

SECTION 5. ORS 743.104 is amended to read:

743.104. (1) ORS 743.100 to 743.109 apply to all policies delivered or issued for delivery in this state, except:

(a) Any policy that is a security subject to federal jurisdiction.

(b) Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit health insurance policy. [However, this paragraph shall not exempt any certificate issued pursuant to a group policy.]

(c) Any group annuity contract that serves as a funding vehicle for a pension, profit-sharing or deferred compensation plan.

[(d) Any form used in connection with, as a conversion from, as an addition to, or, pursuant to a contractual provision, in exchange for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the date the form must be approved under section 9, chapter 708, Oregon Laws 1979.]

[(e) The renewal of a policy delivered or issued for delivery prior to the date the policy form must be approved under section 9, chapter 708, Oregon Laws 1979.]

[(f)] (d) Any certificate issued pursuant to a group policy not delivered or issued for delivery in this state.

(2) A non-English language policy will be deemed to comply with ORS 743.106 if the insurer certifies that the policy is translated from an English language policy that complies with ORS 743.106.

SECTION 6. ORS 743.106 is amended to read:

743.106. (1) As used in this section, “text” includes all written matter except the following:

(a) The name and address of the insurer, the name, number or title of the policy, the table of contents or index, captions and subcaptions,
specification pages, schedules or tables; and
(b) Policy language drafted to conform to the requirements of any state or federal law, regulation or agency interpretation, policy language required by any collectively bargained agreement, medical terminology and words that are defined in the policy. The insurer shall identify the language or terminology excepted by this paragraph and shall certify in writing that the language or terminology is entitled to be excepted by this paragraph.

[(1)] (2) [No] A policy form [shall] may not be delivered or issued for delivery in this state unless:

(a) The policy text [achieves a score of 40 or more on the Flesch reading ease test, or an equivalent score on any comparable test as provided in subsection (3) of this section] is readable at the ninth grade reading level as determined using the Fry Graph Readability Formula;

(b) The policy, except for specification pages, schedules and tables is printed in not less than 12-point type, 13-point leading for health benefit plans, as defined in ORS 743B.005, and 10-point type, 11-point leading for all other policies;

(c) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text, including the text of any indorsements or riders; and

(d) The policy contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words of text printed on three or less pages, or regardless of the number of words if the policy has more than three pages.

[(2) For the purposes of this section, a Flesch reading ease test score shall be calculated as follows:]
[(b) The number of words and sentences in the text shall be counted and
the total number of words divided by the total number of sentences. The figure
obtained shall be multiplied by a factor of 1.015.]

[(c) The total number of syllables in the text shall be counted and divided
by the total number of words. The figure obtained shall be multiplied by a
factor of 84.6.]

[(d) The sum of the figures computed under paragraphs (b) and (c) of this
subsection subtracted from 206.835 equals the Flesch reading ease test score for
the policy form.]

[(e) For purposes of paragraphs (b) and (c) of this subsection, the following
procedures shall be used:]

[(A) A contraction, hyphenated word or numbers and letters, when sepa-
rated by spaces, shall be counted as one word.]

[(B) A unit of words ending with a period, semicolon or colon shall be
counted as a sentence.]

[(C) A “syllable” means a unit of spoken language consisting of one or more
letters of a word as divided by an accepted dictionary. If the dictionary shows
two or more equally acceptable pronunciations of a word, the pronunciation
containing fewer syllables may be used.]

[(f) As used in this section, “text” includes all written matter except the
following:]

[(A) The name and address of the insurer; the name, number or title of the
policy; the table of contents or index; captions and subcaptions; specification
pages; schedules or tables; and]

[(B) Policy language drafted to conform to the requirements of any state
or federal law, regulation or agency interpretation; policy language required
by any collectively bargained agreement; medical terminology; and words that
are defined in the policy. However, the insurer shall identify the language or
terminology excepted by this subparagraph and shall certify in writing that the
language or terminology is entitled to be excepted by this subparagraph.]

(3) Any other reading test may be approved by the Director of the De-
part of Consumer and Business Services as an alternative to the [Flesch reading ease test] Fry Graph Readability Formula if it is comparable in result to the [Flesch reading ease test] Fry Graph Readability Formula.

(4) Each policy filing shall be accompanied by a certificate signed by an officer of the insurer stating that the policy meets the [minimum required reading ease score] ninth grade reading level on the test used, or stating that the [score is lower than the minimum required] reading level is higher than the ninth grade reading level but should be authorized in accordance with ORS 743.107. To confirm the accuracy of a certification, the director may require the submission of further information.

(5) At the option of the insurer, riders, indorsements, applications and other forms made a part of the policy may be [scored] evaluated for readability as separate forms or as part of the policy with which they may be used.

SECTION 7. ORS 743.107 is amended to read:

743.107. The Director of the Department of Consumer and Business Services may authorize a [lower score than the Flesch reading ease test score] higher reading level than the Fry Graph Readability Formula reading level required by ORS 743.106 when, in the director’s sole discretion, the director finds that a [lower required score] higher reading level:

(1) Will provide a more accurate reflection of the readability of a policy form;

(2) Is warranted by the nature of a particular policy form or type or class of policy forms; or

(3) Is caused by certain policy language drafted to conform to the requirements of any state law, regulation or agency interpretation.

SECTION 8. ORS 743.408 is amended to read:

743.408. Except as provided in ORS 742.021, a health insurance policy [shall] must contain the provisions [set forth] described in ORS 743.411 to 743.444. The provisions shall be preceded individually by the [caption appearing in the sections or, at the option of the insurer, by the appropriate] in-
dividual or group captions or subcaptions as the Director of the Department of Consumer and Business Services may approve.

SECTION 9. ORS 743.411 is amended to read:

743.411. [A health insurance policy shall contain a provision as follows: "ENTIRE CONTRACT; CHANGES: This policy, including the indorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be indorsed hereon or attached hereto. No insurance producer has authority to change this policy or to waive any of its provisions."]

A health insurance policy must contain terms prescribed or approved by the Department of Consumer and Business Services informing the insured that:

(1) The policy, including the indorsements and attached papers, if any, constitutes the entire contract of insurance;

(2) A change to the policy is not valid until approved by an executive officer of the insurer and indorsed on or attached to the policy;

and

(3) An insurance producer does not have the authority to change the policy or to waive any of its provisions.

SECTION 10. ORS 743.414 is amended to read:

743.414. [(1) A health insurance policy shall contain a provision as follows: "TIME LIMIT ON CERTAIN DEFENSES: After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after the expiration of that period."]

(1) A health insurance policy must contain terms prescribed or approved by the Department of Consumer and Business Services informing the insured of a two-year time limit on defenses arising from misstatements made by the insured in the application for the policy.
and any other periods after which the policy becomes incontestable.

(2) The policy [provision set forth] terms described in subsection (1) of this section shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period[, or to limit the application of ORS 743.450 to 743.462 in the event of misstatement with respect to age or occupation or other insurance].

(3) A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the provision set forth in subsection (1) of this section the following provision, from which the clause in parentheses may be omitted at the insurer's option: “INCONTESTABLE: After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.”]

(4) The policy shall contain a provision as follows, which shall be a separate paragraph under the same caption as, and immediately following, the provision set forth in subsection (1) or (3) of this section: “No claim for loss incurred or disability, as defined in the policy, commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.”]

SECTION 11. ORS 743.417 is amended to read:

743.417. [(1)] An individual health insurance policy [shall] must specify, in terms prescribed or approved by the Department of Consumer and Business Services, a minimum grace period of at least 10 days after the premium due date for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

[(2) A policy that contains a cancellation provision may add the following clause at the end of the provision described in subsection (1) of this section:
“subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.”]

[(3) A policy in which the insurer reserves the right to refuse renewal shall have the following clause at the beginning of the provision described in subsection (1) of this section: “Unless not less than 30 days prior to the premium due date the insurer has delivered to the insured or has mailed to the last address of the insured as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted. The insurer shall state in the notice the reason for its refusal to renew this policy.”]

SECTION 12. ORS 743.420 is amended to read:

743.420. [(J)] A health insurance policy, other than a health benefit plan as defined in ORS 743B.005, must contain terms prescribed or approved by the Department of Consumer and Business Services informing the insured of any conditions for the renewal of the policy if the insured fails to pay the premium within the grace period. [shall contain a provision as follows: “REINSTATEMENT: If any renewal premium is not paid within the grace period, a subsequent acceptance of premium by the insurer or by any insurance producer duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such insurance producer requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the

[10]
defaulted premium, subject to any provisions indorsed hereon or attached
hereto in connection with the reinstatement. Any premium accepted in con-
nection with a reinstatement shall be applied to a period for which premium
has not been previously paid, but not to any period more than 60 days prior
to the date of reinstatement.”]

[(2) The last sentence of the provision set forth in subsection (1) of this
section may be omitted from any policy which the insured has the right to
continue in force subject to its terms by the timely payment of premiums until
at least age 50 or, in the case of a policy issued after age 44, for at least five
years from its date of issue.]

SECTION 13. ORS 743.423 is amended to read:

743.423. [(1)] A health insurance policy must contain terms prescribed
or approved by the Department of Consumer and Business Services
informing the insured of the procedures and time limits for presenting
a notice of claim and for notifying the insurer that a disability
indemnified under a loss-of-time benefit in the policy continues. [shall
contain a provision as follows: “NOTICE OF CLAIM: Written notice of claim
must be given to the insurer within 20 days after the occurrence or com-
mencement of any loss covered by the policy, or as soon thereafter as is rea-
sonably possible. Notice given by or on behalf of the insured or the beneficiary
to the insurer at ____ (insert the location of such office as the insurer may
designate for the purpose), or to any authorized agent of the insurer, with in-
formation sufficient to identify the insured, shall be deemed notice to the
insurer.”]

[(2) In a policy providing a loss-of-time benefit which may be payable for
at least two years, an insurer may at its option insert the following between
the first and second sentences of the provision set forth in subsection (1) of this
section: “Subject to the qualifications set forth below, if the insured suffers
loss of time on account of disability for which indemnity may be payable for
at least two years, the insured shall, at least once in every six months after
having given notice of claim, give to the insurer notice of continuance of such

[11]
disability, except in the event of legal incapacity. The period of six months
following any filing of proof by the insured or any payment by the insurer on
account of such claim or any denial of liability in whole or in part by the
insurer shall be excluded in applying this provision. Delay in the giving of
such notice shall not impair the insured’s right to any indemnity which would
otherwise have accrued during the period of six months preceding the date on
which such notice is actually given.”]

SECTION 14. ORS 743.426 is amended to read:

743.426. A health insurance policy [shall contain a provision as follows:
“CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish
to the claimant such forms as are usually furnished by it for filing proof of
loss. If such forms are not furnished within 15 days after the giving of such
notice, the claimant shall be deemed to have complied with the requirements
of this policy as to proof of loss upon submitting, within the time fixed in the
policy for filing proofs of loss, written proof covering the occurrence, the
character and the extent of the loss for which claim is made.”] must contain
terms prescribed or approved by the Department of Consumer and
Business Services informing the insured that if the insured submits a
notice of claim to the insurer:

(1) The insurer must furnish the claimant with forms used by the
insurer for filing a proof of loss.

(2) If the insurer fails to provide the forms used by the insurer for
filing a proof of loss or provides the forms more than 15 days after the
notice of claim is submitted, the claimant is deemed to have complied
with any policy requirements as to proof of loss if the claimant pro-
vides written proof of the occurrence giving rise to the claim and the
character and the extent of the loss for which the claim is made.

SECTION 15. ORS 743.429 is amended to read:

743.429. A health insurance policy [shall contain a provision as follows:
“PROOFS OF LOSS:] must contain terms prescribed or approved by the
Department of Consumer and Business Services informing the insured
that:

(1) Written proof of loss must be furnished to the insurer at its office, in the case of a claim for loss for which this policy provides any periodic payment contingent upon continuing loss, within 90 days after the termination of the period for which the insurer is liable;

(2) In the case of a claim for any other loss, written proof of loss must be furnished to the insurer at its office within 90 days after the date of such loss; and

(3) Failure to furnish such proof within the time required does not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

SECTION 16. ORS 743.432 is amended to read:

743.432. A health insurance policy shall contain a provision as follows:

"TIME OF PAYMENT OF CLAIMS:

(1) Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss.

(2) Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid within a specified period of time, which must not be less frequently than monthly, and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

SECTION 17. ORS 743.435 is amended to read:

743.435. [(1) A health insurance policy shall contain a provision as follows:

"PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such

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payment which may be prescribed herein and effective at the time of payment.

If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured’s death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.”]

(2) The following provisions, or either of them, may be included with the provision set forth in subsection (1) of this section at the option of the insurer:

[(a) “If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $____ (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.”]

A health insurance policy must contain terms prescribed or approved by the Department of Consumer and Business Services informing the insured:

(1) Regarding the payment of indemnities for loss of life to the beneficiary designated or to the estate of the insured if no beneficiary is designated; and

[(b)] (2) That, [“] subject to any written direction of the insured in the application or otherwise, all or a portion of any indemnities provided by [this] the policy on account of hospital, nursing, medical or surgical services may, at the insurer’s option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services. [; but it is not required that the service be rendered by a particular hospital or person.”]

SECTION 18. ORS 743.438 is amended to read:
743.438. A health insurance policy [shall contain a provision as follows:]

“PHYSICAL EXAMINATIONS AND AUTOPSY:] must contain terms
prescribed or approved by the Department of Consumer and Business
Services informing the insured that the insurer at its own expense [shall
have] has the right and opportunity to examine the person of the insured
when and as often as it may reasonably require during the pendency of a
claim [hereunder] under the policy and to make an autopsy in case of death
[where it is not forbidden] unless prohibited by law.”

SECTION 19. ORS 743.441 is amended to read:

743.441. A health insurance policy [shall contain a provision as follows:

“LEGAL ACTIONS: No action] must contain terms prescribed or ap-
proved by the Department of Consumer and Business Services in-
forming the insured that:

(1) The insured may not bring an action at law or in equity [shall be
brought] to recover on [this] the policy prior to the expiration of 60 days
after written proof of loss has been furnished in accordance with the re-
quirements of [this] the policy[. No such action shall be brought]; and

(2) The insured may not bring an action in law or equity after the
expiration of three years after the time written proof of loss is required to
be furnished.”

SECTION 20. ORS 743.444 is amended to read:

743.444. [(1) A health insurance policy shall contain a provision as follows:

“CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable
designation of beneficiary, the right to change of beneficiary is reserved to the
insured and the consent of the beneficiary or beneficiaries shall not be requi-
site to surrender or assignment of this policy or to any change of beneficiary
or beneficiaries or to any other changes in this policy.”]

[(2) The first clause of the provision set forth in subsection (1) of this sec-
tion, relating to the irrevocable designation of beneficiary, may be omitted at
the insurer’s option.]

A health insurance policy must contain terms prescribed or ap-
proved by the Department of Consumer and Business Services in-
forming the insured of the insured's rights under the policy to change
the designated beneficiary and that the insurer may not require the
consent of a beneficiary to surrender or assign the policy or to change
beneficiaries under the policy.

SECTION 21. ORS 743.447 is amended to read:
743.447. Except as provided in ORS 742.021, provisions in a health insur-
ance policy respecting the matters set forth in ORS [743.450 to 743.477
shall] 743.465 must be in the words that appear in [such sections. Any such
 provision contained in the policy shall] ORS 743.465 and must be preceded
individually by the appropriate caption appearing in [such sections] ORS
743.465 or, at the option of the insurer, by [such] an appropriate individual
or group [captions or subcaptions as] caption approved by the Director of
the Department of Consumer and Business Services [may approve].

SECTION 22. ORS 743.472 is amended to read:
743.472. An insurer selling individual health insurance policies may can-
cel or refuse to renew an individual health insurance policy only if the
insurer makes a determination to cancel or not to renew all policies of the
same type and form as the individual policy, or if the ground for cancellation
or nonrenewal is any of the following and is stated as a provision of the
policy:

1. A fraudulent or material misstatement made by the applicant in an
application for the health policy. A material misstatement is subject to any
time limit, as specified by law and included in the policy, for voiding the
policy on the basis of a misstatement. For purposes of this subsection, a
misstatement may include an incorrect statement or a misrepresentation,
 omission or concealment of fact;

2. Excess or other insurance in the same insurer[, as described in ORS
743.456];

3. Nonpayment of premium; or

4. Any other reason specified by the Director of the Department of Con-
SUMER and Business Services by rule.

SECTION 23. ORS 743.498 is amended to read:

743.498. (1) A health insurance policy which is noncancelable or guaranteed renewable as those terms are used in ORS 743.495, except that the insured’s right is for a limited period of more than one year rather than for life, shall contain the applicable one of the following statements, or such other statement which, in the opinion of the Director of the Department of Consumer and Business Services, is equally clear or more definite as to the subject matter and complies with ORS 743.106:

(a) “THIS POLICY IS NONCANCELABLE ______” (designating the applicable period such as, for example, “to age ____ (specify),” or “for the period of ____ (specify) years from date of issuance”) if the policy is noncancelable for such period.

(b) “THIS POLICY IS GUARANTEED RENEWABLE ______” (designating the applicable period such as, for example, “to age ____ (specify),” or “for the period of ____ (specify) years from date of issuance”) if the policy is guaranteed renewable for such period.

(2) Except for policies meeting the conditions specified in ORS 743.495 or subsection (1) of this section, and except as provided in subsection (3) of this section, a health insurance policy shall contain the applicable one of the following statements, or such other statement which, in the opinion of the director, is equally clear or more definite as to the subject matter:

(a) “THIS POLICY MAY BE CANCELED BY THE INSURER ONLY FOR A REASON PERMITTED BY LAW” if the policy contains a provision for cancellation by the insurer.

(b) “THE INSURER MAY REFUSE TO RENEW THIS POLICY ONLY FOR A REASON PERMITTED BY LAW” if the policy is not guaranteed renewable.

(3) The limitations and requirements as to the use of terms contained in ORS 743.495 and this section shall not prohibit the use of other terms for policies having other guarantees of renewability, provided such terms, in the
opinion of the director are accurate, clear and not likely to be confused with
the terms contained in ORS 743.495 and this section, and are incorporated
in a concise statement relating to the guarantees of renewability.

(4) The statement required by this section shall be printed in a type not
smaller than the type used for captions. It shall appear prominently on the
first page of the policy and shall be a part of the brief description if the
policy has a brief description on its first page.

SECTION 24. ORS 743.550 is amended to read:

743.550. (1) Student health insurance is subject to ORS [743.537,]
743.540, 743.543, 743.546 and 743B.475, except as provided in this section.

(2) Coverage under a student health insurance policy may be mandatory
for all students at the institution, voluntary for all students at the institu-
tion, or mandatory for defined classes of students and voluntary for other
classes of students. As used in this subsection, “classes” refers to under-
graduates, graduate students, domestic students, international students or
other like classifications. Any differences based on a student’s nationality
may be established only for the purpose of complying with federal law in
effect when the policy is issued.

(3) When coverage under a student health insurance policy is mandatory,
the policyholder may allow any student subject to the policy to decline cov-
verage if the student provides evidence acceptable to the policyholder that the
student has similar health coverage.

(4) A student health insurance policy may provide for any student to
purchase optional supplemental coverage.

(5) Student health insurance coverage for athletic injuries may:
(a) Exclude coverage for injuries of students who have not obtained
medical release for a similar injury; and
(b) Be provided in excess of or in addition to any other coverage under
any other health insurance policy, including a student health insurance pol-
icy.

(6) A student health insurance policy may provide that coverage under the
policy is secondary to any other health insurance for purposes of guidelines established under ORS 743B.475.

(7) A student health insurance policy may provide, on request by the policyholder, that all or any portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer’s option, be paid directly to the hospital or person rendering such services. However, the amount of any such payment shall not exceed the amount of benefit provided by the policy with respect to the service or billing of the provider of aid. The amount of such payments pursuant to one or more assignments shall not exceed the amount of expenses incurred on account of such hospitalization or medical or surgical aid.

(8) An insurer providing student health insurance as primary coverage may negotiate and enter into contracts for alternative rates of payment with providers and offer the benefit of such alternative rates to insureds who select such providers. An insurer may utilize such contracts by offering a choice of plans at the time an insured enrolls, one of which provides benefits only for services by members of a particular provider organization with whom the insurer has an agreement. If an insured chooses such a plan, benefits are payable only for services rendered by a member of that provider organization, unless such services were requested by a member of such organization or are rendered as the result of an emergency.

(9) Payments made under subsection (8) of this section shall discharge the insurer’s obligation with respect to the amount of insurance paid.

(10) An insurer shall provide each student health insurance policyholder with a current roster of institutional and professional providers under contract to provide services at alternative rates under the group policy and shall also make such lists available for public inspection during regular business hours at the insurer’s principal office within this state.

(11) As used in this section, “student health insurance”:

(a) Means that form of health insurance under a policy issued to a college, school or other institution of learning, a school district or districts, or
school jurisdictional unit, or recognized student government at a public
university listed in ORS 352.002, or to the head, principal or governing board
of any such educational unit, who or which shall be deemed the policyholder,
that is available exclusively to students at the college, school or other in-
stitution.
(b) Does not include a student health benefit plan as defined in ORS 743.551.

SECTION 25. ORS 743.450, 743.453, 743.456, 743.459, 743.462, 743.468,
743.471, 743.474, 743.477, 743.537 and 743B.324 are repealed.

SECTION 26. Section 2 of this 2019 Act and the amendments to ORS
743.010, 743.104, 743.106, 743.107, 743.408, 743.411, 743.414, 743.417, 743.420,
743.423, 743.426, 743.429, 743.432, 743.435, 743.438, 743.441, 743.444, 743.447,
743.472, 743.498 and 743.550 by sections 3 to 24 of this 2019 Act apply to
health insurance policies issued or renewed on or after the effective
date of this 2019 Act.
SUMMARY

Changes caps on civil penalties that Director of Department of Consumer and Business Services may impose for violations of certain workers’ compensation statutes or required practices.

A BILL FOR AN ACT

Relating to civil penalties for violations of workers’ compensation requirements; amending ORS 656.745.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 656.745 is amended to read:

656.745. (1) The Director of the Department of Consumer and Business Services shall assess a civil penalty against an employer or insurer who intentionally or repeatedly induces claimants for compensation to fail to report accidental injuries, causes employees to collect accidental injury claims as off-the-job injury claims, persuades claimants to accept less than the compensation due or makes it necessary for claimants to resort to proceedings against the employer to secure compensation due.

(b) The director may not assess under this subsection more than $2,000 for each violation or more than $40,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(2)(a) The director may assess a civil penalty against an employer, self-insured employer, insurer, managed care organization or service company that:

[(a)] (A) Fails to pay assessments or other payments due to the director
under this chapter and is in default; or

[(b)] (B) Fails to comply with statutes, rules or orders of the director regarding reports or other requirements necessary to carry out the purposes of this chapter.

(b) The director may not assess under this subsection a civil penalty against a self-insured employer, insurer or service company that exceeds $9,000 for each violation or $180,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(c) The director may not assess under this subsection a civil penalty against an employer, except a self-insured employer, or managed care organization that exceeds $2,000 for each violation or $40,000 in the aggregate for violations during a calendar year. Each violation, or each day during which a violation continues, constitutes a separate violation.

(3) Except as specified in ORS 656.780, the director may assess a penalty under subsection (2) of this section against a service company only for claims processing performance deficiencies revealed in annual audits associated with claims processing performance. The director may assess only one penalty for each separate violation by an employer, insurer or service company for deficiencies revealed in annual audits associated with claims processing performance.

[(4) A civil penalty shall be not more than $2,000 for each violation or $10,000 in the aggregate for all violations within any three-month period. Each violation, or each day a violation continues, shall be considered a separate violation.]

[(5)] (4) ORS 656.735 (4) to (6) and 656.740 also apply to orders and penalties assessed under this section.
SUMMARY

Specifies requirements for insurer determinations regarding requests for prior authorization for coverage of health care items, services, procedures and settings.

A BILL FOR AN ACT

Relating to prior authorization determinations; creating new provisions; and amending ORS 743A.067, 743A.168, 743A.264, 743B.001, 743B.250, 743B.422, 743B.423 and 746.230 and section 2, chapter 771, Oregon Laws 2013.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of the Insurance Code.

SECTION 2. (1) As used in this section, “prior authorization” has the meaning given that term in ORS 743B.001.

(2) An insurer offering a policy or certificate of health insurance may not, in making a determination on a health care provider or enrollee’s request for prior authorization of a health care item or service, perform any of the following unfair claim settlement practices:

(a) Misrepresent facts of policy provisions;

(b) Fail to acknowledge and act upon communications relating to the request;

(c) Fail to adopt and implement reasonable standards for the prompt investigations of prior authorization requests;

(d) Make a determination without conducting a reasonable investi-
(e) Fail to act promptly, equitably and in good faith to approve the request for prior authorization that is reasonably understood to be medically necessary and covered under the terms of the policy;

(f) Require a provider or enrollee to submit substantially identical information more than one time in the course of making the determination; or

(g) If the request for prior authorization is denied, fail to promptly provide a complete and thorough explanation of the terms of the policy or certificate that the insurer relied upon and the factual or legal basis for the denial.

(3) An insurer may not engage in a general business practice of refusing, without just cause, to approve requests for prior authorization of items or services covered under its policies and certificates as demonstrated by:

(a) A substantial increase in the number of consumer complaints against the insurer received by the Department of Consumer and Business Services regarding denials of prior authorization;

(b) A substantial number of lawsuits filed by:

(A) A provider against the insurer or an insured based on the failure to approve a request for prior authorization for an item or service furnished by the provider; or

(B) A provider or enrollee against the insurer based on the failure to approve a prior authorization request for an item or service; or

(c) Other evidence that the department deems relevant.

(4) The department may adopt rules necessary to carry out the provisions of this section.

SECTION 3. ORS 743B.422 is amended to read:

743B.422. All utilization review performed pursuant to a medical services contract to which an insurer is not a party shall comply with the following:

(1) The criteria used in the review process and the method of development
of the criteria shall be made available for review to a party to such medical
services contract upon request.

(2) A physician licensed under ORS 677.100 to 677.228 shall be responsible
for all final recommendations regarding the necessity or appropriateness of
services or the site at which the services are provided and shall consult as
appropriate with medical and mental health specialists in making such rec-
ommendations.

(3) Any patient or provider who has had a request for treatment or pay-
ment for services denied as not medically necessary or as experimental shall
be provided an opportunity for a timely appeal before an appropriate medical
consultant or peer review committee.

(4) Except as provided in subsection (5) of this section, a determination on a provider’s or an enrollee’s request for prior au-
thorization of a nonemergency service must be issued within a reasonable period of time appropriate to the medical circumstances
but no later than two business days after receipt of the request, and
qualified health care personnel must be available for same-day telephone re-
sponses to inquiries concerning certification of continued length of stay.

(5) If additional information from an enrollee or a provider is nec-
essary to make a determination on a request for prior authorization, no later than two business days after receipt of the request, the
enrollee and the provider shall be notified in writing of the specific additional information needed to make the determination. The deter-
mination must be issued by the later of:

(a) Two business days after receipt of a response to the request for additional information; or

(b) Fifteen days after the date of the request for additional infor-

SECTION 4. ORS 743B.423 is amended to read:

743B.423. (1) All insurers offering a health benefit plan in this state that
provide utilization review or have utilization review provided on their behalf
shall file an annual summary with the Department of Consumer and Business Services that describes all utilization review policies, including delegated utilization review functions, and documents the insurer’s procedures for monitoring of utilization review activities.

(2) All utilization review activities conducted pursuant to subsection (1) of this section shall comply with the following:

(a) The criteria used in the utilization review process and the method of development of the criteria shall be made available for review to contracting providers upon request.

(b) A physician licensed under ORS 677.100 to 677.228 shall be responsible for all final recommendations regarding the necessity or appropriateness of services or the site at which the services are provided and shall consult as appropriate with medical and mental health specialists in making such recommendations.

(c) Any provider who has had a request for treatment or payment for services denied as not medically necessary or as experimental shall be provided an opportunity for a timely appeal before an appropriate medical consultant or peer review committee.

(d) [A provider] Except as provided in paragraph (e) of this subsection, an insurer must issue a determination on a provider’s or an enrollee’s request for prior authorization of a nonemergency service [must be answered] within a reasonable period of time appropriate to the medical circumstances but no later than two business days after receipt of the request, and qualified health care personnel must be available for same-day telephone responses to inquiries concerning certification of continued length of stay.

(e) If an insurer requires additional information from an enrollee or a provider to make a determination on a request for prior authorization, no later than two business days after receipt of the request, the insurer shall notify the enrollee and the provider in writing of the additional information needed to make the determination. The insurer
shall issue the determination by the later of:

(A) Two business days after receipt of a response to the request for additional information; or

(B) Fifteen days after the date of the request for additional information.

SECTION 5. ORS 743A.067 is amended to read:

743A.067. (1) As used in this section:

(a) “Contraceptives” means health care services, drugs, devices, products or medical procedures to prevent a pregnancy.

(b) “Enrollee” means an insured individual and the individual’s spouse, domestic partner and dependents who are beneficiaries under the insured individual’s health benefit plan.

(c) “Health benefit plan” has the meaning given that term in ORS 743B.005, excluding Medicare Advantage Plans and including health benefit plans offering pharmacy benefits administered by a third party administrator or pharmacy benefit manager.

(d) “Prior authorization” has the meaning given that term in ORS 743B.001.

(e) “Religious employer” has the meaning given that term in ORS 743A.066.

(f) “Utilization review” has the meaning given that term in ORS 743B.001.

(2) A health benefit plan offered in this state must provide coverage for all of the following services, drugs, devices, products and procedures:

(a) Well-woman care prescribed by the Department of Consumer and Business Services by rule consistent with guidelines published by the United States Health Resources and Services Administration.

(b) Counseling for sexually transmitted infections, including but not limited to human immunodeficiency virus and acquired immune deficiency syndrome.

(c) Screening for:
(A) Chlamydia;
(B) Gonorrhea;
(C) Hepatitis B;
(D) Hepatitis C;
(E) Human immunodeficiency virus and acquired immune deficiency syndrome;
(F) Human papillomavirus;
(G) Syphilis;
(H) Anemia;
(I) Urinary tract infection;
(J) Pregnancy;
(K) Rh incompatibility;
(L) Gestational diabetes;
(M) Osteoporosis;
(N) Breast cancer; and
(O) Cervical cancer.

d) Screening to determine whether counseling related to the BRCA1 or BRCA2 genetic mutations is indicated and counseling related to the BRCA1 or BRCA2 genetic mutations if indicated.

e) Screening and appropriate counseling or interventions for:
(A) Tobacco use; and
(B) Domestic and interpersonal violence.

f) Folic acid supplements.

g) Abortion.

h) Breastfeeding comprehensive support, counseling and supplies.
i) Breast cancer chemoprevention counseling.

j) Any contraceptive drug, device or product approved by the United States Food and Drug Administration, subject to all of the following:
(A) If there is a therapeutic equivalent of a contraceptive drug, device or product approved by the United States Food and Drug Administration, a health benefit plan may provide coverage for either the requested
contraceptive drug, device or product or for one or more therapeutic equivalents of the requested drug, device or product.

(B) If a contraceptive drug, device or product covered by the health benefit plan is deemed medically inadvisable by the enrollee’s provider, the health benefit plan must cover an alternative contraceptive drug, device or product prescribed by the provider.

(C) A health benefit plan must pay pharmacy claims for reimbursement of all contraceptive drugs available for over-the-counter sale that are approved by the United States Food and Drug Administration.

(D) A health benefit plan may not infringe upon an enrollee’s choice of contraceptive drug, device or product and may not require prior authorization, step therapy or other utilization review techniques for medically appropriate covered contraceptive drugs, devices or other products approved by the United States Food and Drug Administration.

(k) Voluntary sterilization.

(L) As a single claim or combined with other claims for covered services provided on the same day:

(A) Patient education and counseling on contraception and sterilization.

(B) Services related to sterilization or the administration and monitoring of contraceptive drugs, devices and products, including but not limited to:

(i) Management of side effects;

(ii) Counseling for continued adherence to a prescribed regimen;

(iii) Device insertion and removal; and

(iv) Provision of alternative contraceptive drugs, devices or products deemed medically appropriate in the judgment of the enrollee’s provider.

(m) Any additional preventive services for women that must be covered without cost sharing under 42 U.S.C. 300gg-13, as identified by the United States Preventive Services Task Force or the Health Resources and Services Administration of the United States Department of Health and Human Services as of January 1, 2017.

(3) A health benefit plan may not impose on an enrollee a deductible,
coinsurance, copayment or any other cost-sharing requirement on the coverage required by this section. A health care provider shall be reimbursed for providing the services described in this section without any deduction for coinsurance, copayments or any other cost-sharing amounts.

(4) Except as authorized under this section, a health benefit plan may not impose any restrictions or delays on the coverage required by this section.

(5) This section does not exclude coverage for contraceptive drugs, devices or products prescribed by a provider, acting within the provider’s scope of practice, for:

(a) Reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause; or

(b) Contraception that is necessary to preserve the life or health of an enrollee.

(6) This section does not limit the authority of the Department of Consumer and Business Services to ensure compliance with ORS 743A.063 and 743A.066.

(7) This section does not require a health benefit plan to cover:

(a) Experimental or investigational treatments;

(b) Clinical trials or demonstration projects, except as provided in ORS 743A.192;

(c) Treatments that do not conform to acceptable and customary standards of medical practice;

(d) Treatments for which there is insufficient data to determine efficacy; or

(e) Abortion if the insurer offering the health benefit plan excluded coverage for abortion in all of its individual, small employer and large employer group plans during the 2017 plan year.

(8) If services, drugs, devices, products or procedures required by this section are provided by an out-of-network provider, the health benefit plan must cover the services, drugs, devices, products or procedures without imposing any cost-sharing requirement on the enrollee if:
(a) There is no in-network provider to furnish the service, drug, device, product or procedure that is geographically accessible or accessible in a reasonable amount of time, as defined by the Department of Consumer and Business Services by rule consistent with the requirements for provider networks in ORS 743B.505; or

(b) An in-network provider is unable or unwilling to provide the service in a timely manner.

(9) An insurer may offer to a religious employer a health benefit plan that does not include coverage for contraceptives or abortion procedures that are contrary to the religious employer’s religious tenets only if the insurer notifies in writing all employees who may be enrolled in the health benefit plan of the contraceptives and procedures the employer refuses to cover for religious reasons.

(10) If the Department of Consumer and Business Services concludes that enforcement of this section may adversely affect the allocation of federal funds to this state, the department may grant an exemption to the requirements but only to the minimum extent necessary to ensure the continued receipt of federal funds.

(11) An insurer that is subject to this section shall make readily accessible to enrollees and potential enrollees, in a consumer-friendly format, information about the coverage of contraceptives by each health benefit plan and the coverage of other services, drugs, devices, products and procedures described in this section. The insurer must provide the information:

(a) On the insurer’s website; and

(b) In writing upon request by an enrollee or potential enrollee.

(12) This section does not prohibit an insurer from using reasonable medical management techniques to determine the frequency, method, treatment or setting for the coverage of services, drugs, devices, products and procedures described in subsection (2) of this section, other than coverage required by subsection (2)(g) and (j) of this section, if the techniques:

(a) Are consistent with the coverage requirements of subsection (2) of this
section; and

(b) Do not result in the wholesale or indiscriminate denial of coverage for a service.

**SECTION 6.** ORS 743A.168 is amended to read:

743A.168. (1) As used in this section:

(a) “Behavioral health assessment” means an evaluation by a provider, in person or using telemedicine, to determine a patient’s need for behavioral health treatment.

(b) “Behavioral health crisis” means a disruption in an individual’s mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the individual’s mental or physical health.

(c) “Chemical dependency” means the addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with the individual’s social, psychological or physical adjustment to common problems. For purposes of this section, “chemical dependency” does not include addiction to, or dependency on, tobacco, tobacco products or foods.

(d) “Facility” means a corporate or governmental entity or other provider of services for the treatment of chemical dependency or for the treatment of mental or nervous conditions.

(e) “Group health insurer” means an insurer, a health maintenance organization or a health care service contractor.

(f) “Prior authorization” has the meaning given that term in ORS 743B.001.

[(f)] (g) “Program” means a particular type or level of service that is organizationally distinct within a facility.

[(g)] (h) “Provider” means:

(A) An individual who has met the credentialing requirement of a group health insurer, is otherwise eligible to receive reimbursement for coverage
under the policy and is a behavioral health professional or a medical professional licensed or certified in this state;

(B) A health care facility as defined in ORS 433.060;

(C) A residential facility as defined in ORS 430.010;

(D) A day or partial hospitalization program;

(E) An outpatient service as defined in ORS 430.010; or

(F) A provider organization certified by the Oregon Health Authority under subsection (7) of this section.

(i) "Utilization review" has the meaning given that term in ORS 743B.001.

(2) A group health insurance policy providing coverage for hospital or medical expenses, other than limited benefit coverage, shall provide coverage for expenses arising from the diagnosis of and treatment for chemical dependency, including alcoholism, and for mental or nervous conditions at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions. The following apply to coverage for chemical dependency and for mental or nervous conditions:

(a) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance. Deductibles and coinsurance for treatment in health care facilities or residential facilities may not be greater than those under the policy for expenses of hospitalization in the treatment of other medical conditions. Deductibles and coinsurance for outpatient treatment may not be greater than those under the policy for expenses of outpatient treatment of other medical conditions.

(b) The coverage may not be made subject to treatment limitations, limits on total payments for treatment, limits on duration of treatment or financial requirements unless similar limitations or requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses may be limited to treatment that is medically necessary as determined under the
policy for other medical conditions.

(c) The coverage must include:

(A) A behavioral health assessment;

(B) No less than the level of services determined to be medically neces-
sary in a behavioral health assessment of a patient or in a patient's care
plan:

(i) To treat the patient's behavioral health condition; and

(ii) For care following a behavioral health crisis, to transition the patient
to a lower level of care; and

(C) Coordinated care and case management as defined by the Department
of Consumer and Business Services by rule.

(d) A provider is eligible for reimbursement under this section if:

(A) The provider is approved or certified by the Oregon Health Authority;

(B) The provider is accredited for the particular level of care for which
reimbursement is being requested by the Joint Commission or the Commis-

(C) The patient is staying overnight at the facility and is involved in a
structured program at least eight hours per day, five days per week; or

(D) The provider is providing a covered benefit under the policy.

(e) If specified in the policy, outpatient coverage may include follow-up
in-home service or outpatient services. The policy may limit coverage for
in-home service to persons who are homebound under the care of a physician.

(f)(A) Subject to the patient or client confidentiality provisions of ORS
40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS
40.230 relating to psychologists, ORS 40.250 and 675.580 relating to licensed
clinical social workers and ORS 40.262 relating to licensed professional
counselors and licensed marriage and family therapists, a group health
insurer may provide for review for level of treatment of admissions and
continued stays for treatment in health facilities, residential facilities, day
or partial hospitalization programs and outpatient services by either group
health insurer staff or personnel under contract to the group health insurer,
or by a utilization review contractor, who shall have the authority to certify
for or deny level of payment.

(B) Review shall be made according to criteria made available to provid-
ers in advance upon request.

(C) Review shall be performed by or under the direction of a physician
licensed under ORS 677.100 to 677.228, a psychologist licensed by the Oregon
Board of Psychology, a clinical social worker licensed by the State Board
of Licensed Social Workers or a professional counselor or marriage and
family therapist licensed by the Oregon Board of Licensed Professional
Counselors and Therapists, in accordance with standards of the National
Committee for Quality Assurance or Medicare review standards of the Cen-
ters for Medicare and Medicaid Services.

(D) Review may involve prior approval, concurrent review of the contin-
uation of treatment, post-treatment review or any combination of these.
However, if prior approval is required, provision shall be made to allow for
payment of urgent or emergency admissions, subject to subsequent review.
If prior approval is not required, group health insurers shall permit provid-
ers, policyholders or persons acting on their behalf to make advance in-
quiries regarding the appropriateness of a particular admission to a
treatment program. Group health insurers shall provide a timely response to
such inquiries. Noncontracting providers must cooperate with these proce-
dures to the same extent as contracting providers to be eligible for re-
imbusement.

(g) Health maintenance organizations may limit the receipt of covered
services by enrollees to services provided by or upon referral by providers
contracting with the health maintenance organization. Health maintenance
organizations and health care service contractors may create substantive
plan benefit and reimbursement differentials at the same level as, and subject
to limitations no more restrictive than, those imposed on coverage or re-
imbusement of expenses arising out of other medical conditions and apply
them to contracting and noncontracting providers.
(3) This section does not prohibit a group health insurer from managing the provision of benefits through common methods, including but not limited to selectively contracted panels, health plan benefit differential designs, preadmission screening, prior authorization of services, utilization review or other mechanisms designed to limit eligible expenses to those described in subsection (2)(b) of this section.

(4) The Legislative Assembly finds that health care cost containment is necessary and intends to encourage health insurance plans designed to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization under criteria incorporated into the insurance, either directly or by reference.

(5) This section does not prevent a group health insurer from contracting with providers of health care services to furnish services to policyholders or certificate holders according to ORS 743B.460 or 750.005, subject to the following conditions:

(a) A group health insurer is not required to contract with all providers that are eligible for reimbursement under this section.

(b) An insurer or health care service contractor shall, subject to subsection (2) of this section, pay benefits toward the covered charges of noncontracting providers of services for the treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to subsection (2) of this section, have the right to use the services of a noncontracting provider of services for the treatment of chemical dependency or mental or nervous conditions, whether or not the services for chemical dependency or mental or nervous conditions are provided by contracting or noncontracting providers.

(6)(a) This section does not require coverage for:

(A) Educational or correctional services or sheltered living provided by a school or halfway house;

(B) A long-term residential mental health program that lasts longer than 45 days;
(C) Psychoanalysis or psychotherapy received as part of an educational
or training program, regardless of diagnosis or symptoms that may be pres-
ent;
(D) A court-ordered sex offender treatment program; or
(E) Support groups.
(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may
receive covered outpatient services under the terms of the insured’s policy
while the insured is living temporarily in a sheltered living situation.
(7) The Oregon Health Authority shall establish a process for the certi-
Fication of an organization described in subsection (1)(g)(F) of this section
that:
(a) Is not otherwise subject to licensing or certification by the authority;
and
(b) Does not contract with the authority, a subcontractor of the authority
or a community mental health program.
(8) The Oregon Health Authority shall adopt by rule standards for the
certification provided under subsection (7) of this section to ensure that a
certified provider organization offers a distinct and specialized program for
the treatment of mental or nervous conditions.
(9) The Oregon Health Authority may adopt by rule an application fee
or a certification fee, or both, to be imposed on any provider organization
that applies for certification under subsection (7) of this section. Any fees
collected shall be paid into the Oregon Health Authority Fund established
in ORS 413.101 and shall be used only for carrying out the provisions of
subsection (7) of this section.
(10) The intent of the Legislative Assembly in adopting this section is to
reserve benefits for different types of care to encourage cost effective care
and to ensure continuing access to levels of care most appropriate for the
insured’s condition and progress. This section does not prohibit an insurer
from requiring a provider organization certified by the Oregon Health Au-
thority under subsection (7) of this section to meet the insurer’s credential-
ing requirements as a condition of entering into a contract.

(11) The Director of the Department of Consumer and Business Services and the Oregon Health Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section that are considered necessary for the proper administration of this section.

SECTION 7. ORS 743A.264 is amended to read:

743A.264. (1) As used in this section:

(a) “Condition of public health importance” has the meaning given that term in ORS 431A.005.

(b) “Disease outbreak” has the meaning given that term in ORS 431A.005.

(c) “Enrollee” means an individual residing in this state who:

(A) Is enrolled in a health benefit plan; and

(B) The Public Health Director determines may be affected by a disease outbreak, epidemic or other condition of public health importance.

(d) “Epidemic” has the meaning given that term in ORS 431A.005.

(e) “Health benefit plan” has the meaning given that term in ORS 743B.005.

(f) “Insurer” means a person with a certificate of authority to transact insurance in this state.

(g) “Utilization review” has the meaning given that term in ORS 743B.001.

(2) If the director determines that there exists a disease outbreak, epidemic or other condition of public health importance in a geographic area of this state or statewide, an insurer shall, for enrollees in a health benefit plan offered by the insurer, cover the cost of necessary antitoxins, serums, vaccines, immunizing agents, antibiotics, antidotes and other pharmaceutical agents, medical supplies or other prophylactic measures approved by the United States Food and Drug Administration that the director deems necessary to prevent the spread of the disease, epidemic or other condition of public health importance.

(3) An insurer may not restrict coverage under subsection (2) of this sec-
tion by:
(a) Requiring that the health services be administered by an in-network provider;
(b) Imposing cost-sharing requirements that are greater than the cost-sharing requirements for similar covered services;
(c) Requiring prior authorization or other utilization review measures; or
(d) Limiting coverage in any manner that prevents an enrollee from accessing the necessary health services.

SECTION 8. ORS 743B.001 is amended to read:


(1) “Adverse benefit determination” means an insurer’s denial, reduction or termination of a health care item or service, or an insurer’s failure or refusal to provide or to make a payment in whole or in part for a health care item or service, that is based on the insurer’s:
(a) Denial of eligibility for or termination of enrollment in a health benefit plan;
(b) Rescission or cancellation of a policy or certificate;
(c) Imposition of a preexisting condition exclusion as defined in ORS 743B.005, source-of-injury exclusion, network exclusion, annual benefit limit or other limitation on otherwise covered items or services;
(d) Determination that a health care item or service is experimental, investigational or not medically necessary, effective or appropriate; [or]
(e) Determination that a course or plan of treatment that an enrollee is undergoing is an active course of treatment for purposes of continuity of care under ORS 743B.225; or
(f) **Denial, in whole or in part, of a request for prior authorization.**

(2) “Authorized representative” means an individual who by law or by the consent of a person may act on behalf of the person.

(3) “Credit card” has the meaning given that term in 15 U.S.C. 1602.

(4) “Electronic funds transfer” has the meaning given that term in ORS 293.525.

(5) “Enrollee” has the meaning given that term in ORS 743B.005.

(6) “Essential community provider” has the meaning given that term in rules adopted by the Department of Consumer and Business Services consistent with the description of the term in 42 U.S.C. 18031 and the rules adopted by the United States Department of Health and Human Services, the United States Department of the Treasury or the United States Department of Labor to carry out 42 U.S.C. 18031.

(7) “Grievance” means:

(a) A communication from an enrollee or an authorized representative of an enrollee expressing dissatisfaction with an adverse benefit determination, without specifically declining any right to appeal or review, that is:

   (A) In writing, for an internal appeal or an external review; or

   (B) In writing or orally, for an expedited response described in ORS 743B.250 (2)(d) or an expedited external review; or

(b) A written complaint submitted by an enrollee or an authorized representative of an enrollee regarding the:

   (A) Availability, delivery or quality of a health care service;

   (B) Claims payment, handling or reimbursement for health care services and, unless the enrollee has not submitted a request for an internal appeal, the complaint is not disputing an adverse benefit determination; or

   (C) Matters pertaining to the contractual relationship between an enrollee and an insurer.

(8) “Health benefit plan” has the meaning given that term in ORS 743B.005.

(9) “Independent practice association” means a corporation wholly owned
by providers, or whose membership consists entirely of providers, formed for the sole purpose of contracting with insurers for the provision of health care services to enrollees, or with employers for the provision of health care services to employees, or with a group, as described in ORS 731.098, to provide health care services to group members.

(10) “Insurer” includes a health care service contractor as defined in ORS 750.005.

(11) “Internal appeal” means a review by an insurer of an adverse benefit determination made by the insurer.

(12) “Managed health insurance” means any health benefit plan that:

(a) Requires an enrollee to use a specified network or networks of providers managed, owned, under contract with or employed by the insurer in order to receive benefits under the plan, except for emergency or other specified limited service; or

(b) In addition to the requirements of paragraph (a) of this subsection, offers a point-of-service provision that allows an enrollee to use providers outside of the specified network or networks at the option of the enrollee and receive a reduced level of benefits.

(13) “Medical services contract” means a contract between an insurer and an independent practice association, between an insurer and a provider, between an independent practice association and a provider or organization of providers, between medical or mental health clinics, and between a medical or mental health clinic and a provider to provide medical or mental health services. “Medical services contract” does not include a contract of employment or a contract creating legal entities and ownership thereof that are authorized under ORS chapter 58, 60 or 70, or other similar professional organizations permitted by statute.

(14)(a) “Preferred provider organization insurance” means any health benefit plan that:

(A) Specifies a preferred network of providers managed, owned or under contract with or employed by an insurer;
(B) Does not require an enrollee to use the preferred network of providers in order to receive benefits under the plan; and

(C) Creates financial incentives for an enrollee to use the preferred network of providers by providing an increased level of benefits.

(b) “Preferred provider organization insurance” does not mean a health benefit plan that has as its sole financial incentive a hold harmless provision under which providers in the preferred network agree to accept as payment in full the maximum allowable amounts that are specified in the medical services contracts.

(15) “Prior authorization” means a determination by an insurer upon request by a provider or an enrollee, prior to the provision of health care that is subject to utilization review, that the insurer will provide reimbursement for the health care requested. “Prior authorization” does not include referral approval for evaluation and management services between providers.

(16)(a) “Provider” means a person licensed, certified or otherwise authorized or permitted by laws of this state to administer medical or mental health services in the ordinary course of business or practice of a profession.

(b) With respect to the statutes governing the billing for or payment of claims, “provider” also includes an employee or other designee of the provider who has the responsibility for billing claims for reimbursement or receiving payments on claims.

(17) “Utilization review” means a set of formal techniques used by an insurer or delegated by the insurer designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy or efficiency of health care items, services, procedures or settings.

SECTION 9. ORS 743B.250 is amended to read:

743B.250. All insurers offering a health benefit plan in this state shall:

(1) Provide to all enrollees directly or in the case of a group policy to the employer or other policyholder for distribution to enrollees, to all applicants, and to prospective applicants upon request, the following information:
(a) The insurer’s written policy on the rights of enrollees, including the right:
  (A) To participate in decision making regarding the enrollee’s health care.
  (B) To be treated with respect and with recognition of the enrollee’s dignity and need for privacy.
  (C) To have grievances handled in accordance with this section.
  (D) To be provided with the information described in this section.
(b) An explanation of the procedures described in subsection (2) of this section for making coverage determinations and resolving grievances. The explanation must be culturally and linguistically appropriate, as prescribed by the department by rule, and must include:
  (A) The procedures for requesting an expedited response to an internal appeal under subsection (2)(d) of this section or for requesting an expedited external review of an adverse benefit determination;
  (B) A statement that if an insurer does not comply with the decision of an independent review organization under ORS 743B.256, the enrollee may sue the insurer under ORS 743B.258;
  (C) The procedure to obtain assistance available from the insurer, if any, and from the Department of Consumer and Business Services in filing grievances; and
  (D) A description of the process for filing a complaint with the department.
(c) A summary of benefits and an explanation of coverage in a form and manner prescribed by the department by rule.
(d) A summary of the insurer’s policies on prescription drugs, including:
  (A) Cost-sharing differentials;
  (B) Restrictions on coverage;
  (C) Prescription drug formularies;
  (D) Procedures by which a provider with prescribing authority may prescribe clinically appropriate drugs not included on the formulary;
  (E) Procedures for the coverage of clinically appropriate prescription
drugs not included on the formulary; and

(F) A summary of the criteria for determining whether a drug is experimental or investigational.

(e) A list of network providers and how the enrollee can obtain current information about the availability of providers and how to access and schedule services with providers, including clinic and hospital networks. The list must be available online and upon request in printed format.

(f) Notice of the enrollee’s right to select a primary care provider and specialty care providers.

(g) How to obtain referrals for specialty care in accordance with ORS 743B.227.

(h) Restrictions on services obtained outside of the insurer’s network or service area.

(i) The availability of continuity of care as required by ORS 743B.225.

(j) Procedures for accessing after-hours care and emergency services as required by ORS 743A.012.

(k) Cost-sharing requirements and other charges to enrollees.

(L) Procedures, if any, for changing providers.

(m) Procedures, if any, by which enrollees may participate in the development of the insurer’s corporate policies.

(n) A summary of how the insurer makes decisions regarding coverage and payment for treatment or services, including a general description of any prior authorization and utilization [control] review requirements that affect coverage or payment.

(o) Disclosure of any risk-sharing arrangement the insurer has with physicians or other providers.

(p) A summary of the insurer’s procedures for protecting the confidentiality of medical records and other enrollee information and the requirement under ORS 743B.555 that a carrier or third party administrator send communications containing protected health information only to the enrollee who is the subject of the protected health information.
(q) An explanation of assistance provided to non-English-speaking enrollees.

(r) Notice of the information available from the department that is filed by insurers as required under ORS 743B.200, 743B.202 and 743B.423.

(2) Establish procedures, in accordance with requirements adopted by the department, for making coverage determinations and resolving grievances that provide for all of the following:

(a) Timely notice of adverse benefit determinations.

(b) A method for recording all grievances, including the nature of the grievance and significant action taken.

(c) Written decisions.

(d) An expedited response to a request for an internal appeal that accommodates the clinical urgency of the situation.

(e) At least one but not more than two levels of internal appeal for group health benefit plans and one level of internal appeal for individual health benefit plans and for any denial of an exception to a prescription drug formulary. If an insurer provides:

(A) Two levels of internal appeal, a person who was involved in the consideration of the initial denial or the first level of internal appeal may not be involved in the second level of internal appeal; and

(B) No more than one level of internal appeal, a person who was involved in the consideration of the initial denial may not be involved in the internal appeal.

(f)(A) An external review that meets the requirements of ORS 743B.252, 743B.254 and 743B.255, after the enrollee has exhausted internal appeals or after the enrollee has been deemed to have exhausted internal appeals.

(B) An enrollee shall be deemed to have exhausted internal appeals if an insurer fails to strictly comply with this section and federal requirements for internal appeals.

(g) The opportunity for the enrollee to receive continued coverage of an approved and ongoing course of treatment under the health benefit plan...
pending the conclusion of the internal appeal process.

(h) The opportunity for the enrollee or any authorized representative chosen by the enrollee to:

(A) Submit for consideration by the insurer any written comments, documents, records and other materials relating to the adverse benefit determination; and

(B) Receive from the insurer, upon request and free of charge, reasonable access to and copies of all documents, records and other information relevant to the adverse benefit determination.

(3) Establish procedures for notifying affected enrollees of:

(a) A change in or termination of any benefit; and

(b)(A) The termination of a primary care delivery office or site; and

(B) Assistance available to enrollees in selecting a new primary care delivery office or site.

(4) Provide the information described in subsection (2) of this section and ORS 743B.254 at each level of internal appeal to an enrollee who is notified of an adverse benefit determination or to an enrollee who files a grievance.

(5) Upon the request of an enrollee, applicant or prospective applicant, provide:

(a) The insurer’s annual report on grievances and internal appeals submitted to the department under subsection (8) of this section.

(b) A description of the insurer’s efforts, if any, to monitor and improve the quality of health services.

(c) Information about the insurer’s procedures for credentialing network providers.

(6) Provide, upon the request of an enrollee, a written summary of information that the insurer may consider in its utilization review of a particular condition or disease, to the extent the insurer maintains such criteria. Nothing in this subsection requires an insurer to advise an enrollee how the insurer would cover or treat that particular enrollee’s disease or condition. Utilization review criteria that are proprietary shall be subject to oral dis-
(7) Maintain for a period of at least six years written records that document all grievances described in ORS 743B.001 (7)(a) and make the written records available for examination by the department or by an enrollee or authorized representative of an enrollee with respect to a grievance made by the enrollee. The written records must include but are not limited to the following:

(a) Notices and claims associated with each grievance.
(b) A general description of the reason for the grievance.
(c) The date the grievance was received by the insurer.
(d) The date of the internal appeal or the date of any internal appeal meeting held concerning the appeal.
(e) The result of the internal appeal at each level of appeal.
(f) The name of the covered person for whom the grievance was submitted.

(8) Provide an annual summary to the department of the insurer’s aggregate data regarding grievances, internal appeals and requests for external review in a format prescribed by the department to ensure consistent reporting on the number, nature and disposition of grievances, internal appeals and requests for external review.

(9) Allow the exercise of any rights described in this section by an authorized representative.

SECTION 10. ORS 746.230 is amended to read:

746.230. (1) An insurer or other person may not commit or perform any of the following unfair claim settlement practices:
(a) Misrepresenting facts or policy provisions in settling claims;
(b) Failing to acknowledge and act promptly upon communications relating to claims;
(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;
(d) Refusing to pay claims without conducting a reasonable investigation based on all available information;

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(e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;

(f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;

(g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;

(h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;

(i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;

(j) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made;

(k) Delaying investigation or payment of claims by requiring a claimant or the claimant’s physician, naturopathic physician, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;

(L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy; [or]

(m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim[.]; or

(n) Any of the practices described in section 2 of this 2019 Act.

(2) No insurer shall refuse, without just cause, to pay or settle claims arising under coverages provided by its policies with such frequency as to indicate a general business practice in this state, which general business practice is evidenced by:
(a) A substantial increase in the number of complaints against the insurer received by the Department of Consumer and Business Services;
(b) A substantial increase in the number of lawsuits filed against the insurer or its insureds by claimants; or
(c) Other relevant evidence.

**SECTION 11.** Section 2, chapter 771, Oregon Laws 2013, as amended by section 9, chapter 674, Oregon Laws 2015, is amended to read:

Sec. 2. (1) As used in this section and section 3a, chapter 771, Oregon Laws 2013:

(a)(A) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis of the relationship between environment and behavior, that is provided by:

(i) A licensed health care professional as defined in [section 1 of this 2015 Act] ORS 676.802;

(ii) A behavior analyst or assistant behavior analyst licensed under [section 3 of this 2015 Act] ORS 676.810; or

(iii) A behavior analysis interventionist registered under [section 4 of this 2015 Act] ORS 676.815 who receives ongoing training and supervision by a licensed behavior analyst, by a licensed assistant behavior analyst or by a licensed health care professional.

(B) “Applied behavior analysis” does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy and long-term counseling as treatment modalities.

(b) “Autism spectrum disorder” has the meaning given that term in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) published by the American Psychiatric Association.

(c) “Diagnosis” means medically necessary assessment, evaluation or testing.

(d) “Health benefit plan” has the meaning given that term in ORS
(e) “Medically necessary” means in accordance with the definition of medical necessity that is specified in the policy or certificate for the health benefit plan and that applies to all covered services under the plan.

(f) “Treatment for autism spectrum disorder” includes applied behavior analysis for up to 25 hours per week and any other mental health or medical services identified in the individualized treatment plan, as described in subsection (6) of this section.

(2) A health benefit plan shall provide coverage of:

(a) The screening for and diagnosis of autism spectrum disorder by a licensed neurologist, pediatric neurologist, developmental pediatrician, psychiatrist or psychologist, who has experience or training in the diagnosis of autism spectrum disorder; and

(b) Medically necessary treatment for autism spectrum disorder and the management of care, for an individual who begins treatment before nine years of age, subject to the requirements of this section.

(3) This section does not require coverage for:

(a) Services provided by a family or household member;

(b) Services that are custodial in nature or that constitute marital, family, educational or training services;

(c) Custodial or respite care, equine assisted therapy, creative arts therapy, wilderness or adventure camps, social counseling, telemedicine, music therapy, neurofeedback, chelation or hyperbaric chambers;

(d) Services provided under an individual education plan in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.;

(e) Services provided through community or social programs; or

(f) Services provided by the Department of Human Services or the Oregon Health Authority, other than employee benefit plans offered by the department and the authority.

(4) An insurer may not terminate coverage or refuse to issue or renew coverage for an individual solely because the individual has received a di-
agnosis of autism spectrum disorder or has received treatment for autism spectrum disorder.

(5) Coverage under this section may be subject to utilization controls that are reasonable in the context of individual determinations of medical necessity. An insurer may require:

(a) An autism spectrum disorder diagnosis by a professional described in subsection (2)(a) of this section if the original diagnosis was not made by a professional described in subsection (2)(a) of this section.

(b) Prior authorization for coverage of a maximum of 25 hours per week of applied behavior analysis recommended in an individualized treatment plan approved by a professional described in subsection (2)(a) of this section for an individual with autism spectrum disorder, as long as the insurer makes a prior authorization determination no later than 30 calendar days after receiving the request for prior authorization, notwithstanding ORS 743B.423.

(6) If an individual is receiving applied behavior analysis, an insurer may require submission of an individualized treatment plan, which shall include all elements necessary for the insurer to appropriately determine coverage under the health benefit plan. The individualized treatment plan must be based on evidence-based screening criteria. An insurer may require an updated individualized treatment plan, not more than once every six months, that includes observed progress as of the date the updated plan was prepared, for the purpose of performing utilization review and medical management. The insurer may require the individualized treatment plan to be approved by a professional described in subsection (2)(a) of this section, and to include the:

(a) Diagnosis;

(b) Proposed treatment by type;

(c) Frequency and anticipated duration of treatment;

(d) Anticipated outcomes stated as goals, including specific cognitive, social, communicative, self-care and behavioral goals that are clearly stated,
directly observed and continually measured and that address the characteristics of the autism spectrum disorder; and

(e) Signature of the treating provider.

(7)(a) Once coverage for applied behavior analysis has been approved, the coverage continues as long as:

(A) The individual continues to make progress toward the majority of the goals of the individualized treatment plan; and

(B) Applied behavior analysis is medically necessary.

(b) An insurer may require periodic review of an individualized treatment plan, as described in subsection (6) of this section, and modification of the individualized treatment plan if the review shows that the individual receiving the treatment is not making substantial clinical progress toward the goals of the individualized treatment plan.

(8) Coverage under this section may be subject to requirements and limitations no more restrictive than those imposed on coverage or reimbursement of expenses arising from the treatment of other medical conditions under the policy or certificate, including but not limited to:

(a) Requirements and limitations regarding in-network providers; and

(b) Provisions relating to deductibles, copayments and coinsurance.

(9) This section applies to coverage for up to 25 hours per week of applied behavior analysis for an individual if the coverage is first requested when the individual is under nine years of age. This section does not limit coverage for any services that are otherwise available to an individual under ORS 743A.168 or 743A.190, including but not limited to:

(a) Treatment for autism spectrum disorder other than applied behavior analysis or the services described in subsection (3) of this section;

(b) Applied behavior analysis for more than 25 hours per week; or

(c) Applied behavior analysis for an individual if the coverage is first requested when the individual is nine years of age or older.

(10) Coverage under this section includes treatment for autism spectrum disorder provided in the individual’s home or a licensed health care facility.
or, for treatment provided by a licensed health care professional as defined in [section 1 of this 2015 Act] ORS 676.802 or a behavior analyst or assistant behavior analyst licensed under [section 3 of this 2015 Act] ORS 676.810, in a setting approved by the health care professional, behavior analyst or assistant behavior analyst.

(11) An insurer that provides coverage of applied behavior analysis in accordance with a decision of an independent review organization that was made prior to January 1, 2016, shall continue to provide coverage, subject to modifications made in accordance with subsection (7) of this section.

(12) ORS 743A.001 does not apply to this section.

SECTION 12. ORS 743B.001, as amended by section 8 of this 2019 Act, is amended to read:


(1) “Adverse benefit determination” means an insurer’s denial, reduction or termination of a health care item or service, or an insurer’s failure or refusal to provide or to make a payment in whole or in part for a health care item or service, that is based on the insurer’s:

(a) Denial of eligibility for or termination of enrollment in a health benefit plan;

(b) Rescission or cancellation of a policy or certificate;

(c) Imposition of a preexisting condition exclusion as defined in ORS 743B.005, source-of-injury exclusion, network exclusion, annual benefit limit or other limitation on otherwise covered items or services;

(d) Determination that a health care item or service is experimental, investigational or not medically necessary, effective or appropriate;

(e) Determination that a course or plan of treatment that an enrollee is
undergoing is an active course of treatment for purposes of continuity of care under ORS 743B.225; or

(f) Denial, in whole or in part, of a request for prior authorization.

(2) “Authorized representative” means an individual who by law or by the consent of a person may act on behalf of the person.

(3) “Credit card” has the meaning given that term in 15 U.S.C. 1602.

(4) “Electronic funds transfer” has the meaning given that term in ORS 293.525.

(5) “Enrollee” has the meaning given that term in ORS 743B.005.

(6) “Essential community provider” has the meaning given that term in rules adopted by the Department of Consumer and Business Services consistent with the description of the term in 42 U.S.C. 18031 and the rules adopted by the United States Department of Health and Human Services, the United States Department of the Treasury or the United States Department of Labor to carry out 42 U.S.C. 18031.

(7) “Grievance” means:

(a) A communication from an enrollee or an authorized representative of an enrollee expressing dissatisfaction with an adverse benefit determination, without specifically declining any right to appeal or review, that is:

(A) In writing, for an internal appeal or an external review; or

(B) In writing or orally, for an expedited response described in ORS 743B.250 (2)(d) or an expedited external review; or

(b) A written complaint submitted by an enrollee or an authorized representative of an enrollee regarding the:

(A) Availability, delivery or quality of a health care service;

(B) Claims payment, handling or reimbursement for health care services and, unless the enrollee has not submitted a request for an internal appeal, the complaint is not disputing an adverse benefit determination; or

(C) Matters pertaining to the contractual relationship between an enrollee and an insurer.

(8) “Health benefit plan” has the meaning given that term in ORS
743B.005.

(9) “Independent practice association” means a corporation wholly owned by providers, or whose membership consists entirely of providers, formed for the sole purpose of contracting with insurers for the provision of health care services to enrollees, or with employers for the provision of health care services to employees, or with a group, as described in ORS 731.098, to provide health care services to group members.

(10) “Insurer” includes a health care service contractor as defined in ORS 750.005.

(11) “Internal appeal” means a review by an insurer of an adverse benefit determination made by the insurer.

(12) “Managed health insurance” means any health benefit plan that:

(a) Requires an enrollee to use a specified network or networks of providers managed, owned, under contract with or employed by the insurer in order to receive benefits under the plan, except for emergency or other specified limited service; or

(b) In addition to the requirements of paragraph (a) of this subsection, offers a point-of-service provision that allows an enrollee to use providers outside of the specified network or networks at the option of the enrollee and receive a reduced level of benefits.

(13) “Medical services contract” means a contract between an insurer and an independent practice association, between an insurer and a provider, between an independent practice association and a provider or organization of providers, between medical or mental health clinics, and between a medical or mental health clinic and a provider to provide medical or mental health services. “Medical services contract” does not include a contract of employment or a contract creating legal entities and ownership thereof that are authorized under ORS chapter 58, 60 or 70, or other similar professional organizations permitted by statute.

(14)(a) “Preferred provider organization insurance” means any health benefit plan that:
(A) Specifies a preferred network of providers managed, owned or under contract with or employed by an insurer;
(B) Does not require an enrollee to use the preferred network of providers in order to receive benefits under the plan; and
(C) Creates financial incentives for an enrollee to use the preferred network of providers by providing an increased level of benefits.

(b) “Preferred provider organization insurance” does not mean a health benefit plan that has as its sole financial incentive a hold harmless provision under which providers in the preferred network agree to accept as payment in full the maximum allowable amounts that are specified in the medical services contracts.

(15) “Prior authorization” means a determination by an insurer upon request by a provider or an enrollee, prior to the provision of health care that is subject to utilization review, that the insurer will provide reimbursement for the health care requested. “Prior authorization” does not include referral approval for evaluation and management services between providers.

(16)(a) “Provider” means a person licensed, certified or otherwise authorized or permitted by laws of this state to administer medical or mental health services in the ordinary course of business or practice of a profession.
(b) With respect to the statutes governing the billing for or payment of claims, “provider” also includes an employee or other designee of the provider who has the responsibility for billing claims for reimbursement or receiving payments on claims.

(17) “Utilization review” means a set of formal techniques used by an insurer or delegated by the insurer designed to monitor the use of or evaluate the medical necessity, appropriateness, efficacy or efficiency of health care items, services, procedures or settings.

SECTION 13. Section 2 of this 2019 Act and the amendments to ORS 743B.422, 743B.423 and 746.230 and section 2, chapter 771, Oregon Laws 2013, by sections 3, 4, 10 and 11 of this 2019 Act apply to policies or certificates of insurance and medical services contracts issued, re-
newed, entered into or extended on or after the effective date of this 2019 Act.

SUMMARY

Allows Department of Consumer and Business Services to restrict or suspend operations of endowment care cemetery for specified reasons. Authorizes specified parties to petition for appointment of receiver for endowment care cemetery for specified reasons. Authorizes specified parties to petition circuit court to require cemetery authority to expend endowment care funds. Authorizes department, in collaboration with State Mortuary and Cemetery Board, to adopt rules related to endowment care cemeteries. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to endowment care cemeteries; creating new provisions; amending ORS 97.810, 97.825 and 97.928; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2019 Act are added to and made a part of ORS 97.810 to 97.920.

SECTION 2. (1) The Department of Consumer and Business Services may, if a cemetery authority responsible for an endowment care cemetery violates a provision of ORS 97.810 to 97.920 with respect to the endowment care cemetery:

(a) Issue an emergency order to suspend or restrict the operations of an endowment care cemetery; or

(b) Take other action deemed necessary by the Director of the Department of Consumer and Business Services.

(2) After taking an action described in subsection (1) of this section, the director shall promptly provide opportunity for a hearing pursuant
to ORS chapter 183.

(3) An emergency order is:
(a) Effective upon issuance;
(b) Reviewable as provided in ORS 183.480; and
(c) Enforceable in the courts of this state.

SECTION 3. (1) The following may petition the circuit courts of this state for an appointment of receiver for an endowment care cemetery:
(a) The Department of Consumer and Business Services;
(b) The district attorney of the county where the endowment care cemetery is located; or
(c) A local government with jurisdiction over the county or municipality where the endowment care cemetery is located.

(2) If a court determines that a receivership is necessary or advisable, the court shall appoint a receiver:
(a) To ensure the orderly and proper conduct of an endowment care cemetery’s professional business and affairs during or after an administrative proceeding;
(b) To protect the public’s interest and rights in the business, premises or activities of the endowment care cemetery;
(c) Upon a showing of serious and repeated violations of ORS 97.810 to 97.920 demonstrating an inability or unwillingness to comply with the provisions of ORS 97.810 to 97.920;
(d) To prevent loss, wasting, dissipation, theft or conversion of assets that should be marshaled and held available for the honoring of obligations under ORS 97.810 to 97.920; or
(e) When the court receives proof of other grounds that the court deems good and sufficient for instituting receivership action concerning the endowment care cemetery.

(3)(a) A receivership under this section may be temporary or for the winding up and dissolution of a business, as the petitioner may request and as the court determines to be necessary or advisable in the cir-
cumstances.

(b) Venue of receivership proceedings shall be in the county where the endowment care cemetery is located. The receiver shall be the petitioner or a person nominated by the petitioner and approved by the court.

SECTION 4. The Department of Consumer and Business Services, in collaboration with the State Mortuary and Cemetery Board, shall adopt rules relating to:

(1) Minimum standards of care for the maintenance and operation of endowment care cemeteries; and

(2) The ability of the public to access the premises of endowment care cemeteries.

SECTION 5. A person may not, in connection with operating an endowment care cemetery:

(1) Employ any device, scheme or artifice to defraud;

(2) Knowingly make any untrue statement of a material fact or omit stating a material fact necessary in order to make the statements made, in light of the circumstances under which the statements are made, not misleading;

(3) Engage in an act, practice or course of business that operates or would operate as a fraud or deceit upon any person; or

(4) Make or file, or cause to be made or filed, to or with the Director of the Department of Consumer and Business Services, a statement, report or document that is known to be false in any material respect or matter.

SECTION 6. ORS 97.810 is amended to read:

ORS 97.810. (1) As used in [this section] ORS 97.810 to 97.920:

(a) “Endowment care cemetery” means a cemetery that maintains an endowment care fund placed in an irrevocable trust fund.

(b) “Grave liner” means a burial receptacle designed to be installed in a grave, as defined in ORS 97.010, to assist in preventing the ground from
collapsing.

(2) An endowment care cemetery shall deposit with the trustee or custodian of its endowment care fund the following amounts received from the sale of plots, niches, crypts or private mausoleums:

(a) At least 15 percent of the gross sales price with a minimum of $5 for each grave sold without a grave liner installed at the time of sale or, when the gross sales price is paid in installments, at least 15 percent of each installment until at least 15 percent of the gross sales price has been deposited, with a minimum of $5 for each grave sold without a grave liner installed at the time of sale.

(b) At least nine percent of the gross sales price for each grave sold with a grave liner installed at the time of sale or, when the gross sales price is paid in installments, at least nine percent of each installment until at least nine percent of the gross sales price has been deposited.

(c) At least five percent of the gross sales price for each niche or, when the gross sales price is paid in installments, at least five percent of each installment until at least five percent of the gross sales price has been deposited.

(d) At least five percent of the gross sales price for each crypt or, when the gross sales price is paid in installments, at least five percent of each installment until at least five percent of the gross sales price has been deposited.

(e) At least five percent of the gross sales price for each private mausoleum or, when the gross sales price is paid in installments, at least five percent of each installment until at least five percent of the gross sales price has been deposited.

(3) The cemetery authority shall, within 30 days from the receipt of a payment, deposit with the trustee or custodian of its endowment care fund any payment received by the cemetery authority that is:

(a) Required by subsection (2) of this section to be paid into the fund; or

(b) A payment for special care, gifts, grants, contributions, devises or be-
quests made with respect to the separate or special care of a particular plot, grave, niche, crypt, mausoleum, monument or marker or that of a particular family.

(4) Within 75 days of the end of its fiscal year, each endowment care cemetery, except one owned by a city or a county, shall file with the Director of the Department of Consumer and Business Services a statement containing the following information pertaining to the endowment care fund:

(a) The total amount invested in bonds, securities, mortgages and other investments;
(b) The total amount of cash on hand not invested at the close of the previous calendar or fiscal year;
(c) The income earned by investments in the preceding calendar or fiscal year;
(d) The amounts of such income expended for maintenance in the preceding calendar or fiscal year;
(e) The amount paid into the fund in the preceding calendar or fiscal year; and
(f) Such other items as the director may from time to time require to show accurately the complete financial condition of the trust on the date of the statement.

(5) All of the information appearing on the statement must be verified by an owner or officer of the cemetery authority, and the cemetery authority shall maintain a copy of the statement in the business office of the cemetery authority.

(6) The director may require, as often as the director deems necessary, the cemetery authority to make under oath a detailed report of the condition and assets of any cemetery endowment care fund.

(7) At the time of the filing of the statements of its endowment care fund each cemetery authority shall pay to the director an annual fee as follows:
(a) Up to 100 interments per year, $40.
(b) Over 100 interments per year, $100.
(8) All fees received by the director under this section shall be imme-
diately turned over to the State Treasurer who shall deposit the moneys in
the Consumer and Business Services Fund created under ORS 705.145.

(9) A cemetery may not operate as an endowment care, permanent main-
tenance or free care cemetery until the provisions of this section are com-
plied with.

(10) The head of all contracts and certificates of ownership or deeds re-
ferring to plots in an endowment care cemetery must contain the following
statement: “This cemetery is an endowment care cemetery,” in at least
10-point black type.

(11) All contracts and certificates of ownership or deeds referring to plots
in an endowment care cemetery must contain the following statement:
“Endowment care means the general care and maintenance of all developed
portions of the cemetery and memorials erected thereon.”

(12) A cemetery that otherwise complies with this section may be desig-
nated an endowment care cemetery even though it contains a small area that
may be sold without endowed care, if it is separately set off from the re-
mainder of the cemetery. The head of all contracts and certificates of own-
ership or deeds referring to plots in this area must contain the phrase
“nonendowed care” in at least 10-point black type.

(13) A nonendowed care cemetery is a cemetery that does not deposit in
an endowment care fund the minimum amounts specified in subsection (2)
of this section.

(14) A cemetery authority may not in any way advertise or represent that
it operates wholly or partially as an endowment care cemetery, or otherwise
advertise or represent that it provides general care or maintenance of all or
portions of the cemetery or memorials erected thereon, unless the provisions
of this section are complied with.

SECTION 7. ORS 97.825 is amended to read:

97.825. (1)(a) If the cemetery authority fails to remit to the trustee or
trustees, in accordance with the law, the funds herein provided for
endowment and special care, or fails to expend the net income from the funds
and generally care for and maintain any portion of a cemetery entitled to
endowment care, [any three lot owners whose lots are entitled to endowment
care, or any one lot owner whose lot is entitled to special care, or the next of
kin, heirs at law or personal representatives of such lot owners, shall have the
right, or the district attorney of any county wherein is situated such lots, shall
have the power, by suit for mandatory injunction or for appointment of a re-
ceiver, to sue for, to take charge of, and to expend such net income. The suit
may be filed in the circuit court of the county in which said cemetery is lo-
cated, to compel the expenditure either by the cemetery authority or by any
receiver so appointed by the court, of the net income from such endowment care
fund for the purposes set out in ORS 97.010 to 97.040, 97.110 to 97.450, 97.510
to 97.730, 97.810 to 97.920 and 97.990.] any of the following may bring an
action for a mandatory injunction or for an appointment of a receiver
to sue for, take charge of and expend the net income:

(A) Any three lot owners, or a lot owner’s next of kin, heir or per-
sonal representative whose lots are entitled to endowment care;

(B) Any one lot owner, or the lot owner’s next of kin, heir or per-
sonal representative, whose lot is entitled to special care;

(C) The district attorney of the county where a lot described in this
subsection is located; or

(D) A local government with jurisdiction over the county or
municipality where a lot described in this subsection is located.

(b) The suit may be filed in the circuit court of the county where
the cemetery is located in order to compel the cemetery authority or
the appointed receiver to make the expenditure of the net income from
the endowment care fund for the purposes set out in ORS 97.010 to
97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920 and 97.990.

(2) When the Director of the Department of Consumer and Business Ser-
vices has reason to believe that a cemetery endowment care fund does not
conform to the requirement of law, or when the director has reason to be-
lieve that any cemetery is operating in violation of ORS 97.810 or 97.820, or when the director has sent an endowment care cemetery a notice of delinquency to make any report to the director required by ORS 97.810, the director shall, as soon thereafter as reasonable, give notice of the foregoing to the trustee or trustees of the cemetery endowment care fund, the cemetery authority, the Attorney General of Oregon and the State Mortuary and Cemetery Board.

(3) Within 120 days after the receipt of such notice, the Attorney General shall institute suit in the circuit court of any county of this state in which such cemetery is located, for a mandatory injunction against further sales of graves, plots, crypts, niches, burial vaults, markers or other cemetery merchandise by such cemetery or for the appointment of a receiver to take charge of the cemetery, unless the Attorney General shall prior to that time be notified by the director that such failure to conform to the requirements of the law or to report has been corrected.

(4) The Attorney General may delay instituting any suit brought under subsection (3) of this section for no more than an additional 30 days if, in the discretion of the Attorney General after consulting with the director, it appears to the Attorney General:

(a) That the failure to conform to the requirements of the law or to report will be corrected; and

(b) That no harm to the public will occur during the additional 30 days.

(5) If a trustee fails to perform the duties of the trustee under ORS 97.810 to 97.920, the trustee shall be liable for any damage resulting from that failure to any lot owners or the next of kin, heirs at law or personal representatives of such lot owners.

(6) The court may award reasonable attorney fees, costs and disbursements to the prevailing party in an action under this section.

SECTION 8. ORS 97.928 is amended to read:

97.928. A person may not, in connection with performing certified provider activities, [operating an endowment care cemetery], providing services as a
master trustee or providing related services:

(1) Employ any device, scheme or artifice to defraud;

(2) Knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which the statements are made, not misleading;

(3) Engage in any act, practice or course of business that operates or would operate as a fraud or deceit upon any person; or

(4) Make or file, or cause to be made or filed, to or with the Director of the Department of Consumer and Business Services any statement, report or document that is known to be false in any material respect or matter.

SECTION 9. (1) Sections 2 to 5 of this 2019 Act and the amendments to ORS 97.810, 97.825 and 97.928 by sections 6 to 8 of this 2019 Act become operative on January 1, 2020.

(2) The Department of Consumer and Business Services and the State Mortuary and Cemetery Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the department and the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department and the board by sections 2 to 5 of this 2019 Act and the amendments to ORS 97.810, 97.825 and 97.928 by sections 6 to 8 of this 2019 Act.

SECTION 10. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Prohibits title loan lender and payday loan lender from making loan to consumer until seven days after consumer has fully repaid outstanding title loan or payday loan.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to requiring consumers to repay certain outstanding consumer loans before lenders make new consumer loans; creating new provisions; amending ORS 725A.060, 725A.062 and 725A.064; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 725A.060 is amended to read:

725A.060. (1) A licensee or a person required under ORS 725A.020 to obtain a license may not:

(a) Take from a consumer:

(A) A power of attorney, except a power of attorney to transfer ownership of a motor vehicle at the time the licensee or the person makes a loan secured by a motor vehicle.

(B) A note or promise to pay that does not accurately disclose the actual amount or the term of the loan, the rate of interest charged and the schedule of payments for the loan.

(C) An instrument in which blank spaces remain to be filled in after execution.
(D) An assignment of earnings as payment or as security for a loan. An assignment that violates this subparagraph is unenforceable by the assignee and revocable by the assignor. For purposes of this subparagraph, if the licensee or the person pays money to or on behalf of a consumer in return for a right or claim to all or a portion of the consumer’s unpaid earnings, the licensee or the person has made a loan to the consumer that is secured by an assignment of earnings. This subparagraph does not preclude an employee from authorizing deductions from the employee’s earnings if the authorization is revocable.

(b) Conduct business where liquor or lottery tickets are sold or where gambling devices are located.

(c) Charge a consumer:

(A) More than the actual amount that the vendor or service provider charges the licensee or the person for access to or use of the system described in ORS 725A.090; or

(B) More than one fee per loan transaction for dishonored checks or insufficient funds, regardless of how many checks or debit agreements the licensee or the person obtains from the consumer for the transaction. The fee may not exceed $20.

(d) Collect a fee for a dishonored check under ORS 30.701 or seek or recover statutory damages or attorney fees from a consumer for a dishonored check under ORS 30.701. The licensee or the person may recover from the consumer a fee that an unaffiliated financial institution charges to the licensee or the person for each dishonored check. For a dishonored check or insufficient funds, the fees described in this subsection are the only remedy the licensee or the person may pursue and the only fees the licensee or the person may charge.

(e) Make a loan to a consumer who has not fully repaid an outstanding payday loan or title loan. This paragraph does not prohibit a licensee or person from renewing an existing payday loan or title loan as provided in ORS 725A.010 to 725A.092 and 725A.090.
(2) The provisions of ORS 725A.010 to 725A.092 and 725A.990 do not prevent a licensee or a person required under ORS 725A.020 to obtain a license from recovering amounts associated with collecting a defaulted loan that are authorized by statute or awarded by a court of law.

SECTION 2. ORS 725A.062 is amended to read:

725A.062. A title loan lender may not:

(1) Make or renew a title loan at a rate of interest that exceeds 36 percent per annum, excluding a one-time origination fee that the title loan lender may charge for the loan.

(2) Charge during the term of a title loan, including all renewals of the loan, more than one origination fee of $10 per $100 of the loan amount or $30, whichever is less.

(3) Make or renew a title loan for a term of less than 31 days.

(4) Make or renew a title loan to a consumer without forming a good faith belief that the consumer has the ability to repay the title loan. In forming a good faith belief, the title loan lender shall consider factors that the Director of the Department of Consumer and Business Services specifies by rule. A title loan lender complies with this subsection if the title loan lender meets the conditions the director specifies.

(5) Charge a consumer a fee or interest other than a fee or interest described in subsection (1) or (2) of this section or in ORS 725A.060 (1)(c) or (d).

(6) Include in a title loan contract:

(a) A hold-harmless clause;

(b) A confession of judgment or other waiver of the right to notice and the opportunity to be heard in an action;

(c) A provision in which the consumer agrees not to assert against the lender or a holder in due course a claim or defense arising out of the contract;

(d) An executory waiver or a limitation of exemption from attachment, execution or other process on real or personal property the consumer holds,
owns or is due, unless the waiver or limitation applies only to property that
is subject to a security interest executed in connection with the loan; or

(e) A clause that permits interest to continue after the consumer’s motor
vehicle, recreational vehicle, boat or mobile home has been repossessed.

(7) Require or accept from a consumer a set of keys to the motor vehicle,
recreational vehicle, boat or mobile home the title to which secures the title
loan.

(8) Make more than one outstanding title loan that is secured by one title.

(9) Renew an existing title loan that is secured by one title more than two
times after the loan is first made.

(10) Make a new title loan to a consumer within seven days [of] after the
date on which the consumer fully repays a previous title loan [expires].

SECTION 3. ORS 725A.064 is amended to read:

725A.064. A payday loan lender may not:

(1) Make or renew a payday loan at a rate of interest that exceeds 36
percent per annum, excluding a one-time origination fee that the payday
loan lender may charge for a new the loan.

(2) Charge during the term of a new payday loan, including all renewals
of the loan, more than one origination fee of $10 per $100 of the loan amount
or $30, whichever is less.

(3) Make or renew a payday loan for a term of less than 31 days.

(4) Charge a consumer a fee or interest other than a fee or interest de-
scribed in subsection (1) or (2) of this section or in ORS 725A.060 (1)(c) or
(d).

(5) Include in a payday loan contract:

(a) A hold-harmless clause;

(b) A confession of judgment or other waiver of the right to notice and
the opportunity to be heard in an action;

(c) A provision in which the consumer agrees not to assert against the
lender or a holder in due course a claim or defense arising out of the con-
tract; or
(d) An executory waiver or a limitation of exemption from attachment, execution or other process on real or personal property the consumer holds, owns or is due, unless the waiver or limitation applies only to property that is subject to a security interest executed in connection with the loan.

(6) Renew an existing payday loan more than two times.

(7) Make a new payday loan to a consumer within seven days [of] after the date on which the consumer fully repays a previous payday loan [expires].

SECTION 4. The amendments to ORS 725A.060, 725A.062 and 725A.064 by sections 1 to 3 of this 2019 Act apply to loan contracts, including renewals, that a licensee, or person required under ORS 725A.020 to obtain a license, executes on or after the operative date specified in section 5 of this 2019 Act.

SECTION 5. (1) The amendments to ORS 725A.060, 725A.062 and 725A.064 by sections 1 to 3 of this 2019 Act become operative on January 1, 2020.

(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by the amendments to ORS 725A.060, 725A.062 and 725A.064 by sections 1 to 3 of this 2019 Act.

SECTION 6. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Changes punishment for unlawful air pollution in the second degree from specific fine violation to Class A misdemeanor.

Allows assessment of civil penalties for violations of motor vehicle emission standards other than violation of requirement that owner or lessee obtain motor vehicle pollution control system certificate of compliance.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to violations of air quality laws; creating new provisions; amending ORS 468.140 and 468.936; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468.936 is amended to read:

468.936. (1) A person commits the crime of unlawful air pollution in the second degree if the person knowingly violates any applicable requirement of ORS chapter 468A or a permit, rule or order adopted or issued under ORS chapter 468A.

(2) Subject to ORS 153.022, unlawful air pollution in the second degree is a [specific fine violation] Class A misdemeanor, punishable by a fine of not more than $25,000.

SECTION 2. ORS 468.140 is amended to read:

468.140. (1) In addition to any other penalty provided by law, any person who violates any of the following shall incur a civil penalty for each day of violation in the amount prescribed by the schedule adopted under ORS 468.130:

(a) The terms or conditions of any permit required or authorized by law
and issued by the Department of Environmental Quality or a regional air
quality control authority.

(b) Any provision of ORS 164.785, 448.305, 454.010 to 454.040, 454.205 to
454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and ORS
chapter 467 and ORS chapters 468, 468A and 468B.

(c) Any rule or standard or order of the Environmental Quality Commis-
sion adopted or issued pursuant to ORS 448.305, 454.010 to 454.040, 454.205
to 454.255, 454.505 to 454.535, 454.605 to 454.755 and 783.625 to 783.640 and
ORS chapter 467 and ORS chapters 468, 468A and 468B.

(d) Any term or condition of a variance granted by the commission or
department pursuant to ORS 467.060.

(e) Any rule or standard or order of a regional authority adopted or is-
issued under authority of ORS 468A.135.

(f) The financial assurance requirement under ORS 468B.390 and 468B.485
or any rule related to the financial assurance requirement under ORS
468B.390.

(2) Each day of violation under subsection (1) of this section constitutes
a separate offense.

(3)(a) In addition to any other penalty provided by law, any person who
intentionally or negligently causes or permits the discharge of oil or haz-
ardous material into the waters of the state or intentionally or negligently
fails to clean up a spill or release of oil or hazardous material into the wa-
ters of the state as required by ORS 466.645 shall incur a civil penalty not
to exceed the amount of $100,000 for each violation.

(b) In addition to any other penalty provided by law, the following per-
sons shall incur a civil penalty not to exceed the amount of $25,000 for each
day of violation:

(A) Any person who violates the terms or conditions of a permit author-
izing waste discharge into the air or waters of the state.

(B) Any person who violates any law, rule, order or standard in ORS
448.305, 454.010 to 454.040, 454.205 to 454.255, 454.505 to 454.535, 454.605 to
454.755 and 783.625 to 783.640 and ORS chapters 468, 468A and 468B relating
to air or water pollution.

(C) Any person who violates the provisions of a rule adopted or an order
issued under ORS 459A.590.

(4) In addition to any other penalty provided by law, any person who vi-
olates the provisions of ORS 468B.130 shall incur a civil penalty not to ex-
ceed the amount of $1,000 for each day of violation.

[(5) Subsection (1)(c) and (e) of this section does not apply to violations of
motor vehicle emission standards which are not violations of standards for
control of noise emissions.]

(5) Notwithstanding subsection (1)(c) and (e) of this section, the
owner or lessee of a motor vehicle may not incur a civil penalty for a
violation of the requirement that the owner or lessee obtain a motor
vehicle pollution control system certificate of compliance issued under
ORS 468A.380.

(6) Notwithstanding the limits of ORS 468.130 (1) and in addition to any
other penalty provided by law, any person who intentionally or negligently
causes or permits open field burning contrary to the provisions of ORS
468A.555 to 468A.620 and 468A.992, 476.380 and 478.960 shall be assessed by
the department a civil penalty of at least $20 but not more than $40 for each
acre so burned. Any amounts collected by the department pursuant to this
subsection shall be deposited with the State Treasurer to the credit of the
General Fund and shall be available for general governmental expense. As
used in this subsection, “open field burning” does not include propane flam-
ing of mint stubble.

SECTION 3. The amendments to ORS 468.936 by section 1 of this
2019 Act apply to conduct occurring on or after the effective date of
this 2019 Act.

SECTION 4. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.
SUMMARY

Extends authorized uses of moneys received by state pursuant to Volkswagen Environmental Mitigation Trust Agreement and deposited in Clean Diesel Engine Fund.

A BILL FOR AN ACT

Relating to environmental mitigation trust agreement moneys; amending ORS 468A.795 and 468A.805.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468A.795 is amended to read:

468A.795. As used in ORS 468A.795 to 468A.807:


2. “Best available exhaust control technology” means the most effective exhaust controls to reduce diesel particulate that rely on passively regenerated diesel particulate control technology supported in a vehicle's normal duty cycle.

3. “Combined weight” has the meaning given that term in ORS 825.005.

4. “Cost-effectiveness threshold” means the cost, in dollars, per ton of diesel particulate matter reduced, as established by rule of the Environmental Quality Commission.


6. “Environmental Mitigation Trust Agreement” means the fully executed Environmental Mitigation Trust Agreement for State Beneficiaries effective October 2, 2017, and issued pursuant to Paragraph 17 of [re-
quired by] the Volkswagen “Clean Diesel” Marketing, Sales Practices and
Products Liability Litigation partial consent decree dated October 25, 2016.

(7) “Equivalent equipment” means a piece of equipment that performs the
same function and has the equivalent horsepower to a piece of equipment
subject to a replacement.

(8) “Equivalent motor vehicle” means a motor vehicle that performs the
same function and is in the same weight class as a motor vehicle subject to
a replacement.

(9) “Heavy-duty truck” means a motor vehicle or combination of vehicles
operated as a unit that has a combined weight that is greater than 26,000
pounds.

(10) “Incremental cost” means the cost of a qualifying repower or retrofit
less a baseline cost that would otherwise be incurred in the normal course
of business.

(11) “Medium-duty truck” means a motor vehicle or combination of vehi-
cles operated as a unit that has a combined weight that is greater than
14,000 pounds but less than or equal to 26,000 pounds.

(12) “Motor vehicle” has the meaning given that term in ORS 825.005.

(13) “Nonroad diesel engine” means a diesel engine of 25 horsepower or
more that is not designed primarily to propel a motor vehicle on public
highways.

(14) “Oregon diesel engine” means an engine at least 50 percent of the
use of which, as measured by miles driven or hours operated, will occur in
Oregon for the three years following the repowering or retrofitting of the
engine.

(15) “Oregon diesel truck engine” means a diesel engine in a truck at
least 50 percent of the use of which, as measured by miles driven or hours
operated, has occurred in Oregon for the two years preceding the scrapping
of the engine.

(16) “Public highway” has the meaning given that term in ORS 825.005.

(17)(a) “Replacement” means:
(A) To scrap a motor vehicle powered by a diesel engine and replace the
motor vehicle with an equivalent motor vehicle; or
(B) To scrap a piece of equipment powered by a nonroad diesel engine and
replace the equipment with equivalent equipment.
(b) “Replacement” does not mean ordinary maintenance, repair or re-
placement of a diesel engine.
(18) “Repower” means to scrap an old diesel engine and substitute it with
a new engine, a used engine or a remanufactured engine, or with electric
motors, drives or fuel cells, with a minimum useful life of seven years.
(19) “Retrofit” means to equip a diesel engine with new emissions-
reducing parts or technology after the manufacture of the original engine.
A retrofit must use the greatest degree of emissions reduction available for
the particular application of the equipment retrofitted that meets the cost-
effectiveness threshold.
(20) “Scrap” means to destroy, render inoperable and recycle.
(21) “Truck” means a motor vehicle or combination of vehicles operated
as a unit that has a combined weight that is greater than 14,000 pounds.

SECTION 2. ORS 468A.805 is amended to read:
468A.805. (1) Subject to and consistent with ORS 468A.803 (8) and with
the terms of the Environmental Mitigation Trust Agreement, any moneys
received by the State of Oregon pursuant to the agreement that are deposited
in the Clean Diesel Engine Fund under ORS 468A.801 must [be used by the
Department of Environmental Quality to award grants for the purpose of re-
ducing nitrogen oxides emissions from diesel engines.]
[(2)(a) To the extent authorized by the agreement, the department shall al-
locate moneys awarded pursuant to subsection (1) of this section first to] be
expended by the Department of Environmental Quality as follows:
(a) The department shall award grants to owners and operators of
school buses to reduce emissions from at least 450 school buses powered by
diesel engines operating in this state.
(b) As provided for in Appendix D-2 to the Environmental Mitig-
gation Trust Agreement, the department may use up to 15 percent of
the total moneys received by the State of Oregon as the state’s allo-
cation of trust funds on the costs necessary for, and directly connected
to, the purchase, installation and maintenance of light-duty electric
vehicle supply equipment.
(c)(A) Moneys not expended under paragraphs (a) and (b) of this
subsection must be:
   (i) Awarded as grants for the purpose of reducing nitrogen oxides
emissions from diesel engines; or
   (ii) Utilized by the department as the State of Oregon’s voluntary
matching funds under the Diesel Emissions Reduction Act Program in
the Energy Policy Act of 2005, 42 U.S.C. 16133, and for the purpose of
awarding grants for reducing diesel particulate matter emissions from
diesel engines.
   (B) The department shall develop a competitive grant program for
awarding grants under this paragraph. The competitive grant program
shall apply the preferences set forth in subsection (3) of this section.

[(b)] (2)(a) In awarding grants under [this subsection] subsection (1)(a)
of this section, the department shall begin by awarding grants to owners
and operators of school buses powered by diesel engines that are of the me-
dian model year of school buses powered by diesel engines operating in this
state, and shall proceed to award grants for school buses powered by diesel
engines through the adjoining model years until the requirements of [para-
graph (a) of this subsection] subsection (1)(a) of this section are met. A
grant may be awarded under [this subsection] subsection (1)(a) of this
section for any school bus powered by a diesel engine within the control of
an owner or operator that meets the following conditions:
   (A) The school bus has at least three years of remaining useful life;
   (B) Use of the school bus has occurred in Oregon during the year pre-
ceeding the date of the grant; and
   (C) For the three years following receipt of a grant award, use of the
school bus to which the owner or operator applies the grant will occur in
Oregon.

[(c)] (b) The grant amount per school bus awarded under [this
paragraph] subsection (1)(a) of this section shall be for:
(A) $50,000 or 30 percent of the cost to purchase a school bus that meets
minimum standards adopted by the State Board of Education under ORS
820.100 for the applicable class or type of school bus, whichever is less; or
(B) Up to 100 percent of the cost to retrofit a school bus with emissions-
reducing parts or technology that results in a reduction of diesel particulate
matter emissions by at least 85 percent when compared with the baseline
emissions for the relevant engine year and application.

[(3) Except for awarding grants pursuant to subsection (2) of this section,
the department may not award grants from the moneys described under sub-
section (1) of this section without prior approval by the Legislative Assembly
by law.]

(3) In awarding grants pursuant to the grant program developed
under subsection (1)(c) of this section, the department shall give
preferences for projects that will:
(a) Benefit sensitive populations or areas with elevated concentra-
tions of diesel particulate matter;
(b) Be carried out by a grant applicant that is a disadvantaged
business enterprise, as defined in ORS 200.005;
(c) Be designed and perform in a manner that reflects engagement
with and the support of the community where the project is located;
(d) Involve the replacement, repower or retrofit of one or more
motor vehicles or pieces of equipment that have at least three years
of remaining useful life at the time that the grant agreement is exe-
cuted;
(e) Support the utilization of fuels for which regulated parties may
generate credits under the clean fuels program adopted by rule by the
Environmental Quality Commission under ORS 468A.266 (1)(b);
(f) Involve small fleets;

(g) Maximize cost effectiveness of emissions reductions in Oregon;

or

(h) Meet the criteria of any other preferences that the commission may establish by rule, if the department determines that the additional preferences are necessary to ensure that grant awards result in the reduction of nitrogen oxides emissions from diesel engines.

(4) The commission may adopt rules necessary to implement the provisions of this section.
SUMMARY

Directs Environmental Quality Commission to adopt rules applying certain oil spill prevention and emergency response planning requirements to high hazard train routes in this state.

Defines “high hazard train route” and “listed sensitive area” for purposes of contingency plans.

Requires railroads that own or operate high hazard train routes to annually submit financial responsibility statements to Department of Environmental Quality.

Requires department to levy and collect annual assessment equal to $____ per year. Requires railroads that own and operate high hazard train routes to pay share of annual assessment proportionate to high hazard train route track miles operated by railroads.

Establishes High Hazard Train Route Oil Spill Prevention Fund. Requires moneys collected to be deposited in High Hazard Train Route Oil Spill Prevention Fund. Prescribes uses of fund.


Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to safe transportation of oil; creating new provisions; amending ORS 468B.300, 468B.305, 468B.340, 468B.345, 468B.355, 468B.360, 468B.365, 468B.385, 468B.410, 468B.412 and 468B.495; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

CONTINGENCY PLANNING

SECTION 1. ORS 468B.300 is amended to read:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
468B.300. As used in ORS 468.020, 468.095, 468.140 (3) and 468B.300 to 468B.500:

1. “Bulk” means material stored or transported in loose, unpackaged liquid, powder or granular form capable of being conveyed by a pipe, bucket, chute or belt system.
2. “Cargo vessel” means a self-propelled ship in commerce, other than a tank vessel, of 300 gross tons or more. “Cargo vessel” does not include a vessel used solely for commercial fish harvesting.
3. “Commercial fish harvesting” means taking food fish with any gear unlawful for angling under ORS 506.006, or taking food fish in excess of the limits permitted for personal use, or taking food fish with the intent of disposing of such food fish or parts thereof for profit, or by sale, barter or trade, in commercial channels.
4. “Contingency plan” means an oil spill prevention and emergency response plan required under ORS 468B.345.
5. “Covered vessel” means a tank vessel, cargo vessel, passenger vessel or dredge vessel.
6. “Damages” includes damages, costs, losses, penalties or attorney fees of any kind for which liability may exist under the laws of this state resulting from, arising out of or related to the discharge or threatened discharge of oil.
7. “Discharge” means any emission other than natural seepage of oil, whether intentional or unintentional. “Discharge” includes but is not limited to spilling, leaking, pumping, pouring, emitting, emptying or dumping oil.
8. “Dredge vessel” means a self-propelled vessel of 300 or more gross tons that is equipped for regularly engaging in dredging of submerged and submersible lands.
9. “Exploration facility” means a platform, vessel or other offshore facility used to explore for oil in the navigable waters of the state. “Exploration facility” does not include platforms or vessels used for stratigraphic
drilling or other operations that are not authorized or intended to drill to
a producing formation.

(10) “Facility” means a pipeline or any structure, group of structures,
equipment or device, other than a vessel that transfers oil over navigable
waters of the state, that is used for producing, storing, handling, transfer-
ring, processing or transporting oil in bulk and that is capable of storing
or transporting 10,000 or more gallons of oil. “Facility” does not include:
(a) A railroad car, motor vehicle or other rolling stock while transporting
oil over the highways or rail lines of this state;
(b) An underground storage tank regulated by the Department of Envi-
ronmental Quality or a local government under ORS 466.706 to 466.882 and
466.994; or
(c) A marina, or a public fueling station, that is engaged exclusively in
the direct sale of fuel, or any other product used for propulsion, to a final
user of the fuel or other product.

(11) “Federal on-scene coordinator” means the federal official predesig-
nated by the United States Environmental Protection Agency or the United
States Coast Guard to coordinate and direct federal responses or the official
designated by the lead agency to coordinate and direct removal under the
National Contingency Plan.

(12) “Hazardous material” has the meaning given that term in ORS
466.605.

(13) “High hazard train route” means a section of rail lines in this
state over which trains operate that, in a single train, transport:
(a) 20 or more tank railroad cars loaded with oil that are in a con-
tinuous block; or
(b) 35 or more tank railroad cars loaded with oil that are spread
throughout the entirety of the rolling stock, not including the loco-
motive, that make up the train.

(14) “Listed sensitive area” means an area or location listed as an
area of special economic or environmental importance in an Area
Contingency Plan or Sub-Area Contingency Plan prepared and published pursuant to section 311(j) of the Federal Water Pollution Control Act, 33 U.S.C. 1321(j), as amended by the Oil Pollution Act of 1990 (P.L. 101-380).

[(13)] (15) “Maritime association” means an association or cooperative of marine terminals, facilities, vessel owners, vessel operators, vessel agents or other maritime industry groups, that provides oil spill response planning and spill related communications services within the state.

[(14)] (16) “Maximum probable spill” means the maximum probable spill for a vessel operating in the navigable waters of the state considering the history of spills of vessels of the same class operating on the west coast of the United States.

(17) “National Contingency Plan” means the plan prepared and published under section 311(d) of the Federal Water Pollution Control Act, 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (P.L. 101-380).

[(15)] (18) “Navigable waters” means the Columbia River, the Willamette River up to Willamette Falls, the Pacific Ocean and estuaries to the head of tidewater.

[(16) “National Contingency Plan” means the plan prepared and published under section 311(d) of the Federal Water Pollution Control Act, 33 U.S.C. 1321(d), as amended by the Oil Pollution Act of 1990 (P.L. 101-380).]

[(17)] (19) “Offshore facility” means any facility located in, on or under any of the navigable waters of the state.

[(18)] (20) “Oils” or “oil” means:

(a) Oil, including gasoline, crude oil, bitumen, synthetic crude oil, natural gas well condensate, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product; and

(b) Liquefied natural gas.

[(19)] (21) “Onshore facility” means any facility located in, on or under any land of the state, other than submerged land, that, because of its lo-
cation, could reasonably be expected to cause substantial harm to the envi-
ronment by discharging oil into or on the navigable waters of the state or
adjoining shorelines.

[(20)] (22) “Passenger vessel” means a ship of 300 or more gross tons
carrying passengers for compensation.

[(21)] (23) “Person” has the meaning given the term in ORS 468.005.

[(22)] (24) “Person having control over oil” includes but is not limited to
any person using, storing or transporting oil immediately prior to entry of
such oil into the navigable waters of the state, and shall specifically include
carriers and bailees of such oil.

[(23)] (25) “Pipeline” means a facility, including piping, compressors,
pump stations and storage tanks, used to transport oil between facilities or
between facilities and tank vessels.

[(24)] (26) “Region of operation” with respect to the holder of a contig-
yency plan means the area where the operations of the holder that require
a contingency plan are located.

[(25)] (27) “Removal costs” means the costs of removal that are incurred
after a discharge of oil has occurred or, in any case in which there is a
substantial threat of a discharge of oil, the costs to prevent, minimize or
mitigate oil pollution from the incident.

[(26)] (28) “Responsible party” has the meaning given under section 1001

[(27)] (29) “Ship” means any boat, ship, vessel, barge or other floating
craft of any kind.

[(28)(a)] (30)(a) “State on-scene coordinator” means the state official ap-
pointed by the Department of Environmental Quality to represent the de-
partment and the State of Oregon in response to an oil or hazardous material
spill or release or threatened spill or release and to coordinate cleanup re-
response with state and local agencies.

(b) For purposes of this subsection:

(A) “Spill or release” means the discharge, deposit, injection, dumping,
spilling, emitting, releasing, leaking or placing of any oil or hazardous ma-
terial into the air or into or on any land or waters of this state except as
authorized by a permit issued under ORS chapter 454, 459, 459A, 468, 468A,
468B or 469 or ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal
law, or except when being stored or used for its intended purpose.

(B) “Threatened spill or release” means oil or hazardous material is likely
to escape or be carried into the air or into or on any land or waters of the
state, including from a ship as defined in this section that is in imminent
danger of sinking.

[(29)] (31) “Tank vessel” means a ship that is constructed or adapted to
carry oil in bulk as cargo or cargo residue. “Tank vessel” does not include:
(a) A vessel carrying oil in drums, barrels or other packages;
(b) A vessel carrying oil as fuel or stores for that vessel; or
(c) An oil spill response barge or vessel.

[(30)] (32) “Worst case spill” means:
(a) In the case of a vessel, a spill of the entire cargo and fuel of the tank
vessel complicated by adverse weather conditions; [and]
(b) In the case of an onshore or offshore facility, the largest foreseeable
spill in adverse weather conditions[.]; and
(c) In the case of a high hazard train route, the greater of:
(A) 300,000 gallons of oil from a single train; or
(B) 15 percent of the total lading of oil transported within the
largest single train reasonably expected to transport oil over the high
hazard train route.

SECTION 2. ORS 468B.340 is amended to read:
468B.340. (1) The Legislative Assembly finds that:
(a) Oil spills present a serious danger to the fragile natural environment
of the state.
(b) Commercial vessel activity on the navigable waters of the state is vi-
tal to the economic interests of the people of the state.
(c) Recent studies conducted in the wake of disastrous oil spills have
identified the following problems in the transport and storage of oil:

(A) Gaps in regulatory oversight;
(B) Incomplete cost recovery by states;
(C) Despite research in spill cleanup technology, it is unlikely that a large percentage of oil can be recovered from a catastrophic spill;
(D) Because response efforts cannot effectively reduce the impact of oil spills, prevention is the most effective approach to oil spill management; and
(E) Comprehensive oil spill prevention demands participation by industry, citizens, environmental organizations and local, state, federal and international governments.

(2) Therefore, the Legislative Assembly declares it is the intent of ORS 468B.345 to 468B.415 to establish a program to promote:

(a) The prevention of oil spills especially on the large, navigable waters of the Columbia River, the Willamette River and the Oregon coast;

(b) The prevention of oil spills to listed sensitive areas, such as inland rivers and streams that serve as essential habitats for salmon and other wildlife or as sources of water for consumption, irrigation or other public use;

(c) The prevention of oil spills along high hazard train routes;

((b)) (d) Oil spill response preparedness, including the identification of actions and content required for an effective contingency plan;

((c)) (e) A consistent west coast approach to oil spill prevention and response;

((d)) (f) The establishment, coordination and duties of safety committees as provided in ORS 468B.415; and

((e)) (g) To the maximum extent possible, coordination of state programs with the programs and regulations of the United States Coast Guard and adjacent states.

SECTION 3. ORS 468B.305 is amended to read:

468B.305. (1) It shall be unlawful for oil to enter the waters of the state from any ship or high hazard train route or from any fixed or mobile fa-
cility or installation located offshore or onshore, whether publicly or pri-

vately operated, regardless of the cause of the entry or the fault of the
person having control over the oil, or regardless of whether the entry of oil
is the result of intentional or negligent conduct, accident or other cause.
Such entry constitutes pollution of the waters of the state.

(2) Subsection (1) of this section shall not apply to the entry of oil into
the waters of the state under the following circumstances:
(a) The person discharging the oil was expressly authorized to do so by
the Department of Environmental Quality, having obtained a permit
to do so required by ORS 468B.050;
(b) Notwithstanding any other provision of ORS 466.640, 468B.025 or
468B.050 or this section, the person discharging the oil was expressly au-
thorized to do so by a federal on-scene coordinator or the department in
connection with activities related to the removal of or response to oil that
entered the waters of the state; or
(c) The person having control over the oil can prove that the entry
of oil into the waters of the state was caused by:
(A) An act of war or sabotage or an act of God.
(B) Negligence on the part of the United States Government, or the State
of Oregon.
(C) An act or omission of a third party without regard to whether any
such act or omission was or was not negligent.

SECTION 4. ORS 468B.345 is amended to read:
468B.345. (1)(a) Unless an oil spill prevention and emergency response
plan has been approved by the Department of Environmental Quality and has
been properly implemented, a person may not:
[(a)] (A) Cause or permit the operation of an onshore facility in the state;
[(b)] (B) Cause or permit the operation of an offshore facility in the state;
or
[(c)] (C) Cause or permit the operation of a covered vessel within the
navigable waters of the state.
[(2)] (b) It is not a defense to an action brought for a violation of this subsection [(1) of this section] that the person charged believed that a current contingency plan had been approved by the department.

[(3)] (c) A contingency plan required under this subsection shall be renewed at least once every five years.

[(4) This section shall not apply to the operation of a cargo or passenger vessel on Yaquina Bay or on the navigable waters of the state in the Pacific Ocean used by cargo or passenger vessels entering or leaving Yaquina Bay until January 1, 1998.]

(2)(a) A railroad that owns or operates a high hazard train route in this state shall have an oil spill prevention and emergency response plan that has been approved by the department.

(b) It is not a defense to an action brought for a violation of this subsection that the person charged believed that a current contingency plan had been approved by the department.

(c) A contingency plan required under this subsection for a high hazard train route shall be renewed at least once every five years.

(d) Failure by a railroad that owns or operates a high hazard train route to comply with this subsection or to be in compliance with a contingency plan required under this subsection does not preclude the railroad from operating the high hazard train route.

SECTION 5. Section 6 of this 2019 Act is added to and made a part of ORS 468B.345 to 468B.415.

SECTION 6. (1) The Environmental Quality Commission shall, by rule:

(a) Adopt standards for the preparation of contingency plans for high hazard train routes that:

(A) Reflect the requirements of subsection (2) of this section; and

(B) To the extent feasible and appropriate, are equivalent to standards for the preparation of contingency plans for facilities and covered vessels adopted under ORS 468B.350.
(b) Identify oil spill response zones along high hazard train routes and the amount of equipment identified in a contingency plan that is required to be regularly located in those zones.

c) Identify all navigable waters and listed sensitive areas within the region of operation of high hazard train routes. A listed sensitive area may be considered within the region of operation of a high hazard train route if the listed sensitive area is located anywhere within an area:

(A) Beginning at the probable point of a spill of oil into waters of the state from a high hazard train route; and

(B) Ending at the point that the oil could travel to, by water flowing downstream, in a time period and at a speed, measured in knots, established by the commission by rule.

(2) A contingency plan shall, at a minimum:

(a) Identify the high hazard train route for which the contingency plan is prepared and the specific type or types of oil transported over the high hazard train route.

(b) Demonstrate the capacity of the railroad that owns or operates the high hazard train route, both in material resources and finances, for the cleanup of a spill of oil and for the delivery of resources to the location of the spill within specified response times.

(c) Include the following information related to specified personnel and equipment that are available to respond to a spill of oil:

(A) The names, addresses, phone numbers and electronic mail addresses for the primary owner or operator of the high hazard train route and for the local primary contacts for the railroad that owns or operates the high hazard train route;

(B) A list of all personnel, equipment and services available to respond to a spill, and a timeline for the delivery of the personnel, equipment and services to the spill location pursuant to a written contract between the railroad that owns or operates the high hazard
train route and other entities;

(C) The contact information for all personnel available to arrive on behalf of the railroad that owns or operates the high hazard train route and the timeline for the personnel to respond to a spill or threatened spill;

(D) A description of the responsibilities of the personnel specified in the contingency plan for responding to a spill;

(E) The number, training preparedness and fitness of all dedicated, prepositioned personnel assigned to direct and implement the contingency plan; and

(F) The amount and type of equipment and supplies available or other approved means to respond to a spill and a description of where the equipment and supplies are located.

(d) Describe how the contingency plan relates to and is coordinated with the interagency response plan developed by the Department of Environmental Quality under ORS 468B.495 and 468B.500 and any relevant contingency plan prepared by a cooperative, port, regional entity, the state or the federal government in the same area of the state covered by the contingency plan.

(e) Include procedures and information that support the early detection of an oil spill and timely notification of appropriate federal, state, local, tribal and other authorities about an oil spill in accordance with applicable state and federal law, including but not limited to:

(A) Procedures for the initial detection of a spill;

(B) Procedures for the immediate notification of qualified individuals at the railroad that owns or operates the high hazard train route;

(C) Call-down lists for the notification of appropriate federal, state, local, tribal and other authorities;

(D) Information demonstrating that the railroad that owns or operates the high hazard train route has ownership of or access to an
emergency response communications network covering the entire high hazard train route and that the emergency response communications network also provides for immediate notification and continual emergency communications during cleanup response;

(E) Procedures specifying the circumstances under which notifications will be made and the time frames for making notifications; and

(F) Requirements for follow-up notifications, provided for on a 24-hour basis.

(3) A railroad that owns or operates a high hazard train route shall develop and conduct an oil spill exercise program that includes conducting an annual notification drill and annually conducting one of the following three types of exercises, on a three-year rotating basis:

(a) An incident management team table top drill;

(b) An oil spill containment and recovery equipment deployment drill; and

(c) A listed sensitive area protection exercise.

(4) The commission and the department may not require the railroad that owns or operates a high hazard train route to submit, as part of a contingency plan, information constituting sensitive security information provided for under 49 C.F.R. 1520.5(b)(12), (14) or (16).

SECTION 7. Notwithstanding ORS 468B.355 (2), if operations of trains that cause a section of rail lines to meet the definition of a high hazard train route commence on or before the date that the Environmental Quality Commission adopts rules under section 6 of this 2019 Act, a contingency plan for the high hazard train route shall be submitted to the Department of Environmental Quality no later than 12 months after the date that the commission adopts rules under section 6 of this 2019 Act. The department may adopt a schedule for submission of a contingency plan within the 12-month period.

SECTION 8. Section 7 of this 2019 Act is repealed on January 2, 2022.

SECTION 9. ORS 468B.355 is amended to read:
468B.355. (1) A contingency plan for a facility or covered vessel shall be submitted to the Department of Environmental Quality within 12 months after the Environmental Quality Commission adopts rules under ORS 468B.350. The department may adopt a schedule for submission of [an oil] a contingency plan for a facility or covered vessel within the 12-month period. The schedule for the Columbia River shall be coordinated with the State of Washington. The department may adopt an alternative schedule for the Oregon coast and the Willamette River.

(2) A contingency plan for a high hazard train route shall be submitted to the department no later than 90 days before operations of trains that cause a section of rail lines to meet the definition of a high hazard train route commence.

[(2)] (3) The contingency plan for a facility shall be submitted by the owner or operator of the facility or by a qualified oil spill response cooperative in which the facility owner or operator is a participating member.

[(3)] (4) The contingency plan for a tank vessel shall be submitted by:

(a) The owner or operator of the tank vessel;

(b) The owner or operator of the facility at which the vessel will be loading or unloading its cargo; or

(c) A qualified oil spill response cooperative in which the tank vessel owner or operator is a participating member.

[(4)] (5) Subject to conditions imposed by the department, the contingency plan for a tank vessel, if submitted by the owner or operator of a facility, may be submitted as a single plan for all tank vessels of a particular class that will be loading or unloading cargo at the facility.

[(5)] (6) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the vessel, or the agent for the vessel resident in this state. Subject to conditions imposed by the department, the owner, operator, agent or a maritime association may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.
(7) The contingency plan for a high hazard train route shall be submitted by the railroad that owns or operates the high hazard train route.

[(6)] (8) A person that has contracted with a facility, [or] covered vessel or railroad that owns or operates a high hazard train route to provide containment and cleanup services and that meets the standards established by the commission under ORS 468B.350 or section 6 of this 2019 Act may submit the contingency plan for any facility, [or] covered vessel or high hazard train route for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one covered vessel.

[(7)] (9) The requirements of submitting a contingency plan under this section may be satisfied by a covered vessel by submission of proof of assessment participation by the vessel in a maritime association. Subject to conditions imposed by the department, the association may submit a single plan for more than one facility or covered vessel or may submit a single plan providing contingencies to respond for different classes of covered vessels.

[(8)] (10) A contingency plan prepared for an agency of the federal government or an adjacent state that satisfies the requirements of ORS 468B.345 to 468B.360 and the rules adopted by the Environmental Quality Commission may be accepted as a plan under ORS 468B.345. The commission shall ensure that to the greatest extent possible, requirements for a contingency plan under ORS 468B.345 to 468B.360 are consistent with requirements for a plan under federal law.

[(9)] (11) Covered vessels may satisfy the requirements of submitting a contingency plan under this section through proof of current assessment participation in an approved plan maintained with the department by a maritime association.

[(10)] (12) A maritime association may submit a contingency plan for a cooperative group of covered vessels. Covered vessels that have not previously obtained approval of a plan may enter the navigable waters of the state
if, upon entering such waters, the vessel pays the established assessment for participation in the approved plan maintained by the association.

[(11)] (13) A maritime association shall have a lien on the responsible vessel if the vessel owner or operator fails to remit any regular operating assessments and shall further have a lien for the recovery for any direct costs provided to or for the vessel by the maritime association for oil spill response or spill related communications services. The lien shall be enforced in accordance with applicable law.

[(12)] (14) Obligations incurred by a maritime association and any other liabilities or claims against the association shall be enforced only against the assets of the association, and no liability for the debts or action of the association exists against either the State of Oregon or any other subdivision or instrumentality thereof, or against any member, officer, employee or agent of the association in an individual or representative capacity.

[(13)] (15) Except as otherwise provided in ORS chapters 468, 468A and 468B, neither the members of the association, its officers, agents or employees, nor the business entities by whom the members are regularly employed, may be held individually responsible for errors in judgment, mistakes or other acts, either of commission or omission, as principal, agent, person or employee, save for their own individual acts of dishonesty or crime.

[(14)] (16) Assessment participation in a maritime association does not constitute a defense to liability imposed under ORS 468B.345 to 468B.415 or other state or federal law. Such assessment participation shall not relieve a covered vessel from complying with those portions of the approved maritime association contingency plan that may require vessel specific oil spill response equipment, training or capabilities for that vessel.

[(15)] (17) A person providing a contingency plan for a cargo or passenger vessel under this section shall be exempt from liability as provided under ORS 468B.425 for any action taken or omitted in the course of providing contingency planning service.

SECTION 10. ORS 468B.360 is amended to read:
468B.360. In reviewing the contingency plan required by ORS 468B.345, the Department of Environmental Quality shall consider at least the following factors:

1. The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call-down lists, response time and logistical arrangements for coordination and implementation of response efforts to remove oil spills promptly and properly and to protect the environment;

2. The nature and amount of vessel or high hazard train route traffic within the area covered by the plan;

3. The volume and type of oil being transported within the area covered by the plan;

4. The existence of navigational hazards within the area covered by the plan;

5. The history and circumstances surrounding prior spills of oil within the area covered by the plan;

6. The sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

7. Relevant information on previous spills contained in on-scene coordinator reports covered by the plan;

8. The extent to which reasonable, cost-effective measures to reduce the likelihood that a spill will occur have been incorporated into the plan;

9. The number of covered vessels calling in, and high hazard train routes and facilities located in, the geographic area and the resulting ability of local agencies and industry groups to develop, finance and maintain a contingency plan and spill response system for those vessels, high hazard train routes and facilities; and

10. The spill response equipment and resources available to a person providing a contingency plan for cargo and passenger vessels under contingency plans filed by the person under state or federal law for other covered vessels or facilities owned or operated by that person.

[16]
SECTION 11. ORS 468B.365 is amended to read:

468B.365. (1) The Department of Environmental Quality shall approve a contingency plan only if [it] the department determines that:

(a)(A) The plan for a covered vessel or facility meets the requirements of ORS 468B.345 to 468B.360 and:

[a] the covered vessel or facility demonstrates evidence of compliance with ORS 468B.390; [and] or

(B) The plan for a high hazard train route meets the requirements of ORS 468B.345 to 468B.360; and

(b) If implemented, the plan is capable, to the maximum extent practicable in terms of personnel, materials and equipment, of removing oil promptly and properly and minimizing any damage to the environment.

(2) An owner or operator of a covered vessel, high hazard train route or facility shall notify the department in writing immediately of any significant change affecting the contingency plan, including changes in any factor set forth in this section or in rules adopted by the Environmental Quality Commission. The department may require the owner or operator to update a contingency plan as a result of these changes.

(3) A holder of an approved contingency plan does not violate the terms of the contingency plan by furnishing to another plan holder, after notifying the department, equipment, materials or personnel to assist the other plan holder in a response to an oil discharge. The plan holder shall replace or return the transferred equipment, materials and personnel as soon as feasible.

(4) The department may attach any reasonable term or condition to its approval or modification of a contingency plan that the department determines is necessary to [insure] ensure that the applicant:

(a) Has access to sufficient resources to protect environmentally sensitive areas and to prevent, contain, clean up and mitigate potential oil discharges from the facility or tank vessel or along the high hazard train route;

(b) Maintains personnel levels sufficient to carry out emergency oper-
ations; and

(c) Complies with the contingency plan.

(5) The contingency plan must provide for the use by the applicant of the best technology available at the time the contingency plan was submitted or renewed.

(6) The department may require an applicant or a holder of an approved contingency plan to take steps necessary to demonstrate its ability to carry out the contingency plan, including:

(a) Periodic training;

(b) Response team exercises; and

(c) Verification of access to inventories of equipment, supplies and personnel identified as available in the approved contingency plan.

(7) The department may consider evidence that oil discharge prevention measures such as double hulls or double bottoms on vessels or barges, secondary containment systems, hydrostatic testing, enhanced vessel traffic systems or enhanced crew or staffing levels have been implemented and in its discretion, may make exceptions to the requirements of this section to reflect the reduced risk of oil discharges from the facility or tank vessel, or along the high hazard train route, for which the plan is submitted or being modified.

(8)(a) Before the department approves or modifies a contingency plan required under ORS 468B.345, the department shall provide a copy of the contingency plan to the State Department of Fish and Wildlife, the office of the State Fire Marshal and the Department of Land Conservation and Development for review.

(b) In addition to providing copies to the agencies listed in paragraph (a) of this subsection, before approving or modifying a contingency plan for a high hazard train route, the Department of Environmental Quality shall provide a copy of the contingency plan to each federally recognized Indian tribe that owns land or enjoys treaty-reserved hunting, fishing or gathering rights that could be im-
pacted by an oil discharge along any portion of the high hazard train route.

(c) [The] Agencies and tribes that receive copies of a contingency plan under this subsection shall review the plan according to procedures and time limits established by rule of the [Environmental Quality] commission.

(9) Upon approval of a contingency plan, the department shall issue to the plan holder a certificate stating that the plan has been approved. The certificate shall include the name of the facility, high hazard train route or tank vessel for which the certificate is issued, the effective date of the plan and the date by which the plan must be submitted for renewal.

(10) The approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan or constitute a defense to liability imposed under ORS chapters 468, 468A and 468B or any other state law.

SECTION 12. ORS 468B.385 is amended to read:

468B.385. (1) Upon request of a plan holder or on the initiative of the Department of Environmental Quality, the department, after notice and opportunity for hearing, may modify its approval of a contingency plan if the department determines that a change has occurred in the operation of the facility, high hazard train route or tank vessel necessitating an amended or supplemental plan, or that the operator's discharge experience demonstrates a necessity for modification.

(2) The department, after notice and opportunity for hearing, may revoke its approval of a contingency plan if the department determines that:

(a) Approval was obtained by fraud or misrepresentation;

(b) The operator does not have access to the quality or quantity of resources identified in the plan;

(c) A term or condition of approval or modification has been violated; or

(d) The plan holder is not in compliance with the plan and the deficiency materially affects the plan holder's response capability.
(3) Failure of a holder of an approved or modified contingency plan to comply with the plan or to have access to the quality or quantity of resources identified in the plan or to respond with those resources within the shortest possible time in the event of a spill is a violation of ORS 468B.345 to 468B.415 for purposes of ORS 466.992, 468.140, 468.943 and any other applicable law.

(4) If the holder of an approved or modified contingency plan fails to respond to and conduct cleanup operations of an unpermitted discharge of oil with the quality and quantity of resources identified in the plan and in a manner required under the plan, the holder is strictly liable, jointly and severally, for the civil penalty assessed under ORS 466.992 and 468.140.

(5) In order to be considered in compliance with a contingency plan, the plan holder must:
   (a) Establish and carry out procedures identified in the plan as being the responsibility of the holder of the plan;
   (b) Have access to and have on hand the quantity and quality of equipment, personnel and other resources identified as being accessible or on hand in the plan;
   (c) Fulfill the assurances espoused in the plan in the manner described in the plan;
   (d) Comply with terms and conditions attached to the plan by the department under ORS 468B.345 to 468B.380; and
   (e) Successfully demonstrate the ability to carry out the plan when required by the department under ORS 468B.370.

SECTION 13. ORS 468B.495 is amended to read:

468B.495. (1) The Department of Environmental Quality shall develop an integrated, interagency response plan for oil or hazardous material spills:
   (a) In the Columbia River, the Willamette River up to Willamette Falls and the coastal waters and estuaries of the state[.]; and
   (b) In listed sensitive areas within the region of operation of high hazard train routes.
(2) In developing the response plan under subsection (1) of this section, the department shall work with all affected local, state and federal agencies and with any volunteer group interested in participating in oil or hazardous material spill response.

[(2)] (3) The response plan developed under subsection (1) of this section shall be consistent to the extent practicable with the plan for a statewide hazardous material emergency response system established by the State Fire Marshal under ORS 453.374.

FINANCIAL RESPONSIBILITY

SECTION 14. Section 15 of this 2019 Act is added to and made a part of ORS 468B.300 to 468B.500.

SECTION 15. (1) A railroad that owns or operates a high hazard train route in this state shall annually submit to the Department of Environmental Quality a statement that:

(a) Describes all insurance carried by the railroad that covers any losses resulting from a worst case spill, as well as the coverage amounts, limitations and other conditions of the insurance; and

(b) Identifies the capacity, measured in barrels, of the total lading of oil transported within the average-sized train and the largest single train that was operated on each high hazard train route owned or operated by the railroad during the previous calendar year.

(2)(a) A statement required under subsection (1) of this section must also contain additional information sufficient to demonstrate the railroad's ability to pay the cost to clean up a worst case spill on each high hazard train route owned or operated by the railroad during the previous calendar year. Additional information may include, but need not be limited to, proof of reserve accounts, letters of credit or other financial instruments or resources that the railroad can rely on to pay the cost to clean up a worst case spill.

[21]
(b) For purposes of this subsection, “cost to clean up a worst case spill” means a dollar amount equal to the number of barrels of oil that would constitute a worst case spill on the high hazard train route multiplied by $16,800.

(3) A railroad shall submit a statement required by this section to the department upon payment to the department of the annual assessment payable under section 17 of this 2019 Act.

RAILROAD SAFETY ASSESSMENTS AND USE

SECTION 16. Section 17 of this 2019 Act is added to and made a part of ORS 468B.300 to 468B.500.

SECTION 17. (1) The Department of Environmental Quality shall levy and collect an annual assessment from railroads that own or operate high hazard train routes. The total assessment under this section shall equal $____ per year, with each applicable railroad assessed a proportional share of the total assessment that is based on the total track miles within this state that are part of high hazard train routes owned or operated by the railroad.

(2) Moneys collected by the department under this section shall be deposited in the State Treasury to the credit of the High Hazard Train Route Oil Spill Prevention Fund established under section 20 of this 2019 Act.

SECTION 18. ORS 468B.410 is amended to read:

468B.410. (1) The Oil Spill Prevention Fund is established separate and distinct from the General Fund in the State Treasury. Interest earned on the fund shall be credited to the fund. Moneys received by the Department of Environmental Quality for the purpose of oil and hazardous material spill prevention and the fees collected under ORS 468B.405 shall be paid into the State Treasury and credited to the fund.

(2) The State Treasurer shall invest and reinvest moneys in the Oil Spill
Prevention Fund in the manner prescribed by law.

(3) The moneys in the Oil Spill Prevention Fund are appropriated continuously to the department [of Environmental Quality] to be used in the manner described in subsection (4) of this section.

(4) The Oil Spill Prevention Fund may be used by the department [of Environmental Quality] to:

(a) Pay all costs of the department incurred to:

(A) Review the contingency plans submitted under ORS 468B.360;

(B) Conduct training, response exercises, inspection and tests in order to verify equipment inventories and ability to prevent and respond to oil release emergencies and to undertake other activities intended to verify or establish the preparedness of the state, a municipality or a party required by ORS 468B.345 to 468B.415 to have an approved contingency plan to act in accordance with that plan; and

(C) Verify or establish proof of financial responsibility required by ORS 468B.390.

(b) Review and revise the oil spill response plan required by ORS 468B.495 and 468B.500.

(5) Notwithstanding any contrary provision of subsection (4) of this section, moneys in the Oil Spill Prevention Fund may not be used to pay the costs of the department that may be paid with moneys deposited in the High Hazard Train Route Oil Spill Prevention Fund established under section 20 of this 2019 Act.

SECTION 19. Section 20 of this 2019 Act is added to and made a part of ORS 468B.345 to 468B.415.

SECTION 20. (1) The High Hazard Train Route Oil Spill Prevention Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the High Hazard Train Route Oil Spill Prevention Fund shall be credited to the fund.

(2) The fund shall consist of:

(a) Moneys deposited in the fund under section 17 of this 2019 Act;
(b) All other moneys placed in the fund as provided by law; and
(c) Any gifts, grants, donations, endowments or bequests from any
public or private source.
(3) Moneys in the fund are continuously appropriated to the De-
partment of Environmental Quality to be used only to pay the costs
of the department incurred to:
(a) Review, under ORS 468B.360, contingency plans for high hazard
train routes;
(b) Conduct training, response exercises, inspection and tests in
order to verify equipment inventories and ability to prevent and re-
respond to oil release emergencies related to high hazard train routes
and to undertake other activities intended to maintain the capabilities
for emergency response related to high hazard train routes of the
state, a municipality or an owner or operator of a high hazard train
route required by ORS 468B.345 to 468B.415 to have an approved con-
tingency plan;
(c) Verify proof of financial responsibility required by section 15 of
this 2019 Act; and
(d) Develop, review and revise the portions of the oil spill response
plan required by ORS 468B.495 and 468B.500 that relate to high hazard
train routes.
SECTION 21. ORS 468B.412 is amended to read:
468B.412. (1) By September 30 of each year, the Department of Environ-
mental Quality shall publish a report for the previous fiscal year, commenc-
ing on July 1 and ending on June 30, that addresses:
(a) The fees assessed under ORS 468B.405 on covered vessels and offshore
and onshore facilities;
(b) The amount collected by the department out of the assessment
under section 17 of this 2019 Act;
[(b)] (c) The activities of the department under ORS 468B.410 (4);
[(c)] (d) The penalties recovered by the department under ORS 468B.450
(1); and

[(d)] (e) The activities of the department under ORS 468B.455 (2).

(2)(a) The report published by the department under this section must be in a format that allows for the monitoring of [fee] collection of fees or assessments and related activities by the department and for ensuring that adequate but not excessive fees or assessments are collected to meet the department's budgetary needs.

(b) The department shall make the report available to those who paid fees under ORS 468B.405, **those who paid the assessment under section 17 of this 2019 Act** and [to] the general public.

**CAPTIONS**

**SECTION 22.** The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

**OPERATIVE DATE**

**SECTION 23.** (1) Sections 5 to 8, 14 to 17, 19 and 20 of this 2019 Act and the amendments to statutes by sections 1 to 4, 9 to 13, 18 and 21 of this 2019 Act become operative on January 1, 2020.

(2) The Environmental Quality Commission and the Department of Environmental Quality may take any action before the operative date specified in subsection (1) of this section that is necessary for the commission or the department to exercise, on and after the operative date specified in subsection (1) of this section, any of the duties, functions and powers conferred on the commission and the department by sections 5 to 8, 14 to 17, 19 and 20 of this 2019 Act and the amendments to statutes by sections 1 to 4, 9 to 13, 18 and 21 of this 2019 Act.
EFFECTIVE DATE

SECTION 24. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Directs each manufacturer of covered drugs that are sold within this state to participate in drug take-back program for purpose of collecting from certain persons those drugs for disposal.

Directs Department of Environmental Quality to administer Act. Requires stewardship organizations subject to Act to first submit plan for developing and implementing drug take-back program on or before July 1, 2020. Requires drug take-back programs to be operational by February 1, 2021.


Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to drug take-back programs; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Definitions. As used in sections 1 to 22 of this 2019 Act:

(1) “Authorized collector” means a person that enters into an agreement with a stewardship organization for the purpose of collecting covered drugs under a drug take-back program.

(2)(a) “Covered drug” means a drug that a covered entity has discarded or abandoned or that a covered entity intends to discard or abandon.

(b) “Covered drug” includes:

(A) Prescription drugs, as defined in ORS 689.005;

(B) Nonprescription drugs, as defined in ORS 689.005;

(C) Drugs marketed under a brand name, as defined in ORS 689.515;

(D) Drugs marketed under a generic name, as defined in ORS
689.515;
(E) Biological products, as described in ORS 689.522;
(F) Drugs intended to be used by a licensed veterinarian; and
(G) Combination products.
(c) “Covered drug” does not include:
(A) Vitamins or supplements;
(B) Herbal-based remedies or homeopathic drugs, products or remedies;
(C) Products that are regulated as both cosmetics and nonprescription drugs by the federal Food and Drug Administration;
(D) Drugs and biological products for which a covered manufacturer administers a drug take-back program as part of a risk evaluation and mitigation strategy under the oversight of the federal Food and Drug Administration; or
(E) Pet pesticide products.
(3)(a) “Covered entity” means a person, as defined in ORS 459.005, acting in this state.
(b) “Covered entity” does not include a law enforcement agency or a business that generates pharmaceutical waste, such as a hospital, health care clinic, office of a health care provider, veterinary clinic or pharmacy.
(4)(a) “Covered manufacturer” means a person that manufactures prescription drugs, as defined in ORS 689.005, that are sold within this state.
(b) “Covered manufacturer” does not include:
(A) A private label distributor or retail pharmacy that sells a drug under the retail pharmacy’s store label if the manufacturer of the drug has been identified by a stewardship organization;
(B) A repackager if the manufacturer of the drug has been identified by a stewardship organization; or
(C) A nonprofit health care corporation that is exempt from federal
income tax under section 501(c)(3) of the Internal Revenue Code and
that repackages drugs solely for the purpose of supplying a drug to
facilities or retail pharmacies operated by the health care corporation
or its affiliate if the manufacturer of the drug has been identified by
a stewardship organization.

(5) “Drop off site” means the location where an authorized collector
operates a secure repository for collecting covered drugs.

(6) “Drug” has the meaning given that term in ORS 689.005.

(7) “Drug take-back program” means a program developed and im-
plemented by a stewardship organization for the collection, transpor-
tation and disposal of covered drugs for which a plan has been
approved under section 4 of this 2019 Act.

(8) “Mail-back service” means a method of collecting covered drugs
from a covered entity by using prepaid, preaddressed mailing envel-
opes.

(9) “Manufacture” has the meaning given that term in ORS 689.005.

(10) “Pharmacy” has the meaning given that term in ORS 689.005.

(11) “Potential authorized collector” means:

(a) A person that:

(A) Is registered with the Drug Enforcement Administration of the
United States Department of Justice; and

(B) Qualifies under federal law to collect and dispose of controlled
substances, or qualifies under federal law to have the person's regis-
tration modified to authorize the person to collect and dispose of
controlled substances.

(b) A law enforcement agency or other entity not described in par-
agraph (a) of this subsection, as approved by the Environmental
Quality Commission by rule.

(12)(a) “Retail drug outlet” means a retail drug outlet, as defined
in ORS 689.005, that is open to and accessible by the public.

(b) “Retail drug outlet” does not include a hospital or health care
clinic that does not have an on-site pharmacy.

(13) “Stewardship organization” means a covered manufacturer, a group of covered manufacturers or an organization designated by a covered manufacturer or group of covered manufacturers to act as an agent for the covered manufacturer or group of covered manufacturers that develops and implements, or plans to develop and implement, a drug take-back program approved by the Department of Environmental Quality.

SECTION 2. Requirement to participate in drug take-back program.

(1) Except as provided in subsection (2) of this section, each covered manufacturer shall participate in a drug take-back program that complies with the requirements of sections 1 to 22 of this 2019 Act.

(2) A covered manufacturer is not required to participate in a drug take-back program as described in subsection (1) of this section if the covered manufacturer manufactures prescription drugs for fewer than 50 patients in this state and provides mail-back services to those patients.

(3) If a covered manufacturer does not participate in a drug take-back program as described in subsection (1) of this section, and does not qualify for exemption under subsection (2) of this section, the State Board of Pharmacy may assess a fine against the covered manufacturer in an amount not to exceed $10,000 per violation.

SECTION 3. Organization of stewardship organization. The stewardship organization of a drug take-back program must be organized as an entity that is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code, as amended and in effect on the effective date of this 2019 Act.

SECTION 4. Plans and updated plans for drug take-back programs.

(1) In a form and manner prescribed by the Department of Environmental Quality, a stewardship organization must submit to the department a plan for establishing a drug take-back program. The
department shall review and approve a proposed drug take-back program plan if the stewardship organization timely submits a completed application, the proposed drug take-back program plan meets the requirements of subsection (2) of this section and the stewardship organization pays the fee established by the department under section 15 of this 2019 Act.

(2) To be approved by the department, a proposed drug take-back program plan must describe how the drug take-back program will:

(a) Finance, manage and conduct a drug take-back program to collect covered drugs from covered entities;

(b) Cover all costs associated with participation in the proposed drug take-back program and apportion those costs to participating covered manufacturers;

(c) Identify and provide contact information for the stewardship organization management team and each covered manufacturer participating in the proposed drug take-back program;

(d) Provide for a disposal system that complies with section 9 of this 2019 Act;

(e) Establish policies and procedures to ensure the safe and secure handling and disposal of covered drugs;

(f) Establish policies and procedures to ensure the security of patient information that may be printed on the packaging of a covered drug;

(g) Promote, and provide public outreach and education about, the proposed drug take-back program as described in section 10 of this 2019 Act;

(h) Set short-term and long-term goals with respect to the amount of covered drugs collected under the proposed drug take-back program and achieving full public awareness of the proposed drug take-back program; and

(i) Provide convenient service in every county in this state, includ-
ing how under the proposed drug take-back program the stewardship organization will, at a minimum:

(A) Establish at least one drop off site in each county in this state;
(B) Establish at least one drop off site in each city in this state that has 20,000 or more residents; and
(C) Establish additional drop off sites in each city in this state at a rate of one drop off site per 10,000 residents above the threshold established in subparagraph (B) of this paragraph.

(3)(a) The drop off site required under subsection (2)(i)(A) of this section may be the same drop off site as the drop off site required under subsection (2)(i)(B) of this section.

(b) The department may waive the requirement of subsection (2)(i)(A) of this section with respect to an individual county if the proposed drug take-back program plan describes how the drug take-back program will provide mail-back service or collection events in the county.

(c) A drop off site established under section 7 (2)(e) of this 2019 Act cannot be used to meet the requirements of subsection (2)(i) of this section.

(4)(a) Not later than 90 days after receiving a plan under subsection (1) of this section, the department shall either approve or reject the plan, or request additional information to supplement the plan. If the department rejects the plan or requests additional information, the department shall provide in writing to the stewardship organization the reason or reasons for the rejection or the request for additional information.

(b) Not later than 60 days after the department rejects a plan or requests additional information under paragraph (a) of this subsection, a stewardship organization must submit to the department a revised plan, or the requested additional information, for establishing a drug take-back program. Not later than 90 days after receiving a revised plan.
plan or additional information under this paragraph, the department shall either approve or reject the plan. If the department rejects the plan, the department shall inform the stewardship organization in writing of the reason or reasons for the rejection.

(c) If the department rejects a plan under paragraph (b) of this subsection, the department may:

(A) Require the stewardship organization to further revise the plan in accordance with the processes set forth in paragraph (b) of this subsection; or

(B) Impose a penalty on each covered manufacturer participating in the proposed drug take-back program, or on the stewardship organization, as described in section 14 of this 2019 Act.

(d) Not later than four years after approving a plan under this subsection, the department shall require that a stewardship organization submit to the department an updated plan for the continued operation of a drug take-back program, in which the stewardship organization describes any substantive changes to the drug take-back program that involve an element required under subsection (2) of this section. An updated plan is subject to the approval processes set forth in this subsection.

(5) The department shall make each plan submitted under subsection (1) of this section and each revised or updated plan submitted under subsection (4) of this section available to the public.

(6) In approving plans and updated plans under this section, and in preapproving changes under section 5 of this 2019 Act, the department shall, insofar as is practicable, ensure that each resident of this state has adequate access to a drop off site.

SECTION 5. Changes to drug take-back programs. (1) In a form and manner prescribed by the Department of Environmental Quality, a stewardship organization must request preapproval from the department for any change to a drug take-back program that substantively
alters the drug take-back program. A stewardship organization must make a request under this subsection not later than 60 days before the change is to occur. For purposes of this subsection, the following types of changes substantively alter a drug take-back program:

(a) Changes in which covered manufacturers are participating in the drug take-back program;
(b) Changes involving methods used to collect covered drugs;
(c) Changes involving methods used to dispose of covered drugs;
(d) Changes to the policies and procedures for handling and disposing of covered drugs;
(e) Changes to the policies and procedures for securing patient information that may be printed on the packaging of a covered drug;
(f) Changes involving methods used to achieve full public awareness of the drug take-back program; and
(g) Changes to the goals of the drug take-back program regarding public awareness strategies.

(2) In a form and manner prescribed by the department, a stewardship organization must notify the department of any change to a drug take-back program that does not substantively alter the drug take-back program. A stewardship organization must provide notice under this subsection not later than 30 days before the change is to occur. For purposes of this subsection, the following types of changes do not substantively alter a drug take-back program:

(a) A change in location of a drop off site; and
(b) A change to the schedule, or in location, of collection events held pursuant to section 8 of this 2019 Act.

(3) In a form and manner prescribed by the department, a stewardship organization must notify the department, not later than 30 days after the change occurs, of any change involving:

(a) The stewardship organization management team, including the contact information for the stewardship organization management
team;
(b) The contact information for a covered manufacturer participating in the drug take-back program; or
(c) The ownership of a covered manufacturer participating in the drug take-back program.

SECTION 6. Authorized collectors. (1) Before submitting to the Department of Environmental Quality a plan under section 4 of this 2019 Act, a stewardship organization must:
(a) Solicit potential authorized collectors for the purpose of collecting covered drugs under the proposed drug take-back program; and
(b) Enter into agreements with all willing authorized collectors for the purpose of collecting covered drugs under the proposed drug take-back program.

(2) In entering into agreements under this section, a stewardship organization must enter into an agreement, insofar as the agreement is practicable and cost-effective, with each retail drug outlet, hospital with an on-site pharmacy, health care clinic with an on-site pharmacy and law enforcement agency that demonstrates to the stewardship organization the capability of being an authorized collector.

(3) An agreement entered into under this section must require an authorized collector to comply with all state laws and rules and federal laws and regulations governing the keeping of covered drugs, as identified by the State Board of Pharmacy by rule, and management practices set out by the stewardship organization.

SECTION 7. Drop off sites. (1) The drop off sites by which a stewardship organization collects covered drugs under a drug take-back program must be safe, secure and convenient to use on an ongoing, year-round basis and must provide equitable access for residents across this state.

(2) For purposes of a drug take-back program:
(a) Each drop off site must be available for use during the normal
business hours of the authorized collector;
(b) Each drop off site must use a secure repository in compliance
with all federal laws and regulations and state laws and any rules
adopted by the State Board of Pharmacy governing the keeping of
covered drugs in repositories;
(c) The secure repository used at a drop off site must be serviced
and emptied as often as necessary to avoid reaching capacity;
(d) A sign must be affixed to the secure repository used at a drop
off site that prominently displays a toll-free telephone number and a
website address that a covered entity may use to provide feedback to
the stewardship organization about the drug take-back program;
(e) If a drop off site is located at a long term care facility, as de-
defined in ORS 442.015, only individuals who reside at the long term care
facility may use the drop off site; and
(f) Each drop off site must accept all covered drugs from covered
entities.
(3) The board may adopt rules to identify the federal laws and reg-
ulations and state laws and rules described in subsection (2)(b) of this
section.
SECTION 8. Covered drug collection events. If a drug take-back
program provides for the periodic collection of covered drugs through
collection events, the collection events must:
(1) Be conducted:
(a) In accordance with the applicable regulations and protocols of
the Drug Enforcement Administration of the United States Depart-
ment of Justice; and
(b) In coordination with the local solid waste management officials
who have jurisdiction over the impacted area; and
(2) Accept all covered drugs from covered entities.
SECTION 9. Disposal of covered drugs. Covered drugs collected at
a drop off site or at a collection event must be disposed of:
(1) At a hazardous waste disposal facility that meets the requirements of 40 C.F.R. 264 and 265, as in effect on the effective date of this 2019 Act; or

(2) At a municipal solid waste incinerator that is permitted to accept pharmaceutical waste.

SECTION 10. Public awareness. (1) A stewardship organization must promote, and provide public outreach and education about, the safe and secure collection of covered drugs under the drug take-back program through the use of a website and written materials provided at the time a covered drug is delivered to a covered entity, and through the use of any signage, advertising or other means that the stewardship organization determines is an effective means of fostering public awareness. At a minimum, a stewardship organization must:

(a) Promote the safe and secure storage of covered drugs by covered entities;

(b) Disseminate information on the inherent risks of improperly storing or disposing of opioids or opiates;

(c) Discourage the disposal of covered drugs in the garbage, septic or sewer system;

(d) Promote the disposal of covered drugs through the use of the drug take-back program;

(e) Establish a toll-free telephone number and a website address that a covered entity may use to contact the stewardship organization about the drug take-back program;

(f) Publicize information on the location of drop off sites and collection events;

(g) Work with authorized collectors to develop a readily recognizable and consistent design for secure repositories to be used at drop off sites and to develop clear, standardized instructions to covered entities on how to use those repositories; and

(h) Conduct a survey once every two years of covered entities and
pharmacists, health care providers and veterinarians who interact
with covered entities.

(2) A survey conducted under subsection (1)(h) of this section must:
(a) Measure public awareness of the drug take-back program;
(b) Assess the extent to which drop off sites, collection events and
mail-back services are convenient and easy to use for residents of this
state;
(c) Assess public knowledge of and attitudes toward the risks posed
by improperly storing covered drugs and abandoning or improperly
discarding covered drugs; and
(d) Be designed to collect data that may be used to improve public
outreach methods.

(3) The results of a survey conducted under subsection (1)(h) of this
section must be published on a website operated by or on behalf of the
stewardship organization.

(4) In a form and manner prescribed by the Department of Envi-
ronmental Quality, a stewardship organization must submit proposed
survey design and survey questions to the department for preapproval.

(5) A stewardship organization shall coordinate with other
stewardship organizations under this section to ensure that covered
entities can easily identify, understand and access the services pro-
vided by all drug take-back programs that are operational in this
state. At a minimum, all of the drug take-back programs that are
operational in this state must provide a single toll-free telephone
number and a single website address that a covered entity may use to
contact stewardship organizations about drug take-back programs and
to acquire information about the location of drop off sites and col-
lection events and about the collection processes of the drug take-back
programs.

(6) A retail drug outlet, hospital with an on-site pharmacy or health
care clinic with an on-site pharmacy must provide a covered entity,
at the time that a covered drug is delivered to a covered entity, with written materials provided by a stewardship organization for the purpose of promoting the safe and secure collection of covered drugs.

SECTION 11. Annual report to the Department of Environmental Quality. (1) In a form and manner prescribed by the Department of Environmental Quality, a stewardship organization shall submit to the department an annual report on the development, implementation and operation of the drug take-back program that includes, but is not limited to:

(a) A list of covered manufacturers participating in the drug take-back program;

(b) The total amount, by weight, of covered drugs collected under the drug take-back program;

(c) The amount, by weight, of covered drugs collected under each method of collecting drugs under the drug take-back program;

(d) The address of each drop off site used under the drug take-back program;

(e) The date and location of collection events held pursuant to section 8 of this 2019 Act;

(f) The method or methods used to transport covered drugs collected under the drug take-back program;

(g) The disposal technologies or processes used pursuant to section 9 of this 2019 Act;

(h) Whether any safety or security problems occurred during the collection, transportation or disposal of covered drugs and, if a problem occurred, any completed or anticipated changes to policies, procedures or tracking mechanisms to address the problem and improve safety and security;

(i) A summary of the drug take-back program’s compliance with section 10 of this 2019 Act;

(j) A summary of the annual expenditures of the drug take-back
program; and

(k) The extent to which the drug take-back program complied with and met the goals set under the drug take-back program plan described in section 4 (2)(h) of this 2019 Act.

(2)(a) The department shall review reports submitted under this section and approve those that comport with the requirements of this section.

(b) If the department does not approve a report under this subsection, the department shall provide the stewardship organization with written notice of revisions necessary for approval. The stewardship organization shall submit a revised report to the department not more than 30 days after receiving the notice from the department.

(3) The department shall publish approved reports submitted under this section on a website of the department.

SECTION 12. Funding drug take-back programs. Each covered manufacturer or group of covered manufacturers must pay all costs associated with participating in a drug take-back program. A stewardship organization or authorized collector may not impose a charge, including any charge imposed at the time that a covered drug is sold to or collected from a covered entity, against covered entities for the purpose of recovering the costs of a drug take-back program.

SECTION 13. Inspection and audit; interagency agreements. (1) The Department of Environmental Quality shall ensure compliance with sections 1 to 22 of this 2019 Act by entering into an agreement with the State Board of Pharmacy whereby the board, during routine inspections of retail drug outlets and health care facilities with drop off sites:

(a) Inspects drop off sites located at retail drug outlets or health care facilities; and

(b) Informs the department of drop off sites that are not in com-
pliance with sections 1 to 22 of this 2019 Act.

(2) In carrying out subsection (1) of this section, the department may:
(a) Inspect drop off sites and collection events not located at retail drug outlets or health care facilities;
(b) Audit the records of stewardship organizations; and
(c) Undertake other actions that the department determines necessary.

(3) The department may enter into interagency agreements for purposes including but not limited to covering costs incurred in administering sections 1 to 22 of this 2019 Act.

SECTION 14. Enforcement and discipline. (1) In accordance with the applicable provisions of ORS chapter 183 related to contested case proceedings, the Department of Environmental Quality may issue an order requiring compliance with the provisions of sections 1 to 22 of this 2019 Act.

(2) The department may bring an action against any person that is in violation of the provisions of sections 1 to 22 of this 2019 Act.

(3) The department may impose a penalty not to exceed $25,000 per day against any person that is in violation of the provisions of sections 1 to 22 of this 2019 Act.

SECTION 15. Fees. (1) The Department of Environmental Quality shall establish the following fees for the purpose of paying the costs of administering sections 1 to 22 of this 2019 Act:
(a) A one-time fee for reviewing a proposed drug take-back program plan submitted under section 4 of this 2019 Act.
(b) An annual fee for expenses associated with the ongoing costs of administering sections 1 to 22 of this 2019 Act.
(c) An hourly fee for any other work that the department must do on behalf of a drug take-back program.

(2) Fees established under subsection (1) of this section must be
reasonably calculated to pay the expenses associated with the purpose for which the fee is collected.

(3) The department shall deposit fee moneys collected pursuant to this section into the Secure Drug Take-Back Account established under section 16 of this 2019 Act.

SECTION 16. Secure Drug Take-Back Account. (1) The Secure Drug Take-Back Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. All moneys in the account are continuously appropriated to the Department of Environmental Quality for the purposes of administering sections 1 to 22 of this 2019 Act.

(2) The Secure Drug Take-Back Account consists of all moneys deposited into or credited to the account, including:

(a) Moneys collected under and deposited into the account pursuant to section 15 of this 2019 Act; and

(b) Moneys appropriated or transferred to the account by the Legislative Assembly.

SECTION 17. Liability. An authorized collector, covered manufacturer, stewardship organization, drug take-back program and potential authorized collector may not be held criminally or civilly liable for any function, duty or power performed for the purpose of complying with sections 1 to 22 of this 2019 Act, unless the function, duty or power was performed with gross negligence or willful and wanton misconduct.

SECTION 18. Antitrust immunity. (1) The Legislative Assembly declares that collaboration among authorized collectors, covered manufacturers, stewardship organizations, drug take-back programs and potential authorized collectors to provide covered entities with drug take-back program services, including the safe and secure collection, transportation and disposal of covered drugs, is in the best interests of the public. The Legislative Assembly therefore declares its intent
to exempt from state antitrust laws, and to provide immunity from federal antitrust laws through the state action doctrine, drug take-back programs that might otherwise be constrained by such laws.

(2) The Director of the Department of Environmental Quality or the director’s designee shall engage in appropriate state supervision necessary to promote state action immunity under state and federal antitrust laws, and may inspect or request additional documentation to verify that the drug take-back programs established under sections 1 to 22 of this 2019 Act are implemented in accordance with the legislative intent expressed in this section.

(3) Groups that include, but are not limited to, authorized collectors, covered manufacturers, stewardship organizations, potential authorized collectors, state and local governmental entities and consumers may meet to facilitate the development, implementation and operation of drug take-back programs in accordance with the requirements of sections 1 to 22 of this 2019 Act. Any participation by the entities and individuals listed in this subsection shall be on a voluntary basis.

(4) The Department of Environmental Quality may conduct a survey of the entities and individuals specified in subsection (3) of this section concerning drug take-back programs.

(5) A survey or meeting under subsection (3) or (4) of this section is not a violation of state antitrust laws and shall be considered state action for purposes of federal antitrust laws through the state action doctrine.

SECTION 19. Confidentiality. Any proprietary information or any financial, manufacturing or sales information or data that the Department of Environmental Quality receives from a covered manufacturer or stewardship organization under sections 1 to 22 of this 2019 Act is confidential and not subject to public disclosure under ORS 192.311 to 192.478, except that the department may disclose summarized
information or aggregated data if the information or data does not
directly or indirectly identify the proprietary information or the fi-
nancial, manufacturing or sales information or data of a specific cov-
ered manufacturer or stewardship organization.

SECTION 20. Nonapplicability of the Uniform Controlled Substances
Act. The provisions of the Uniform Controlled Substances Act do not
apply to a stewardship organization, insofar as the stewardship or-
organization is collecting, transporting and disposing of covered drugs
pursuant to sections 1 to 22 of this 2019 Act.

SECTION 21. Moratorium. Except as expressly authorized by state
law, the governing body of a city or a county may not enact an ordi-
nance requiring, or otherwise establishing a program for, the col-
lection of covered drugs by nongovernmental entities through the use
of drop off sites or mail-back services.

SECTION 22. Rulemaking. The Department of Environmental
Quality shall adopt any rules necessary for the effective adminis-
tration of sections 1 to 22 of this 2019 Act. Upon request, the State
Board of Pharmacy shall assist the department in adopting rules under
this section.

SECTION 23. Required date for initial participation. (1) Each
stewardship organization, as defined in section 1 of this 2019 Act, shall
submit to the Department of Environmental Quality a proposed drug
take-back program plan as required by section 4 (1) of this 2019 Act
on or before July 1, 2020.

(2) Each drug take-back program must be operational by February
1, 2021.

SECTION 24. Operative date. (1) Sections 1 to 22 of this 2019 Act
become operative on January 1, 2020.

(2) The Department of Environmental Quality and the State Board
of Pharmacy may take any action before the operative date specified
in subsection (1) of this section that is necessary to enable the de-
partment or board to exercise, on and after the operative date specified
in subsection (1) of this section, all the duties, powers and functions
conferred on the department or board by sections 1 to 22 of this 2019
Act.

SECTION 25. Captions. The section captions used in this 2019 Act
are provided only for the convenience of the reader and do not become
part of the statutory law of this state or express any legislative intent
in the enactment of this 2019 Act.

SECTION 26. Effective date. This 2019 Act takes effect on the 91st
day after the date on which the 2019 regular session of the Eightieth
Legislative Assembly adjourns sine die.
Modifies license fees for heating oil tank regulatory program. Modifies heating oil tank decommissioning certification fees and heating oil tank corrective action certification fees. Applies to fees assessed on and after January 1, 2020.

A BILL FOR AN ACT

Relating to heating oil tank regulatory program; creating new provisions; and amending ORS 466.868 and 466.872.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 466.868 is amended to read:

466.868. (1) In order to obtain a license under the program established pursuant to ORS 466.858, a person shall provide to the Department of Environmental Quality:

(a) A certificate of insurance in an amount adequate to pay for any additional corrective action necessary as a result of an improper or inadequate decommissioning or corrective action approved by the department.

(b) A summary of all projects completed since the applicant last applied for a license, including the costs of those projects.

(c) For each individual license, a demonstration of ability, which may consist of written or field examinations.

(d) Any other information deemed necessary by the department.

(e) An annual license fee. The fee shall be:

(A) [[$750] $_____] for the business, including but not limited to corporations, limited partnerships and sole proprietorships, engaged in the per-

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
formance of heating oil tank services; and

(B) [$75] $____ for each individual employed by the business and charged with the supervisory responsibility to direct and oversee the performance of tank services at a facility.

(2) The department shall maintain a registry of all persons licensed under this section, including a summary of the project information required in the application.

(3) In accordance with ORS chapter 183, the department may revoke a license of any person offering heating oil tank services who commits fraud or deceit in obtaining a license or who demonstrates negligence or incompetence in performing the heating oil tank services.

**SECTION 2.** ORS 466.872 is amended to read:

466.872. (1) In establishing the requirements to certify a voluntary decommissioning or to approve corrective action on the basis of a certification received from a heating oil tank service provider, the Department of Environmental Quality shall include:

(a) A process for conducting inspections of sites where a heating oil tank has been decommissioned or where a heating oil tank service provider certifies corrective action is complete;

(b) The specific information that a person must submit to certify that corrective action is complete;

(c) Provisions that allow the department to reject certification and require additional corrective action prior to approval by the department that the certification is complete and complies with the standard set forth in ORS 465.315; and

(d) Provisions to require additional information about a decommissioning before certifying the decommissioning.

(2) Any person requesting certification of a heating oil tank decommissioning under subsection (1) of this section shall file a request with the department accompanied by a filing fee of [$75] $____.

(3) Any person requesting certification of a heating oil tank corrective
action under subsection (1) of this section shall file a request with the department accompanied by a filing fee of [\$200] $____.

SECTION 3. The amendments to ORS 466.868 and 466.872 by sections 1 and 2 of this 2019 Act apply to fees assessed on and after the effective date of this 2019 Act.
SUMMARY

Modifies oil spill prevention fees.
Applies to fees assessed on or after effective date.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to oil spill prevention fees; creating new provisions; amending ORS 468B.405; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 468B.405 is amended to read:

468B.405. (1) The Department of Environmental Quality shall assess the following fees on covered vessels and offshore and onshore facilities to recover the costs of reviewing the plans and conducting the inspections, exercises, training and activities required under ORS 468B.345 to 468B.400:

(a) Cargo and passenger vessels, [[$105] $____ per trip.

(b) Nonself-propelled tank vessels:

(A) Having a capacity of fewer than 25,000 barrels, [[$85] $____ per trip.

(B) Having a capacity of 25,000 to 99,999 barrels, [[$110] $____ per trip.

(C) Having a capacity of 100,000 or more barrels, [[$250] $____ per trip.

(c) Self-propelled tank vessels of 300 gross tons or less, [[$85] $____ per trip.

(d) Self-propelled tank vessels over 300 gross tons, [[$2,100] $____ per trip.

(e) Offshore and onshore facilities that are not pipelines, [[$9,250] $____ per year.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(f) Pipelines with a diameter of six inches or less, $____ per year.
(g) Pipelines with a diameter greater than six inches, $____ per year.

[(f)] (h) Dredge vessels, [$50] $____ per day when operating in the navigable waters of the state.

(2) Moneys collected under this section shall be deposited in the State Treasury to the credit of the Oil Spill Prevention Fund established under ORS 468B.410.

(3) As used in this section, “trip” means travel to the appointed destination and return travel to the point of origin within the navigable waters of this state. For the purpose of assessing trip fees under this section, self-propelled tank vessels transiting the navigable waters of this state in ballast shall be considered cargo vessels.

SECTION 2. The amendments to ORS 468B.405 by section 1 of this 2019 Act apply to fees assessed on or after the effective date of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Requires Department of Human Services and Oregon Health Authority to adopt rules for licensing of each type of adult foster home, including those providing residential care to older adults, persons with physical disabilities, persons with intellectual disabilities and persons with mental illness.

Expands list of mandatory reporters of abuse of individuals with developmental disabilities.

Requires department to adopt criteria for developmental disability and intellectual disability.

Authorizes department to impose civil penalties in programs administered by department.

Changes name of Department of Human Services Volunteer Program Donated Fund Account and modifies purposes for which moneys in account may be used.

A BILL FOR AN ACT

Relating to human services; creating new provisions; and amending ORS 409.365, 419B.005, 427.005 and 430.735.

Be It Enacted by the People of the State of Oregon:

ADULT FOSTER HOME LICENSE CLASSIFICATIONS

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 443.705 to 443.825.

SECTION 2. Consistent with the requirements of ORS 443.705 to 443.825:

(1) The Department of Human Services shall adopt:

(a) Rules for the licensing of adult foster homes that provide resi-
(b) Rules for the licensing of adult foster homes that provide residen-
tial care to individuals with physical disabilities; and
(c) Rules for the licensing of adult foster homes that provide resi-
dential care to individuals with intellectual or developmental disabili-
ties.

(2) The Oregon Health Authority shall adopt rules for the licensing
of adult foster homes that provide residential care to individuals with
mental illness.

MANDATORY REPORTERS OF ABUSE OR NEGLECT

SECTION 3. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context re-
quires otherwise:

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any phys-
ical injury to a child which has been caused by other than accidental means,
including any injury which appears to be at variance with the explanation
given of the injury.

(B) Any mental injury to a child, which shall include only observable and
substantial impairment of the child’s mental or psychological ability to
function caused by cruelty to the child, with due regard to the culture of the
child.

(C) Rape of a child, which includes but is not limited to rape, sodomy,
unlawful sexual penetration and incest, as those acts are described in ORS
chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS
chapter 163, and any other conduct which allows, employs, authorizes, per-
mits, induces or encourages a child to engage in the performing for people
to observe or the photographing, filming, tape recording or other exhibition
which, in whole or in part, depicts sexual conduct or contact, as defined in
ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving
a child or rape of a child, but not including any conduct which is part of
any investigation conducted pursuant to ORS 419B.020 or which is designed
to serve educational or other legitimate purposes; and
(ii) Allowing, permitting, encouraging or hiring a child to engage in
prostitution as described in ORS 167.007 or a commercial sex act as defined
in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
or to engage in commercial sexual solicitation as described in ORS 167.008.
(F) Negligent treatment or maltreatment of a child, including but not
limited to the failure to provide adequate food, clothing, shelter or medical
care that is likely to endanger the health or welfare of the child.
(G) Threatened harm to a child, which means subjecting a child to a
substantial risk of harm to the child’s health or welfare.
(H) Buying or selling a person under 18 years of age as described in ORS
163.537.
(I) Permitting a person under 18 years of age to enter or remain in or
upon premises where methamphetamines are being manufactured.
(J) Unlawful exposure to a controlled substance, as defined in ORS
475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
finied in ORS 475B.015, that subjects a child to a substantial risk of harm to
the child’s health or safety.
(b) “Abuse” does not include reasonable discipline unless the discipline
results in one of the conditions described in paragraph (a) of this subsection.
(2) “Child” means an unmarried person who:
(a) Is under 18 years of age; or
(b) Is under 21 years of age and residing in or receiving care or services
at a child-caring agency as that term is defined in ORS 418.205.
(3) “Higher education institution” means:
(a) A community college as defined in ORS 341.005;
(b) A public university listed in ORS 352.002;
(c) The Oregon Health and Science University; and
(d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:
(a) A city or municipal police department.
(b) A county sheriff’s office.
(c) The Oregon State Police.
(d) A police department established by a university under ORS 352.121 or 353.125.
(e) A county juvenile department.

(5) “Public or private official” means:
(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
(b) Dentist.
(c) School employee, including an employee of a higher education institution.
(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
(f) Peace officer.
(g) Psychologist.
(h) Member of the clergy.
(i) Regulated social worker.
(j) Optometrist.
(k) Chiropractor.
(L) Certified provider of foster care, or an employee thereof.
(m) Attorney.
(n) Licensed professional counselor.
(o) Licensed marriage and family therapist.
(p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional
or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

(ee) Home care worker, as defined in ORS 410.600.

(ff) An individual who is paid by a public body, in accordance with ORS 430.215, to provide a service identified in an individualized written service plan of a child with a developmental disability.

SECTION 4. ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving

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a child or rape of a child, but not including any conduct which is part of
any investigation conducted pursuant to ORS 419B.020 or which is designed
to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in
prostitution as described in ORS 167.007 or a commercial sex act as defined
in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not
limited to the failure to provide adequate food, clothing, shelter or medical
care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a
substantial risk of harm to the child’s health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS
163.537.

(I) Permitting a person under 18 years of age to enter or remain in or
upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS
475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
defined in ORS 475B.015, that subjects a child to a substantial risk of harm to
the child’s health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline
results in one of the conditions described in paragraph (a) of this subsection.

(2) “Child” means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services
at a child-caring agency as that term is defined in ORS 418.205.

(3) “Higher education institution” means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.
(4) “Law enforcement agency” means:
   (a) A city or municipal police department.
   (b) A county sheriff’s office.
   (c) The Oregon State Police.
   (d) A police department established by a university under ORS 352.121 or 353.125.
   (e) A county juvenile department.
(5) “Public or private official” means:
   (a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.
   (b) Dentist.
   (c) School employee, including an employee of a higher education institution.
   (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
   (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.
   (f) Peace officer.
   (g) Psychologist.
   (h) Member of the clergy.
   (i) Regulated social worker.
   (j) Optometrist.
   (k) Chiropractor.
   (L) Certified provider of foster care, or an employee thereof.
   (m) Attorney.
   (n) Licensed professional counselor.
   (o) Licensed marriage and family therapist.
(p) Firefighter or emergency medical services provider.
(q) A court appointed special advocate, as defined in ORS 419A.004.
(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
(dd) Personal support worker, as defined in ORS 410.600.
(ee) Home care worker, as defined in ORS 410.600.
(ff) An individual who is paid by a public body, in accordance with
ORS 430.215, to provide a service identified in an individualized written
service plan of a child with a developmental disability.

SECTION 5. ORS 430.735, as amended by section 2, chapter 77, Oregon
Laws 2018, is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1) “Abuse” means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of an adult or
the withdrawal or neglect of duties and obligations owed an adult by a
caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental
means, or that appears to be at variance with the explanation given of the
injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse.

(e) Neglect.

(f) Verbal abuse of an adult.

(g) Financial exploitation of an adult.

(h) Involuntary seclusion of an adult for the convenience of the caregiver
or to discipline the adult.

(i) A wrongful use of a physical or chemical restraint upon an adult, ex-
cluding an act of restraint prescribed by a physician licensed under ORS
chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
naturopathic physician licensed under ORS chapter 685 or nurse practitioner
licensed under ORS 678.375 to 678.390 and any treatment activities that are
consistent with an approved treatment plan or in connection with a court
order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,
163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural
means.

(2) “Adult” means a person 18 years of age or older:
(a) With a developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;

(b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or

(c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.

(3) “Adult protective services” means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult’s person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) “Community program” includes:

(a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or

(b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.

(6) “Facility” means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) “Financial exploitation” means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.

(b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any
money from any account held jointly or singly by an adult.
(d) Failing to use the income or assets of an adult effectively for the
support and maintenance of the adult.
(8) “Intimidation” means compelling or deterring conduct by threat.
(9) “Law enforcement agency” means:
(a) Any city or municipal police department;
(b) A police department established by a university under ORS 352.121 or
353.125;
(c) Any county sheriff’s office;
(d) The Oregon State Police; or
(e) Any district attorney.
(10) “Neglect” means:
(a) Failure to provide the care, supervision or services necessary to
maintain the physical and mental health of an adult that may result in
physical harm or significant emotional harm to the adult;
(b) Failure of a caregiver to make a reasonable effort to protect an adult
from abuse; or
(c) Withholding of services necessary to maintain the health and well-
being of an adult that leads to physical harm of the adult.
(11) “Public or private official” means:
(a) Physician licensed under ORS chapter 677, physician assistant licensed
under ORS 677.505 to 677.525, naturopathic physician, psychologist or
chiropractor, including any intern or resident;
(b) Licensed practical nurse, registered nurse, nurse’s aide, home health
aide or employee of an in-home health service;
(c) Employee of the Department of Human Services, [or] Oregon Health
Authority, local health department, community mental health program or
community developmental disabilities program or a private agency contract-
ing with a public body to provide any community mental health service;
(d) Peace officer;
(e) Member of the clergy;
(f) Regulated social worker;
(g) Physical, speech or occupational therapist;
(h) Information and referral, outreach or crisis worker;
(i) Attorney;
(j) Licensed professional counselor or licensed marriage and family therapist;
(k) Any public official;
(L) Firefighter or emergency medical services provider;
(m) Member of the Legislative Assembly;
(n) Personal support worker, as defined by rule adopted by the Home Care Commission; [or]
o) Home care worker, as defined in ORS 410.600[.]; or
(p) An individual paid by the Department of Human Services to provide a service identified in an individualized written service plan of an adult with a developmental disability.

(12) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) “Sexual abuse” means:
(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;
(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;
(D) Any sexual contact between an adult and a relative of the adult other than a spouse;
(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or
(F) Any sexual contact between an individual receiving mental health or substance abuse treatment and the individual providing the mental health
or substance abuse treatment.

(b) “Sexual abuse” does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(14) “Sexual contact” has the meaning given that term in ORS 163.305.

(15) “Verbal abuse” means to threaten significant physical or emotional harm to an adult through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 6. ORS 430.735, as amended by section 22, chapter 75, Oregon Laws 2018, and section 2, chapter 77, Oregon Laws 2018, is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1) “Abuse” means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse.

(e) Neglect.

(f) Verbal abuse of an adult.

(g) Financial exploitation of an adult.

(h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the adult.

(i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner
licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

(2) “Adult” means a person 18 years of age or older:

(a) With a developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;

(b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or

(c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.

(3) “Adult protective services” means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult’s person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) “Community program” includes:

(a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or

(b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.

(6) “Facility” means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis
(7) “Financial exploitation” means:
   (a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.
   (b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.
   (c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.
   (d) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult.
(8) “Intimidation” means compelling or deterring conduct by threat.
(9) “Law enforcement agency” means:
   (a) Any city or municipal police department;
   (b) A police department established by a university under ORS 352.121 or 353.125;
   (c) Any county sheriff’s office;
   (d) The Oregon State Police; or
   (e) Any district attorney.
(10) “Neglect” means:
   (a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of an adult that may result in physical harm or significant emotional harm to the adult;
   (b) Failure of a caregiver to make a reasonable effort to protect an adult from abuse; or
   (c) Withholding of services necessary to maintain the health and well-being of an adult that leads to physical harm of the adult.
(11) “Public or private official” means:
   (a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;
(b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of an in-home health service;
(c) Employee of the Department of Human Services or Oregon Health Authority, local health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;
(d) Peace officer;
(e) Member of the clergy;
(f) Regulated social worker;
(g) Physical, speech or occupational therapist;
(h) Information and referral, outreach or crisis worker;
(i) Attorney;
(j) Licensed professional counselor or licensed marriage and family therapist;
(k) Any public official;
(L) Firefighter or emergency medical services provider;
(m) Member of the Legislative Assembly;
(n) Personal support worker, as defined in ORS 410.600; [or]
o) Home care worker, as defined in ORS 410.600[.]; or
(p) An individual paid by the Department of Human Services to provide a service identified in an individualized written service plan of an adult with a developmental disability.

(12) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) “Sexual abuse” means:
A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;
B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
C) Any sexual contact between an employee of a facility or paid

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caregiver and an adult served by the facility or caregiver;
(D) Any sexual contact between an adult and a relative of the adult other
than a spouse;
(E) Any sexual contact that is achieved through force, trickery, threat
or coercion; or
(F) Any sexual contact between an individual receiving mental health or
substance abuse treatment and the individual providing the mental health
or substance abuse treatment.
(b) “Sexual abuse” does not mean consensual sexual contact between an
adult and a paid caregiver who is the spouse of the adult.
(14) “Sexual contact” has the meaning given that term in ORS 163.305.
(15) “Verbal abuse” means to threaten significant physical or emotional
harm to an adult through the use of:
(a) Derogatory or inappropriate names, insults, verbal assaults, profanity
or ridicule; or
(b) Harassment, coercion, threats, intimidation, humiliation, mental cru-
elty or inappropriate sexual comments.

DEVELOPMENTAL DISABILITY PROGRAM DEFINITIONS

SECTION 7. ORS 427.005 is amended to read:

427.005. As used in this chapter:
(1) “Adaptive behavior” means the effectiveness or degree with which an
individual meets the standards of personal independence and social respon-
sibility expected for age and cultural group.
(2) “Care” means:
(a) Supportive services, including, but not limited to, provision of room
and board;
(b) Supervision;
(c) Protection; and
(d) Assistance in bathing, dressing, grooming, eating, management of
money, transportation or recreation.

3 “Community developmental disabilities program director” means the
director of an entity that provides services described in ORS 430.664 to per-
sons with intellectual disabilities or other developmental disabilities.

4 “Developmental disability” means an intellectual disability, autism,
cerebral palsy, epilepsy or other neurological condition diagnosed by a
qualified professional that meets criteria adopted by the Department of
Human Services.[:]

[(a) Originates before an individual is 22 years of age, or 18 years of age
for an intellectual disability;]

[(b) Originates in and directly affects the brain and is expected to continue
indefinitely;]

[(c) Results in a significant impairment in adaptive behavior as measured
by a qualified professional;]

[(d) Is not attributed primarily to other conditions including, but not lim-
ited to, a mental or emotional disorder, sensory impairment, substance abuse,
personality disorder, learning disability or attention deficit hyperactivity dis-
order; and]

[(e) Requires training and support similar to that required by an individual
with an intellectual disability.]

(5) “Director of the facility” means the person in charge of care, treat-
ment and training programs at a facility.

(6) “Facility” means a group home, activity center, community mental
health clinic or other facility or program that the department [of Human
Services] approves to provide necessary services to persons with intellectual
disabilities or other developmental disabilities.

(7) “Incapacitated” means a person is unable, without assistance, to
properly manage or take care of personal affairs, including but not limited
to financial and medical decision-making, or is incapable, without assistance,
of self-care.

(8) “Independence” means the extent to which persons with intellectual
disabilities or other developmental disabilities exert control and choice over their own lives.

(9) “Integration” means:

(a) Use by persons with intellectual disabilities or other developmental disabilities of the same community resources that are used by and available to other persons;

(b) Participation by persons with intellectual disabilities or other developmental disabilities in the same community activities in which persons without disabilities participate, together with regular contact with persons without disabilities; and

(c) Residence by persons with intellectual disabilities or other developmental disabilities in homes or in home-like settings that are in proximity to community resources, together with regular contact with persons without disabilities in their community.

(10) “Intellectual disability” means [significantly subaverage general intellectual functioning, defined as intelligence quotients under 70] an intelligence quotient at 70 or below as measured by a qualified professional and existing concurrently with significant impairment in adaptive behavior, that is manifested before the individual is 18 years of age meeting criteria adopted by the department by rule.

(b) An individual with intelligence quotients of 70 through 75 may be considered to have an intellectual disability if there is also significant impairment in adaptive behavior, as diagnosed and measured by a qualified professional.

(c) The impairment in adaptive behavior must be directly related to the intellectual disability.

(d) Intellectual disability is synonymous with mental retardation.

(11) “Intellectual functioning” means functioning as assessed by one or more of the individually administered general intelligence tests developed for the purpose.

(12) “Minor” means an unmarried person under 18 years of age.
“Naturopathic physician” has the meaning given the term in ORS 685.010.

“Physician” means a person licensed by the Oregon Medical Board to practice medicine and surgery.

“Productivity” means regular engagement in income-producing work, preferably competitive employment with supports and accommodations to the extent necessary, by a person with an intellectual disability or another developmental disability which is measured through improvements in income level, employment status or job advancement or engagement by a person with an intellectual disability or another developmental disability in work contributing to a household or community.

“Service coordination” means person-centered planning, case management, procuring, coordinating and monitoring of services under an individualized support plan to establish desired outcomes, determine needs and identify resources for a person with developmental disabilities and advocating for the person.

“Significantly subaverage” means a score on a test of intellectual functioning that is two or more standard deviations below the mean for the test.

“Training” means:

(a) The systematic, planned maintenance, development or enhancement of self-care, social or independent living skills; or

(b) The planned sequence of systematic interactions, activities, structured learning situations or education designed to meet each person’s specified needs in the areas of physical, emotional, intellectual and social growth.

“Treatment” means the provision of specific physical, mental, social interventions and therapies that halt, control or reverse processes that cause, aggravate or complicate malfunctions or dysfunctions.

AUTHORITY OF DEPARTMENT OF HUMAN SERVICES TO IMPOSE CIVIL PENALTIES
SECTION 8. (1) The Department of Human Services may impose a civil penalty, in accordance with ORS 183.745, on any person that violates a statutory requirement or a rule adopted by the department applicable to the provision of services described in ORS 409.010 (2).

(2) This section may not be construed to supersede ORS 418.992 or 441.710 or any other statute that prescribes criteria for or limitations on the imposition of a civil penalty.

DEPARTMENT OF HUMAN SERVICES
DONATED FUND ACCOUNT

SECTION 9. ORS 409.365 is amended to read:

409.365. [(1)] The Department of Human Services [Volunteer Program] Donated Fund Account is established separate and distinct from the General Fund. Interest earned, if any, shall inure to the benefit of the account. The moneys in the account are continuously appropriated [continuously] to the Department of Human Services to support activities that align with the mission of the department.

[(2) The Department of Human Services Volunteer Program shall keep a record of all moneys credited to and deposited in the Department of Human Services Volunteer Program Donated Fund Account. The record shall indicate the source from which the moneys are derived and the activity or program against which each withdrawal is charged.]

[(3) All private donations or contributions made for the use or benefit of the Department of Human Services Volunteer Program shall be deposited in the Department of Human Services Volunteer Program Donated Fund Account. All] Funds deposited in [that] the account shall [be used for direct program expenditures for the Department of Human Services Volunteer Program and shall] not be used for direct or indirect administrative expenditures.

CAPTIONS

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SECTION 10. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.
SUMMARY

Consolidates eligibility for services to children and adults with developmental disabilities. Modifies types of developmental disability services that may be offered and eligibility for services. Establishes new terminology.

A BILL FOR AN ACT

Relating to services provided to individuals with developmental disabilities; amending ORS 427.101, 427.107, 427.115, 427.121, 427.154, 427.163, 430.662 and 430.664; and repealing ORS 427.160.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 427.101 is amended to read:

427.101. As used in this section and ORS 427.115, 427.121, 427.154 [and 427.160] 430.662 and 430.664:

[(1) “Adult” means an individual who is 18 years of age or older.]

[(2) “Community living and inclusion supports”]

(1) “Developmental disability services” means [services that may or may not be work-related and includes]:

(a) Services designed to develop or maintain the individual’s skills in the following areas:

[(a)] (A) Eating, bathing, dressing, personal hygiene, mobility and other personal needs;

[(b)] (B) Self-awareness and self-control, social responsiveness, social amenities, interpersonal skills, interpersonal relationships and social connections;

[(c)] (C) Community participation, recreation and the ability to use

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
available community services, facilities or businesses;

[(d)] (D) Expressive and receptive skills in verbal and nonverbal language, the functional application of acquired reading and writing skills and other communication needs; and

[(e)] (E) Planning and preparing meals, budgeting, laundering, housecleaning and other personal environmental needs;

(b) Case management;

c) Services described in ORS 430.215;

d) Employment services;

e) Environmental accessibility adaptations;

(f) Specialized supports; and

g) Specialized medical equipment and supplies.

[(3) “Comprehensive services” means a package of services, other than support services for adults, that is provided by or under the direction of a community developmental disabilities program and that includes at least one of the following living arrangements licensed or regulated by the Department of Human Services:]

[(a) Twenty-four-hour residential care, including but not limited to a group home, a foster home or a supported living program.]

[(b) Assistance provided to maintain an individual in the individual’s own home or the home of the individual’s family and that costs more than an amount specified by the department by rule.]

[(4)] (2) “Employment services” means services provided to develop or maintain the skills necessary for an individual to obtain and retain employment, including job assessment, job exploration, job development, job training, job coaching, work skills, and ongoing supports.

[(5)] (3) “Environmental accessibility adaptations” means physical modifications to an individual’s home that are necessary to ensure the health, welfare and safety of the individual in the home, or that enable the individual to function with greater independence in the home.

[(6)] (4) “Individualized [written] service plan” means a plan described in
ORS 427.107 (2)(i), (j) and (k) that identifies the resources, services and purchases necessary for an individual with a developmental disability to achieve identified personal goals and maximize self-determination.

[(7)] (5) “Person-centered planning” means an informal or formal process for gathering and organizing information that helps an individual to:

(a) Enhance self-determination by choosing personal goals and lifestyle preferences;

(b) Design strategies and networks of support to achieve personal goals and a preferred lifestyle using individual strengths, relationships and resources; and

(c) Identify, use and strengthen naturally occurring opportunities for support in the home and in the community.

(6) “Placement setting” means:

(a) A residential setting; or

(b) An individual’s home or the home of the individual’s family.

(7) “Residential setting” means one of the following living arrangements licensed or regulated by the Department of Human Services:

(a) Residential facilities licensed under ORS 443.400 to 443.455;

(b) Licensed adult foster homes, as defined in ORS 443.705;

(c) Developmental disability child foster homes certified under ORS 443.835;

(d) Group homes; and

(e) Supported living programs.

(8) “Self-determination” means empowering individuals to:

(a) Select and plan, together with freely chosen family members and friends, the support services for adults developmental disability services that are necessary instead of purchasing a predefined program or package of services to maintain an individual in a placement setting;

(b) Control the expenditure of available financial assistance in order to purchase support services for adults, with the help of a social support network if needed;
(c) Live an autonomous life in the community, rich in community affiliations, through formal or informal arrangements of resources and personnel; and

(d) Have a valued role in the community through competitive employment, organizational affiliations, personal development and general caring for others in the community, and to be accountable for spending public dollars in ways that are life-enhancing for the individual.

(9) “Service provider” means any person who is paid a service rate by the department to provide one or more of the services identified in the individualized [written] service plan of an [adult] individual with a developmental disability regardless of where the service is provided.

(10) “Service rate” means the amount of reimbursement paid to a service provider to care for an [adult] individual with a developmental disability.

(11)(a) “Specialized medical equipment and supplies” means:

(A) Devices, aids, controls, supplies or appliances that enable individuals:

(i) To increase their ability to perform activities of daily living; or

(ii) To perceive, control or communicate with the environment in which they live;

(B) Items necessary for life support, including ancillary supplies and equipment necessary to the proper functioning of these items; and

(C) Medical equipment not available in the medical assistance program.

(b) “Specialized medical equipment and supplies” does not include items that have no direct medical or remedial benefit to the individual.

(12) “Specialized supports” means treatment, training, consultation or other unique services that are not available through the medical assistance program but are necessary to achieve the goals identified in the individualized [written] service plan, or other [support services for adults] developmental disability services prescribed by the department by rule.

(13) “Support service brokerage” means an entity that contracts with the department to provide or to arrange for [support services for adults] developmental disability services.

[4]
“(14) “Support services for adults” means the services for adults with developmental disabilities provided by a support service brokerage under ORS 427.154 and 427.160.

SECTION 2. ORS 427.115 is amended to read:

427.115. (1) The Department of Human Services or its designee shall assess the support needs for each [adult] individual with a developmental disability who is receiving [comprehensive services that include 24-hour residential care] developmental disability services in a residential setting and shall determine a service rate that is sufficient to meet the support needs of the [adult] individual. If an assessment of support needs results in a change to the service rate being paid to the service provider, the department or the department’s designee shall provide to the [adult receiving comprehensive services and the adult’s] individual and the individual’s service provider and, if appropriate, to the [adult’s service coordinator] individual’s case manager, guardian, primary caregiver or family members, a detailed accounting of the service rate paid to the service provider and the factors and weighting of factors used to determine the service rate.

(2) The department or the department’s designee shall assess the support needs and determine the service rate, as described in subsection (1) of this section, no later than 90 days after the [adult receiving comprehensive services or the adult’s] individual or the individual’s service provider, [service coordinator] case manager, guardian, primary caregiver, family member or legal representative makes a request, based on significant changes to the [adult’s] individual’s support needs, for a new assessment of support needs and a redetermination of the service rate.

(3) The department shall adopt by rule the procedures and criteria for requesting and conducting an assessment of support needs and a determination of a service rate under this section, using an advisory committee appointed in accordance with ORS 183.333. The rules shall include a procedure for contesting the denial of a request for assessment of support needs and redetermination of a service rate or the failure of the department or the
department’s designee to respond to a request for assessment and redetermi-
nation within a reasonable period of time, as prescribed by the department
by rule.

SECTION 3. ORS 427.121 is amended to read:

427.121. (1) As used in this section[:]

[(a) “Adult” means an adult with developmental disabilities who is eligible
to receive comprehensive services as defined in ORS 427.101.]

[(b) “Residential setting” means a living arrangement described in ORS
427.101 (3).], “adult” means an individual:

(a) Who is at least 18 years of age;

(b) Who has a developmental disability; and

(c) Who is eligible to receive developmental disability services in a
placement setting.

(2) An adult has the right to choose the adult’s placement setting. The
Department of Human Services or the department’s designee shall present to
an adult at least three appropriate placement setting options, including at
least two different types of residential settings, before:

(a) Making an initial placement.

(b) Transferring the adult from one placement setting to another place-
ment setting.

(3) The department or the department’s designee may not transfer an
adult from a placement setting without first complying with subsection (2)
of this section.

(4) The department or the department’s designee is not required to present
the options under subsection (2) of this section if:

(a) The department or the department’s designee demonstrates that three
appropriate placement settings or two different types of residential settings
are not available within the geographic area where the adult wishes to re-
side;

(b) The adult selects a placement setting option and waives the right to
be presented with the placement setting options described in subsection (2)
of this section; or

(c) The adult is at imminent risk to health or safety in the adult’s current
placement setting.

SECTION 4. ORS 427.154 is amended to read:

427.154. (1) [Support services for adults] Developmental disability ser-
vises are intended to meet the needs of [adults] individuals with develop-
mental disabilities [and to prevent or delay their need for comprehensive
services]. The Department of Human Services shall establish by rule the ap-
plication and eligibility determination processes for [support services for
adults] developmental disability services.

(2) [Support services for adults] Developmental disability services shall
be provided [through a support service brokerage and] pursuant to an indi-
vidualized [written] service plan that is developed and reassessed at least
annually using a person-centered planning process.

(3) The department shall ensure that each individual receiving [support
services for adults] developmental disability services and the individual’s
guardian or legal representative has an active role in choosing the ser-
VICES, activities and purchases that will best meet the individual’s needs and
preferences and to express those choices verbally, using sign language or by
other appropriate methods of communication.

[(4) The services, activities and purchases available as support services for
adults include, but are not limited to:] [(a) Community living and inclusion supports that facilitate independence
and promote community integration by supporting the individual to live as
independently as possible;]

[(b) Employment services;]
[(c) Environmental accessibility adaptations;]
[(d) Specialized supports; and]
[(e) Specialized medical equipment and supplies.] [(5)] (4) [Support services for adults] Developmental disability services
must complement the existing formal and informal supports, services, activ-
ities and purchases available to [an adult living in the adult’s own home or
the home of the adult’s family] an individual in the individual’s own home
or the home of the individual’s family.

[(6)] (5) The department shall ensure that each individual and the
individual’s guardian or legal representative has the opportunity to con-
firm satisfaction with the [support services for adults] developmental disa-
bility services that the individual receives and to make changes in the
services as necessary.

[(7)] (6) The department shall ensure that all [adults with developmental
disabilities receiving comprehensive services] individuals receiving develop-
mental disability services have an equal opportunity for job placements.
A provider of developmental disability services that offers job placements
may not give preference to an [adult with disabilities] individual who is a
resident of a facility owned or operated by the provider when determining
eligibility for a job placement. The residence of an [adult with developmental
disabilities] individual may not be the exclusive factor in determining el-
igibility for a job placement.

SECTION 5. ORS 427.107 is amended to read:

427.107. (1) As used in this section:
(a) “Facility” means any of the following that are licensed or certified
by the Department of Human Services or that contract with the department
for the provision of services:
(A) A health care facility as defined in ORS 442.015;
(B) A domiciliary care facility as defined in ORS 443.205;
(C) A residential facility as defined in ORS 443.400; or
(D) An adult foster home as defined in ORS 443.705.
(b) “Person” means an individual who has a developmental disability as
defined in ORS 427.005 and receives services from a program or facility.
(c) “Program” means a community developmental disabilities program as
described in ORS 430.662 and agencies with which the department or the
program contracts to provide services.

[8]
(d) “Service” means a community-based service described in ORS 427.007.

(2) While receiving developmental disability services, every person shall have the right to:

(a) Be free from abuse or neglect and to report any incident of abuse or neglect without being subject to retaliation.

(b) Be free from seclusion or personal, chemical or mechanical restraints unless an imminent risk of physical harm to the person or others exists and only for as long as the imminent risk continues.

(c) Not receive services without informed voluntary written consent except in a medical emergency or as otherwise permitted by law.

(d) Not participate in experimentation without informed voluntary written consent.

(e) A humane environment that affords reasonable privacy and the ability to engage in private communications with people of the individual’s choosing through personal visits, mail, telephone or electronic means.

(f) Visit with family members, friends, advocates and legal and medical professionals.

(g) Participate regularly in the community and use community resources.

(h) Not be required to perform labor, except personal housekeeping duties, without reasonable and lawful compensation.

(i) Seek a meaningful life by choosing from available services and enjoying the benefits of community involvement and community integration in a manner that is least restrictive to the person’s liberty considering the person’s preferences and age.

(j) An individualized [written] service plan, services based upon that plan and periodic review and reassessment of service needs.

(k) Ongoing participation in the planning of services, including the right to participate in the development and periodic revision of the plan for services, the right to be provided with an explanation of all service considerations in a manner that ensures meaningful individual participation and the right to invite others of the person’s choosing to participate in the plan for

[9]
services.

(L) Not be involuntarily terminated or transferred from services without prior notice, notification of available sources of necessary continued services and exercise of a grievance procedure.

(m) Be informed at the start of services and annually thereafter of the rights guaranteed by this section, the contact information for the protection and advocacy system described in ORS 192.517 (1), and the procedures for filing grievances, hearings or appeals if services have been or are proposed to be reduced, eliminated or changed.

(n) Be encouraged and assisted in exercising all legal rights.

(o) Assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely and impartial grievance procedure without any form of retaliation or punishment.

(p) Manage the person’s own money and financial affairs unless that right has been taken away by court order or other legal procedure.

(q) Keep and use personal property and have a reasonable amount of personal storage space.

(3) The rights described in this section are in addition to, and do not limit, all other statutory and constitutional rights that are afforded all citizens including, but not limited to, the right to exercise religious freedom, vote, marry, have or not have children, own and dispose of property, enter into contracts and execute documents.

(4) A person who is receiving developmental disability services has the right under ORS 430.212 to be informed and to have the person’s guardian and any representative designated by the person be informed that a family member has contacted the department to determine the location of the person, and to be informed of the name and contact information, if known, of the family member.

(5) The rights described in this section may be asserted and exercised by the person, the person’s guardian and any representative designated by the
person.

(6) Nothing in this section may be construed to alter any legal rights and responsibilities between parent and child.

(7) The department shall adopt rules concerning the rights described in this section that are consistent with the directives set forth in ORS 427.007.

SECTION 6. ORS 427.163 is amended to read:

427.163. The Department of Human Services shall apply any savings generated by support service brokerages developed under the Staley Settlement Agreement to provide services to individuals who are awaiting [adult developmental disability support services and who are not receiving any services.

SECTION 7. ORS 430.662 is amended to read:

430.662. (1) The Department of Human Services, in carrying out the legislative policy declared in ORS 430.610, subject to the availability of funds, shall:

(a) Regulate and assist Oregon counties and groups of Oregon counties in the establishment and financing of community developmental disabilities programs operated or contracted for by one or more counties.

(b) If a county declines to operate or contract for a community developmental disabilities program, contract with another public agency or private corporation to provide the program. The county must be provided with an opportunity to review and comment.

(c) When no community developmental disabilities program is operating within a county, operate the program or service.

(d) At the request of the tribal council of a federally recognized tribe of Native Americans, contract with the tribal council for the establishment and operation of a community developmental disabilities program in the same manner in which the department contracts with a county court or board of county commissioners.

(e) Enter into contracts with support service brokerages to deliver developmental disabilities services in a manner that features regional
consolidation, administrative efficiency, cost-effectiveness and strong consumer and family oversight.

[(e)] (f) If necessary to carry out the legislative policy declared in ORS 430.610, contract with a public agency or private corporation, in cooperation with the county, for some or all developmental disabilities services.

[(f)] (g) Approve or disapprove the biennial plan and budget information for the establishment and operation of each community developmental disabilities program. Subsequent amendments to or modifications of an approved plan or budget information involving more than 10 percent of the state funds provided for services under ORS 430.664 may not be placed in effect without prior approval of the department. However, an amendment or modification affecting 10 percent or less of state funds for services under ORS 430.664 within the portion of the program for persons with developmental disabilities may be made without department approval.

[(g)] (h) Make all necessary and proper rules to regulate the establishment and operation of [community] developmental disabilities [programs] services.

(2) The enumeration of duties and functions in subsection (1) of this section may not be deemed exclusive or construed as a limitation on the powers and authority vested in the department by other provisions of law.

SECTION 8. ORS 430.664 is amended to read:

430.664. (1) In addition to any other requirements that may be established by rule by the Department of Human Services, each community developmental disabilities program may contract with the department to provide or arrange for the provision of the following basic services to persons with developmental disabilities:

(a) Eligibility determination for developmental disability services.

(b) Access to developmental disability services in homes, work sites or other locations that promote independence, productivity and integration into the community.

(c) Case management services.
(d) Abuse investigation and protective services.

(e) Planning and coordination of activities with other agencies or organizations to ensure the effective and efficient service delivery and use of resources.

(f) Establishing and implementing a process to respond to complaints and grievances.

(g) Other alternative services as prescribed by the department by rule.

(2) Each community developmental disabilities program shall have a written management plan that governs the program’s operating structure, goals and activities.

(3) Each community developmental disabilities program shall have a developmental disability advisory committee.

(4) Subject to the review and approval of the department, a community developmental disabilities program may initiate additional services after the services described in this section are provided.

(5) The department may contract with a support service brokerage to provide or arrange for the provision of the following basic services to persons with developmental disabilities:

(a) Access to developmental disability services by persons with developmental disabilities in their homes, work sites or other locations that promote independence, productivity and integration into the community.

(b) Case management.

(c) Protective services.

(d) Planning and coordination of activities with other agencies or organizations to ensure the effective and efficient delivery of services and use of resources.

(e) Other services as prescribed by the department by rule.

(6) A person with a developmental disability who is served by a support service brokerage and the person’s family members shall have a formal, significant, continuing role in advising the support service
brokerage regarding the design, implementation and quality assurance
of the support service brokerage.

SECTION 9. ORS 427.160 is repealed.
SUMMARY

Specifies benefits that may be provided by Department of Human Services to low-income families after families, because of earnings or increases in hours of work, lose eligibility for temporary assistance for needy families (TANF). Delays, for two years, increase in number of months that family may receive specified benefits.

Eliminates certain requirements for job opportunity and basic skills program.

Extends suspension of provisions regarding TANF program.

 Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to temporary assistance for needy families program; creating new provisions; amending ORS 411.070, 411.877, 412.006, 412.009, 412.014, 412.084 and 412.124 and sections 1, 7 and 8, chapter 604, Oregon Laws 2011, and section 29, chapter 765, Oregon Laws 2015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

REVISIONS TO TANF AND JOBS PROGRAMS

SECTION 1. ORS 412.006 is amended to read:

412.006. [(J)] Aid pursuant to the temporary assistance for needy families program shall be granted under this section to families with dependent children residing in this state in accordance with rules adopted by the Department of Human Services.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
[(2) Except as provided in subsections (6) and (7) of this section, a needy caretaker relative may be required to participate in the job opportunity and basic skills program that is described in subsections (3) to (5) of this section.]

[(3) The department shall use a basic assessment tool to determine if a needy caretaker relative applying for or receiving aid under this section has or may have a barrier to employment or to family stability. If the basic assessment tool indicates that there is or may be a barrier, the needy caretaker relative shall be referred for an in-depth assessment by a person with relevant expertise or specialized training.]

[(4) Based upon the assessment described in subsection (3) of this section, the department, in cooperation with appropriate partner agencies or professionals, may work with the participant to create an effective individualized case plan that establishes goals and identifies suitable activities that promote family stability and financial independence.]

[(5) For individuals with disabilities, the goal of the individualized case plan must be to promote greater independence.]

[(6) A needy caretaker relative receiving aid under ORS 412.001 to 412.069 may volunteer for but may not be required to participate in the job opportunity and basic skills program:]

[(a) More than 10 hours per week during the first two months of the third trimester of the parent’s pregnancy;]

[(b) During the last month of the parent’s pregnancy;]

[(c) If the needy caretaker relative is experiencing medical complications due to pregnancy that prohibit participation in activities in the program;]

[(d) For one parent per family, during the first six months after the birth of a child, up to a total of 12 months per family except that:]

[(A) The department may require a parent to participate in suitable activities, with a preference for educational activities, 16 weeks after the birth of a child if the parent is under 20 years of age; and]

[(B) The department may require a parent of a child under 12 months of
age to participate in evidence-based parenting classes or family stability ac-
tivities;]

[(e) If participation is likely to cause undue hardship or is contrary to the
best interests of the child or needy caretaker relative; or]

[(f) If the department determines that a needy caretaker relative is exempt
according to criteria adopted by rule.]

[(7) The department shall adopt rules to carry out the provisions of this
section.]

**SECTION 2.** ORS 412.014, as amended by section 4, chapter 604, Oregon
Laws 2011, is amended to read:

412.014. (1) There is created in the Department of Human Services the
State Family Pre-SSI/SSDI program. The department shall provide aid under
this section to families that are eligible for temporary assistance for needy
families under ORS 412.001 to 412.069 and that include a needy caretaker
relative who is unable to maintain substantial gainful activity due to a dis-
ability or combination of disabilities that meet the criteria of section 216 of
the Social Security Act.

(2) The department shall assist families receiving aid under this section in qualifying for federal Supplemental Security Income and Social Security
disability benefits, including obtaining necessary medical records and evalu-
ations. The department shall maintain a list of lawyers admitted to the bar
of any state and approved by the Social Security Administration and
nonprofit legal services organizations that represent Oregon residents in
administrative hearings before the Social Security Administration Office of
Disability Adjudication and Review.

(3) The department shall adopt rules for determining the amount of aid
granted under this section that is not less than the [combined total of 43
percent of the Supplemental Security Income payment in effect at that time and
the amount of aid the child would receive under ORS 412.006 if the caretaker
relative did not receive aid] amount of aid granted under ORS 412.006.

(4) Participation in the State Family Pre-SSI/SSDI program shall be vol-
untary. The department shall provide information to potential participants in the State Family Pre-SSI/SSDI program about the opportunities for employment while receiving Supplemental Security Income and about employment resources available to State Family Pre-SSI/SSDI program participants. The information must be in a format accessible to the potential participant.

(5) Participants in the State Family Pre-SSI/SSDI program must cooperate with the department in establishing eligibility for Supplemental Security Income including, but not limited to, signing an interim assistance reimbursement agreement. The department by rule may establish policies for monitoring and encouraging full engagement in the State Family Pre-SSI/SSDI program, including activities that promote family stability. The department shall offer participants the opportunity to participate in any suitable activity in the job opportunity and basic skills program under ORS 412.009.

SECTION 3. ORS 412.014, as amended by section 4, chapter 604, Oregon Laws 2011, and section 2 of this 2019 Act, is amended to read:

412.014. (1) There is created in the Department of Human Services the State Family Pre-SSI/SSDI program. The department shall provide aid under this section to families that are eligible for temporary assistance for needy families under ORS 412.001 to 412.069 and that include a needy caretaker relative who is unable to maintain substantial gainful activity due to a disability or combination of disabilities that meet the criteria of section 216 of the Social Security Act.

(2) The department shall assist families receiving aid under this section in qualifying for federal Supplemental Security Income and Social Security disability benefits, including obtaining necessary medical records and evaluations. The department shall maintain a list of lawyers admitted to the bar of any state and approved by the Social Security Administration and nonprofit legal services organizations that represent Oregon residents in administrative hearings before the Social Security Administration Office of Disability Adjudication and Review.

[4]
(3) The department shall adopt rules for determining the amount of aid granted under this section that is not less than the [amount of aid granted under ORS 412.006 (1)] combined total of 43 percent of the Supplemental Security Income payment in effect at that time and the amount of aid the child would receive under ORS 412.006 if the caretaker relative did not receive aid.

(4) Participation in the State Family Pre-SSI/SSDI program shall be voluntary. The department shall provide information to potential participants in the State Family Pre-SSI/SSDI program about the opportunities for employment while receiving Supplemental Security Income and about employment resources available to State Family Pre-SSI/SSDI program participants. The information must be in a format accessible to the potential participant.

(5) Participants in the State Family Pre-SSI/SSDI program must cooperate with the department in establishing eligibility for Supplemental Security Income including, but not limited to, signing an interim assistance reimbursement agreement. The department by rule may establish policies for monitoring and encouraging full engagement in the State Family Pre-SSI/SSDI program, including activities that promote family stability. The department shall offer participants the opportunity to participate in any suitable activity in the job opportunity and basic skills program under ORS 412.009.

SECTION 4. ORS 412.124, as amended by section 7, chapter 765, Oregon Laws 2015, is amended to read:

412.124. [(1) The Department of Human Services shall continue to provide aid to families residing in Oregon that become ineligible for temporary assistance for needy families under ORS 412.006 due to employment or increased hours of work.]

[(2) Families may receive aid under this section for 12 consecutive months or until the household income exceeds 250 percent of the federal poverty guidelines, whichever occurs first, as long as the caretaker relatives participate in combined employment and work activities for the number of hours required]
each month to satisfy federally required participation rates.] (3) If the needy caretaker relatives cease to participate in employment or suitable activities for a sufficient number of hours each month to satisfy federally required participation rates, the department shall determine eligibility under ORS 412.006 based upon information available to the department. If the department does not have sufficient information available to determine eligibility for aid under ORS 412.006, the department shall provide notice and an opportunity for hearing prior to terminating aid. The notice must state the information that the department lacks and that the caretaker relatives must provide to complete the determination for aid.] (4) The department by rule shall establish standards for aid provided under this section. The department must disregard such aid for purposes of publicly subsidized child care assistance.] (5) In addition to money payments, aid includes necessary support service payments and services as part of the job opportunity and basic skills program to directly or indirectly assist the family in achieving long term financial stability.]

(1) As used in this section, “aid” means:

(a) Money payments to a family for basic living expenses;

(b) Necessary support service payments; and

(c) Services provided through the job opportunity and basic skills program to directly or indirectly assist a family to achieve long term family and financial stability.

(2) The Department of Human Services shall provide aid to a family residing in this state if:

(a) The family becomes ineligible for aid under the temporary assistance for needy families program due to employment or increased hours of work; and

(b) The caretaker relative is employed.

(3) Aid provided under this section may not be provided for more than three consecutive months at a time.

[6]
(4) The department shall adopt by rule standards for the aid provided under this section.

SECTION 5. ORS 412.124, as amended by section 7, chapter 765, Oregon Laws 2015, and section 4 of this 2019 Act, is amended to read:

412.124. [(1) As used in this section, “aid” means:]
[(a) Money payments to a family for basic living expenses;]
[(b) Necessary support service payments; and]
[(c) Services provided through the job opportunity and basic skills program to directly or indirectly assist a family to achieve long term family and financial stability.]

[(2) The Department of Human Services shall provide aid to a family residing in this state if:]
[(a) The family becomes ineligible for aid under the temporary assistance for needy families program due to employment or increased hours of work; and]
[(b) The caretaker relative is employed.]
[(3) Aid provided under this section may not be provided for more than three consecutive months at a time.]
[(4) The department shall adopt by rule standards for the aid provided under this section.]

(1) The Department of Human Services shall continue to provide aid to families residing in Oregon that become ineligible for temporary assistance for needy families under ORS 412.006 due to employment or increased hours of work.

(2) Families may receive aid under this section for 12 consecutive months or until the household income exceeds 250 percent of the federal poverty guidelines, whichever occurs first, as long as the caretaker relatives participate in combined employment and work activities for the number of hours required each month to satisfy federally required participation rates.

(3) If the needy caretaker relatives cease to participate in employ-
ment or suitable activities for a sufficient number of hours each month to satisfy federally required participation rates, the department shall determine eligibility under ORS 412.006 based upon information available to the department. If the department does not have sufficient information available to determine eligibility for aid under ORS 412.006, the department shall provide notice and an opportunity for hearing prior to terminating aid. The notice must state the information that the department lacks and that the caretaker relatives must provide to complete the determination for aid.

(4) The department by rule shall establish standards for aid provided under this section. The department must disregard such aid for purposes of publicly subsidized child care assistance.

(5) In addition to money payments, aid includes necessary support service payments and services as part of the job opportunity and basic skills program to directly or indirectly assist the family in achieving long term financial stability.

SECTION 6. Section 1, chapter 604, Oregon Laws 2011, as amended by section 82, chapter 107, Oregon Laws 2012, section 23, chapter 722, Oregon Laws 2013, and section 22, chapter 765, Oregon Laws 2015, is amended to read:

Sec. 1. Notwithstanding ORS 411.070, 412.006, 412.009 and 412.016, the Department of Human Services may:

(1) Prescribe by rule an employability assessment and orientation process that the department shall use to determine the level of participation by individuals applying for or receiving aid pursuant to the temporary assistance for needy families program and required to participate in the job opportunity and basic skills program described in ORS 412.006. This process must occur prior to any assessment described in ORS 412.006 (3) that is conducted by the department [412.006. This process must occur prior to any assessment described in ORS 412.006 (3) that is conducted by the department] 412.009.

(2) Require all families to participate in the employability assessment and orientation process as a condition for the family’s receipt of aid.
(3) Limit in the job opportunity and basic skills program, for existing and
future applicants and recipients of aid, based on the results of the
employability assessment or other criteria:
   (a) The number of participants;
   (b) The activities; or
   (c) The level of participation.
(4) Require an individual in a one-parent family to participate in the job
opportunity and basic skills program while caring for a dependent child who
is under two years of age.
(5) Not approve enrollment in and attendance at an educational institu-
tion as an allowable work activity for purposes of ORS 412.001 to 412.069,
except for recipients who have a case plan in effect on June 30, 2011, that
approves enrollment in and attendance at an educational institution as an
allowable work activity under ORS 412.016.
(6) Deny or terminate aid to a family in which a caretaker relative is
separated from employment without good cause, subject to exceptions pre-
scribed by the department by rule. The family shall be ineligible to receive
aid for a period of 120 days beginning on the date the caretaker relative is
separated from employment without good cause.
(7) Establish an income eligibility limit equal to 185 percent of the federal
poverty guidelines for aid to a dependent child residing with a caretaker
relative who is not the child’s parent.

SECTION 7. Section 8, chapter 604, Oregon Laws 2011, as amended by
section 25, chapter 722, Oregon Laws 2013, section 24, chapter 765, Oregon
Laws 2015, and section 7, chapter 725, Oregon Laws 2017, is amended to read:
Sec. 8. Section 1, chapter 604, Oregon Laws 2011, as amended by section
82, chapter 107, Oregon Laws 2012, section 23, chapter 722, Oregon Laws
2013, [and] section 22, chapter 765, Oregon Laws 2015, and section 6 of this

SECTION 8. Section 29, chapter 765, Oregon Laws 2015, as amended by
section 8, chapter 725, Oregon Laws 2017, is amended to read:
Sec. 29. [(1)] ORS 412.007 and the amendments to ORS 411.635, 412.001, 412.009, 412.079 and 412.124 by sections 6, 10, 12, 19 and 26, chapter 765, Oregon Laws 2015, become operative on April 1, 2016.

[(2) The amendments to ORS 412.124 by section 7, chapter 765, Oregon Laws 2015, become operative on July 1, 2019.]

SECTION 9. The amendments to ORS 412.124 by section 5 of this 2019 Act become operative on July 1, 2021.

CONFORMING AMENDMENTS

SECTION 10. ORS 411.877 is amended to read:

411.877. As used in ORS 411.877 to 411.896:

(1) “Board” means the JOBS Plus Advisory Board established in ORS 411.886.

(2) “Job opportunities and basic skills program” means the program described in ORS 412.006 412.009.

(3) “JOBS Plus” or “program” means the JOBS Plus Program established in ORS 411.878.

(4) “Supplemental Nutrition Assistance Program” has the meaning given that term in ORS 411.806.

SECTION 11. ORS 411.070 is amended to read:

411.070. (1) The Department of Human Services shall adopt by rule statewide uniform standards for all public assistance programs and shall effect uniform observance of the rules throughout the state.

(2) In establishing uniform statewide standards for public assistance, the department, within the limits of available funds, shall:

(a) Take into consideration all basic requirements for a standard of living compatible with decency and health, including food, shelter, clothing, fuel, public utilities, telecommunications service, medical care and other essential items and, upon the basis of investigations of the facts, shall provide budgetary guides for determining minimum costs of meeting such requirements.
(b) Develop standards for making payments and providing support services
in the job opportunity and basic skills program described in ORS [412.006]
412.009.

SECTION 12. ORS 412.009 is amended to read:
412.009. (1) The Legislative Assembly finds that:
(a) There is evidence that families who experience the most disqualifica-
tions from the job opportunity and basic skills program are often those with
the most barriers to employment; and
(b) The loss of income from a program disqualification adds strain and
creates instability in families already experiencing extreme poverty, and this
affects the health and food security of the dependent children in the family.
(2) The Department of Human Services by rule shall adopt proven meth-
ods of encouraging participants’ full engagement in the job opportunity and
basic skills program, including the development of an individualized case
plan [in accordance with ORS 412.006] and an ongoing process to ensure that
the case plan is appropriate.
(3)(a) The department shall facilitate the participation of needy caretaker
relatives and may not reduce the family’s aid payment as a method of en-
couraging full engagement in the job opportunity and basic skills program
pursuant to subsection (2) of this section until the department determines
that the needy caretaker relative that is not fully engaged:
(A) Has no identified barriers or refuses to take appropriate steps to ad-
dress identified barriers to participation in the program; and
(B) Refuses without good cause, as defined by the department by rule, to
meet the requirements of an individualized and appropriate case plan.
(b) The department may not reduce aid payments under this subsection
to families:
(A) Receiving aid pursuant to ORS 412.014 or 412.124;
(B) In which the caretaker relative participates in suitable activities for
the number of hours required each month to satisfy federally required par-
ticipation rates; or
(C) Until the department has screened for and, if appropriate, assessed barriers to participation, including but not limited to physical or mental health needs, substance abuse, domestic violence or learning needs.

(c) The department may not reduce aid payments under this subsection before assessing the risk of harm posed to the children in the household by the reduction in aid payments and taking steps to ameliorate the risk.

(4) Following notice and an opportunity for a hearing under ORS chapter 183 and subject to subsection (2) of this section, the department may reduce the aid payment to the family of an individual who refuses to participate in suitable activities required by the individual’s case plan or may terminate the aid payment to the family of a noncompliant individual in accordance with procedures adopted by the department by rule.

(5) A caretaker relative may request a hearing to contest the basis for a reduction in or termination of an aid payment under this section within 90 days of a reduction in or termination of aid.

(6) Every six months, the department shall report to the Family Services Review Commission established under ORS 411.075 the status of and outcomes for families for whom aid has been reduced or terminated under subsection (4) of this section. The department shall work with the commission to establish the details to be provided in the report.

SECTION 13. ORS 412.084 is amended to read:

412.084. (1) A person who is a minor parent of a child and is receiving or applying for aid shall reside with the person’s parent, parents or legal guardian. The person may substitute an alternative supervised living arrangement if the Department of Human Services determines that it is unsafe or impractical for the person to reside with the person’s parent, parents or legal guardian. Failure of a minor parent applying for or receiving temporary assistance for needy families to reside with the person’s parent, parents or legal guardian or in an alternative supervised living arrangement shall result in the termination of aid.

(2) The provisions of subsection (1) of this section shall not apply to an
applicant for or recipient of temporary assistance for needy families when circumstances or conditions exist that the department by rule establishes are not in the best interest of the child.

(3) If a person who is a minor parent receiving aid and who is not living with the person’s parent, parents or legal guardian subsequently returns to reside with the parent, parents or guardian and is determined ineligible to receive aid by reason of the parent’s or guardian’s income, the minor parent shall be eligible to receive such services, including medical care, as the department determines are necessary to allow the minor parent to attain a high school diploma or the equivalent, or to participate in the job opportunity and basic skills program as described in ORS [412.006] 412.009.

SECTION 14. Section 7, chapter 604, Oregon Laws 2011, as amended by section 24, chapter 722, Oregon Laws 2013, and section 23, chapter 765, Oregon Laws 2015, is amended to read:

Sec. 7. [(1)] The amendments to ORS 412.009, 412.014 and 412.024 by sections 2, 3 and 5, chapter 604, Oregon Laws 2011, become operative on October 11, 2011.

[(2) The amendments to ORS 412.014 by section 4, chapter 604, Oregon Laws 2011, become operative on July 1, 2019.]

SECTION 15. The amendments to ORS 412.014 by section 3 of this 2019 Act become operative on July 1, 2019.

SECTION 16. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

SECTION 17. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
A BILL FOR AN ACT

Relating to child welfare caseworkers; amending ORS 419B.021.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 419B.021 is amended to read:

419B.021. [(1) Except as provided in subsection (2) of this section, the fol-
lowing persons must possess a bachelor's, master's or doctoral degree from an
accredited institution of higher education:] [(a) A person who conducts an investigation under ORS 419B.020; and]
[(b) A person who makes the following determinations:] [(A) That a child must be taken into protective custody under ORS
419B.150; and]
[(B) That the child should not be released to the child's parent or other
responsible person under ORS 419B.165 (2).]
[(2) Subsection (1) of this section does not apply to:] [(a) A person who was employed or otherwise engaged by the Department
of Human Services for the purpose of conducting investigations or making de-
terminations before January 1, 2012, provided the person's employment or en-
gagement for these purposes has been continuous and uninterrupted.] [(b) A law enforcement official as that term is defined in ORS 147.005.]

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(1) The Department of Human Services shall establish by rule minimum qualifications for individuals who:
   (a) Conduct an investigation under ORS 419B.020; or
   (b) Make a determination that a child must be taken into protective custody under ORS 419B.150 or that a child should not be released to the child's parent or other responsible person under ORS 419B.165 (2).

(2) Subsection (1) of this section does not apply to a law enforcement official as defined in ORS 147.005.
SUMMARY

Requires Department of Human Services to report to interim committees of Legislative Assembly related to human services any changes needed to statutes governing programs administered by department due to changes to budget.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to programs administered by the Department of Human Services; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. No later than September 15, 2019, the Department of Human Services shall report to the interim committees of the Legislative Assembly related to human services any changes to statutes governing the programs administered by the department that are necessary to implement changes to the department’s budget, if any, that were made during the 2019 regular session of the Legislative Assembly.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Requires Department of Human Services to report to interim committees of Legislative Assembly related to human services any changes needed to statutes governing programs administered by department due to changes to budget.

Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to programs administered by the Department of Human Services; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. No later than September 15, 2019, the Department of Human Services shall report to the interim committees of the Legislative Assembly related to human services any changes to statutes governing the programs administered by the department that are necessary to implement changes to the department’s budget, if any, that were made during the 2019 regular session of the Legislative Assembly.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Establishes Development Readiness Program within Department of Land Conservation and Development to assist local governments with land use goals relating to housing and economic development.

Establishes Development Readiness Fund to fund program.

Declarations emergency, effective on passage.

A BILL FOR AN ACT

Relating to development readiness; creating new provisions; amending ORS 197.095; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly finds and declares that:

(1) Available and serviceable lands are necessary to meet the housing and employment needs of the people of this state.

(2) Many households throughout this state are severely rent burdened, paying over 50 percent of household income for rent. A lack of sufficient suitable and affordable housing is a primary cause of rent burden.

(3) Local governments cultivate employment and housing by maintaining updated local comprehensive plans and land use regulations supporting housing and economic development.

(4) Out-of-date comprehensive plans and land use regulations are barriers to readiness for development opportunities.

(5) Lack of local government capacity and financial resources limits progress toward development readiness.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.

New sections are in boldfaced type.
SECTION 2. Section 3 of this 2019 Act is added to and made a part of ORS chapter 197.

SECTION 3. (1) There is established in the Department of Land Conservation and Development the Development Readiness Program.

(2) Through the program, the department may provide financial, technical and other assistance to local governments to implement and pursue statewide land use planning goals relating to housing and economic development. Local governments may implement and pursue statewide land use planning goals relating to housing and economic development by:

(a) Increasing lands available for housing of all types and accessible to all income levels, especially affordable housing;

(b) Increasing lands available for industrial and commercial uses to promote state and regional economic development, especially for high growth industries;

(c) Meeting public infrastructure needs;

(d) Accessing state and other resources that support housing and economic development;

(e) Analyzing housing and economic development land use resources; and

(f) Updating comprehensive plans, land use regulations, zoning, urban growth boundaries, public facility plans and maps to support paragraphs (a) to (d) of this subsection.

(3) The department may adopt rules necessary to carry out the provisions of this section including priorities and eligibility requirements for assistance under the program.

SECTION 4. (1) There is established within the Land Conservation and Development Fund the Development Readiness Fund.

(2) The fund shall consist of moneys credited to the fund from monies appropriated or transferred to the fund by the Legislative Assembly or received from the federal government or other grants, gifts
or donations from any source. All moneys received by the Department of Land Conservation and Development under this subsection shall be paid into the State Treasury to the credit of the fund. Interest earned by the fund shall be credited to the fund.

(3) Moneys in the fund are continuously appropriated to the department to fund expenditures, grants to local governments and administrative costs of the Development Readiness Program established under section 3 of this 2019 Act.

SECTION 5. ORS 197.095 is amended to read:

197.095. (1) There is established in the General Fund in the State Treasury the Land Conservation and Development Account. The Land Conservation and Development Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Land Conservation and Development Fund shall be credited to the fund. Moneys in the account fund are continuously appropriated to the Department of Land Conservation and Development for the purpose of carrying out ORS chapters 195, 196 and 197.

(2) Except as provided in ORS 215.211 and section 4 of this 2019 Act, all fees, moneys and other revenue received by the department of Land Conservation and Development shall be deposited in the Land Conservation and Development Account fund.

SECTION 6. On the effective date of this 2019 Act, the State Treasurer shall transfer all funds in the Land Conservation and Development Account to the Land Conservation and Development Fund.

SECTION 7. In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $2,030,000 for deposit into the Development Readiness Fund.

SECTION 8. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Adds parole and probation officers to definition of “police officer” for purposes of life insurance benefits for police officers and firefighters.

A BILL FOR AN ACT

Relating to life insurance benefits for certain Department of Corrections employees; amending ORS 243.005.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 243.005 is amended to read:

243.005. As used in ORS 243.005 to 243.045:

(1) “Firefighter” means persons employed by a city, county or district whose duties involve fire fighting and includes a volunteer firefighter whose position normally requires less than 600 hours of service per year.

(2)(a) “Police officer” includes:

(A) Police chiefs and police officers of a city who are classified as police officers by the council or other governing body of the city;

(B) Police officers commissioned by a university under ORS 352.121 who are classified as police officers by the university;

(C) Sheriffs and those deputy sheriffs whose duties, as classified by the county governing body are the regular duties of police officers;

(D) Employees of districts, whose duties, as classified by the governing body of the district are the regular duties of police officers;

(E) Employees of the Department of State Police who are classified as police officers by the Superintendent of State Police;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(F) Employees of the Criminal Justice Division of the Department of Justice who are classified by the Attorney General as criminal investigators or criminal financial investigators;

(G) Employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents; [and]

(H) Employees of Department of Corrections institutions as defined in ORS 421.005 whose duties, as assigned by the superintendent, include the custody of persons committed to the custody of or transferred to the Department of Corrections institution; [but] and

(I) Parole and probation officers employed by the Department of Corrections.

(b) “Police officer” does not include:

(A) Volunteer or reserve police officers; or

(B) Persons considered by the respective governing bodies to be civil deputies or clerical personnel.

(3) “Public employer” means a city, a county or the state, or one of its agencies or political subdivisions that employs police officers or firefighters.
SUMMARY

Removes sunset date on temporary law and makes permanent law authorizing Oregon Youth Authority and county juvenile departments to disclose and provide copies of reports and other materials relating to child, ward, youth or youth offender’s history and prognosis to Department of Corrections for specified purposes.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to disclosure of certain juvenile records to Department of Corrections; amending ORS 419A.257 and section 3, chapter 509, Oregon Laws 2015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 419A.257, as amended by section 2, chapter 509, Oregon Laws 2015, is amended to read:

419A.257. (1) Reports and other materials relating to a child, ward, youth or youth offender’s history and prognosis that are created or maintained by or on behalf of the Oregon Youth Authority or the juvenile department are privileged and, except with the consent of the child, ward, youth or youth offender or with the authorization of the court, shall be withheld from public inspection.

(2) The Oregon Youth Authority and the juvenile department may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender’s history and prognosis, if the disclosure is reasonably necessary to perform official duties relating to the involvement of the child, ward, youth or youth offender with the juvenile court or the juvenile...
department, to the following:

(a) Each other;
(b) The court;
(c) Service providers in the case;
(d) School superintendents and their designees in cases under ORS 419C.005;
(e) Attorneys of record for the child, ward, youth or youth offender;
(f) Attorneys representing a party in the case;
(g) The district attorney or assistant attorney general representing a party in the case;
(h) The Department of Human Services;
(i) The court appointed special advocate; and

(3)(a) The Oregon Youth Authority and county juvenile departments established under ORS 419A.010 to 419A.020 may disclose and provide copies of reports and other materials relating to the child, ward, youth or youth offender’s history and prognosis to the Department of Corrections for the purpose of enabling the Department of Corrections to perform its official duties relating to the exercise of custody or supervision of a person committed to the legal and physical custody of the Department of Corrections.

(b) The Department of Corrections shall limit the use of reports and other materials disclosed and provided to the department under this section to reports and other materials that relate to the history and prognosis of a youth or youth offender as these pertain to:

(A) A person who was transferred to the physical custody of the authority under ORS 137.124 and is subsequently transferred to the physical custody of the Department of Corrections under ORS 137.124 or 420.011 or any other statute; or

(B) A person committed to the legal and physical custody of the Department of Corrections while the person is under the jurisdiction
of the juvenile court under ORS 419C.005, including but not limited to a person in the legal custody of the authority.

[(3)] (4) A person that obtains copies of reports or other materials under this section is responsible for preserving the confidentiality of the reports or other materials. A service provider, school superintendent or superintendent's designee who obtains copies of reports or other materials under this section shall destroy the copies upon the conclusion of involvement in the case.

[(4)(a)] (5)(a) Information appearing in reports or other materials relating to the child, ward, youth or youth offender's history or prognosis may not be disclosed directly or indirectly to any person not described in subsection (2) of this section unless the consent of the child, ward, youth or youth offender or the authorization of the court has been obtained, except for purposes of evaluating the child, ward, youth or youth offender's eligibility for special education as provided in ORS chapter 343.

(b) Information appearing in reports or other materials may not be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or youth offender, whether the proceeding occurs after the child, ward, youth or youth offender has reached 18 years of age or otherwise, except for the following purposes:

(A) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.

(B) In connection with a proceeding in another juvenile court concerning the child, ward, youth or youth offender or an appeal from an order or judgment of the juvenile court.

[(5)(a)] (6)(a) Information contained in reports and other materials relating to a child, ward, youth or youth offender's history and prognosis that, in the professional judgment of the Oregon Youth Authority, juvenile department, juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information contained in the reports and other materials has been provided, in-
icates a clear and immediate danger to another person or to society, shall be disclosed to the appropriate authority and the person or entity that is in danger from the child, ward, youth or youth offender.

(b) An agency or a person that discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045.

[(6)] (7) The disclosure of information under this section does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

SECTION 2. Section 3, chapter 509, Oregon Laws 2015, as amended by section 1, chapter 39, Oregon Laws 2017, is amended to read:

Sec. 3. The amendments to ORS 419A.257 by section 2, chapter 509, Oregon Laws 2015, become operative on [January 1, 2020] the effective date of this 2019 Act.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Changes fees charged by State Department of Geology and Mineral Industries for permits for mineral exploration, mining operations, exclusion certificates, gas and oil drilling and exploration, and geothermal well drilling operation. Limits number and distribution of onshore exploration sites and oil, gas and geothermal wells.

A BILL FOR AN ACT

Relating to mining; amending ORS 517.705, 517.710, 517.715, 517.730, 517.753, 517.800, 517.973, 520.017, 520.025, 522.055, 522.115 and 522.135.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 517.705 is amended to read:

1 517.705. (1) [Any person engaging] A person may not engage in onshore exploration that disturbs more than one surface acre or involves drilling to greater than 50 feet [shall obtain an exploration permit. Prior to receiving an exploration permit, an applicant shall submit a permit application on a form provided by the State Department of Geology and Mineral Industries. Information required shall include the information necessary to assess impacts of the proposed exploration, including but not limited to:] except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section.

2 (2) An application for an onshore exploration permit must include:

(a) The name and address of the surface owner and mineral owner.

(b) The names and addresses of the persons conducting the exploration.

(c) The name and address of any designated agent.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(d) A brief description of the exploration activities, including \textit{but not limited to}:

(A) The amount of road to be constructed;

(B) The number, depth and location of proposed drill holes;

(C) The number, depth and location of proposed monitoring wells; and

(D) The number, length, width and depth of exploration trenches.

(e) Provisions for the reclamation of surface disturbance caused by exploration activities.

(f) Exploration drill hole or monitoring well abandonment procedures, including \textit{but not limited to}:

(A) The capping of all holes;

(B) The plugging of any hole producing surface flow; and

(C) Appropriate sealing for any holes which have encountered aquifers.

(g) \textbf{An exploration boundary} map with the location of the proposed exploration and delineation of exploration boundaries.

(h) \textbf{Such other information as the department by rule may require to assess the impacts of the proposed exploration.}

(i) A nonrefundable fee of $2,000 per application.

(3) Each permit application may include no more than five drill holes within a single exploration boundary. The exploration boundary must be contiguous and include no more than 640 acres.

[(2)] (4) Any production records, mineral assessments or trade secrets submitted as part of the application under subsection [(1)] (2) of this section \textbf{are confidential}.

\textbf{SECTION 2.} ORS 517.710 is amended to read:

517.710. (1) \textit{A fee, not to exceed $400 shall accompany the application described in ORS 517.705. The State Department of Geology and Mineral Industries may} \textbf{If the person conducting an exploration under a permit issued under ORS 517.705 is not in violation of ORS 517.702 to 517.740 or 517.810 or any terms of the permit and has paid an annual renewal fee not to exceed $1,950 as established by the State Department of
Geology and Mineral Industries, the department shall renew the permit annually on the anniversary date of the issuance of the permit, provided the person conducting the exploration is not in violation of any provision of ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920 and pays a renewal fee not to exceed $300.

(2) A permit shall be subject to suspension and revocation as provided by ORS 517.702 to 517.755, 517.790, 517.810, 517.910 and 517.920.

(2) Nothing in this section prevents the department from suspending or revoking a permit for violations of ORS 517.702 to 517.740 or 517.810 or taking any other action authorized under ORS 517.860.

SECTION 3. ORS 517.753 is amended to read:

517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (16), a person must obtain an exclusion certificate from the State Department of Geology and Mineral Industries to may not engage in surface mining that results in the extraction of 5,000 cubic yards or less of minerals or affects less than one acre of land within a period of 12 consecutive calendar months except in compliance with an exclusion certificate issued by the State Department of Geology and Mineral Industries under this section. Except as provided in ORS 517.755, a mining operation subject to a valid exclusion certificate is not subject to the operating permit or reclamation requirements set forth in ORS 517.702 to 517.989.

(2) A person shall submit an exclusion certificate application on a form provided by the department, accompanied by a fee not to exceed $400. If the department does not approve or disapprove the application within 90 days after the date the application is filed with the department, the application shall be deemed approved.

(3) Each holder of an exclusion certificate shall annually pay to the department a renewal fee of [150] $165, accompanied by a description of:

(a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;

(b) The total acreage of surface disturbance by the mining operation as
of the date that the renewal is submitted; and

c) Any additional information required by the department to determine
that the mining operation continues to qualify for an exclusion certificate.

SECTION 4. ORS 517.800 is amended to read:

517.800. (1)(a) Except for an application for a mining operation submitted
under ORS 517.910 to 517.989, each applicant for an operating permit under
ORS 517.702 to 517.989 shall pay to the State Department of Geology and
Mineral Industries a fee established by the State Geologist in an amount not
to exceed [$1,750] $2,000.

(b) If an application for a new permit or an amendment to an existing
permit requires extraordinary department resources because of concerns
about slope stability or proximity to waters of the state or other environ-
mentally sensitive areas, the applicant shall pay to the department an addi-
tional fee in an amount [determined by] the State Geologist [to be] deems
adequate to cover the additional costs for staff and other related expenses.
The State Geologist shall consult with the applicant when determining the
amount of the fee.

(2) Annually, each holder of an operating permit shall pay to the depart-
ment a base fee of [$850] $1,000, plus [$0.0095] $0.01 per ton of aggregate or
mineral ore extracted during the previous 12-month period.

(3) If a reclamation plan is changed, the operator may be assessed for staff
time and other related costs an amount not to exceed [$1,750] $2,000 in ad-
dition to the annual renewal fee. This subsection does not apply to a mining
operation that is subject to the fee established by ORS 517.973 (2)(a).

(4) If, at] an operator [request,] requests that the department
[responds] respond to requests for information required by a local govern-
ment in making a land use planning decision [on behalf of the operator for
a specific site], the State Geologist may require the operator to pay the de-
partment a fee for staff time and related costs. The department shall notify
the operator in advance of the estimated costs of providing the information,
and the [actual amount assessed shall] assessment may not exceed the es-
timate [provided by the department].

(5) The State Geologist may require the operator of a site to pay to the department a special inspection fee in an amount not to exceed [$500] $2,000 for an inspection conducted under the following circumstances:

(a) Investigation of surface mining operations conducted without the operating permit required under ORS 517.790; or

(b) Investigation of surface mining operations conducted outside the area authorized in an operating permit.

(6) Upon request of an applicant or operator, the department shall provide an itemized list and documentation of expenses used to determine a fee under subsection (1)(b), (3) or (4) of this section.

(7) Notwithstanding the per ton fee established in subsection (2) of this section, the governing board of the department may lower to zero or raise the per ton fee up to [$0.0095 if necessary to provide financial certainty to the department or] $0.01 to reflect actual expenses of the department in administering ORS 517.702 to 517.951.

(8) All fees collected by the department under this section shall be deposited in the Mined Land Regulation and Reclamation Program Subaccount within the Geology and Mineral Industries Account. The department shall prepare and submit to the governing board of the [State Department of Geology and Mineral Industries] department an annual report on the financial status of the Mined Land Regulation and Reclamation Program Subaccount.

(9) The governing board of the department shall adopt rules establishing:

(a) [Shall adopt by rule a procedure] Procedures for the administrative review of the determinations of fees under this section.

(b) [Shall adopt rules establishing] The payment date for [annual] fees required under this section.

(c) [May adopt rules establishing a] Late [fee] fees of up to five percent of the unpaid amount of [an annual] a fee owed under this section if the
[annual] fee is more than 60 days past due.

SECTION 5. ORS 517.973 is amended to read:

517.973. (1) In addition to any permit fee required by any other permitting agency, each notice of intent to submit a consolidated application under ORS 517.961 [shall] must be accompanied by an initial fee established by the State Geologist in an amount not to exceed [$1,260] $2,000.

(2)(a) Annually on the anniversary date of the issuance of [each such] an operating permit, each holder of an operating permit shall pay to the State Department of Geology and Mineral Industries a renewal fee established by the State Geologist in an amount not less than [$2,500] $1,950.

(b) In addition to the fee prescribed in paragraph (a) of this subsection, the department may charge an [additional] amount not to exceed $1,200 for inspections made at sites if the surface mining is:

(A) [Where surface mining was] Conducted without the permit required by ORS 517.790;

(B) [Where surface mining has been] Abandoned; or

(C) [Where surface mining was] Conducted in an area not described in the surface mining permit.

(3) Subject to the provisions of subsection (5) of this section, the prospective applicant or applicant shall pay all expenses incurred by the department and the permitting and cooperating agencies related to the consolidated application process under ORS 517.952 to 517.989. These expenses may include legal expenses, expenses incurred in processing and evaluating the consolidated application, issuing a permit or final order and expenses of hiring a third party contractor under ORS 517.979 and 517.980.

(4) If the costs exceed the fee, the prospective applicant or applicant shall pay any excess costs shown in an itemized statement prepared by the department. [In no event shall the] The department and permitting and cooperating agencies may not incur evaluation expenses in excess of 110 percent of the fee initially paid unless the department provides prior notification to the prospective applicant or applicant and a detailed projected budget the
department believes necessary to complete the process or a portion of the process under ORS 517.952 to 517.989. If the actual costs are less than the fee paid, the department shall refund the excess [shall be refunded] to the prospective applicant or applicant.

(5) All expenses incurred by the department and the permitting and cooperating agencies under ORS 517.952 to 517.989 that are charged to or allocated to the fee paid by a prospective applicant or an applicant shall be necessary, just and reasonable. Upon request, the department shall provide a detailed justification for all charges to the prospective applicant or applicant.

SECTION 6. ORS 520.017 is amended to read:

520.017. (1) The following fees are established under this chapter:

(a) The application fee for a permit to drill a well[,] is $2,000.

[(b) The fee for a request to extend the period for completion of drilling, $500.]

[(c)] (b) The fee to modify operations at a well[, $1,500] is $2,000.

[(d) The fee to sidetrack a well, $500.]

[(e) The fee to plug and abandon a well, $1,000.]

[(f)] (c) The annual renewal fee for operation and maintenance of a well[, $1,500 the first renewal year and $500 for each subsequent year] is $1,950.

[(g)] (d) The application fee for a permit to drill an information hole [is to be determined by the State Department of Geology and Mineral Industries based] may not exceed $2,000 per five information holes drilled in a contiguous 640-acre area. The State Department of Geology and Mineral Industries shall base the fee on the estimated cost of review and approval[,] and the number and location of holes to be drilled. [The fee may not exceed $1,000 per information hole.]

[(h)] (e) The fee for approval of a seismic program [shall be determined by the department based on] may not exceed $2,000. The department shall base the fee on the estimated cost of review and approval[,] but may not
(2) The governing board of the [State Department of Geology and Mineral Industries] department by rule may specify a schedule of fees for costs incurred by the department for activities related to field designation for purposes of this section.

(3) All moneys received by the [State Department of Geology and Mineral Industries] department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established in ORS 516.070.

SECTION 7. ORS 520.025 is amended to read:

520.025. (1) A person may not drill or use a well without first obtaining a permit from the State Department of Geology and Mineral Industries and posting any bond that may be required pursuant to ORS 520.095 (1). Drilling must be completed within one year from the date the permit is issued [unless an extension is granted under subsection (2) of this section]. When drilling has been completed, the well must be maintained under a permit until it is properly plugged and the site is reclaimed.

[(2) An unused permit may be extended by the department for a reasonable period upon receipt of a written request from the permittee before the expiration date of the permit. The request shall be accompanied by a nonrefundable fee established under ORS 520.017.]

[(3)] (2) A permittee maintaining or operating a well shall provide the department with an annual report on a form provided by the department. Subject to the determinations in subsection [(4)] (3) of this section, a permittee shall renew the permit for a well by paying the fee established under ORS 520.017.

[(4)(a)] (3)(a) If upon receipt of the application the department determines that the method and equipment to be used by the applicant in drilling or operating the well comply with applicable laws and rules, the department shall issue the permit.

(b) The department may refuse to issue, refuse to renew or revoke a per-
mit issued pursuant to this section if the department determines that methods or equipment to be used or being used in drilling or operating the well do not comply with applicable laws or rules, or that the well will not be operated and maintained or is not being operated or maintained in compliance with the permit and applicable laws or rules.

**SECTION 8.** ORS 522.055 is amended to read:

522.055. (1) [No person shall] A person may not engage in drilling a prospect well except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section [without first obtaining a permit issued under the authority of the State Department of Geology and Mineral Industries and without complying with the conditions of such permit].

(2) An application for a permit to drill prospect wells [shall] must contain [such information as the department may require, including but not limited to]:

(a) A plugging and decommissioning plan[, and shall be accompanied by ];

(b) Such other information as the department by rule may require to assess the impacts of the proposed well; and

(c) A nonrefundable fee [in the amount] as determined by the department based on [to be] the estimated cost of review of the proposed prospect wells, not to exceed $2,000 per application.

(3) Each application may include up to five prospect wells [in a given] per project area. [The amount of the fee may not exceed $1,000 per five prospect wells.] The project area must be contiguous and include no more than 640 acres.

(4) A permit to drill remains valid until it is revoked or modified by the department based on new information or changed conditions.

[(3)] (5) The permittee shall [provide] pay the department an annual nonrefundable renewal fee of [$500] $1,950 on or before the anniversary of [the issuance date of] each active permit.
[(4)] (6) [A request by] A permittee **who requests** to transfer a permit issued under this section shall **be accompanied by** pay a nonrefundable fee of [$500] **$2,000 at the time of the request.**

[(5)] (7) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070.

**SECTION 9.** ORS 522.115 is amended to read:

522.115. (1) **No person shall** engage in the drilling or operating of any geothermal well **except in compliance with a permit issued by the State Department of Geology and Mineral Industries under this section [without first obtaining a permit issued under the authority of the State Department of Geology and Mineral Industries, and without complying with the conditions of such permit].**

(2) An application for a permit **shall** **to drill or operate a geothermal well must** contain:

(a) The location and elevation of the floor of the proposed derrick.

(b) The number or other designation approved by the department by which the well shall be known.

(c) The applicant’s estimate of the depths to be drilled.

(d) The nature and character of the geothermal resource sought.

(e) A reclamation plan for the well pad.

(f) Such other information as the [governing board of the State Department of Geology and Mineral Industries] department by rule may require to assess the impact of the proposed geothermal well.

[(3)] (g) [An application for a permit shall be accompanied by] A nonrefundable fee of $2,000.

[(4)] (3) The permittee shall [provide] pay an annual nonrefundable renewal fee of **$1,950** on or before the anniversary of the issuance date of each active permit. [as follows:]

[(a) **$1,500 for the first renewal year.**]
[(b) $500 for each subsequent renewal year.]

[(5)] (4) A request by a permittee to modify a permit shall be accompanied by a nonrefundable fee not to exceed [\$1,500] \$2,000.

[(6)] (5) A request by a permittee to transfer a permit issued under this section shall be accompanied by a nonrefundable fee of [\$500] \$2,000.

[(7) A request by a permittee to plug and decommission a geothermal well shall be accompanied by a nonrefundable fee of \$1,000.]

[(8)] (6) All moneys received by the department under this section shall be paid into the State Treasury and deposited in the General Fund to the credit of the Geology and Mineral Industries Account established by ORS 516.070.

**SECTION 10.** ORS 522.135 is amended to read:

522.135. (1) Within 60 days after receipt of a complete application for a permit to drill or operate a geothermal well, the State Department of Geology and Mineral Industries shall by order issue or deny the permit unless the department determines that a longer period is necessary to respond to comments or new information or for other good cause.

(2) Except as provided in ORS 522.145, the department shall issue the permit if, after receipt of comments from the agencies referred to in ORS 522.125, the department determines that issuance of the permit would be consistent with the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the State Department of Geology and Mineral Industries, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the Environmental Quality Commission.

(3) If the department issues a permit pursuant to this section, the department shall impose such conditions as the department considers necessary to carry out the provisions of this chapter and ORS chapters 468A, 468B and 537, any rule adopted under this chapter by the governing board of the department, any rule adopted by the Water Resources Commission under ORS chapter 537 and any rule adopted under ORS chapter 468 or 468B by the
Environmental Quality Commission. The department shall include in the permit a statement that issuance of the permit does not relieve any person from any obligation to comply with ORS 468B.035, 468B.050, 468B.195, 537.090 or 537.535 or any other applicable state or federal environmental laws.

(4) The State Geologist shall incorporate into the permit requirements:
(a) Any conditions made by the Water Resources Director necessary to comply with the purposes set forth in ORS 537.525; and
(b) Any conditions made by the Department of Environmental Quality necessary to comply with the purposes set forth in ORS 468A.010 and 468B.015.

[(5) Drilling, redrilling or deepening must begin within one year after the date of permit issuance or the permit shall expire. However, the State Department of Geology and Mineral Industries may extend the unused permit for a reasonable period not to exceed one year beyond the initial one-year period upon receipt of a written request from the permittee before the expiration date of the permit. The request shall be accompanied by the nonrefundable fee specified in ORS 522.115.]

SECTION 11. ORS 517.715 is amended to read:
517.715. (1) When exploration will result in less than one acre of surface disturbance or drilling to 50 feet or less, any person conducting exploration is exempted from the requirements of the permit procedure described in ORS 517.702 to 517.740. However, nothing in this section exempts a person from the requirements of ORS chapter 273 or the requirements of other departments.

(2) All mineral exploration drill holes shall comply with the abandonment procedures specified in ORS 517.705 [(1)(f)] (2)(f).

SECTION 12. ORS 517.730 is amended to read:
517.730. (1) The State Department of Geology and Mineral Industries shall consult with the Water Resources Department on the development of rules covering drill hole or monitoring well abandonment procedures, including procedures for the abandonment of holes and wells for which no exploration [12]
permit is required in ORS 517.705.

(2) Nothing in ORS 517.702 to [517.755, 517.790, 517.810, 517.910 and 517.920] 517.740 prohibits the conversion of exploration drill holes or monitoring wells to water wells, provided that the conversion conforms to the standards and rules of the Water Resources Department.

___________

[13]
SUMMARY

Clarifies applicability of surface mining exclusion certificate to multiple sites and on federal and state lands. Exempts activities extracting 1,000 cubic yards or less from certificate requirements.

Raises maximum renewal fee for exclusion certificate.

Exempts construction excavation necessary for authorized construction project from surface mining laws.

A BILL FOR AN ACT

Relating to surface mining; amending ORS 517.750 and 517.753.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 517.753 is amended to read:

517.753. (1) Notwithstanding the yard and acre limitations of ORS 517.750 (16), a person [must] **shall** obtain an exclusion certificate from the State Department of Geology and Mineral Industries [to engage in surface mining that] for each surface mining operation that:

(a) Is sited upon:

(A) A single lot or parcel as defined in ORS 92.010; or

(B) State or federally managed lands; and

(b) Within a 12-month period:

(A) Results in the extraction of **between 1,000 and** 5,000 cubic yards [or less] of minerals; or

(B) Affects less than one acre of land [within a period of 12 consecutive calendar months].

(2) Except as provided in ORS 517.755, [a mining operation subject to] **surface mining conducted under** a valid exclusion certificate is [not sub-
ject to] **exempt from** the operating permit [or] **and** reclamation requirements set forth in ORS 517.702 to 517.989.

[(2)] (3) A person shall submit an exclusion certificate application on a form provided by the department, accompanied by a fee not to exceed $400. [If the] **Unless the** department [does not approve or disapprove] **denies** the application within 90 days after [the date the application is filed with the department,] **filing**, the application [shall be] is deemed approved.

[(3)] (4) Each holder of an exclusion certificate shall annually pay to the department a renewal fee [of $150] **not to exceed** $165, accompanied by a description of:

(a) The amount of minerals extracted pursuant to the certificate during the previous 12 months;

(b) The total acreage of surface disturbance by the mining operation as of the date that the renewal is submitted; and

(c) Any additional information required by the department to determine [that] **whether** the mining operation continues to qualify for an exclusion certificate.

**SECTION 2.** ORS 517.750 is amended to read:

517.750. As used in ORS 517.702 to 517.989, unless the context requires otherwise:

(1) “Board” means the governing board of the State Department of Geology and Mineral Industries.

(2) “Completion” means termination of surface mining activities including reclamation of the surface-mined land in accordance with the approved reclamation plan and operating permit.

(3) “Cooperating agency” means the State Department of Agriculture, the State Department of Fish and Wildlife or any agency that has statutory responsibility related to a mining operation but that does not issue a permit for the mining operation.

(4) “Department” means the State Department of Geology and Mineral Industries.
(5) “Exploration” means all activities conducted on or beneath the surface of the earth for the purpose of determining presence, location, extent, grade or economic viability of a deposit. “Exploration” does not include prospecting or chemical processing of minerals.

(6) “Explorer” means, notwithstanding the provisions of ORS 517.810 (2), any individual, public or private corporation, political subdivision, agency, board or department of this state, any municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever a person that is engaged in exploration.

(7) “Landowner” means:
(a) The person possessing fee title to the natural mineral deposit being surface mined or explored; and
(b) The owner of an equitable interest in land that is subject to a deed of trust.

(8) “Minerals” includes soil, coal, clay, stone, sand, gravel, metallic ore and any other solid material or substance excavated for commercial, industrial or construction use from natural deposits situated within or upon lands in this state.

(9) “Operator” means any individual, public or private corporation, political subdivision, agency, board or department of this state, any municipality, partnership, association, firm, trust, estate or any other legal entity whatsoever that is engaged in surface mining operations.

(10) “Overburden” means the soil, rock and similar materials that lie above natural deposits of minerals.

(11) “Person” means any person, any federal agency or any public body, as defined in ORS 174.109.

(12) “Processing” includes, but is not limited to, crushing, washing, milling and screening as well as the batching and blending of mineral aggregate into asphalt and portland cement concrete located within the operating permit area.

(13) “Reclamation” means the employment in a surface mining operation
or exploration of procedures reasonably designed to:
   (a) Minimize, as much as practicable, the adverse effects of the surface mining operation or exploration on land, air and water resources; and
   (b) Provide for the rehabilitation of surface resources adversely affected by the surface mining operations or exploration through the rehabilitation of plant cover, soil stability and water resources and through other measures that contribute to the subsequent beneficial use of the explored, mined or reclaimed lands.

(14) “Reclamation plan” means a written proposal, submitted to the department as required by ORS 517.702 to 517.989 and subsequently approved by the department as provided in ORS 517.702 to 517.989, for the reclamation of the land area adversely affected by a surface mining operation or exploration and including, but not limited to the following information:
   (a) Proposed measures to be undertaken by the operator in protecting the natural resources of adjacent lands.
   (b) Proposed measures for the rehabilitation of the explored or surface-mined lands and the procedures to be applied.
   (c) The procedures to be applied in the surface mining operation or exploration to control the discharge of contaminants and the disposal of surface mining refuse.
   (d) The procedures to be applied in the surface mining operation or exploration in the rehabilitation of affected stream channels and stream banks to a condition minimizing erosion, sedimentation and other factors of pollution.
   (e) The map required by ORS 517.790 (1)(e) and such other maps and supporting documents as may be requested by the department.
   (f) A proposed time schedule for the completion of reclamation operations.
   (g) Requirements of the exploration permit.

(15) “Surface impacts of underground mining” means all waste materials produced by underground mining and placed upon the surface including, but not limited to, waste dumps, mill tailings, washing plant fines and all surface
subsidence related to underground mining.

(16)(a) “Surface mining” includes:

(A) All or any part of the process of mining minerals by the removal of overburden and the extraction of natural mineral deposits thereby exposed by any method by which more than 5,000 cubic yards of minerals are extracted or by which at least one acre of land is affected within a period of 12 consecutive calendar months, including open-pit mining operations, auger mining operations, processing, surface impacts of underground mining, production of surface mining refuse and the construction of adjacent or off-site borrow pits, [(/) except those constructed for use as access roads(/)].

(B) Removal or filling, or both, within the beds or banks of any waters of this state that is the subject of a memorandum of agreement between the Department of State Lands and the State Department of Geology and Mineral Industries in which the State Department of Geology and Mineral Industries is assigned sole responsibility for permitting as described in ORS 517.797.

(b) “Surface mining” does not include:

(A) Excavations of sand, gravel, clay, rock or other similar materials conducted by the landowner or tenant for the primary purpose of construction, reconstruction or maintenance of access roads on the same parcel or on an adjacent parcel that is under the same ownership as the parcel that is being excavated;

(B) Excavation or grading operations, reasonably necessary for farming;

(C) Nonsurface effects of underground mining;

(D) Removal of rock, gravel, sand, silt or other similar substances removed from the beds or banks of any waters of this state pursuant to a permit issued under ORS 196.800 to 196.900;

(E) Excavations or reprocessing of aggregate material, or grading operations, within the highway right of way reasonably necessary for the construction, reconstruction or maintenance of a highway as defined in ORS 801.305;

(F) Excavation or movement of materials on site at a landfill, as defined
in ORS 459.005, for the primary purpose of construction, reconstruction or
maintenance of access roads or for landfill operations, including but not
limited to landfill cell construction and daily, interim and final cover oper-
ations, if the excavation or movement of materials is covered by a permit
issued by the Department of Environmental Quality under ORS 459.205 to
459.385; [or]

(G) Excavation or grading operations necessary for construction and
maintenance of utilities or drainage facilities, where the excavated material
is used on site and is not sold into the commercial market as aggregate
material[].; or

(H) Excavation or grading operations that are necessary for the
on-site construction of a building, public works project or other phys-
ical improvement authorized by the local jurisdiction with land use
authority, unless any excavated minerals are sold into the commercial
market.

(17) “Surface mining refuse” means all waste materials, soil, rock, min-
eral, liquid, vegetation and other materials resulting from or displaced by
surface mining operations within the operating permit area, including all
waste materials deposited in or upon lands within the operating permit area.

(18) “Underground mining” means all human-made excavations below the
surface of the ground through shafts or adits for the purpose of exploring for,
developing or producing valuable minerals.
Establishes partnership and partner audit procedures for Department of
Revenue in conformity with federal centralized partnership audit regime. Allows department to issue assessment and collect taxes at partnership level based on adjustments arising from federal partnership-level audit or administrative adjustment request.

Applies to partnership adjustments for partnership tax years beginning on or after January 1, 2018.

Provides that election by pass-through entity to file composite return is irrevocable.

Applies to tax years beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to audits of partnerships; creating new provisions; amending ORS 314.712, 314.714 and 314.778; repealing ORS 314.723; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 5 of this 2019 Act are added to and made a part of ORS chapter 314.

SECTION 2. As used in sections 2 to 5 of this 2019 Act:

(1) “Adjustment” means a partnership adjustment, as defined in section 6241 of the Internal Revenue Code, whether that adjustment arises from action by the Internal Revenue Service or other competent authority or from the taxpayer’s filing of an amended federal return, a federal refund claim or an administrative adjustment request.

(2) “Adjustments report” means a report used by a taxpayer to state...
adjustments to any partnership-related items, including adjustments arising from an action by the Internal Revenue Service or other competent authority or from the taxpayer's filing of an amended return, a refund claim or an administrative adjustment request.

(3) “Administrative adjustment request” means a request filed by a partnership under section 6227 of the Internal Revenue Code.

(4) “Audited partnership” means a partnership subject to a partnership-level audit from which an adjustment arises.

(5) “Corporate partner” means a partner that is subject to the tax imposed under ORS chapter 317 or 318.

(6) “Direct partner” means a partner that holds an interest directly in a partnership or pass-through entity.

(7) “Federal partnership representative” means the person that a partnership designates for the tax year as the partnership's representative, or the person the Internal Revenue Service has appointed to act as the federal partnership representative, pursuant to section 6223(a) of the Internal Revenue Code.

(8) “Indirect partner” means a partner in a partnership or pass-through entity that holds an interest directly, or through another indirect partner, in a partnership or pass-through entity.

(9) “Nonresident partner” means a partner that is not a resident partner and is an individual, a trust or an estate.

(10) “Partnership-level audit” means an examination by the Internal Revenue Service at the partnership level pursuant to sections 6221 to 6241 of the Internal Revenue Code, or other competent authority, from which an adjustment arises.

(11) “Resident partner” means a partner that is an individual who is a resident of this state as defined in ORS 316.027 for the tax year or is a resident trust or a resident estate as defined in ORS 316.282.

(12) “Reviewed year” means the tax year of a partnership that is required to be or elects to be subject to a partnership-level audit from
which adjustments arise.

(13) “Taxpayer” means:
(a) An individual or entity that is subject to the tax imposed under
ORS chapter 316, 317 or 318;
(b) A partnership subject to a partnership-level audit;
(c) A partnership that has made an administrative adjustment re-
quest and its tiered partners; or
(d) A tiered partner of a partnership.

(14) “Tiered partner” means a partner that is a partnership or
pass-through entity.

SECTION 3. (1) Notwithstanding ORS 314.380, and except for ad-
justments required to be reported for federal purposes pursuant to
section 6225(a)(2) of the Internal Revenue Code, partnerships and
partners shall report the adjustments arising from a partnership-level
audit or an administrative adjustment request and make payments as
required under this section.

(2)(a) A partnership’s federal partnership representative shall act
as the partnership’s Oregon partnership representative for the re-
viewed year, unless the partnership designates another Oregon part-
nership representative.

(b) The Oregon partnership representative is responsible for any
action required or permitted to be taken under this section, including
providing the adjustments report to the Department of Revenue and
making any election outlined under this section.

(c) With respect to representation before the department or the
Oregon Tax Court, ORS 305.242 applies for designation of a tax matters
partner. If the federal partnership representative does not qualify to
be the tax matters partner under ORS 305.242, the federal partnership
representative may designate an Oregon partnership representative
that qualifies to be a tax matters partner under ORS 305.242.

(d) With respect to an action required or permitted to be taken by
a partnership under this section and proceedings under ORS 305.265, 305.270, 305.275 and 305.280, the Oregon partnership representative for the reviewed year has the sole authority to act on behalf of the partnership, and the direct partners and indirect partners of the partnership are bound by those actions.

(3) Adjustments subject to the requirements of this section, except for those subject to an election under subsection (4) of this section, shall be reported as follows:

(a) Not later than 90 days after the date of the audit report or the day on which the amended return, refund claim, administrative adjustment request or other similar report was filed, the partnership shall:

(A) File with the department a completed adjustments report in the form and manner prescribed by the department that is sufficiently detailed to allow computation of the tax change resulting from the adjustment;

(B) Concede the accuracy of the determination of the Internal Revenue Service or other competent authority, or state wherein the taxpayer believes the determination to be erroneous; and

(C) Submit with the adjustments report any other information required by the department;

(D) Notify the partnership’s direct partners of their distributive share of adjustments, including information as required by the department;

(E) File an amended composite return for direct partners that are nonresident partners as required under ORS 314.778; and

(F) Pay any additional personal income tax and corporate income or excise tax that would have been due had the adjustments been reported properly as required on the composite return.

(b) Not later than 180 days after the date of the audit report or the day on which the amended return, refund claim, administrative ad-
justment request or other similar report was filed, each direct partner
that is subject to the tax imposed under ORS chapter 316, 317 or 318
shall:
(A) File with the department an adjustments report or an original
or amended Oregon tax return reporting the direct partner’s distribu-
tive share of the adjustments reported to them under this subsection;
and
(B) Pay any additional amount of tax that would have been due had
the adjustments been reported properly, plus any interest and penalty
due under ORS 305.220 or 314.400.
(4) An audited partnership may make an election to pay at the
partnership level. Subject to the limitations in subsection (5) of this
section, an audited partnership making an election under this sub-
section shall:
(a) Not later than 90 days after the date of the audit report, file
with the department a completed adjustments report, including part-
ner information and any other information required by the depart-
ment, and notify the department that it is making the election under
this subsection; and
(b) Not later than 180 days after the date of the audit report, pay
an amount, in lieu of taxes owed by the direct and indirect partners
of the partnership, to be determined as follows:
(A) For the total distributive shares of adjustments made to direct
partners that are corporate partners, apportion and allocate any ad-
justments as provided under this chapter and multiply the resulting
amount by the highest marginal tax rate applicable to taxpayers for
the tax year under ORS chapter 317;
(B) For the total distributive shares of adjustments made to direct
partners that are nonresident partners subject to tax under ORS
chapter 316, determine the amount of any adjustment that is income
from Oregon sources under ORS chapter 316 and multiply the resulting
amount by the highest marginal tax rate applicable to taxpayers for
the tax year under ORS chapter 316;
(C) For the total distributive shares of adjustments made to tiered
partners:
   (i) Determine the amount of any adjustment that is of a type that
would be subject to sourcing to Oregon under this chapter and deter-
mine the portion of this amount that would be sourced to Oregon;
   (ii) Determine the amount of any adjustment that is of a type that
would not be subject to sourcing to Oregon by a nonresident partner
under ORS chapter 316;
   (iii) Determine the portion of the amount in sub-subparagraph (ii)
of this subparagraph that is properly allocable to indirect partners
that are nonresident partners or other partners not subject to tax on
the adjustments or that can be excluded under subsection (8) of this
section; and
   (iv) Multiply the total of the amounts in sub-subparagraphs (i) and
(ii) of this subparagraph, reduced by the amount determined in sub-
subparagraph (iii) of this subparagraph, by the highest marginal tax
rate under ORS chapter 316;
(D) For the total distributive shares of adjustments made to direct
partners that are resident partners, multiply the amount of the ad-
justments by the highest marginal tax rate under ORS chapter 316;
and
(E) Add the amounts determined in subparagraphs (A) to (D) of this
paragraph and any interest and penalty as provided in ORS 305.220 or
314.400.
(5) Adjustments subject to the election in subsection (4) of this
section do not include:
(a) The distributive share of adjustments that under this chapter
or ORS chapter 317 or 318 must be included in the apportionable in-
come of any direct or indirect partner that is a corporate partner,
provided that the audited partnership can reasonably determine this;
(b) The distributive share of adjustments made to a direct partner
that is exempt from tax under ORS 317.080; or
(c) Any adjustments arising from an administrative adjustment re-
quest.
(6) An audited partnership that is not otherwise subject to any re-
porting or payment obligation to the department and that makes an
election under subsection (4) of this section consents to be subject to
the laws of this state relating to reporting, assessment, appeals, pay-
ment and collection of tax calculated under the election.
(7) The direct and indirect partners of an audited partnership that
are tiered partners and all partners of those tiered partners that are
subject to tax imposed under ORS chapter 316, 317 or 318 are subject
to the reporting and payment requirements of subsection (3) of this
section. The tiered partners are entitled to make the elections provided
in subsections (4) and (8) of this section. The tiered partners or their
partners shall make the required reports and payments not later than
90 days after the time for filing and furnishing statements to tiered
partners and their partners as established under section 6226 of the
Internal Revenue Code and the regulations thereunder. The depart-
ment may adopt rules to establish procedures and interim time periods
for the reports and payments required by tiered partners and their
partners and for making the elections under subsections (4) and (8) of
this section.
(8) Under procedures adopted by the department, an audited part-
nership or tiered partner may, subject to the approval of the depart-
ment, elect the use of an alternative reporting and payment method,
including alternatives to applicable time requirements or any other
requirement of this section, if the audited partnership or tiered part-
ner demonstrates to the satisfaction of the department that the re-
quested method will reasonably provide for the reporting and payment
of taxes, penalties and interest due under the provisions of this sec-

tion. The audited partnership or tiered partner shall make an appli-
cation for approval of an alternative reporting and payment method
within the time limits provided in subsection (3) or (4) of this section,
respectively. A partnership may appeal the denial of an alternative
payment and reporting method using the procedures for a conference
under ORS 305.265. The decision of the department regarding an appeal
is final.

(9)(a) An election made pursuant to subsection (4) or (8) of this

section is irrevocable.

(b) If reported properly and paid by the audited partnership or
tiered partner, the amount determined in subsection (4)(b) of this
section or under an election under subsection (8) of this section shall
be treated as paid in lieu of taxes owed by its direct and indirect
partners, to the extent applicable, on the same adjustments. Direct
partners or indirect partners may not take any deduction or credit for
the amount or claim a refund of the amount.

(c) Nothing in this subsection precludes a direct partner that is a
resident partner from claiming a credit for any amounts paid by the
audited partnership or tiered partner on the direct partner’s behalf to
another state or local tax jurisdiction in accordance with the pro-
visions of ORS 316.082.

(10) Nothing in this section prevents the department from assessing
direct partners or indirect partners for taxes owed, using the best in-
formation available, in the event that a partnership or tiered partner
fails to timely make any report or payment required by this section
for any reason, or from collecting from direct partners or indirect
partners.

SECTION 4. The Department of Revenue shall assess additional tax,
interest and penalties for adjustments arising from an audit by the
Internal Revenue Service or other competent authority, including a
partnership-level audit, or reported by the taxpayer on an amended federal income tax return or refund claim or as part of an administrative adjustment request, by the following dates:

(1) If a taxpayer files with the department an adjustments report or an amended Oregon tax return as required within the period specified in section 3 of this 2019 Act, the department may assess any amounts, including in-lieu-of amounts, taxes, interest or penalties arising from the adjustments. The department shall issue a notice of deficiency to the taxpayer on or before the later of:

(a) The expiration of the applicable limitations period specified in ORS 314.410; or

(b) Two years following the earlier of the date the department is notified by the Internal Revenue Service or other competent authority or the date the taxpayer files the adjustments report or amended Oregon tax return with the department.

(2) If the taxpayer fails to file an adjustments report within the period specified in section 3 of this 2019 Act or if the adjustments report filed by the taxpayer omits adjustments or understates the correct amount of tax owed, the department may assess any amounts, including in-lieu-of amounts, taxes, interest or penalties arising from the adjustments. The department shall issue a notice of deficiency to the taxpayer on or before the later of:

(a) The expiration of the applicable limitations period specified in ORS 314.410; or

(b) Two years following the earlier of the date the department is notified by the Internal Revenue Service or other competent authority or the date the taxpayer files the adjustments report with the department.

SECTION 5. Except for adjustments required to be reported for federal purposes under section 6225(a)(2) of the Internal Revenue Code, a taxpayer shall file a claim for refund or credit of tax arising from
adjustments made by the Internal Revenue Service or other competent
authority on or before the later of:

(1) The expiration of the last day for filing a claim for refund pur-
suant to ORS 314.415; or

(2) Two years following the date of the audit report that made the
adjustment.

SECTION 6. ORS 314.712 is amended to read:

314.712. (1) Except as provided in ORS 314.722 or [314.723] sections 2 to
5 of this 2019 Act, a partnership as such is not subject to the tax imposed
by ORS chapter 316, 317 or 318. Partnership income shall be computed pur-
suant to section 703 of the Internal Revenue Code, with the modifications,
additions and subtractions provided in this chapter and ORS chapter 316.
Persons carrying on business as partners are liable for the tax imposed by
ORS chapter 316, 317 or 318 on their distributive shares of partnership in-
come only in their separate or individual capacities.

(2) If a partner engages in a transaction with a partnership other than
in the partner's capacity as a member of the partnership, the transaction
shall be treated in the manner described in section 707 of the Internal Rev-
ene Code.

[(3) If a partnership is an electing large partnership under section 775 of
the Internal Revenue Code, the modifications of law applicable to an electing
large partnership for federal tax purposes are applicable to the electing large
partnership for purposes of the tax imposed by this chapter or ORS chapter
316, 317 or 318.]

SECTION 7. ORS 314.714 is amended to read:

314.714. (1) Each item of partnership income, gain, loss or deduction has
the same character for a partner as it has for federal income tax purposes.
If an item is not characterized for federal income tax purposes, it has the
same character for a partner as if realized directly from the source from
which realized by the partnership or incurred in the same manner as in-
curred by the partnership.
(2) A partner’s distributive share of an item of partnership income, gain, loss or deduction (or item thereof) shall be that partner’s distributive share of partnership income, gain, loss or deduction (or item thereof) for federal income tax purposes as determined under section 704 of the Internal Revenue Code and adjusted for the modifications, additions and subtractions provided in this chapter and ORS chapters 316, 317 and 318.

(3) A partner shall, on the partner’s return, treat a partnership item in a manner that is consistent with the treatment of the partnership item on the partnership return, unless the partner notifies the Department of Revenue of the inconsistency. The department shall prescribe by rule the method for notification of an inconsistency. [A partner of an electing large partnership under section 775 of the Internal Revenue Code must treat a partnership item in a manner that is consistent with the treatment of the partnership item on the partnership return.]

SECTION 8. ORS 314.778 is amended to read:

314.778. (1) A pass-through entity having distributive income attributable to Oregon sources shall file a composite return of personal income and corporate income and excise tax on behalf of owners that elect to be included in the composite return filed by the entity. Distributive income subject to this election does not include the distributive share that under this chapter or ORS chapter 317 or 318 must be included in the apportionable income of any direct or indirect partner that is a corporate partner, as defined in section 2 of this 2019 Act, provided that the pass-through entity can reasonably determine that it must be included.

(2) A pass-through entity shall file a composite return under this section only if one or more owners that are nonresidents make an election under this section.

(3) The election is irrevocable and shall be made by owners in the time, form and manner prescribed by the Department of Revenue.

(4) The composite return shall report the share of distributive income of
each electing owner, the share of distributive income from Oregon sources
of each electing owner,[ the amount of tax withheld under ORS 314.781 on
behalf of each electing owner] and any other information required by the de-
partment. The composite return shall be filed with the department in the
time, form and manner prescribed by the department. The pass-through
entity shall file an amended composite return to report adjustments
arising from an audit or other action by the Internal Revenue Service
or other competent authority or to correct any item reported on the
original composite return.

(5)(a) An electing owner may file a nonresident personal income tax re-
turn or a corporate excise or income tax return for the tax year of the
electing owner in which the electing owner’s share of distributive income
reported on the composite return is properly reportable.

(b) An electing owner that files a return under this subsection shall [re-
ceive credit for any tax paid on behalf of the owner by the pass-through
entity] be allowed a subtraction under ORS chapter 316, 317 or 318 for
its share of distributive income reported on the composite return.

(6) A pass-through entity that is not otherwise subject to any re-
porting or payment obligation and that files a composite return under
this section is subject to the administrative provisions of this chapter
and ORS chapter 305.

SECTION 9. ORS 314.723 is repealed.

SECTION 10. (1) Sections 2 to 5 of this 2019 Act, the amendments
to ORS 314.712 and 314.714 by sections 6 and 7 of this 2019 Act and the
repeal of ORS 314.723 by section 9 of this 2019 Act apply to partnership
adjustments for partnership tax years beginning on or after January
1, 2018.

(2) The amendments to ORS 314.778 by section 8 of this 2019 Act
apply to tax years beginning on or after January 1, 2019.

SECTION 11. This 2019 Act takes effect on the 91st day after the
date on which the 2019 regular session of the Eightieth Legislative
1  Assembly adjourns sine die.

2  ____________
SUMMARY

Allows Department of Revenue to disclose taxpayer information to multijurisdictional information sharing organization formed to combat identity theft and fraud and to member tax preparation software vendors.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to disclosure of taxpayer information for fraud prevention; amending ORS 314.840; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 314.840 is amended to read:

314.840. (1) The Department of Revenue may:

(a) Furnish any taxpayer, representative authorized to represent the taxpayer under ORS 305.230 or person designated by the taxpayer under ORS 305.193, upon request of the taxpayer, representative or designee, with a copy of the taxpayer’s income tax return filed with the department for any year, or with a copy of any report filed by the taxpayer in connection with the return, or with any other information the department considers necessary.

(b) Publish lists of taxpayers who are entitled to unclaimed tax refunds.

(c) Publish statistics so classified as to prevent the identification of income or any particulars contained in any report or return.

(d) Disclose a taxpayer’s name, address, telephone number, refund amount, amount due, Social Security number, employer identification number or other taxpayer identification number to the extent necessary in connection with collection activities or the processing and mailing of correspondence or of

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
forms for any report or return required in the administration of any local
tax under ORS 305.620 or any law imposing a tax upon or measured by net
income.

(2) The department also may disclose and give access to information de-
scribed in ORS 314.835 to:

(a) The Governor of the State of Oregon or the authorized representative
of the Governor with respect to an individual who is designated as being
under consideration for appointment or reappointment to an office or for
employment in the office of the Governor. The information disclosed shall
be confined to whether the individual:

(A) Has filed returns with respect to the taxes imposed by ORS chapter
316 for those of not more than the three immediately preceding years for
which the individual was required to file an Oregon individual income tax
return.

(B) Has failed to pay any tax within 30 days from the date of mailing of
a deficiency notice or otherwise respond to a deficiency notice within 30 days
of its mailing.

(C) Has been assessed any penalty under the Oregon personal income tax
laws and the nature of the penalty.

(D) Has been or is under investigation for possible criminal offenses un-
der the Oregon personal income tax laws. Information disclosed pursuant to
this paragraph shall be used only for the purpose of making the appointment,
reappointment or decision to employ or not to employ the individual in the
office of the Governor.

(b) An officer or employee of the Oregon Department of Administrative
Services duly authorized or employed to prepare revenue estimates, or a
person contracting with the Oregon Department of Administrative Services
to prepare revenue estimates, in the preparation of revenue estimates re-
quired for the Governor's budget under ORS 291.201 to 291.224, or required
for submission to the Emergency Board or the Joint Interim Committee on
Ways and Means, or if the Legislative Assembly is in session, to the Joint
Committee on Ways and Means, and to the Legislative Revenue Officer or Legislative Fiscal Officer under ORS 291.342, 291.348 and 291.445. The Department of Revenue shall disclose and give access to the information described in ORS 314.835 for the purposes of this paragraph only if:

(A) The request for information is made in writing, specifies the purposes for which the request is made and is signed by an authorized representative of the Oregon Department of Administrative Services. The form for request for information shall be prescribed by the Oregon Department of Administrative Services and approved by the Director of the Department of Revenue.

(B) The officer, employee or person receiving the information does not remove from the premises of the Department of Revenue any materials that would reveal the identity of a personal or corporate taxpayer.

(c) The Commissioner of Internal Revenue or authorized representative, for tax administration and compliance purposes only.

(d) For tax administration and compliance purposes, the proper officer or authorized representative of any of the following entities that has or is governed by a provision of law that meets the requirements of any applicable provision of the Internal Revenue Code as to confidentiality:

(A) A state;

(B) A city, county or other political subdivision of a state;

(C) The District of Columbia; or

(D) An association established exclusively to provide services to federal, state or local taxing authorities.

(e) The Multistate Tax Commission or its authorized representatives, for tax administration and compliance purposes only. The Multistate Tax Commission may make the information available to the Commissioner of Internal Revenue or the proper officer or authorized representative of any governmental entity described in and meeting the qualifications of paragraph (d) of this subsection.

(f) The Attorney General, assistants and employees in the Department of Justice, or other legal representative of the State of Oregon, to the extent
the department deems disclosure or access necessary for the performance of
the duties of advising or representing the department pursuant to ORS
180.010 to 180.240 and the tax laws of the state.

(g) Employees of the State of Oregon, other than of the Department of
Revenue or Department of Justice, to the extent the department deems dis-
closure or access necessary for such employees to perform their duties under
contracts or agreements between the department and any other department,
agency or subdivision of the State of Oregon, in the department’s adminis-
tration of the tax laws.

(h) Other persons, partnerships, corporations and other legal entities, and
their employees, to the extent the department deems disclosure or access
necessary for the performance of such others’ duties under contracts or
agreements between the department and such legal entities, in the
department’s administration of the tax laws.

(i) The Legislative Revenue Officer or authorized representatives upon
compliance with ORS 173.850. Such officer or representative shall not remove
from the premises of the department any materials that would reveal the
identity of any taxpayer or any other person.

(j) The Department of Consumer and Business Services, to the extent the
department requires such information to determine whether it is appropriate
to adjust those workers’ compensation benefits the amount of which is based
pursuant to ORS chapter 656 on the amount of wages or earned income re-
ceived by an individual.

(k) Any agency of the State of Oregon, or any person, or any officer or
employee of such agency or person to whom disclosure or access is given by
state law and not otherwise referred to in this section, including but not
limited to the Secretary of State as Auditor of Public Accounts under Article
VI, section 2, of the Oregon Constitution; the Department of Human Services
pursuant to ORS 412.094; the Division of Child Support of the Department
of Justice and district attorney regarding cases for which they are providing
support enforcement services under ORS 25.080; the State Board of Tax
Practitioners, pursuant to ORS 673.710; and the Oregon Board of Accountancy, pursuant to ORS 673.415.

(L) The Director of the Department of Consumer and Business Services to determine that a person complies with ORS chapter 656 and the Director of the Employment Department to determine that a person complies with ORS chapter 657, the following employer information:

(A) Identification numbers.
(B) Names and addresses.
(C) Inception date as employer.
(D) Nature of business.
(E) Entity changes.
(F) Date of last payroll.

(m) The Director of the Oregon Health Authority to determine that a person has the ability to pay for care that includes services provided by the Oregon State Hospital, or the Oregon Health Authority to collect any unpaid cost of care as provided by ORS chapter 179.

(n) Employees of the Employment Department to the extent the Department of Revenue deems disclosure or access to information on a combined tax report filed under ORS 316.168 is necessary to performance of their duties in administering the tax imposed by ORS chapter 657.

(o) The State Fire Marshal to assist the State Fire Marshal in carrying out duties, functions and powers under ORS 453.307 to 453.414, the employer or agent name, address, telephone number and standard industrial classification, if available.

(p) Employees of the Department of State Lands for the purposes of identifying, locating and publishing lists of taxpayers entitled to unclaimed refunds as required by the provisions of chapter 694, Oregon Laws 1993. The information shall be limited to the taxpayer’s name, address and the refund amount.

(q) In addition to the disclosure allowed under ORS 305.225, state or local law enforcement agencies to assist in the investigation or prosecution of the
following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(r) The United States Postal Inspection Service or a federal law enforcement agency, including but not limited to the United States Department of Justice, to assist in the investigation of the following criminal activities:

(A) Mail theft of a check, in which case the information that may be disclosed shall be limited to the stolen document, the name, address and taxpayer identification number of the payee, the amount of the check and the date printed on the check.

(B) The counterfeiting, forging or altering of a check submitted by a taxpayer to the Department of Revenue or issued by the Department of Revenue to a taxpayer, in which case the information that may be disclosed shall be limited to the counterfeit, forged or altered document, the name, address and taxpayer identification number of the payee, the amount of the check, the date printed on the check and the altered name and address.

(s) The United States Financial Management Service, for purposes of facilitating the offsets described in ORS 305.612.

(t) A municipal corporation of this state for purposes of assisting the municipal corporation in the administration of a tax of the municipal corporation that is imposed on or measured by income, wages or net earnings from self-employment. Any disclosure under this paragraph may be made only pursuant to a written agreement between the Department of Revenue and the
municipal corporation that ensures the confidentiality of the information disclosed.

(u) A consumer reporting agency, to the extent necessary to carry out the purposes of ORS 314.843.

(v) The Public Employees Retirement Board, to the extent necessary to carry out the purposes of ORS 238.372 to 238.384, and to any public employer, to the extent necessary to carry out the purposes of ORS 237.635 (3) and 237.637 (2).

(w) The Secretary of State for the purpose of initiating or supporting a recommendation under ORS 60.032 (3) or 63.032 (3) to administratively dissolve a corporation or limited liability company that the Director of the Department of Revenue determines has failed to comply with applicable tax laws of the state.

(x)(A) A multijurisdictional information sharing organization formed with oversight by the Internal Revenue Service to combat identity theft and fraud, if the Department of Revenue is a member of the organization; and

(B) Tax preparation software vendors that are members of an organization described in subparagraph (A) of this paragraph, if information described in ORS 314.835 is shared for the purpose of investigating industry leads of potential identity theft or fraud.

(3)(a) Each officer or employee of the department and each person described or referred to in subsection (2)(a), (b), (f) to (L), (n) to (q) or (w) of this section to whom disclosure or access to the tax information is given under subsection (2) of this section or any other provision of state law, prior to beginning employment or the performance of duties involving such disclosure or access, shall be advised in writing of the provisions of ORS 314.835 and 314.991, relating to penalties for the violation of ORS 314.835, and shall as a condition of employment or performance of duties execute a certificate for the department, in a form prescribed by the department, stating in substance that the person has read these provisions of law, that the person has
had them explained and that the person is aware of the penalties for the
violation of ORS 314.835.

(b) The disclosure authorized in subsection (2)(r) of this section shall be
made only after a written agreement has been entered into between the De-
partment of Revenue and the person described in subsection (2)(r) of this
section to whom disclosure or access to the tax information is given, pro-
viding that:

(A) Any information described in ORS 314.835 that is received by the
person pursuant to subsection (2)(r) of this section is confidential informa-
tion that may not be disclosed, except to the extent necessary to investigate
or prosecute the criminal activities described in subsection (2)(r) of this
section;

(B) The information shall be protected as confidential under applicable
federal and state laws; and

(C) The United States Postal Inspection Service or the federal law
enforcement agency shall give notice to the Department of Revenue of any
request received under the federal Freedom of Information Act, 5 U.S.C. 552,
or other federal law relating to the disclosure of information.

(4) The Department of Revenue may recover the costs of furnishing the
information described in subsection (2)(L), (m) and (o) to (q) of this section
from the respective agencies.

SECTION 2. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.
SUMMARY

Provides that Department of Revenue may assist public bodies, public universities and Oregon Health and Science University in collecting delinquent accounts.

A BILL FOR AN ACT

Relating to the Collections Unit of the Department of Revenue; amending ORS 293.250.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 293.250 is amended to read:

293.250. (1) There is created a Collections Unit in the Department of Revenue.

(2) The Department of Revenue may render assistance in the collection of any delinquent account owing to any state agency, or to a county pursuant to a judgment obtained under ORS 169.151, assigned by the state agency or county to which the delinquent account is owed qualified entity if the qualified entity assigns the account to the department for collection. The department may prescribe criteria for the kinds of accounts that may be assigned under this section, including a minimum dollar amount owed.

(3)(a) Subject to rules prescribed by the Oregon Department of Administrative Services for collection of delinquent accounts owing to state agencies or counties qualified entities, the Department of Revenue shall render assistance in the collection and shall charge the state agencies or counties qualified entities separately for the cost of assistance. The charges may not exceed the proceeds of collection credited to the state agency or county.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
qualified entity for the same biennium. The Department of Revenue may
designate a single percentage to retain from the proceeds of collection as a
charge for the cost of assistance. If the Department of Revenue finds that
accounts assigned to the department for collection by [certain state agencies
or counties] a qualified entity lack sufficient information to properly and
efficiently identify the debtor or that the account information must be put
into a form usable by the department in order to efficiently provide col-
lection services, the department may establish a separate percentage charge
to be retained from collections for the [state agency or county] qualified
entity. The charge must reflect the average of the actual cost to provide
collection services for all accounts assigned by that [state agency or county]
qualified entity.

(b) In providing assistance, the Department of Revenue shall make all
reasonable efforts to collect the delinquent accounts including the setoff of
any refunds or sums due to the debtor from the department or any other
state agency. The department may offset any refunds or sums due to the
debtor from the department or any other state agency against delinquent
accounts assigned by a [county] qualified entity to the department for col-
lection under this section.

(c) No setoff may be made by the Department of Revenue unless the debt
is in a liquidated amount.

(d) At the time any setoff is made, the Department of Revenue shall notify
the debtor of the sums due to the debtor from a state agency that are applied
against the debtor’s delinquent account. The notice must provide that the
debtor may, within 30 days and in a manner prescribed by the department,
contest the setoff and request a hearing before the department. No issues
may be considered at the hearing that were previously litigated or that the
debtor failed to raise timely after being given due notice of rights of appeal.

(e) All moneys received by the Department of Revenue in payment of
charges made under paragraph (a) of this subsection shall be paid into the
State Treasury and deposited in a miscellaneous receipts account for the

[2]
department.

(f) Net proceeds of collections of delinquent accounts shall be credited to the account or fund of the [state agency or county] qualified entity to which the debt was originally owing.

(4)(a) In providing assistance in the collection of any delinquent account under this section, the Department of Revenue may issue a warrant for the collection of the delinquent account. The warrant may be recorded in the County Clerk Lien Record maintained under ORS 205.130.

(b) A warrant may not be issued under this subsection unless the debt is in a liquidated amount.

(c) The amount of any warrant issued under this subsection shall include the amount of the debt, any added penalties or interest attributable to the delinquent account and any costs associated with recording, indexing or service of the warrant and any satisfaction or release thereof.

(d) A warrant may not be issued under this subsection before the debtor has been notified that the department intends to issue the warrant and of the collection action that may be taken under the warrant.

(5) Except as prohibited by federal law and notwithstanding any provision of state law, for purposes of collecting debts assigned to the Department of Revenue under ORS 293.231, the Collections Unit created under subsection (1) of this section has access to all data and other information available to the department for any purpose allowed by law.

(6) Nothing in this section prohibits the collection of:

(a) A child or spousal support obligation as provided in ORS 25.610; or

(b) Criminal judgments that impose monetary obligations, including judgments requiring the payment of fines, costs, assessments, compensatory fines, attorney fees, forfeitures or restitution.

(7) As used in this section, ["state agency" means any state officer, board, commission, corporation, institution, department or other state organization.] "qualified entity" means:

(a) A public body as defined in ORS 174.109;
(b) A public university listed in ORS 352.002, notwithstanding ORS 352.138; or
(c) The Oregon Health and Science University, notwithstanding ORS 353.100.
SUMMARY

Repeals sunset of homestead property tax deferral program. Authorizes late filing of claim for deferral with payment of late fee. Modifies determination of maximum number of new claims allowable for property tax year. Requires timely and late-filed claims to establish eligibility as of April 15 of year in which claim is filed. Modifies requirement that, upon receipt of deed to homestead after foreclosure, county treasurer pay to Department of Revenue interest accrued on amount of deferred taxes.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the homestead property tax deferral program; creating new provisions; amending ORS 311.670, 311.672 and 311.694 and section 24, chapter 723, Oregon Laws 2011; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 24, chapter 723, Oregon Laws 2011, as amended by section 31, chapter 723, Oregon Laws 2011, is amended to read:


(2) The amendments to ORS 311.674 by section 5, chapter 723, Oregon Laws 2011, [of this 2011 Act] apply to interest that accrues on taxes advanced to counties for tax-deferred property for property tax years beginning on or after July 1, 2011.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
A claim for an initial year of deferral, or for continued deferral, under ORS 311.666 to 311.701 may not be filed on or after April 16, 2021, and deferral may not be granted for a property tax year beginning after July 1, 2021.]

SECTION 2. ORS 311.672 is amended to read:

311.672. (1)(a) A taxpayer’s claim for deferral under ORS 311.666 to 311.701 must:

(A) Be in writing on a form supplied by the Department of Revenue;
(B) Describe the homestead;
(C) Recite all facts establishing the eligibility, as of April 15 of the year in which the claim is filed, of the homestead for, and of the taxpayers to claim, the deferral; and
(D) Have attached:
   (i) Any documentary proof required by the department; and
   (ii) A statement verified by a written declaration of all taxpayers claiming deferral to the effect that the statements contained in the claim are true.
(b) The claim for deferral must be filed with the assessor of the county in which the homestead is located, after January 1 and on or before April 15 immediately preceding the property tax year for which deferral is claimed.
(c) Notwithstanding paragraph (b) of this subsection, a claim for deferral may be filed with the county assessor after April 15 immediately preceding the property tax year for which deferral is claimed and on or before December 1 of the same property tax year. A claim filed under this paragraph must be accompanied by a fee in an amount equal to 10 percent of the property taxes assessed on the homestead on the last certified assessment and tax roll, but in no event less than $20 or greater than $150.
(2) The county assessor shall forward each claim filed under this section to the department, and the department shall determine whether the property is eligible for the deferral.
(3) If the taxpayers and the homestead are determined to be eligible under ORS 311.668 and 311.670, respectively, a timely claim for deferral has the
effect of:

(a) Deferring the payment of the property taxes levied on the homestead for the property tax year beginning on July 1 of the year in which the claim is filed.

(b) Continuing the deferral of the payment by the taxpayers of any property taxes deferred under ORS 311.666 to 311.701 for previous years that have not become delinquent under ORS 311.686.

(c) Except as otherwise provided in ORS 311.689, continuing the deferral of the payment by the taxpayers of any future property taxes for as long as the homestead remains eligible for, and the taxpayers remain eligible to claim, the deferral.

(4)(a) Notwithstanding subsection (3) of this section:

(A) For the property tax year beginning on July 1, 2012, the maximum number of claims for deferral under ORS 311.666 to 311.701 that may be granted to taxpayers who have not previously been granted deferral is the number of such claims granted for the property tax year beginning on July 1, 2011, multiplied by 105 percent.

(B) For each property tax year beginning after July 1, 2012, the maximum number of claims for deferral that may be granted to taxpayers who have not previously been granted deferral is the maximum number determined under this subsection for the immediately preceding property tax year multiplied by 105 percent.

(b) For purposes of paragraph (a) of this subsection, spouses who continue deferral under ORS 311.688 are not considered taxpayers who have not previously been granted deferral.

(c) If the number of eligible claims described in paragraph (a) of this subsection that are filed on or before the deadline set forth in subsection (1)(b) of this section exceeds the maximum number determined under paragraph (a) of this subsection, the claims shall be granted in ascending order based on the ratio that is equal to the real market value of the homestead entered on the last certified assessment and tax roll divided
by the county median RMV of the homestead determined under ORS 311.670 (6), until the maximum number determined under paragraph (a) of this subsection is reached.

(d) If the maximum number of claims determined under paragraph (a) of this subsection has not been filed on or before the deadline set forth in subsection (1)(b) of this section, eligible claims described in paragraph (a) of this subsection that are filed on or before the deadline set forth in subsection (1)(c) of this section shall be granted in chronological order based on the filing date until the maximum number is reached. If more claims described in this paragraph are filed on a date than the maximum number allowable, all claims filed on that date shall be denied deferral for that property tax year.

(5) Any taxpayer aggrieved by the denial of a claim for, or discontinuation of, deferral under ORS 311.666 to 311.701 may appeal in the manner provided by ORS 305.404 to 305.560.

SECTION 3. ORS 311.694 is amended to read:

311.694. (1) At the time that the property is deeded over to the county at the conclusion of the foreclosure proceedings pursuant to ORS 312.200 the county court shall order the county treasurer to pay to the Department of Revenue from the unsegregated tax collections account the amount of uncollected deferred taxes [and interest which were not] and any amounts of interest that accrued prior to August 15 of the year in which the deferred taxes first became delinquent, or that accrues after the property is deeded to the county, and that have not been collected.

(2) Immediately upon payment, the county treasurer shall notify the tax collector of the amount paid to the department for the property which has been deeded to the county pursuant to ORS 312.200.

SECTION 4. ORS 311.670 is amended to read:

311.670. (1) Property is not eligible for tax deferral under ORS 311.666 to 311.701 unless, at the time a claim is filed and during the period for which deferral is claimed, the property meets the requirements of this section.
(2)(a) The property for which the claim is filed must have been the homestead of the individual or individuals who file the claim for deferral for at least five years preceding April 15 of the year in which the claim is filed, except for an individual required to be absent from the homestead by reason of health.

(b) The five-year requirement under paragraph (a) of this subsection does not apply to a homestead that meets all other requirements of this section, if the individual or individuals filing the claim for deferral:

(A) Moved to the homestead for which the claim is filed from a homestead that was granted deferral under ORS 311.666 to 311.701 and was of greater real market value than the homestead for which the claim is filed;

(B) Sell the prior homestead within one year of purchasing the homestead for which the claim is filed;

(C) Satisfy any lien created under ORS 311.673 or 311.679 and attached to the prior homestead; and

(D) Provide a written attestation that the individual or individuals incurred debt for not more than 80 percent of the purchase price of the homestead for which the claim is filed.

(3) The individual claiming the deferral, individually or jointly, must own the fee simple estate under a recorded instrument of sale, or two or more individuals together must own the fee simple estate with rights of survivorship under a recorded instrument of sale if all owners live in the property and if all owners apply for the deferral jointly.

(4)(a) The homestead must be insured for fire and other casualty.

(b) If the homestead meets all other requirements of this section and is insurable for fire and other casualty but not insured, the Department of Revenue may purchase insurance for the homestead and add the cost of the insurance coverage to a lien created under ORS 311.679.

(5) There may be no prohibition to the deferral of property taxes contained in any provision of federal law, rule or regulation applicable to a mortgage, trust deed, land sale contract or conditional sale contract for
which the homestead is security.

(6) A homestead is not eligible for deferral under ORS 311.666 to 311.701 if the real market value of the homestead entered on the [last] certified assessment and tax roll for the property tax year immediately preceding the property tax year for which the claim is filed is equal to or greater than:

(a) 100 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead less than seven years.

(b) 110 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least seven years but less than nine years.

(c) 120 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least nine years but less than 11 years.

(d) 130 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 11 years but less than 13 years.

(e) 140 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 13 years but less than 15 years.

(f) 150 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 15 years but less than 17 years.

(g) 160 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 17 years but less than 19 years.

(h) 170 percent of county median RMV if, as of April 15 of the year in which a claim is filed, the taxpayers have continuously owned and lived in the homestead at least 19 years but less than 21 years.

(i) 200 percent of county median RMV if, as of April 15 of the year in
which a claim is filed, the taxpayers have continuously owned and lived in
the homestead at least 21 years but less than 23 years.

(j) 225 percent of county median RMV if, as of April 15 of the year in
which a claim is filed, the taxpayers have continuously owned and lived in
the homestead at least 23 years but less than 25 years.

(k) 250 percent of county median RMV if, as of April 15 of the year in
which a claim is filed, the taxpayers have continuously owned and lived in
the homestead for 25 years or more.

SECTION 5. (1) The amendments to ORS 311.672 by section 2 of this
2019 Act apply to property tax years beginning on or after July 1, 2020.

(2) The amendments to ORS 311.694 by section 3 of this 2019 Act
apply to orders for payment issued on or after the effective date of this
2019 Act.

(3) The amendments to ORS 311.670 by section 4 of this 2019 Act
apply to claims for deferral filed on or after the effective date of this
2019 Act.

SECTION 6. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.
SUMMARY

Authorizes certain tax-related documents to be delivered or made available by method other than regular mail. Authorizes Department of Revenue to give oil and gas production taxpayer notice of tax and delinquency charges by regular mail or other form of delivery rather than registered mail or certified mail with return receipt.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to tax-related document delivery; amending ORS 309.100, 311.115, 311.252, 311.507, 321.733, 324.180 and 324.190; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 309.100 is amended to read:

309.100. (1) Except as provided in ORS 305.403, the owner or an owner of any taxable property or any person who holds an interest in the property that obligates the person to pay taxes imposed on the property, may petition the board of property tax appeals for relief as authorized under ORS 309.026.

As used in this subsection, an interest that obligates the person to pay taxes includes a contract, lease or other intervening instrumentality.

(2) Petitions filed under this section shall be filed with the clerk of the board during the period following the date the tax statements are mailed or otherwise delivered for the current tax year and ending December 31.

(3) Each petition shall:

(a) Be made in writing.

(b) State the facts and the grounds upon which the petition is made.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(c) Be signed and verified by the oath of a person described in subsection (1) or (4) of this section.

(d) State the address to which notice of the action of the board shall be sent. The notice may be sent to a person described in subsection (1) or (4) of this section.

(e) State if the petitioner or a representative desires to appear at a hearing before the board.

(4)(a) The following persons may sign a petition and appear before the board on behalf of a person described in subsection (1) of this section:

(A) A relative, as defined by rule adopted by the Department of Revenue, of an owner of the property.

(B) A person duly qualified to practice law or public accountancy in this state.

(C) A legal guardian or conservator who is acting on behalf of an owner of the property.

(D) A real estate broker or principal real estate broker licensed under ORS 696.022.

(E) A state certified appraiser or a state licensed appraiser under ORS 674.310 or a registered appraiser under ORS 308.010.

(F) The lessee of the property.

(G) An attorney-in-fact under a general power of attorney executed by a principal who is an owner of the property.

(b) A petition signed by a person described in this subsection, other than a legal guardian or conservator of a property owner, an attorney-in-fact described in paragraph (a)(G) of this subsection or a person duly qualified to practice law in this state, shall include written authorization for the person to act on behalf of the owner or other person described in subsection (1) of this section. The authorization shall be signed by the owner or other person described in subsection (1) of this section.

(c) In the case of a petition signed by a legal guardian or conservator, the board may request the guardian or conservator to authenticate the
guardianship or conservatorship.

(d) In the case of a petition signed by an attorney-in-fact described in paragraph (a)(G) of this subsection, the petition shall be accompanied by a copy of the general power of attorney.

(5) If the petitioner has requested a hearing before the board, the board shall give such petitioner at least five days’ written notice of the time and place to appear. If the board denies any petition upon the grounds that it does not meet the requirements of subsection (3) of this section, it shall issue a written order rejecting the petition and set forth in the order the reasons the board considered the petition to be defective.

(6) Notwithstanding ORS 9.160 or 9.320, the owner or other person described in subsection (1) of this section may appear and represent himself or herself at the hearing before the board, or may be represented at the hearing by any authorized person described in subsection (4) of this section. **SECTION 2.** ORS 311.115 is amended to read:

311.115. The assessor shall deliver the roll to the tax collector each year at such time as the assessor and the tax collector agree is necessary to enable the mailing or other delivery of tax statements on or before October 25. The assessment roll shall be delivered in counties in which the assessor does not prepare a separate assessment roll and a separate tax roll. The assessment roll thereafter shall be a tax roll. The tax roll shall be delivered in counties where a separate assessment roll and tax roll is prepared. At the same time, the assessor shall deliver to the tax collector the second copy of the certificate prepared under ORS 311.105, and the warrant issued under ORS 311.110, and the tax collector shall file them in the office. The tax collector shall give a receipt, in duplicate, for the roll. One copy of the receipt shall be filed with the assessor and the other with the county clerk. All certificates, warrants, assessment and tax rolls shall be preserved as public records. **SECTION 3.** ORS 311.252 is amended to read:

311.252. (1) If a mortgagee is required or authorized to pay the ad valorem
taxes on a manufactured structure or a floating home or on real property
that is subject to the mortgage by a provision contained in the mortgage
instrument, upon written request sent to the tax collector, the tax collector
shall send a copy of the statement required to be mailed **or otherwise de-
ivered** to the taxpayer under ORS 311.250 to the mortgagee. The request by
the mortgagee for the sending of the copy shall be made to the tax collector
on or before October 1 of each year and shall state that the mortgagee has
the duty or is authorized to pay the taxes for the owner of the property.
(2) The tax collector and any mortgagee referred to in subsection (1) of
this section may agree that a computer record containing the information
required by the Department of Revenue may be delivered to the mortgagee
instead of a copy of the tax statement required by subsection (1) of this
section.
(3) For the purposes of this section, the holder of a perfected security
interest in a manufactured structure or a floating home is considered a
“mortgagee” and the perfected security interest is considered a “mortgage.”

**SECTION 4.** ORS 311.507 is amended to read:

311.507. (1) Notwithstanding the requirement in ORS 311.505 (3) that to
receive a discount upon payment of taxes, the taxes must be paid on or be-
fore November 15, the discount provided by ORS 311.505 (3) shall be allowed:
(a) If the taxes are paid within 15 business days after the date the tax
statement is mailed **or otherwise delivered** by the tax collector, or by No-

vember 15, whichever is the later;
(b) If under ORS 311.252 (2) or 311.253, the mortgagee or other person has
received from the county a defective or inaccurate computer record, and the
taxes are paid within 15 business days after the corrected computer record
is delivered to the mortgagee or person, or by November 15, whichever is
later;
(c) If the reason for nonpayment by November 15 is on account of the
county not providing a computer record pursuant to a mutual agreement as
provided under ORS 311.253 and tax statements are substituted by the county
for the computer record. To receive a discount pursuant to this paragraph, the taxes must be paid within 20 business days after the tax collector mails or otherwise delivers the tax statements, or the taxpayer has been notified in writing by the tax collector that the computer record will not be provided, whichever date is later; or

(d) Except under conditions described in ORS 311.229 (2), if property or value is added to the tax roll under ORS 311.208 and the taxes becoming due as a result of the addition are paid in the period prior to the 16th day of the month next following the month of their extension.

(2) Nothing in this section shall affect the due dates of the installment payments or the computation of interest upon failure to pay the installment on the date due. As used in this section, business days mean days other than Saturdays and legal holidays.

**SECTION 5.** ORS 324.180 is amended to read:

324.180. If any person neglects or refuses to make a return required to be made by this chapter, the Department of Revenue is authorized to determine the tax due, based upon any information in its possession or that may come into its possession. The department shall give the person liable for the tax written notice by [registered mail or by certified mail with return receipt] regular mail or other form of delivery of the tax and delinquency charges and the tax and delinquency charges shall be a lien from the time of production. If the tax and delinquency charges are not paid within 30 days from the mailing or delivery of the notice, the department shall proceed to collect the tax in the manner provided in ORS 324.190.

**SECTION 6.** ORS 324.190 is amended to read:

324.190. (1) If any tax imposed by this chapter, or any portion of such tax, is not paid within 30 days after the date that the written notice and demand for payment required under ORS 305.895 is mailed, the Department of Revenue shall issue a warrant for the payment of the amount of the tax, with the added penalties, interest and cost of executing the warrant. A copy of the warrant shall be mailed or otherwise delivered to the taxpayer by the de-
(2) At any time after issuing a warrant under this section, the department may record the warrant in the County Clerk Lien Record of any county of this state. Recording of the warrant has the effect described in ORS 205.125. After recording a warrant, the department may direct the sheriff for the county in which the warrant is recorded to levy upon and sell the real and personal property of the taxpayer found within that county, and to levy upon any currency of the taxpayer found within that county, for the application of the proceeds or currency against the amount reflected in the warrant and the sheriff’s cost of executing the warrant. The sheriff shall proceed on the warrant in the same manner prescribed by law for executions issued against property pursuant to a judgment, and is entitled to the same fees as provided for executions issued against property pursuant to a judgment. The fees of the sheriff shall be added to and collected as a part of the warrant liability.

(3) In the discretion of the department, a warrant under this section may be directed to any agent authorized by the department to collect this tax. In the execution of the warrant the agent has the powers conferred by law upon sheriffs, but is entitled to no fee or compensation in excess of actual expenses paid in the performance of such duty.

(4) Until a warrant under this section is satisfied in full, the department has the same remedies to enforce the claim for taxes against the taxpayer as if the state had a recorded judgment against the taxpayer for the amount of the tax.

SECTION 7. ORS 321.733 is amended to read:

321.733. (1) The Department of Revenue shall mail or otherwise make available a severance tax return form to an owner of timber harvested from lands assessed as small tract forestland, as shown on a State Forestry Department Notification of Operations permit issued during a calendar year.

(2) Any owner of timber receiving notice under this section that a severance tax return [mailed by the Department of Revenue] is required shall complete the return and submit the return to the department within the time [6]
prescribed in ORS 321.741, even if the owner of timber has not incurred
severance tax liability during the calendar year.

SECTION 8. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
ibly adjourns sine die.
SUMMARY

Reduces discount for on-time payment of property taxes imposed on business property. Reduces amounts scheduled for distribution by tax collector to taxing jurisdictions to provide funding for certain tax administration programs. Directs portion of interest and charges on delinquent property taxes to be distributed to taxing units. Amends statutes to provide funding mechanism for administration of property tax by counties.

Creates Assessment and Taxation Improvement Grant Program to provide grants for county projects for improved property tax administration.

Requires planning division of municipality issuing building permit to notify county assessor, electronically if possible, of information, including tax lot number, required to be contained in permit.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to property tax administration; creating new provisions; amending ORS 294.175, 294.178, 294.184, 294.187, 311.390, 311.392, 311.505 and 311.508; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 311.505 is amended to read:

1. 311.505. (1) Except as provided in subsection (6) of this section, the first one-third of all taxes and other charges due from the taxpayer or property, levied or imposed and charged on the latest tax roll, shall be paid on or before November 15, the second one-third on or before February 15, and the remaining one-third on or before May 15 next following.

   (2) Interest shall be charged and collected on any taxes on property, other charges[,] and [on] any additional taxes or penalty imposed for disqualifica-
tion of property for special assessment or exemption, or installment
thereof of such taxes, charges and additional taxes, not paid when due,
at the rate of one and one-third percent per month, or fraction of a month
until paid.

(3) Discounts shall be allowed on partial or full payments of such taxes,
made on or before November 15 as follows:

(a) Two percent on two-thirds of such taxes so paid.

(b) Three percent [where] if all of such taxes imposed on property other
than business property are so paid.

(c) Two percent if all of such taxes imposed on business property
are so paid.

(4) For purposes of this section, “taxes” includes all taxes on property as
defined in ORS 310.140 and certified to the assessor under ORS 310.060 except
taxes assessed on any other property which have by any means become a lien
against the property for which the payment was made.

(5) All interest collected and all discounts allowed shall be prorated
to the several municipal corporations, taxing districts and governmental
agencies sharing in the taxes or assessments.

(6) If the total property tax is less than $40, no installment payment
of taxes shall be allowed.

(6) For purposes of this section:

(a) “Business property” means personal property used or held for
commercial or industrial purposes, property classified as commercial
or industrial under rules adopted by the Department of Revenue pur-
suant to ORS 308.215 and property assessed under ORS 308.505 to
308.681.

(b) “Taxes” includes all taxes on property as defined in ORS 310.140
and certified to the assessor under ORS 310.060 except taxes assessed
on any other property which have by any means become a lien against
the property for which the payment was made.

SECTION 2. ORS 311.392 is amended to read:
311.392. (1) If, in the discretion of the county court, it is more economical
to advance to those municipalities from the general fund of the county the
total amount of taxes, assessments or other charges levied against property
in the county, the county court may advance from the general fund of the
county the full amount of the taxes, assessments and charges levied by those
subdivisions and the county court may order the county tax collector to re-
verse the tax distribution schedule provided by ORS 311.390 so that all taxes,
assessments and charges advanced by the county will be allocated to the
county. If the county makes the payments provided in this section, it shall
have no recourse against the political subdivision for recovery of the
shrinkage in collections from that anticipated at the time the payment was
made.

(2) If the county advances taxes under this subsection, before December
1 of each year, it may deduct from the levy the [three percent] discount which
would have been given by the district had all of the taxes been paid by No-

SECTION 3. ORS 311.390 is amended to read:
311.390. (1)(a) When the tax collector receives the assessor's certificate
pursuant to ORS 311.115, the tax collector shall prepare and file with the
county treasurer a percentage schedule of the ratio of taxes on property, as
defined in ORS 310.140, and other amounts to be collected, after reductions
necessary to comply with [section 11b,] Article XI, section 11b, of the
Oregon Constitution, after making adjustments in accordance with ORS
311.105 (1)(c), for each governmental unit as shown in such certificate, com-
pared to the total of each of those amounts.
(b) If a tax supervising and conservation commission has submitted to the
tax collector a list of municipal corporations subject to proration and the
amounts prorated under ORS 294.632, before the tax collector calculates the
ratio of taxes on property under this subsection, the tax collector shall de-
duct the amounts submitted by the tax supervising and conservation commis-
mission from the amounts scheduled for distribution under this section for
municipal corporations subject to the jurisdiction of the tax supervising and
conservation commission. The amount deducted from the distribution to the
municipal corporations shall be added to the amount distributed to the
county.

(c) After the tax collector determines the amounts scheduled for
distribution pursuant to paragraphs (a) and (b) of this subsection, the
tax collector shall reduce each amount by 0.2 percent and make an
offsetting entry in the percentage schedule for the total amount of the
reductions. The total amount of the reductions shall be scheduled to
be deposited in and credited to the County Assessment and Taxation
Fund created under ORS 294.187.

[(c)] (2) The schedule shall be approved by the county accountant, if one
exists in the county, or by the county clerk before filing. Except as provided
in subsections [(2) and] (3) and (4) of this section, the distribution of col-
lections by the tax collector shall be made on the basis of the ratios com-
puted pursuant to this section. The ratios computed pursuant to this section
for a given fiscal year shall be used for the distribution of all taxes on
property or penalties that have been imposed, collected and received for that
fiscal year, regardless of the actual date of receipt, except for moneys re-
tained by a county to pay bankruptcy costs under ORS 311.484. Interest
earned on moneys in the unsegregated tax collections account shall be dis-
tributed according to the ratio applicable to the year in which the moneys
are distributed.

[(2)] (3) If, after the ratios are computed pursuant to this section, the
amount of a levy or other tax on property is changed, or a levy or other tax
on property is filed with the assessor pursuant to ORS 310.060 that had not
been included in the tax distribution schedule for that year, the tax collector
shall revise the percentages provided in subsection (1) of this section to re-
reflect the corrected or added levy or tax and shall adjust the amounts previ-
ously distributed and to be distributed thereafter to reflect the revision in percentages.

[(3)] [(4)] If, in the opinion of the tax collector, it is not feasible to make the revisions described in subsection [(2)] [(3)] of this section, the tax collector shall treat the amount of the change in levy or tax or the additional levy or tax as a separate tax collection and segregate the moneys collected for the particular district or districts in the periodic statement of tax collections given to the county treasurer pursuant to ORS 311.395.

[(4)] [(5)] If the percentage schedule is revised, a copy shall be filed with the county treasurer after approval by the county accountant, if one exists in the county, or by the county clerk.

[(5)] [(6)] If, after the ratios are computed under this section, a levy or tax is changed or a levy or tax is filed with the assessor pursuant to ORS 310.060, that was not included in the tax distribution schedule for that year, future distributions of interest shall be based on the revised percentages that reflect the corrected or added levy or tax. No adjustments shall be made for previously distributed interest.

SECTION 4. ORS 311.508 is amended to read:

311.508. (1) Except as provided under subsection (2) of this section and notwithstanding ORS 311.505 [(3)] [(4)], with respect to interest charged and collected under ORS 311.505:

(a) Twenty-five percent of the interest [charged and collected under ORS 311.505] shall be deposited and credited to the County Assessment and Taxation Fund created under ORS 294.187; and

(b) [An additional 25] Twenty-five percent of the interest [charged and collected under ORS 311.505] that would otherwise be distributed to cities or other taxing districts that are not counties or districts within the public school system shall be deposited and credited to the County Assessment and Taxation Fund created under ORS 294.187 [to the extent the interest would otherwise be distributed to cities or other taxing districts that are not counties or districts within the public school system].
(2)(a) On or before June 15 of each year, the Department of Revenue shall estimate the amount of interest that will be deposited and credited to the County Assessment Function Funding Assistance Account created under ORS 294.184 for the ensuing fiscal year. If the estimate is less than $13 million, the department shall certify to each county treasurer an increase in the percentage specified under subsection (1)(a) of this section to the end that the estimate reaches $13 million. However, no increase in percentage shall be certified that will raise and make available for deposit and credit to the County Assessment Function Funding Assistance Account for the ensuing fiscal year an amount that is in excess of $3 million over the amount estimated under this subsection to be received under subsection (1)(a) of this section for the ensuing fiscal year.

[(3)] (b) Upon receipt of certification from the department under paragraph (a) of this subsection [(2) of this section], the county treasurer shall deposit and credit to the County Assessment and Taxation Fund for the fiscal year to which the certification applies the percentage of the interest charged and collected under ORS 311.505 so certified.

(3) Interest charged and collected under ORS 311.505 that remains after the deposits required under subsections (1) and (2) of this section shall be distributed to taxing units as provided in ORS 311.395.

(4) The percentage of the interest on unpaid taxes and penalties required to be deposited and credited to the County Assessment and Taxation Fund under this section shall be deposited and credited in the same manner that the remaining interest is deposited and credited under ORS 311.385.

SECTION 5. ORS 294.184 is amended to read:

294.184. (1) There is created under ORS 293.445 a suspense account to be known as the County Assessment Function Funding Assistance Account. The account shall consist of:

(a) All moneys paid over by the county treasurers as provided under ORS 294.187 (2)(a); and

(b) All interest earned upon any moneys in the account.
(2)(a) Prior to each quarterly distribution of the moneys in the account under ORS 294.178, the moneys necessary to pay the following Department of Revenue expenses shall be transferred to a suspense account of the department created under ORS 293.445 and are continuously appropriated to the department for:

[(a)] (A) Expenses incurred in carrying out the purposes of ORS 294.175 to 294.184; [and]

[(b)] (B) Appraisal expenses incurred by the department in appraising state-appraised industrial properties as defined in ORS 306.126 and property of centrally assessed companies under ORS 308.505 to 308.681. [and]


[(3)] (b) Each quarter, the amount of moneys transferred to the suspense account of the department under this subsection [(2) of this section each quarter] may not exceed an amount equal to the sum of 10 percent of the amount distributable under section 9 (5) of this 2019 Act plus 10 percent of the moneys in the suspense account of the department that are attributable to deposits made in the County Assessment and Taxation Fund under ORS 294.187 (1)(b) and (c).

[(4)] (3) The remainder of the moneys in the account after the transfer made under subsection (2) of this section shall be used for the purpose of making the grant payments to counties as required under ORS 294.178 and section 9 of this 2019 Act and are continuously appropriated to the department for that purpose.

SECTION 6. ORS 294.187 is amended to read:

294.187. (1) There is created in the county treasury of each county a fund to be known as the County Assessment and Taxation Fund. The fund shall consist of:

(a) Moneys deposited in and credited to the fund under ORS 311.395.
[(a)] (b) Moneys deposited in and credited to the fund under ORS 311.508.

[(b)] (c) Moneys deposited in and credited to the fund under ORS 205.323 (4)(b)(C).

[(c)] (d) Moneys deposited in and credited to the fund under ORS 205.323 (4)(c).

[(d)] (e) Interest earned upon moneys credited to the fund.

(2) The county treasurer shall pay over the moneys in the fund, determined as of the last day of the fiscal quarter, to the State Treasurer on or before the 10th working day of the month following the last day of the fiscal quarter as follows:

(a) Moneys collected under subsection (1)(a) and (b) to (c) of this section and interest earnings on those moneys must be paid over to the Department of Revenue for deposit in the County Assessment Function Funding Assistance Account created under ORS 294.184.

(b) Moneys collected under subsection [(1)(c)] (1)(d) of this section and interest earnings on those moneys must be paid over to the Department of Revenue for deposit in the Housing and Community Services Department accounts for housing-related programs as follows:

(A) 76 percent of the moneys must be deposited in the General Housing Account created under ORS 458.620;

(B) 10 percent of the moneys must be deposited in the Emergency Housing Account created under ORS 458.620; and

(C) 14 percent of the moneys must be deposited in the Home Ownership Assistance Account created under ORS 458.620.

(3) If the county treasurer fails to pay over moneys, as required under subsection (2) of this section, then any unpaid moneys shall be a debt due and owing by the county to the state and the county shall pay the legal rate of interest thereon from the due date until paid. Payment of interest under this section shall not relieve the county treasurer from any penalty imposed by law for failure to make the payments, and in addition, the county treasurer shall be liable under ORS 311.375 (4)(a) and (b).
(4) ORS 294.305 to 294.565 do not apply to a fund created under this sec-
section.

SECTION 7. ORS 294.175 is amended to read:

294.175. (1) As used in this section and ORS 294.178 to 294.187:
(a) “Department” means the Department of Revenue.
(b) “Expenditures” has the meaning given the term for purposes of ORS
294.305 to 294.565 and may be further defined by rule of the department.
“Expenditures” does not include any item or class of items that cannot rea-
sonably be allocated to an organizational unit.
(c) “Expenditures for assessment and taxation” means expenditures for
any of the activities, functions or services required of a county in the as-
sessment, equalization, levy, collection or distribution of property taxes un-
“Expenditures for assessment and taxation” [specifically] includes expendi-
tures for appraising county-appraised industrial property, if the responsibil-
ity for making the appraisal has been delegated by the department to a
county assessor under ORS 306.126 (3).
(d) “Grant” has the meaning given the term for purposes of ORS 294.305
to 294.565, and is further described under ORS 294.178.
(2) On or before May 1 of each year, each county shall file with the de-
partment a true copy of its estimates of expenditures for assessment and
taxation for the ensuing year as prepared for purposes of ORS 294.388 but
in accordance with any rules adopted by the department.
(3) Upon receipt of the estimate, the department shall review the estimate
to determine its adequacy to provide the resources needed to achieve com-
pliance with ORS 308.232 and 308.234, ORS chapter 309 and other laws re-
quiring equality and uniformity in the system of property taxation within the
county in order that the same equality and uniformity may be achieved
throughout the state.
(4) If, upon initial review of the estimate, the department determines that
the proposed expenditures, or any of them, are not at the level or of the type
needed to achieve adequacy, the department shall notify the county govern-
ing body. The notice shall contain an explanation of the reasons for the de-
termination and may describe specific items or classifications of expenditure
which the department has determined are required, or are not required, in
order to achieve adequacy. The notice shall fix the date upon which a con-
ference with the county governing body or representatives of the county
governing body shall be held.

(5)(a) Subject to paragraph [(b)] (c) of this subsection, if, upon initial re-
view, or upon or after conference held on the date specified in the notice
under subsection (4) of this section, or another date or dates convenient to
the department and the county governing body, the department determines
that the expenditures as initially filed, or that the expenditures as agreed
upon at the conference, are at the level and of the type needed to achieve
adequacy for that year or over a period of years under a plan presented as
described under ORS 294.181, the department shall certify to the county
governing body that its estimate of expenditures for assessment and taxation
so determined are adequate and that the county will be included in the
computation made under ORS 294.178 for the purpose of determining the
amount of that county’s quarterly grant.

(b) The department shall include in the certification an estimate of the
percentage share of the funds available in the County Assessment Function
Funding Assistance Account, attributable to deposits made under ORS
294.187 (1)(b) and (c) and funds distributable under section 9 (5) of this
2019 Act, that the county will receive under ORS 294.178 and an estimate
of the total amount of the grant from such funds that will be forthcoming
to the county from that account for the ensuing year on account of the cer-
tification.

[(b)] (c) The department [shall] may not certify expenditures under this
subsection that the department determines are in excess of the expenditures
necessary to meet the requirements of subsection (3) of this section.

(6) Any certification issued under subsection (5) of this section shall be
issued as of the June 15 following the filing of the estimate of expenditures under subsection (2) of this section. If, as of June 15, agreement has not been reached between the department and the county governing body upon the estimate, the department shall issue a denial of certification.

(7)(a) A county may appeal the determination of the department under subsection [(5)(b)] (5)(c) of this section or the denial of certification issued under subsection (6) of this section to the Director of the Oregon Department of Administrative Services. Appeal shall be filed within 10 days after the date that the denial of certification is issued.

(b) The sole issue upon appeal shall be the adequacy of expenditures for assessment and taxation as filed with the department under subsection (2) of this section, and the determination, if any, made by the department under subsection [(5)(b)] (5)(c) of this section.

(c) If the Oregon Department of Administrative Services does not issue an order approving the expenditures before July 1 of the fiscal year for which the expenditures are proposed, the certification for purposes of ORS 294.175 to 294.187 shall be considered denied.

SECTION 8. ORS 294.178 is amended to read:

294.178. (1) Before issuing any certificate under ORS 294.175, the Department of Revenue shall estimate the amount available in the County Assessment Function Funding Assistance Account created under ORS 294.184, attributable to deposits made under ORS 294.187 (1)(b) and (c) and funds to be distributed under section 9 (5)(b) of this 2019 Act, that will be available for distribution as grants to counties for the ensuing fiscal year.

(2) The estimate shall be used to determine the estimated percent of the moneys available in the County Assessment Function Funding Assistance Account, attributable to deposits and funds described in subsection (1) of this section, that each county will receive as grants and the total estimated grant that each county will receive for the ensuing fiscal year. The estimates so determined shall serve as the estimates required to be included
in any certification issued under ORS 294.175 for that county.

(3) On or before the 28th day of the month following the close of each fiscal quarter, the department shall pay a percentage of the moneys in the County Assessment Function Funding Assistance Account, attributable to deposits and funds described in subsection (1) of this section, to each county to which a certificate has been issued under ORS 294.175.

(4) Except as provided under subsections (5) and (6) of this section, the percentage to be paid to each county under subsection (3) of this section shall be the percentage that the expenditures of the county certified by the department to the county governing body under ORS 294.175 bears to the total of all expenditures of all counties certified by the department to counties under ORS 294.175. In determining the expenditures of a county or in determining the total of all expenditures for purposes of this subsection:

(a) No expenditures shall be included that have not been certified under ORS 294.175.

(b) No expenditures of any county that did not file an estimate of expenditures under ORS 294.175 shall be included.

(c) No expenditures of any county for which certification has been denied shall be included, except as provided in subsection (6)(b) of this section.

(d) No expenditures of any county that does not make its appropriation under ORS 294.456 based upon 100 percent of the expenditures certified shall be included.

(e) No expenditures of any county that does not certify compliance under ORS 294.181 shall be included, except as provided in subsection (6)(b) of this section.

(5)(a) Except as provided in paragraph [(b)] (c) of this subsection, if the expenditures of a county are not included for a fiscal quarter on account of subsection (4) of this section, a grant may not be made to that county under subsection (3) of this section for that fiscal quarter.

(b) If grant funds are denied to any county under this subsection for any fiscal quarter, the percentage determined under subsection (4) of this section
shall be redetermined, excluding from the computation for that fiscal quarter
the certified expenditures of the county for which grant funds are denied to
the end that all of the funds available in the County Assessment Function
Funding Assistance Account at the time of calculating the quarterly dis-
tribution may be distributed.

[(b)] (c) Percentages of grants may not be redetermined under paragraph
[(a)] (b) of this subsection in instances in which a distribution is made under
subsection (6)(b) of this section.

(6)(a) For any county that is certified for participation in the County
Assessment Function Funding Assistance Account grant program under ORS
294.175 or 294.181, and for which a distribution is not made by the depart-
ment because of subsection (4)(d) or (e) of this section, the amount that
would have been disbursed to the county shall be transferred to the Assess-
ment and Taxation County Account described in ORS 306.125.

(b) For any county that is not certified for participation in the County
Assessment Function Funding Assistance Account grant program:

(A) The county may not receive a percentage distribution under sub-
section (4) of this section, but the department shall determine a percentage
distribution as if the county were eligible to receive a distribution under
subsection (4) of this section;

(B) The department shall determine the percentage distribution by using
the county’s certified expenditures from the last year in which the county
participated in the County Assessment Function Funding Assistance Account
grant program; and

(C) The percentage distribution disbursement determined in subpara-
graphs (A) and (B) of this paragraph shall be transferred to the Assessment
and Taxation County Account described in ORS 306.125 at the same time as
payment of moneys is made to counties under subsection (3) of this section.

(c) For any county whose County Assessment Function Funding Assist-
ance Account distribution is transferred under paragraph (a) or (b) of this
subsection to the Assessment and Taxation County Account described in
ORS 306.125, but for which the intervention required of the department by
ORS 308.062 does not occur as a result of action taken by a county court or
board of county commissioners pursuant to ORS 308.062 (2) that is acceptable
to the department, the total of all transfers to the Assessment and Taxation
County Account described in ORS 306.125 shall be transferred back to the
County Assessment Function Funding Assistance Account.

SECTION 9. (1) Moneys deposited in and credited to the County
Assessment Function Funding Assistance Account that are attribut-
able to deposits made to the County Assessment and Taxation Fund
under ORS 294.187 (1)(a) shall be distributed by the Department of
Revenue under this section.

(2)(a) Subject to subsection (3)(g) of this section, 30 percent of the
moneys shall be distributed to each county according to the proration
percentage calculated for the county under paragraph (b) of this sub-
section. The distributions shall be made at the same time that dis-
tributions are made to counties under ORS 294.178.

(b)(A) The department, in consultation with county assessors, shall
develop and periodically review an assessment and taxation staffing
model to be used to identify an adequate number of full-time equiv-
alent positions for the assessment and taxation activities, functions
and services of each county.

(B) The department shall divide each county’s number of staff, ex-
pressed in full-time equivalents, for assessment and taxation activ-
ities, functions and services reported with the county’s estimate filed
under ORS 294.175, and as certified by the department, by the adequate
number of full-time equivalent positions identified for the county us-
ing the staffing model. This quotient, expressed as a percentage, shall
be subtracted from 100 percent, and any positive difference shall be
used as the basis for prorating the distribution required under para-
graph (a) of this subsection among the counties. Any county for which
the difference computed under this subparagraph is less than or equal
to zero shall have a proration percentage of zero.

(c) The department shall notify each county assessor of the proration percentage computed under this subsection for the assessor’s county.

(3)(a) Except as provided in paragraph (g) of this subsection, six and two-thirds percent of the moneys shall be used or held for, and distributed to, counties through the Assessment and Taxation Improvement Grant Program operated by the department pursuant to this subsection.

(b) The purpose of the Assessment and Taxation Improvement Grant Program is to provide grants for county projects that, with respect to ad valorem property taxation, are intended to:

(A) Improve administrative efficiency in property assessment and taxation;
(B) Increase property tax revenues; or
(C) Improve uniformity in valuation.

(c) A county may apply for a grant under this subsection by filing an application with the department by March 1 immediately preceding the beginning of the following property tax year on a form prescribed by the department. An application must specify performance measures for all projects included in the application.

(d) Grant applications shall be reviewed and approved or rejected no later than the July 1 immediately following the application deadline.

(e) Review and approval or rejection of grant applications, according to standards and procedures established by the department that do not conflict with the provisions of this subsection, shall be by majority vote of a committee constituted as follows:

(A) The Director of the Department of Revenue, or a representative of the director, shall appoint:

(i) One member who is a representative of the department;
(ii) One member who is a county assessor; and
(iii) One member who is a county tax collector.
(B) The director, or a representative of the director, shall appoint, from among persons recommended by the League of Oregon Cities, one member who is a representative of the league.
(C) The director, or a representative of the director, shall appoint, from among persons recommended by the Special Districts Association of Oregon, one member who is a representative of the association.
(f) The total amount of grants approved may not exceed the amount of deposits described in paragraph (a) of this subsection accumulated in the County Assessment Function Funding Assistance Account as of the April 30 immediately following the application deadline.
(g) The department may consider additional information before finalizing approval of grant applications under this subsection. Following final approval by the department, grant amounts shall be distributed to counties in the July distribution made under ORS 294.178. Amounts subject to this subsection that are not distributed as grants shall be added to the amounts to be distributed under subsection (2) of this section.
(h) The department may require counties receiving grants under this subsection to provide documentation of progress toward attainment of the purposes of a project as set forth in the grant application.
(4) Sixteen and two-thirds percent of the moneys shall be transferred to the suspense account of the department created under ORS 294.184 at the time distributions are made to counties under ORS 294.178.
(5) Forty-six and two-thirds percent of the moneys shall be distributed as follows:
(a) An amount not exceeding 10 percent of the total amount distributable under this subsection shall be distributed under ORS 294.184 (2).
(b) The remainder shall be distributed under ORS 294.178.

(6) Notwithstanding subsection (2) of this section, if a county that receives a distribution under subsection (2) or (3) of this section reduces the county’s assessment and taxation expenditures during the fiscal year by a greater percentage than the percentage reduction of their General Fund expenditures, the department shall reduce the county’s distribution amount under subsection (2) or (5) of this section in the next fiscal year in an amount equal to the amount by which the county’s reduction in assessment and taxation expenditures exceeds the reduction amount that would have been made if based only on the General Fund reduction percentage. Such reduction amount shall be reallocated to the other counties in proportion to their calculated distribution amounts under subsection (2) or (5) of this section.

(7) The director may adopt any rule for carrying out the purposes of this section that the director considers necessary or convenient.

SECTION 10. (1) The amendments to ORS 311.392 and 311.505 by sections 1 and 2 of this 2019 Act apply to property tax years beginning on or after July 1, 2020.

(2) Section 9 of this 2019 Act and the amendments to ORS 294.175, 294.178, 294.184, 294.187, 311.390 and 311.508 by sections 3 to 8 of this 2019 Act apply to property tax distributions made on or after July 1, 2020.

SECTION 11. Section 12 of this 2019 Act is added to and made a part of ORS 455.010 to 455.240.

SECTION 12. (1) As soon as practicable after issuing a building permit, the planning division of the issuing municipality shall notify the assessor of the county in which the project to which the permit relates is located of the information required under ORS 455.050 contained in the permit.

(2) Notification under this section shall be by electronic transmission, if possible, or otherwise by any means.

SECTION 13. This 2019 Act takes effect on the 91st day after the
date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Changes due date for forest products harvest tax and western and eastern Oregon small tract severance tax to April 15.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to due dates for certain forest harvesting taxes; creating new provisions; amending ORS 321.045 and 321.741; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 321.045 is amended to read:

321.045. (1) The taxes levied under ORS 321.015 shall be due and payable annually, on or before [the last day of January] April 15, for the preceding calendar year. The tax shall be delinquent if not paid by the due date, which shall be determined without regard to any extension of time for filing the return.

(2) Subject to the provisions relating to estimated tax payments provided in subsections (4) and (5) of this section, on or before [the last day of January] April 15, each taxpayer shall make out a return on the form prescribed by the Department of Revenue showing the amount of the tax for which the taxpayer is liable for the preceding calendar year and the other information the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the amount of the tax, to the office of the department. The return shall be signed and verified by the taxpayer or a duly authorized agent of the tax-

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
payers. Whenever in its judgment good cause exists, the department may allow upon written application made on or before the due date further time not exceeding 30 days for filing a return.

(3) All payments received under ORS 321.005 to 321.185 and 321.560 to 321.600 shall be credited, first, to penalty and interest accrued, and then to tax due.

(4) Each taxpayer expecting to incur a liability pursuant to this section in excess of $1,500 for any calendar year shall, on forms prescribed by the Department of Revenue, make and file with the department on or before the last day of the month following the end of each calendar quarter an estimate of the taxpayer’s tax liability for the year. At least one-quarter of the estimated tax shall be remitted to the department with each estimated tax report and the balance shall be remitted to the department on or before the [due date of the tax return required by subsection (2) of this section] last day of January of the following calendar year, without regard [for] to any extension of [the due date thereof] time for filing the return.

(5) If the amount remitted with an estimated tax report filed on or before the due date thereof is at least 25 percent of the tax of the taxpayer as due for the calendar year preceding the year for which the report is made or at least 20 percent of the taxpayer’s tax liability as due for the year for which the report is made, or 100 percent of the tax liability on the actual merchantable forest products harvested for the calendar quarter preceding the due date of the estimated tax report, no penalty or interest shall be charged. Otherwise a penalty in the form of interest at the rate established under ORS 305.220 shall be assessed for the period of delinquency calculated on the difference between the payment made and the payment that would have been due had the taxpayer estimated the liability for the quarter in an amount equal to the liability as due for such quarter. The provisions of ORS chapters 305 and 314 relating to penalties and interest shall not apply to the estimated tax payments described in this section.

**SECTION 2.** ORS 321.741 is amended to read:
321.741. (1) The severance tax imposed under ORS 321.726 is due and payable annually, on or before [the last day of January] April 15 of each year, with respect to all timber harvested during the previous calendar year.

(2) At the time at which the severance tax is paid and on or before [the last day of January] April 15 of each year, each taxpayer who has harvested any timber during the previous calendar year shall prepare a return on a form prescribed by the Department of Revenue showing the amounts and kinds of timber harvested for the previous calendar year, the amount of tax for which the taxpayer is liable for harvesting during the previous calendar year and any other information that the department considers necessary to correctly determine the tax due and shall mail or deliver the return, together with a remittance for the unpaid balance of the tax, to the department. The return shall be signed and certified by the taxpayer or a duly authorized agent of the taxpayer, as provided in ORS 305.810. The department may allow, upon written application made on or before [the last day of January] April 15, further time not exceeding 30 days for filing a return. The tax shall be delinquent if not paid by [the last day of January] April 15, [regardless of] without regard to any extension of time for filing the return.

(3) All severance tax payments received under ORS 321.700 to 321.754 shall be credited first to penalty and then to interest accrued on the tax being paid and then to the tax.

(4) A taxpayer incurring less than $10 total severance tax liability under ORS 321.700 to 321.754 in any calendar year is excused from the payment of the tax but is required to file a return.

SECTION 3. The amendments to ORS 321.045 and 321.741 by sections 1 and 2 of this 2019 Act apply to calendar years beginning on or after January 1, 2020.

SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Authorizes Department of State Lands to use moneys in Restoration Subaccount of Submerged Lands Enhancement Fund to purchase insurance or to otherwise defray costs to clean up or otherwise address damage to state-owned submerged or submersible lands. Authorizes department to assess surcharge. Requires moneys collected under surcharge to be deposited in Restoration Subaccount.


A BILL FOR AN ACT

Relating to addressing damage to state lands; creating new provisions; and amending ORS 274.388.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 274.376 to 274.388.

SECTION 2. (1) The Department of State Lands may use moneys deposited in the Restoration Subaccount of the Submerged Lands Enhancement Fund established under ORS 274.388 to procure insurance coverage for the costs to clean up or otherwise address damage to state-owned submerged or submersible lands. If the department determines that purchasing insurance is appropriate, the department shall purchase insurance through the Oregon Department of Administrative Services.

(2) In addition to or in lieu of procuring insurance coverage, the Department of State Lands may use moneys in the Restoration Sub-
account to defray the costs to clean up or otherwise address damage
to state-owned submerged or submersible lands.

(3) The Department of State Lands may assess a surcharge on the
payment required for the lease, easement, registration, access agree-
ment or other proprietary authorization to use or occupy state-owned
submerged or submersible lands. A surcharge assessed under this
subsection must be no less than three percent and no more than 10
percent of the amount of the payment otherwise required for the lease,
easement, registration, access agreement or other proprietary au-
thorization. Notwithstanding ORS 273.105, moneys collected by the
Department of State Lands under this subsection must be deposited
in the Restoration Subaccount.

SECTION 3. ORS 274.388 is amended to read:

274.388. (1) The Submerged Lands Enhancement Fund is established in the
State Treasury, separate and distinct from the General Fund. [Interest earned
by the Submerged Lands Enhancement Fund shall be credited to the fund.
Moneys in the fund are continuously appropriated to the Department of State
Lands for the purposes specified in this section.] The Submerged Lands
Enhancement Fund shall consist of the Management and Enhancement Activities Subaccount and the Restoration Subaccount. Interest
earned by each subaccount shall be credited to that subaccount.

(2) Notwithstanding ORS 273.105, the [fund] Management and En-
hancement Activities Subaccount shall consist of:

(a) No more than 20 percent of the moneys collected by the Department
of State Lands per biennium pursuant to the department’s granting of
leases, easements, registrations and other permissions to use or occupy
state-owned submerged or submersible lands; and

(b) Moneys [collected] from the subaccount that were recovered by the
department under subsection [(5)] (7) of this section.

(3) Notwithstanding ORS 273.105, the Restoration Subaccount shall
consist of moneys collected by the department under section 2 (3) of
this 2019 Act.

[(3)] (4) Moneys in the [Submerged Lands Enhancement Fund] Management and Enhancement Activities Subaccount are continuously appropriated to the department and may be used to pay the expenses of the department associated with management and enhancement activities on state-owned submerged and submersible lands, including but not limited to:

(a) Removal, salvage, storage and disposal of abandoned or derelict structures under ORS 274.379;

(b) Removal and disposal of marine debris;

(c) Assistance with the salvage, towing, storage and disposal of abandoned or derelict vessels pursuant to ORS 830.908 to 830.948; and

(d) Engagement in activities to improve water quality, watershed enhancement and fish and wildlife habitat on submerged and submersible lands.

[(4)] (5) The department may use moneys in the [fund] Management and Enhancement Activities Subaccount to provide funding to a state agency, county, city, water improvement district, watershed council, park and recreation district, port district, federally recognized Indian tribe or nonprofit organization to assist the department in completing any of the management and enhancement activities provided for in subsection [(3)] (4) of this section.

(6) Moneys in the Restoration Subaccount are continuously appropriated to the department to be used for the purposes described in section 2 of this 2019 Act.

[(5)] (7) The department may recover payments made from the [fund] Management and Enhancement Activities Subaccount from an owner of a structure or vessel who is liable for the costs of removal, salvage, storage and disposal of a structure under ORS 274.382. The department shall deposit all moneys recovered under this subsection into the [fund] Management and Enhancement Activities Subaccount.
SUMMARY

Permits business to communicate with owner by electronic mail regarding abandoned securities. Removes exception to abandonment presumption for securities whose dividends automatically reinvest.

A BILL FOR AN ACT

Relating to abandoned securities; amending ORS 98.322, 98.362 and 98.382.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 98.322 is amended to read:

98.322. [(1) Stock, certificates of ownership or other intangible equity ownership interests in a business association are presumed abandoned when all of the following occur:]

[(a) The interest is evidenced by records of the business association.]

[(b) A dividend, distribution or other sum payable as a result of the interest has remained unclaimed for three years.]

[(c) The owner has not otherwise communicated with the business association for three years from the date the sum was payable.]

[(d) The business association has sent written notice of the payment and underlying interest to the owner at the last-known address of the owner as shown in the records of the business association.]

[(2) With respect to any interest presumed abandoned under subsection (1) of this section, the business association is the holder.]

(1) As used in this section:

(a) The “business association” is the holder of the security or disbursement.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(b) “Distribution” means any dividend, profit distribution, interest, payment on principal or other sum or thing of value owed under a security from a business association to the owner.

(c) “Notice” means written notice of the existence of a distribution and security mailed by first class mail to the last-known address of the owner as shown in the records of the business association.

(d) “Security” means stock, security, certificate of ownership or other intangible equity ownership interest in a business association evidenced in the records of the business association.

(2) A security is presumed abandoned when for three years a distribution has remained unclaimed and the owner has not communicated with the business association and either of the following has occurred:

   (a)(A) If the business association customarily communicates with the owner only by electronic mail, at least 30 days have passed following the business association’s notification of the distribution and security to the owner by electronic mail.

   (B) Notwithstanding subparagraph (A) of this paragraph, the business association shall also send notice to the owner and may not consider the security abandoned until 30 days following the sending of the notice if:

   (i) The business association believes that the owner’s electronic mail address in the association’s records is not valid;

   (ii) The business association receives notification that the electronic mail communication described in subparagraph (A) of this paragraph was not received; or

   (iii) The owner does not respond to the electronic mail communication within 30 days after the communication was sent.

   (b) If the business association does not customarily communicate with the owner only by electronic mail:

   (A) The business association has sent notice to the owner;
(B) The business association has sent a second notice to the owner that has returned to the business association undelivered or received no response for 30 days; and

(C) If the business association has the owner's electronic mail address and believes it to be valid, the business association has attempted to confirm the owner's interest by electronic mail and has received no response for 30 days.

(3) [At the time an interest] When a security is presumed abandoned under subsection [(I)] (2) of this section, any [payment then held for or owing to the owner as a result of the interest] unclaimed distribution arising under the security is also presumed abandoned.

[(4) Subsection (1) of this section shall not apply to any stock, certificate of ownership or other intangible equity ownership interests in a business association that provides for the automatic reinvestment of dividends, distributions or other sums payable as a result of the interests, unless:]

[(a) The records of the business association show that the person also owns any stock, certificate of ownership or other intangible equity ownership interest in the business association that is not enrolled in the reinvestment plan; and]

[(b) The interest referred to in paragraph (a) of this subsection has been presumed abandoned under subsection (1) of this section.]

[(5)] (4) [Any dividend, profit distribution, interest, payment on principal or other sum held or owing by a business association] A distribution is presumed abandoned if, within:

(a) Three years have passed after the date [prescribed for payment, all of the following have occurred:] the distribution was issued;

[(a)] (b) The owner has not claimed the [payment] distribution or [corresponded in writing] communicated with the business association concerning the [payment.] distribution; and

[(b) The business association has sent written notice of the payment to the owner at the last-known address of the owner as shown in the records of the business association.]
(c) The business association has attempted to confirm the owner’s interest in the distribution in writing, including by electronic mail if the business association customarily communicates with the owner only by electronic mail.

SECTION 2. ORS 98.362 is amended to read:
98.362. (1) The holder of [an intangible equity ownership interest] a security or other intangible property presumed abandoned under ORS 98.322 shall deliver a certificate of ownership or other evidence of ownership to the Department of State Lands as follows:
   (a) The original certificate shall be delivered to the department when it is held by the business association, transfer agent, registrar or other person acting on behalf of the business association.
   (b) A duplicate certificate shall be issued to the department when the business association, transfer agent, registrar or other person acting on behalf of the holder does not hold the original.
   (2) After issuance of a duplicate certificate under subsection (1) of this section, the rights of a protected purchaser of the original certificate shall be governed by ORS 78.4050. In such event, recovery by the protected purchaser shall be against the department to the extent allowed under the Oregon Constitution.

SECTION 3. ORS 98.382 is amended to read:
98.382. (1)(a) All unclaimed property other than money and securities delivered to the Department of State Lands under ORS 98.362 shall be sold by the department to the highest bidder at public sale by the method and at the location that the department determines are the most favorable for receiving the highest price for the property involved. The department may decline the highest bid and reoffer the property for sale if the department considers the price bid insufficient. The department need not offer any property for sale if, in the department’s opinion, the probable cost of sale exceeds the value of the property.
   (b) In choosing the most favorable method for the sale of property under
this subsection, the department may consider:

(A) A public oral auction;

(B) An electronic commerce forum; and

(C) Any other method for sale that ensures the highest returns and provides for open, public participation.

(c) In choosing the most favorable location for the sale of property under this subsection, the department may consider:

(A) The population of the location;

(B) The cost of conducting the sale in the location;

(C) The type of property being sold;

(D) The public access to the proposed sale location, including parking; and

(E) Any other indicator of market potential of the location.

(2) For a sale by public oral auction held under subsection (1) of this section, the department shall publish at least a single notice of the sale at least 10 days in advance of the sale in a newspaper of general circulation in the county where the property is to be sold. For a sale by a method other than public oral auction, the department shall publish at least a single notice in a newspaper of general circulation in Marion County.

(3) Securities listed on an established stock exchange shall be sold on the exchange at prices prevailing on the exchange at the time of sale. Other securities may be sold over the counter at prices prevailing at the time of sale or by any other method the administrator considers advisable.

(4) All securities and other intangible properties presumed abandoned [under ORS 98.362] and delivered to the department under ORS 98.362 shall be sold by the department at such time and place and in such manner as in the department's judgment will bring the highest return.

(5) The department shall indemnify the holder of securities presumed abandoned under ORS 98.322 to the extent allowed by the Oregon Constitution. The department shall establish procedures by administrative rule to pay the rightful owner proceeds received from securities that were sold before
the owner filed a claim to recover such securities.

(6) The purchaser at a sale conducted by the department pursuant to this section shall receive title to the property purchased, free from all claims of the owner or prior holder of the property and of all persons claiming through or under them. The department shall execute all documents necessary to complete the transfer of title.
SUMMARY

Shortens length of time until unpaid wages become abandoned to one year.
Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to unpaid wages unclaimed by owner; amending ORS 98.334 and 98.336; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 98.334 is amended to read:

98.334. (1) As used in this section, “wages” means wages, commissions, bonuses or reimbursements to which an employee is entitled, or other compensation for personal services, other than amounts held in a payroll card.

(2) Unpaid wages, including wages represented by unpresented payroll checks, owing in the ordinary course of the holder’s business [which] that remain unclaimed by the owner for more than [three years] one year after becoming payable are presumed abandoned.

SECTION 2. ORS 98.336 is amended to read:

98.336. (1) Intangible property, including uncashed warrants [and wages represented by unpresented payroll checks], held for the owner by a court, state or other government, governmental subdivision or agency, public corporation[,] or public authority[,] that [has remained] remains unclaimed by the owner for more than two years is presumed abandoned.

(2) Tangible property held for the owner by a court, state or other gov-
ernment, governmental subdivision or agency, law enforcement agency, pub-
ic corporation or public authority that \[has remained\] \textbf{remains} unclaimed
by the owner for more than two years is presumed abandoned.

\textbf{SECTION 3.} This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Establishes grant program to improve inclusionary nature of schools.
Directs school districts to establish student and family advisory groups.
Provides that Department of Education will oversee network of regional student councils.
Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to education inclusionary practices; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) An inclusive schools pilot program is established for the purpose of implementing practices, strategies and programs that provide a welcoming learning environment that:
(a) Is safe, effective and equitable; and
(b) Is conducive to learning for all students.
(2) The Department of Education shall administer the pilot program established by this section.
(3) For the purpose of administering the pilot program, the department shall provide:
(a) Technical assistance to school districts to develop and implement a plan to provide inclusive schools as described in subsection (1) of this section; and
(b) Funding for professional development and for implementation of the plan developed under paragraph (a) of this subsection.
(4) Any school district in this state may apply to participate in the pilot program, and the department shall select at least 40 school districts to participate. When selecting school districts to participate in the pilot program, the department shall consider:

(a) Equity indicators, including achievement gaps experienced by underserved populations in the school district;

(b) The number and quality of practices, strategies and programs that the school district will implement within the schools of the school district; and

(c) The demographics of the school district, and shall give priority to selecting school districts with diverse demographics.

(5) The department shall submit a report to the appropriate interim committees of the Legislative Assembly related to education no later than:

(a) September 15, 2021, for a preliminary report; and

(b) September 15, 2023, for a final report.

SECTION 2. Section 1 of this 2019 Act is repealed on December 31, 2023.

SECTION 3. Section 4 of this 2019 Act is added to and made a part of ORS chapter 327.

SECTION 4. (1) In addition to those moneys distributed through the State School Fund, the Department of Education shall award grants to school districts to improve the inclusionary nature of the schools, including grants to fund systems that:

(a) More quickly identify students at risk to struggle in school; and

(b) Provide interventions that facilitate student success, including best practices and tools that are targeted to reduce chronic absenteeism, improve emotional learning practices and create effective and welcoming learning environments for all students.

(2) The amount of each grant = the school district’s ADM as defined in ORS 327.006 × $3.
(3) Two or more school districts may apply for a grant under this section in conjunction with the education service district that serves the school districts.

(4) The department shall provide technical assistance to recipients of grants under this section.

(5) The State Board of Education shall adopt any rules necessary for the administration of the grants described in this section.

SECTION 5. Section 6 of this 2019 Act is added to and made a part of ORS chapter 329.

SECTION 6. (1)(a) Each school district shall establish a student and family advisory group to:

(A) Provide input to the school district board when the board is establishing policy for the school district; and

(B) Provide an opportunity for students and families to express concerns related to the school district.

(b) Each school district shall ensure that each school of the school district establishes a student and family advisory group to:

(A) Assist the school in making school-specific decisions that affect the quality of life, education or activities of the students of the school; and

(B) Provide an opportunity for students and families to express concerns related to the school.

(c) Members of each student and family advisory group must represent the demographic diversity of the school district or the school represented by the group.

(2)(a) The Department of Education shall oversee a network of regional student councils. The network of regional student councils shall consist of regional student councils that are administered by education service districts. Each education service district shall administer a regional student council.

(b) Regional student councils shall meet as the network of regional
student councils at least two times each year on dates determined by
a majority of the members of the network. The network of regional
student councils also may meet at additional times through telephone
or other electronic means. Each individual regional student council
may meet at such times as determined by a majority of the members
of the council.

(c) The network of regional student councils shall provide the Su-
perintendent of Public Instruction and the State Board of Education
with input on how state education agencies, education service districts
and school districts may:

(A) Build a community educational environment;
(B) Build trust and relationships; and
(C) Reflect students’ interests, values and cultural heritage in the
school curriculum and extracurricular activities.

(d) For the purpose of providing the input described in paragraph
(c) of this subsection, the network of regional student councils shall
assist with the development and administration of a survey and shall
make recommendations based on results of the survey, personal ex-
perience and other data.

(e) The department shall make available technical assistance and
training for regional student councils and for the network of regional
student councils.

(f) Education service districts shall provide funding for transporta-
tion and other expenses of the regional student councils and may seek
reimbursement for the funding from the department.

SECTION 7. (1) Section 6 of this 2019 Act becomes operative on July
1, 2020.

(2) The Department of Education, education service districts and
school districts may adopt rules and take any action before the oper-
ative date specified in subsection (1) of this section that is necessary
to enable the department or districts, on and after the operative date
specifies in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the department and districts by section 6 of this 2019 Act.

**SECTION 8.** In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Education, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $______, which shall be distributed as grants as provided by section 4 of this 2019 Act.

**SECTION 9.** This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.
SUMMARY

Directs Department of Education to provide moneys for payment of costs of education of students in eligible residential alternative education program. Establishes education record requirements for students in residential alternative education program.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to residential alternative education programs; creating new provisions; amending ORS 326.575, 327.008, 327.023, 339.137, 343.243 and 343.247; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) “Alternative education program” has the meaning given that term in ORS 336.615.

(b) “Eligible residential alternative education program” means a residential alternative education program that:

(A) Is provided under a contract with the school district in which the residential alternative education program is located;

(B) Is approved by the Department of Education; and

(C) Receives moneys under an agreement with the United States Department of Defense for the purpose of providing an education to students.

(c) “Residential alternative education program” means an alternative education program that serves students from across this state and

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
that requires students to reside at or near the location where the alter-
native education program is provided for part or all of the duration
of the program.

(d) “Student” means a person who:
(A) Volunteers to enroll in an eligible residential alternative edu-
cation program;
(B) Is at least 16 years of age but not older than 18 years of age on
the date the person enrolls in the eligible residential alternative edu-
cation program;
(C) Is a resident of this state;
(D) Is academically at risk, not likely to graduate from high school
or a dropout; and
(E) Otherwise qualifies for participation in the eligible residential
alternative education program.
(2) The Department of Education shall provide moneys for payment
of the costs of education of students in an eligible residential alterna-
tive education program as provided by ORS 343.243. The department
shall provide the moneys to the school district in which the eligible
residential alternative education program is located.
(3)(a) Subject to paragraph (b) of this subsection, a school district
to which the department provides moneys as described in subsection
(2) of this section shall pay the moneys to the eligible residential al-
ternative education program.
(b) A school district to which the department provides moneys as
described in subsection (2) of this section may keep a portion of the
moneys as required by law or rule or as agreed to in a contract be-
tween the school district and the eligible residential alternative edu-
cation program.
(4) The State Board of Education may adopt rules that the board
deems necessary for administering this section.

SECTION 2. ORS 327.008 is amended to read:
327.008. (1)(a) There is established a State School Fund in the General Fund.

(b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the State School Fund. Moneys received as provided in this paragraph shall be deposited into the State School Fund.

(c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly, moneys transferred from the Education Stability Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b) of this subsection.

(d) The State School Fund is continuously appropriated to the Department of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 343.243, 343.533, 343.941 and 343.961 and sections 1 to 3, chapter 735, Oregon Laws 2013, and section 1 of this 2019 Act.

(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant and a high cost disabilities grant minus local revenue, computed as provided in ORS 327.011 and 327.013.

(3) For the first school year after a public charter school ceases to operate because of dissolution or closure or because of termination or nonrenewal of a charter, there shall be apportioned from the State School Fund to each school district that had sponsored a public charter school that ceased to operate an amount equal to the school district’s general purpose grant per extended ADMw multiplied by five percent of the ADM of the public charter school for the previous school year.

(4) There shall be apportioned from the State School Fund to each education service district a State School Fund grant as calculated under ORS 327.019.

(5) All figures used in the determination of the distribution of the State
School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(6) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(7) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed $9 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than $6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (6).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

(11) Each fiscal year, the Department of Education shall transfer the amount of $35 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(12)(a) Each biennium, the Department of Education shall transfer $33 million from the State School Fund to the Network of Quality Teaching and Learning Fund established under ORS 342.953.

(b) For the purpose of making the transfer under this subsection:

(A) The total amount available for all distributions from the State School Fund shall be reduced by $5 million;

(B) The amount distributed to school districts from the State School Fund
under this section and ORS 327.013 shall be reduced by $14 million; and

(C) The amount distributed to education service districts from the State
School Fund under this section and ORS 327.019 shall be reduced by $14
million.

(c) For each biennium, the amounts identified in paragraph (b)(B) and (C)
of this subsection shall be adjusted by the same percentage by which the
amount appropriated to the State School Fund for that biennium is increased
or decreased compared with the preceding biennium, as determined by the
Department of Education after consultation with the Legislative Fiscal Of-
fer.

(13) Each biennium, the Department of Education shall transfer $12.5
million from the State School Fund to the Statewide English Language
Learner Program Account established under ORS 327.344.

(14) Each fiscal year, the Department of Education may expend up to
$550,000 from the State School Fund for the contract described in ORS
329.488. The amount distributed to education service districts from the State
School Fund under this section and ORS 327.019 shall be reduced by the
amount expended by the department under this subsection.

(15) Each biennium, the Department of Education may expend up to
$350,000 from the State School Fund to provide administration of and support
for the development of talented and gifted education under ORS 343.404.

(16) Each biennium, the Department of Education may expend up to
$150,000 from the State School Fund for the administration of a program to
increase the number of speech-language pathologists and speech-language
pathology assistants under ORS 348.394 to 348.406.

(17) Each fiscal year, the Department of Education shall transfer the
amount of $2.5 million from the State School Fund to the Small School Dis-
trict Supplement Fund established in section 3, chapter 735, Oregon Laws
2013.

**SECTION 3.** ORS 327.008, as amended by section 22, chapter 639, Oregon
Laws 2017, and section 5, chapter 700, Oregon Laws 2017, is amended to read:
327.008. (1)(a) There is established a State School Fund in the General 
Fund.

(b) The Department of Education, on behalf of the State of Oregon, may 
solicit and accept gifts, grants, donations and other moneys from public and 
private sources for the State School Fund. Moneys received as provided in 
this paragraph shall be deposited into the State School Fund.

(c) The State School Fund shall consist of moneys appropriated by the 
Legislative Assembly, moneys transferred from the Education Stability Fund 
and the Oregon Marijuana Account and moneys received as provided in 
paragraph (b) of this subsection.

(d) The State School Fund is continuously appropriated to the Department 
of Education for the purposes of ORS 327.006 to 327.077, 327.095, 327.099, 
327.101, 327.125, 327.137, 327.348, 336.575, 336.580, 336.635, 343.243, 343.533, 
343.941 and 343.961 and sections 1 to 3, chapter 735, Oregon Laws 2013, and section 1 of this 2019 Act.

(2) There shall be apportioned from the State School Fund to each school 
district a State School Fund grant, consisting of the positive amount equal 
to a general purpose grant and a facility grant and a transportation grant 
and a high cost disabilities grant minus local revenue, computed as provided 
in ORS 327.011 and 327.013.

(3) For the first school year after a public charter school ceases to oper- 
ate because of dissolution or closure or because of termination or 
nonrenewal of a charter, there shall be apportioned from the State School 
Fund to each school district that had sponsored a public charter school that 
ceased to operate an amount equal to the school district’s general purpose 
grant per extended ADMw multiplied by five percent of the ADM of the 
public charter school for the previous school year.

(4) There shall be apportioned from the State School Fund to each edu-
cation service district a State School Fund grant as calculated under ORS 
327.019.

(5) All figures used in the determination of the distribution of the State
School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(6) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(7) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed $7 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than $6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (6).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.

(11) Each fiscal year, the Department of Education shall transfer the amount of $35 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(12)(a) Each biennium, the Department of Education shall transfer $39.5 million from the State School Fund to the Educator Advancement Fund established under ORS 342.953.

(b) For the purpose of making the transfer under this subsection:

(A) The total amount available for all distributions from the State School Fund shall be reduced by $6 million;

(B) The amount distributed to school districts from the State School Fund
under this section and ORS 327.013 shall be reduced by $16.75 million; and
(C) The amount distributed to education service districts from the State
School Fund under this section and ORS 327.019 shall be reduced by $16.75
million.

(c) For each biennium, the amounts identified in this subsection shall be
adjusted by the same percentage by which the instructions furnished to state
agencies by the Governor under ORS 291.204 direct the state agencies to
adjust their agency budget requests for special payments under ORS 291.216
(6)(a)(C).

(13) Each biennium, the Department of Education shall transfer $12.5
million from the State School Fund to the Statewide English Language
Learner Program Account established under ORS 327.344.

(14) Each fiscal year, the Department of Education may expend up to
$550,000 from the State School Fund for the contract described in ORS
329.488. The amount distributed to education service districts from the State
School Fund under this section and ORS 327.019 shall be reduced by the
amount expended by the department under this subsection.

(15) Each biennium, the Department of Education may expend up to
$350,000 from the State School Fund to provide administration of and support
for the development of talented and gifted education under ORS 343.404.

(16) Each biennium, the Department of Education may expend up to
$150,000 from the State School Fund for the administration of a program to
increase the number of speech-language pathologists and speech-language
pathology assistants under ORS 348.394 to 348.406.

(17) Each fiscal year, the Department of Education shall transfer the
amount of $2.5 million from the State School Fund to the Small School Dis-
trict Supplement Fund established in section 3, chapter 735, Oregon Laws
2013.

(18) Each biennium, the Department of Education shall transfer $2 million
from the State School Fund for deposit to the Healthy School Facilities Fund
established under ORS 332.337. Notwithstanding ORS 332.337, the depart-
ment may expend moneys received in the Healthy School Facilities Fund under this subsection only as grants for costs associated with testing for elevated levels of lead in water used for drinking or food preparation.

SECTION 4. ORS 327.008, as amended by section 7, chapter 735, Oregon Laws 2013, section 7, chapter 81, Oregon Laws 2014, section 2, chapter 68, Oregon Laws 2015, section 38, chapter 245, Oregon Laws 2015, section 2, chapter 555, Oregon Laws 2015, section 11, chapter 604, Oregon Laws 2015, section 2, chapter 644, Oregon Laws 2015, section 8, chapter 783, Oregon Laws 2015, sections 22 and 23, chapter 639, Oregon Laws 2017, sections 5 and 6, chapter 700, Oregon Laws 2017, and section 34, chapter 725, Oregon Laws 2017, is amended to read:

327.008. (1)(a) There is established a State School Fund in the General Fund. 

(b) The Department of Education, on behalf of the State of Oregon, may solicit and accept gifts, grants, donations and other moneys from public and private sources for the State School Fund. Moneys received as provided in this paragraph shall be deposited into the State School Fund.

(c) The State School Fund shall consist of moneys appropriated by the Legislative Assembly, moneys transferred from the Education Stability Fund and the Oregon Marijuana Account and moneys received as provided in paragraph (b) of this subsection.


(2) There shall be apportioned from the State School Fund to each school district a State School Fund grant, consisting of the positive amount equal to a general purpose grant and a facility grant and a transportation grant and a high cost disabilities grant minus local revenue, computed as provided in ORS 327.011 and 327.013.

(3) For the first school year after a public charter school ceases to oper-
ate because of dissolution or closure or because of termination or nonrenewal of a charter, there shall be apportioned from the State School Fund to each school district that had sponsored a public charter school that ceased to operate an amount equal to the school district’s general purpose grant per extended ADMw multiplied by five percent of the ADM of the public charter school for the previous school year.

(4) There shall be apportioned from the State School Fund to each education service district a State School Fund grant as calculated under ORS 327.019.

(5) All figures used in the determination of the distribution of the State School Fund shall be estimates for the same year as the distribution occurs, unless otherwise specified.

(6) Numbers of students in average daily membership used in the distribution formula shall be the numbers as of June of the year of distribution.

(7) A school district may not use the portion of the State School Fund grant that is attributable to the facility grant for capital construction costs.

(8) The total amount of the State School Fund that is distributed as facility grants may not exceed $7 million in any biennium. If the total amount to be distributed as facility grants exceeds this limitation, the Department of Education shall prorate the amount of funds available for facility grants among those school districts that qualified for a facility grant. If the total amount to be distributed as facility grants does not exceed this limitation, any remaining amounts shall be expended for expenses incurred by the Office of School Facilities as provided in ORS 326.125 (1).

(9) Each biennium, the Department of Education may expend from the State School Fund no more than $6 million for expenses incurred by the Office of School Facilities under ORS 326.125 (2) to (6).

(10) Each fiscal year, the Department of Education shall transfer to the Pediatric Nursing Facility Account established in ORS 327.022 the amount necessary to pay the costs of educational services provided to students admitted to pediatric nursing facilities as provided in ORS 343.941.
(11) Each fiscal year, the Department of Education shall transfer the amount of $35 million from the State School Fund to the High Cost Disabilities Account established in ORS 327.348.

(12)(a) Each biennium, the Department of Education shall transfer $39.5 million from the State School Fund to the Educator Advancement Fund established under ORS 342.953.

(b) For the purpose of making the transfer under this subsection:

(A) The total amount available for all distributions from the State School Fund shall be reduced by $6 million;

(B) The amount distributed to school districts from the State School Fund under this section and ORS 327.013 shall be reduced by $16.75 million; and

(C) The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by $16.75 million.

(c) For each biennium, the amounts identified in this subsection shall be adjusted by the same percentage by which the instructions furnished to state agencies by the Governor under ORS 291.204 direct the state agencies to adjust their agency budget requests for special payments under ORS 291.216.

(13) Each biennium, the Department of Education shall transfer $12.5 million from the State School Fund to the Statewide English Language Learner Program Account established under ORS 327.344.

(14) Each fiscal year, the Department of Education may expend up to $550,000 from the State School Fund for the contract described in ORS 329.488. The amount distributed to education service districts from the State School Fund under this section and ORS 327.019 shall be reduced by the amount expended by the department under this subsection.

(15) Each biennium, the Department of Education may expend up to $350,000 from the State School Fund to provide administration of and support for the development of talented and gifted education under ORS 343.404.

(16) Each biennium, the Department of Education may expend up to
$150,000 from the State School Fund for the administration of a program to increase the number of speech-language pathologists and speech-language pathology assistants under ORS 348.394 to 348.406.

(17) Each biennium, the Department of Education shall transfer $2 million from the State School Fund for deposit to the Healthy School Facilities Fund established under ORS 332.337. Notwithstanding ORS 332.337, the department may expend moneys received in the Healthy School Facilities Fund under this subsection only as grants for costs associated with testing for elevated levels of lead in water used for drinking or food preparation.

SECTION 5. ORS 327.023 is amended to read:

327.023. In addition to those moneys distributed through the State School Fund, the Department of Education shall provide from state funds appropriated therefor, grants in aid or support for special and compensatory education programs including:

(1) The Oregon School for the Deaf.

(2) Medicaid match for administration efforts to secure Medicaid funds for services provided to children with disabilities.

(3) Hospital programs for education services to children who are hospitalized for extended periods of time or who require hospitalization due to severe disabilities as described in ORS 343.261.

(4) Day treatment programs and residential treatment programs for education services to children who are in the treatment programs as described in ORS 343.961.

(5) Regional services provided to children with low-incidence disabling conditions as described in ORS 343.236.

(6) Early childhood special education provided to preschool children with disabilities from age three until age of eligibility for kindergarten as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157 and 343.455 to 343.534.

(7) Early intervention services for preschool children from birth until age three as described in ORS 339.185, 343.035, 343.041, 343.055, 343.065, 343.157
and 343.455 to 343.534.

(8) Evaluation services for children with disabilities to determine program eligibility and needs as described in ORS 343.146.

(9) Education services to children residing at state hospitals.

(10) Disadvantaged children program under ORS 343.680.

(11) Early childhood education under ORS 329.235.

(12) Child development specialist program under ORS 329.255.

(13) Youth care centers under ORS 420.885 that are not within a detention facility, as defined in ORS 419A.004.

(14) Staff development and mentoring.

(15) Career and technical education grants.

(16) Special science education programs.

(17) Talented and Gifted children program under ORS 343.391 to 343.413.

(18) Pediatric nursing facility programs for educational services provided to students who are admitted to pediatric nursing facilities as provided in ORS 343.941.

(19) Residential alternative education programs under section 1 of this 2019 Act.

SECTION 6. ORS 343.243 is amended to read:

343.243. (1) Each school year, the Department of Education shall receive an amount, as calculated under this section, from the State School Fund to pay the costs of educating children in programs under ORS 343.261, 343.961 and 346.010 and section 1 of this 2019 Act.

(2) To meet the requirements of section 1 of this 2019 Act, the department shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The number of slots available for all students in eligible residential alternative education programs under section 1 of this 2019 Act, as determined by the Department of Education based on infor-
mation received from school districts, the Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible residential alternative education programs.

[(2)] (3) To meet the requirements of ORS 343.261, the Department of Education shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The number of slots available for students in the hospital programs under ORS 343.261, as determined by the department for the school year.

[(3)] (4) To meet the requirements of ORS 343.961, the department shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The number of slots available for all students in eligible day treatment programs and eligible residential treatment programs under ORS 343.961 for the school year, as determined by the Department of Education based on information received from the Department of Human Services, the Oregon Health Authority, the Oregon Youth Authority and eligible day treatment programs and eligible residential treatment programs.

[(4)] (5) To meet the requirements of ORS 346.010, the Department of Education shall receive from the State School Fund an amount that is equal to the product of the following:

(a) The average net operating expenditure per student of all school districts during the preceding school year; and

(b) The resident average daily membership of students enrolled in a program under ORS 346.010 for one-half of the school day or more, exclusive of preschool children covered by ORS 343.533.

[(5)] (6) The children covered by this section shall be enumerated in the average daily membership of the district providing the instruction but the
district may not accrue credit for days’ attendance of such children for the
purpose of distributing state school funds.

[(6)] (7) The liability of a district shall not exceed the amount established
under this section even if the child is otherwise subject to ORS 336.575 and
336.580.

[(7)] (8) The department shall credit amounts received from the State
School Fund under this section to the appropriate subaccount in the Special
Education Account.

SECTION 7. Section 1 of this 2019 Act and the amendments to ORS
327.008, 327.023 and 343.243 by sections 2 to 6 of this 2019 Act apply to
State School Fund distributions commencing with the 2019-2020 dis-
tributions.

SECTION 8. ORS 343.247 is amended to read:

343.247. (1) There is established in the General Fund a separate account
to be known as the Special Education Account. All moneys received by the
Department of Education under this section shall be deposited in the State
Treasury to the credit of the account and appropriated continuously for
purposes of ORS 343.261, 343.961 and 346.010 and section 1 of this 2019
Act. The account shall be divided into [two] three subaccounts:
(a) A subaccount for education under ORS 343.261 and 343.961.
(b) A subaccount for education under ORS 346.010.
(c) A subaccount for education under section 1 of this 2019 Act.

(2) If the amount credited under subsection (1)(a) of this section and the
General Fund appropriation for these programs are not adequate to meet
costs, the Department of Education shall submit a revised budget to the
Legislative Assembly or, if the Legislative Assembly is not in session, the
Emergency Board.

SECTION 9. ORS 339.137 is amended to read:

339.137. (1) Except as provided in subsection (2) of this section, a student
described in ORS 336.580 shall be considered a resident of the school district
in which the student resides by reason of the placement under ORS 336.580
for purposes of distribution of the State School Fund.

(2) For a child described in ORS 336.580 (2)(b), the child shall receive educational services through the Juvenile Detention Education Program as described in ORS 326.695.

(3) A student described in subsection (1) of this section must be admitted to the public schools of the school district where the student is placed pursuant to ORS 336.580.

(4) Except as provided in ORS 343.261, 343.941, 343.961 and 346.010 and section 1 of this 2019 Act, the school district shall provide or cause to be provided appropriate education to any student described in subsection (1) of this section, including the identification and evaluation of the student for purposes of determining eligibility as a child with a disability to receive special education and related services enumerated in ORS 343.035 and services related to a disadvantaged child as defined in ORS 343.650. Suspension or expulsion of a student from the regular school program does not relieve the district of the obligation to provide instruction in the residential program in which the child resides or in another appropriate facility.

SECTION 10. ORS 326.575 is amended to read:

326.575. (1) Within 10 days of a student’s seeking initial enrollment in a public or private school or when a student is placed in a state institution, other than an institution of post-secondary education, or a day treatment program, residential treatment program, residential alternative education program, detention facility or youth care center, the school, institution, program, facility or center shall notify the public or private school or the institution, program, facility or center in which the student was formerly enrolled and shall request the student’s education records.

(2) Any public or private school, state institution, day treatment program, residential treatment program, residential alternative education program, detention facility or youth care center receiving the request described in subsection (1) of this section shall transfer all student education records relating to the particular student to the requesting school, institution, program, facility or center.
gram, facility or center no later than 10 days after the receipt of the request. The education records shall include any education records relating to the particular student retained by an education service district.

(3) Notwithstanding subsections (1) and (2) of this section, for students who are in substitute care programs:

(a) A school, institution, program, facility or center shall notify the school, institution, program, facility or center in which the student was formerly enrolled and shall request the student’s education records within five days of the student seeking initial enrollment; and

(b) Any school, institution, program, facility or center receiving a request for a student’s education records shall transfer all student education records relating to the particular student to the requesting school, institution, program, facility or center no later than five days after the receipt of the request.

(4) Each educational institution that has custody of the student’s education records shall annually notify parents and eligible students of their right to review and propose amendments to the records. The State Board of Education shall specify by rule the procedure for reviewing and proposing amendments to a student’s education records. If a parent’s or eligible student’s proposed amendments to a student’s education records are rejected by the educational institution, the parent or eligible student shall receive a hearing on the matter. The State Board of Education shall specify by rule the procedure for the hearing.

(5) As used in this section:

(a) “Day treatment program” means a program described in ORS 343.961.

(b) “Detention facility” has the meaning given that term in ORS 419A.004.

(c) “Educational institution” means a public or private school, education service district, state institution, day treatment program, residential treatment program, residential alternative education program or youth care center.

(d) “Residential alternative education program” means a program
described in section 1 of this 2019 Act.

[(d)] (e) “Residential treatment program” means a program described in ORS 343.961.

[(e)] (f) “Substitute care program” means family foster care, family group home care, parole foster care, family shelter care, adolescent shelter care and professional group care.

[(f)] (g) “Youth care center” means a center as defined in ORS 420.855.

SECTION 11. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on July 1, 2019.
SUMMARY

Changes terminology for persons who are deaf or hard of hearing for purposes of special education statutes.

A BILL FOR AN ACT

Relating to special education terminology; amending ORS 343.035 and 343.236.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 343.035 is amended to read:

343.035. As used in this chapter unless the context requires otherwise:

(1) “Child with a disability” means a school-age child who is entitled to a free appropriate public education as specified by ORS 339.115 and who requires special education because the child has been evaluated as having one of the following conditions as defined by rules established by the State Board of Education:

(a) Intellectual disability;

(b) Deafness or being hard of hearing;

(c) Speech or language impairment;

(d) Visual impairment, including blindness;

(e) Deaf-blindness;

(f) Emotional disturbance;

(g) Orthopedic or other health impairment;

(h) Autism;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(i) Traumatic brain injury; or

(j) Specific learning disabilities.

(2) “Decision” means the decision of the hearing officer.

(3) “Determination” means the determination by the school district concerning the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education to the child in a program paid for by the district.

(4) “Developmental delay” means:

(a) Delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas:

(A) Cognitive development;

(B) Physical development, including vision and hearing;

(C) Communication development;

(D) Social or emotional development; or

(E) Adaptive development; or

(b) A disability, in accordance with criteria established by rules of the State Board of Education, that can be expected to continue indefinitely and is likely to cause a substantial delay in a child’s development and ability to function independently in society.

(5) “Early childhood special education” means instruction that is:

(a) Free, appropriate and specially designed to meet the unique needs of a preschool child with a disability;

(b) Provided from three years of age until the age of eligibility for kindergarten; and

(c) Provided in any of the following settings:

(A) The home, a hospital, an institution, a special school, a classroom or a community child care setting;

(B) A preschool; or

(C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.

[2]
(6) “Early intervention services” means services for preschool children with disabilities from birth until three years of age that are:
   (a) Designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child’s development;
   (b) Selected in collaboration with the parents; and
   (c) Provided:
      (A) Under public supervision;
      (B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and
      (C) In conformity with an individualized family service plan.

(7) “Individualized education program” means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under this chapter.

(8) “Individualized family service plan” means a written plan of early childhood special education, related services, early intervention services and other services developed in accordance with criteria established by rules of the State Board of Education for each child eligible for services under this chapter.

(9) “Instruction” means providing children and families with information and skills that support the achievement of the goals and outcomes in the child’s individualized family service plan and working with preschool children with disabilities in one or more of the following developmental areas:
   (a) Communication development;
   (b) Social or emotional development;
   (c) Physical development, including vision and hearing;
   (d) Adaptive development; and
   (e) Cognitive development.

(10) “Mediation” means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in
reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated.

(11) “Order” has the meaning given that term in ORS chapter 183.

(12) “Other services” means those services [which] that may be provided to preschool children with disabilities and to their families that are not early childhood special education or early intervention services and are not paid for with early childhood special education or early intervention funds.

(13) “Parent” means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate parent. “Parent” may be further defined by rules adopted by the State Board of Education.

(14) “Preschool child with a disability” means a child from:

(a) Birth until three years of age who is eligible for early intervention services because the child is experiencing developmental delay or has a diagnosed mental or physical condition that will result in developmental delay; or

(b) Three years of age to eligibility for entry into kindergarten who needs early childhood special education services because the child is experiencing developmental delay or because the child has been evaluated as having one of the conditions listed for a school-age child under subsection (1) of this section.

(15)(a) “Related services” means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, including:

(A) Speech-language and audiology services;
(B) Interpreting services;
(C) Psychological services;
(D) Physical and occupational therapy;
(E) Recreation, including therapeutic recreation;
(F) Social work services;
(G) School nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child;
(H) Early identification and assessment of disabilities in children;
(I) Counseling services, including rehabilitation counseling;
(J) Orientation and mobility services;
(K) Medical services for diagnostic or evaluation purposes;
(L) Parent counseling and training; and
(M) Assistive technology.

(b) “Related services” does not include a medical device that is surgically implanted or the replacement of a medical device that is surgically implanted.

(16) “School district” means a common or union high school district that is charged with the duty or contracted with by a public agency to educate children eligible for special education.

(17) “Service coordination” means the activities carried out by a service coordinator to assist and enable a preschool child with a disability and the child’s family to receive the rights, procedural safeguards and services that are authorized under the state’s early intervention and early childhood special education programs and to coordinate access to other services designated on the individualized family service plan.

(18) “Special education” means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability. “Special education” includes instruction that:

(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and
(b) May involve physical education services, speech-language services, transition services or other related services designated by rule to be services to meet the unique needs of a child with a disability.

(19) “Transition services” means a coordinated set of activities for a child
with a disability that:

(a) Is designed to be within a results-oriented process;

(b) Is focused on improving the academic and functional achievement of the child to facilitate the child's transition from school to post-school activities, including post-secondary education, competitive employment, independent living and community inclusion;

(c) Is based on the individual child's needs, taking into account the child's preferences and interests; and

(d) May be special education, or related services, and may include earning credit at a community college or public university listed in ORS 352.002.

(20) “Unaccompanied homeless youth” has the meaning given that term in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

(21) “Ward of the state” means a child who is temporarily or permanently in the custody of, or committed to, a public or private agency through the action of the juvenile court. “Ward of the state” may be further defined by rules adopted by the State Board of Education.

SECTION 2. ORS 343.035, as amended by section 1, chapter 25, Oregon Laws 2018, is amended to read:

343.035. As used in this chapter unless the context requires otherwise:

(1) “Child with a disability” means a school-age child who is entitled to a free appropriate public education as specified by ORS 339.115 and who requires special education because the child has been evaluated as having one of the following conditions as defined by rules established by the State Board of Education:

(a) Intellectual disability;

[(b) Hearing impairment, including difficulty in hearing and deafness;]

(b) Deafness or being hard of hearing;

(c) Speech or language impairment;

(d) Visual impairment, including blindness;

(e) Deaf-blindness;

(f) Emotional disturbance;
(g) Orthopedic or other health impairment;
(h) Autism;
(i) Traumatic brain injury;
(j) Specific learning disabilities; or
(k) Developmental delay, if the child is in third grade or lower.

(2) “Decision” means the decision of the hearing officer.

(3) “Determination” means the determination by the school district concerning the identification, evaluation or educational placement of a child with a disability or the provision of a free appropriate public education to the child in a program paid for by the district.

(4) “Developmental delay” means:
(a) Delay, at a level of functioning and in accordance with criteria established by rules of the State Board of Education, in one or more of the following developmental areas:
(A) Cognitive development;
(B) Physical development, including vision and hearing;
(C) Communication development;
(D) Social or emotional development; or
(E) Adaptive development; or
(b) A disability, in accordance with criteria established by rules of the State Board of Education, that can be expected to continue indefinitely and is likely to cause a substantial delay in a child’s development and ability to function independently in society.

(5) “Early childhood special education” means instruction that is:
(a) Free, appropriate and specially designed to meet the unique needs of a preschool child with a disability;
(b) Provided from three years of age until the age of eligibility for kindergarten; and
(c) Provided in any of the following settings:
(A) The home, a hospital, an institution, a special school, a classroom or a community child care setting;
(B) A preschool; or
(C) A combination of a setting described in subparagraph (A) of this paragraph and a preschool.

(6) “Early intervention services” means services for preschool children with disabilities from birth until three years of age that are:
(a) Designed to meet the developmental needs of children with disabilities and the needs of the family related to enhancing the child’s development;
(b) Selected in collaboration with the parents; and
(c) Provided:
(A) Under public supervision;
(B) By personnel qualified in accordance with criteria established by rules of the State Board of Education; and
(C) In conformity with an individualized family service plan.

(7) “Individualized education program” means a written statement of an educational program for a child with a disability that is developed, reviewed and revised in a meeting in accordance with criteria established by rules of the State Board of Education for each child eligible for special education and related services under this chapter.

(8) “Individualized family service plan” means a written plan of early childhood special education, related services, early intervention services and other services developed in accordance with criteria established by rules of the State Board of Education for each child eligible for services under this chapter.

(9) “Instruction” means providing children and families with information and skills that support the achievement of the goals and outcomes in the child’s individualized family service plan and working with preschool children with disabilities in one or more of the following developmental areas:
(a) Communication development;
(b) Social or emotional development;
(c) Physical development, including vision and hearing;
(d) Adaptive development; and
(e) Cognitive development.

(10) “Mediation” means a voluntary process in which an impartial mediator assists and facilitates two or more parties to a controversy in reaching a mutually acceptable resolution of the controversy and includes all contacts between a mediator and any party or agent of a party, until such time as a resolution is agreed to by the parties or the mediation process is terminated.

(11) “Order” has the meaning given that term in ORS chapter 183.

(12) “Other services” means those services [which] that may be provided to preschool children with disabilities and to their families that are not early childhood special education or early intervention services and are not paid for with early childhood special education or early intervention funds.

(13) “Parent” means the parent, person acting as a parent or a legal guardian, other than a state agency, of the child or the surrogate parent. “Parent” may be further defined by rules adopted by the State Board of Education.

(14) “Preschool child with a disability” means a child from:

(a) Birth until three years of age who is eligible for early intervention services because the child is experiencing developmental delay or has a diagnosed mental or physical condition that will result in developmental delay; or

(b) Three years of age to eligibility for entry into kindergarten who needs early childhood special education services because the child has been evaluated as having one of the conditions listed under subsection (1) of this section.

(15)(a) “Related services” means transportation and such developmental, corrective and other supportive services as are required to assist a child with a disability to benefit from special education, including:

(A) Speech-language and audiology services;

(B) Interpreting services;

(C) Psychological services;
(D) Physical and occupational therapy;
(E) Recreation, including therapeutic recreation;
(F) Social work services;
(G) School nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the individualized education program of the child;
(H) Early identification and assessment of disabilities in children;
(I) Counseling services, including rehabilitation counseling;
(J) Orientation and mobility services;
(K) Medical services for diagnostic or evaluation purposes;
(L) Parent counseling and training; and
(M) Assistive technology.

(b) “Related services” does not include a medical device that is surgically implanted or the replacement of a medical device that is surgically implanted.

(16) “School district” means a common or union high school district that is charged with the duty or contracted with by a public agency to educate children eligible for special education.

(17) “Service coordination” means the activities carried out by a service coordinator to assist and enable a preschool child with a disability and the child’s family to receive the rights, procedural safeguards and services that are authorized under the state’s early intervention and early childhood special education programs and to coordinate access to other services designated on the individualized family service plan.

(18) “Special education” means specially designed instruction that is provided at no cost to parents to meet the unique needs of a child with a disability. “Special education” includes instruction that:
(a) May be conducted in the classroom, the home, a hospital, an institution, a special school or another setting; and
(b) May involve physical education services, speech-language services, transition services or other related services designated by rule to be services
to meet the unique needs of a child with a disability.

(19) “Transition services” means a coordinated set of activities for a child with a disability that:

(a) Is designed to be within a results-oriented process;

(b) Is focused on improving the academic and functional achievement of the child to facilitate the child's transition from school to post-school activities, including post-secondary education, competitive employment, independent living and community inclusion;

(c) Is based on the individual child's needs, taking into account the child's preferences and interests; and

(d) May be special education, or related services, and may include earning credit at a community college or public university listed in ORS 352.002.

(20) “Unaccompanied homeless youth” has the meaning given that term in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(6).

(21) “Ward of the state” means a child who is temporarily or permanently in the custody of, or committed to, a public or private agency through the action of the juvenile court. “Ward of the state” may be further defined by rules adopted by the State Board of Education.

SECTION 3. ORS 343.236 is amended to read:

343.236. (1)(a) The Superintendent of Public Instruction may provide special education on a local, county or regional basis without regard to county boundaries in all areas of the state for children who [have]:

(A) Have a visual impairment;

[(B) A hearing impairment;]

(B) Are hard of hearing;

(C) Have blindness or deafness, or both;

(D) Have an orthopedic impairment;

(E) Have autism; or

(F) Have traumatic brain injury.

(b) The superintendent shall designate one of the regional programs that provides special education to children who are blind or visually impaired to
provide statewide coordination and technical assistance related to the pro-
vision of services described in ORS 346.315 (2).

(c) The program designated under paragraph (b) of this subsection may
receive moneys from the Blind and Visually Impaired Student Fund estab-
lished under ORS 346.315 and distribute those moneys to other regional pro-
grams.

(2) The Superintendent of Public Instruction may operate and administer
a local, county or regional program of special education or the superinten-
dent may contract for the operation and administration of the program with
a school district or an education service district.

(3) The State Board of Education by rule shall establish eligibility crite-
ria and educational standards for the programs described in subsection (1)
of this section and those programs in the school operated under ORS 346.010.

(4) A school district [which] that contracts to provide a program under
this section shall be paid for the state-approved program as determined and
funded by the Legislative Assembly. Contracting school districts are au-
thorized to negotiate supplemental programs with participating school dis-
tricts.

[12]
DRAFT

SUMMARY

Changes name of Oregon Virtual School District to Oregon Online. Expands purposes of Oregon Online to require provision of professional development related to online learning.

A BILL FOR AN ACT

Relating to the Oregon Virtual School District; creating new provisions; and amending ORS 336.851 and 336.856.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 336.851 is amended to read:

336.851. (1) [There is created the Oregon Virtual School District] Oregon Online is created within the Department of Education. [The purpose of the Oregon Virtual School District is to provide] The purposes of Oregon Online are to provide:

(a) Online courses to kindergarten through grade 12 public school students; and

(b) Professional development related to online learning to kindergarten through grade 12 public school teachers.

(2)(a) [The Oregon Virtual School District] Oregon Online shall provide online courses to students that meet academic content standards as defined in ORS 329.007 and that meet other criteria adopted by the State Board of Education. Any person who teaches an online course to students must be properly licensed as required by ORS 342.173 for a person employed by a school district or education service district or properly registered as required by ORS 338.135 for a person employed by a public charter school. All school

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
districts and public charter schools may allow students to access the online
courses offered [by the Oregon Virtual School District] to students by
Oregon Online.

(b) Oregon Online shall provide professional development to support
school districts that provide online learning, including professional
development that will help school districts to identify and support
students who would benefit from online learning opportunities.

(3) The Superintendent of Public Instruction may contract with:
(a) Education service districts, school districts, public charter schools,
community colleges, public universities listed in ORS 352.002 or any other
public entity to provide online courses [through the Oregon Virtual School
District] to students through Oregon Online.

(b) Any public or private entity to provide professional development
through Oregon Online.

(4) Statutes and rules that apply to other school districts do not apply to
[the Oregon Virtual School District] Oregon Online except as provided under
this section or by rule of the State Board of Education. [The Oregon Virtual
School District] Oregon Online is not considered a school district for pur-
poses of apportionment of the State School Fund and the department may
not receive a direct apportionment under ORS 327.008 from the State School
Fund for [the Oregon Virtual School District] Oregon Online.

(5) The board may adopt the rules necessary for the administration of [the
Oregon Virtual School District] Oregon Online and shall adopt rules to es-

tablish:
(a) The procedure and criteria to be used for the selection of online
courses to be offered [through the Oregon Virtual School District] to stu-
dents through Oregon Online;

(b) The qualifications of students who may access online courses through
[the Oregon Virtual School District] Oregon Online;

(c) The number of credits for which students may access online courses
through [the Oregon Virtual School District] Oregon Online; and
(d) The student-to-teacher ratio for online courses offered through [the Oregon Virtual School District] Oregon Online.

SECTION 2. ORS 336.856 is amended to read:

336.856. (1) The [Oregon Virtual School District Fund] Oregon Online Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the [Oregon Virtual School District Fund] Oregon Online Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the Department of Education for the administration of [the Oregon Virtual School District] Oregon Online created under ORS 336.851.

(2) Any moneys received by the department for the purpose of [the Oregon Virtual School District] Oregon Online shall be deposited in the fund.

SECTION 3. (1) The amendments to ORS 336.851 by section 1 of this 2019 Act are intended to change the name of the “Oregon Virtual School District” to “Oregon Online.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Oregon Virtual School District,” wherever they occur in statutory law, other words designating “Oregon Online.”
SUMMARY

Directs Department of Education to develop and implement statewide education plan for early childhood through post-secondary education students who are American Indians or Alaskan Natives and who have experienced disproportionate educational results. Directs department to consult with advisory group regarding development and implementation of plan, grant awards and rulemaking.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to statewide education plans; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section, “plan student” means a student enrolled in early childhood through post-secondary education who:

(a) Is an American Indian or Alaskan Native; and

(b) Has experienced disproportionate results in education due to historical practices, as identified by the State Board of Education by rule.

(2)(a) The Department of Education shall develop and implement a statewide education plan for plan students.

(b) When developing the plan, the department shall consult with representatives from tribal governments and from executive branch agencies who have formed government-to-government relations to focus on education. Additionally, the department may receive input from an advisory group consisting of community members, education

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
stakeholders and representatives of the Early Learning Division, the Youth Development Division and the Higher Education Coordinating Commission.

(c) The department shall be responsible for:

(A) Implementing the plan developed under this subsection;

(B) Developing eligibility criteria, the applicant selection process and expectations for recipients of grant awards described in this section; and

(C) Advising the State Board of Education on the adoption of rules under this section.

(3) The plan developed under this section shall address:

(a) The disparities experienced by plan students in every indicator of academic success, as documented by the department’s statewide report card and other relevant reports related to plan students;

(b) The historical practices leading to disproportionate outcomes for plan students; and

(c) The educational needs of plan students from early childhood through post-secondary education as determined by examining culturally appropriate best practices in this state and across the nation.

(4) The plan developed and implemented under this section must provide strategies to:

(a) Address the disproportionate rate of disciplinary incidents involving plan students as compared to all students in the education system;

(b) Increase parental engagement in the education of plan students;

(c) Increase the engagement of plan students in educational activities before and after regular school hours;

(d) Increase early childhood education and kindergarten readiness for plan students;

(e) Improve literacy and numeracy levels among plan students between kindergarten and grade three;

[2]
(f) Support plan student transitions to middle school and through the middle school and high school grades to maintain and improve academic performance;

(g) Support culturally responsive pedagogy and practices from early childhood through post-secondary education;

(h) Support the development of culturally responsive curricula from early childhood through post-secondary education;

(i) Increase attendance of plan students in early childhood programs through post-secondary and professional certification programs; and

(j) Increase attendance of plan students in four-year post-secondary institutions of education.

(5) The department shall submit a biennial report concerning the progress of the plan developed and implemented under this section to committee of the Legislative Assembly related to education at each even-numbered year regular session of the Legislative Assembly in the manner provided by ORS 192.245.

(6) The department, in consultation with the advisory group, shall award grants to early learning hubs, providers of early learning services, school districts, education service districts, post-secondary institutions of education, tribal governments and community-based organizations to implement the strategies provided in the plan developed and implemented under this section.

(7) To qualify for and receive grants described in this section, an applicant must identify and demonstrate that the applicant meets the eligibility criteria adopted by the State Board of Education by rule.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Directs State Board of Education to ensure that academic content standards for certain subjects include sufficient instruction on histories, contributions and perspectives of certain classifications of individuals.

Directs district school boards, State Board of Education and committees or officers responsible for adoption of textbooks and other instructional materials to ensure textbooks and other instructional materials adequately address roles in and contributions to economic, political and social development of Oregon and United States by certain classifications of individuals.

Directs Department of Education to provide professional development to teachers and administrators related to academic content standards and textbook selection.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to inclusive education; creating new provisions; amending ORS 329.045 and 337.260; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329.045 is amended to read:
329.045. (1)(a) In order to achieve the goals contained in ORS 329.025, the State Board of Education shall regularly and periodically review and revise its Common Curriculum Goals, performance indicators and diploma requirements.

(b) The review and revision conducted under this section shall:

(A) Include Essential Learning Skills and rigorous academic content standards in mathematics, science, English, history, geography, economics, civics, physical education, health, the arts and world languages.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(B) Ensure that the academic content standards for history, geography, economics and civics include sufficient instruction on the histories, contributions and perspectives of individuals who:

(i) Are Native American;
(ii) Are of African, Asian, Pacific Island, Chicano, Latino or Middle Eastern descent;
(iii) Are women;
(iv) Have disabilities;
(v) Are immigrants or refugees; or
(vi) Are lesbian, gay, bisexual or transgender.

[(B)] (C) Involve teachers and other educators, parents of students and other citizens and shall provide ample opportunity for public comment.

[(C)] (D) Encourage increased learning time. As used in this subparagraph, “increased learning time” means a schedule that encompasses a longer school day, week or year for the purpose of increasing the total number of school hours available to provide:

(i) Students with instruction in core academic subjects, including mathematics, science, English, history, geography, economics, civics, the arts and world languages;
(ii) Students with instruction in subjects other than the subjects identified in sub-subparagraph (i) of this subparagraph, including health and physical education;
(iii) Students with the opportunity to participate in enrichment activities that contribute to a well-rounded education, including learning opportunities that may be based on service, experience or work and that may be provided through partnerships with other organizations; and
(iv) Teachers with the opportunity to collaborate, plan and engage in professional development within and across grades and subjects.

(c) Nothing in this subsection prevents a school district or public charter school from maintaining control over course content, format, materials and teaching methods.
(2) The State Board of Education shall continually review and revise all adopted academic content standards necessary for students to successfully transition to the next phase of their education.

(3)(a) School districts and public charter schools must offer students instruction in mathematics, science, English, history, geography, economics, civics, physical education, health, the arts and world languages.

   (b) Instruction required under paragraph (a) of this subsection must:

      (A) Meet the academic content standards adopted by the State Board of Education; and

      (B) Meet the requirements adopted by the State Board of Education and the board of the school district or public charter school.

(4) School districts and public charter schools are encouraged to offer students courses or other educational opportunities in civics and financial literacy to allow every student who wants to receive instruction in civics and financial literacy to be able to receive the instruction.

SECTION 2. (1) No later than September 15, 2020, the State Board of Education shall:

   (a) Review existing academic content standards to determine if the academic content standards comply with the requirements of ORS 329.045 (1)(b)(B), as amended by section 1 of this 2019 Act; and

   (b) If applicable, adopt or revise any academic content standards as necessary to ensure compliance with the requirements of ORS 329.045 (1)(b)(B), as amended by section 1 of this 2019 Act.

   (2) A school district must first offer instruction that meets the academic content standards of ORS 329.045 (1)(b)(B), as amended by section 1 of this 2019 Act, beginning with the 2021-2022 school year.

SECTION 3. ORS 337.260 is amended to read:

337.260. Every district school board, the State Board of Education and every committee or officer responsible for the adoption of textbooks and other instructional materials for use in the public schools shall adopt textbooks and other instructional materials on American history and
government [which] that adequately stress the services rendered by those who achieved our national independence, who established our form of constitutional government and who preserved our federal union. [Respect for all people, regardless of race, color, creed, national origin, age, sex, or disability, and their contributions to our history and system of government shall be reflected in the textbooks adopted by the State Board of Education.] Textbooks and other instructional materials shall adequately address the roles in and contributions to the economic, political and social development of Oregon and the United States by men and women who:

1. Are Native American;
2. Are of European, African, Asian, Pacific Island, Chicano, Latino or Middle Eastern descent;
3. Have disabilities;
4. Are immigrants or refugees; or
5. Are lesbian, gay, bisexual or transgender.


SECTION 5. During the 2020-2021 and 2021-2022 school years, the Department of Education shall provide professional development to teachers and administrators relating to academic content standards adopted pursuant to ORS 329.045 (1)(b)(B), as amended by section 1 of this 2019 Act, and to the selection of textbooks under ORS 337.260, as amended by section 3 of this 2019 Act. The department may contract for the provision of professional development required by this section.

SECTION 6. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect July 1, 2019.
SUMMARY

Authorizes Youth Development Council to inspect and collect data from facilities in which juveniles are detained to ensure compliance with federal Juvenile Justice and Delinquency Prevention Act.

A BILL FOR AN ACT

Relating to compliance monitoring authority of the Youth Development Council; creating new provisions; and amending ORS 417.850.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:
(a) “Facility” includes:
(A) A detention facility as defined in ORS 419A.004;
(B) A youth correction facility as defined in ORS 420.005;
(C) A local correctional facility as defined in ORS 169.005;
(D) A Department of Corrections institution as defined in ORS 421.005;
(E) A lockup as defined in ORS 169.005;
(F) A temporary hold as defined in ORS 169.005;
(G) A court facility as defined in ORS 166.360; and
(H) A police department established by a university under ORS 352.121 or 353.125.

(b) “Juvenile” means a youth or youth offender, as those terms are defined in ORS 419A.004.

(2) To ensure compliance with the federal Juvenile Justice and Delinquency Prevention Act of 1974, 34 U.S.C. 11101 et seq., the Youth Development Council...
Development Council may inspect any facility in which juveniles are detained.

(3) Notwithstanding ORS 419A.257, the council may, as part of an inspection under subsection (2) of this section, collect the following data about a juvenile:

(a) The juvenile’s case number;
(b) The juvenile’s name or initials;
(c) The juvenile’s date of birth;
(d) The juvenile’s gender;
(e) The juvenile’s race or ethnicity;
(f) The charges filed against the juvenile;
(g) The reason the juvenile was placed in detention;
(h) The date and time when the juvenile arrived at the facility;
(i) The status of the juvenile’s confinement at the facility as either secure or nonsecure; and
(j) If the juvenile has been released from the facility:
   (A) The date and time when the juvenile was released; and
   (B) The name of the individual or entity that has custody of the juvenile after release.

SECTION 2. ORS 417.850 is amended to read:

417.850. The Youth Development Council established by ORS 417.847 shall:

(1) Review the budget and allocation formula for appropriations for the purpose of juvenile crime prevention;
(2) Review the components of local high-risk juvenile crime prevention plans developed under ORS 417.855 and make recommendations to the Governor about the local plans;
(3) Ensure that high-risk juvenile crime prevention planning criteria are met by state and local public and private entities;
(4) Recommend high-risk juvenile justice and juvenile crime prevention policies to the Governor and the Legislative Assembly;
(5) Ensure initiation of contracts based on approved local high-risk juve-
nile crime prevention plans and oversee contract changes;

(6) Review data and outcome information;

(7) Establish and publish review and assessment criteria for the local high-risk juvenile crime prevention plans. The criteria shall include, but not be limited to, measuring changes in juvenile crime and juvenile recidivism;

(8) Review and coordinate county youth diversion plans and basic services grants with the local high-risk juvenile crime prevention plans. Basic services grants may be used for detention and other juvenile department services including:

(a) Shelter care;

(b) Treatment services;

(c) Graduated sanctions; and

(d) Aftercare for youth offenders;

(9) Work to ensure broad-based citizen involvement in the planning and execution of high-risk juvenile crime prevention plans at both the state and local levels;

(10) Develop a funding policy that provides incentives for flexible programming and promotes strategies that stress reinvestment in youth;

(11) Periodically report to the Governor and the Legislative Assembly on the progress of the council;

(12) Oversee and approve funding and policy recommendations of the state advisory group as required by the federal Juvenile Justice and Delinquency Prevention Act of 1974, [42 U.S.C. 5601] 34 U.S.C. 11101 et seq.; and

(13) Work with tribal governments to develop tribal high-risk juvenile crime prevention plans.
SUMMARY

Directs Early Learning Division to establish program to improve access to high quality infant and toddler care for families that are eligible to receive employment-related child care subsidy.

A BILL FOR AN ACT

Relating to early childhood care.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section, “local entity” includes:
(a) An Early Learning Hub designated under ORS 417.827;
(b) A resource and referral entity established under ORS 329A.100 to 329A.135;
(c) An education service district;
(d) A federal Head Start program;
(e) A community-based organization; or
(f) Another entity identified by the Early Learning Division.

(2) The Early Learning Division shall administer an infant and toddler care program to improve access to high quality infant and toddler care for families that are eligible to receive an employment-related child care subsidy under ORS 329A.500.

(3)(a) Each Early Learning Hub shall conduct a community needs assessment to identify the geographic areas or populations within the region served by the hub that have the highest need for improved access to high quality infant and toddler care for families that are eligible to receive an employment-related child care subsidy under ORS

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(b) After conducting the community needs assessment described in paragraph (a) of this subsection, each Early Learning Hub shall develop a community plan for addressing the needs identified in the assessment and submit the plan to the Early Learning Division for approval.

(4)(a) The Early Learning Division shall contract with resource and referral entities established under ORS 329A.100 to 329A.135 to recruit eligible providers to participate in the infant and toddler care program established under this section.

(b) To be eligible to participate, a provider must demonstrate a commitment and ability to:

(A) Address the needs identified in the community plan approved by the Early Learning Division under subsection (3) of this section;

(B) Provide care to infants and toddlers; and

(C) Serve families that are eligible to receive an employment-related child care subsidy under ORS 329A.500.

(5)(a) The Early Learning Division shall identify a local entity within each Early Learning Hub region that shall be responsible for awarding grants and contracts to providers who meet the eligibility criteria established under subsection (4) of this section.

(b) Before a provider may be awarded a grant or contract under this section, the provider must agree to participate in any quality improvement and professional development activities necessary to meet the standards established by the Early Learning Division.

(6) Resource and referral entities shall:

(a) In consultation with each provider awarded a grant or contract under this section, develop a quality improvement and professional development plan for the provider; and

(b) Provide coaching and other professional development services necessary to execute the plan developed under this subsection.
SUMMARY

Revises preschool program administered by Early Learning Division and establishes program as Preschool Promise Program.

Expands eligibility criteria for Oregon prekindergarten program and specifies teaching and funding requirements to participate in program.

Establishes scholarship and grant program to develop early childhood care and education professionals.

Transfers certain reporting duties regarding prekindergarten program from Superintendent of Public Instruction to Early Learning Division.

A BILL FOR AN ACT

Relating to early learning; creating new provisions; and amending ORS 329.170, 329.172, 329.175, 329.183 and 329.200.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329.170 is amended to read:

329.170. [(1) As used in ORS 329.170 to 329.200:

[(a) “Advisory committee” means the advisory committee established specifically for the Oregon prekindergarten program established by ORS 329.170 to 329.200.]

[(b)] (1) “Oregon [prekindergartens] prekindergarten” means [programs] a program that [are] is recognized by the Early Learning Division as meeting the minimum program rules to be adopted by the Early Learning Council and that [provide] provides comprehensive health, education and social services to children prenatally through five years of age in order to maximize the potential of those children [three and four years of age] when they enter kindergarten.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
“Oregon prekindergarten program” means the statewide administrative activities carried on within the Early Learning Division to allocate, award and monitor state funds appropriated to create or assist local Oregon prekindergartens.

(3) “Preschool Promise Program” means the preschool program administered by the Early Learning Division under ORS 329.172.

[(2) For purposes of ORS 329.175, “eligible child” means an at-risk child who is not a participant in a federal, state or local program providing like comprehensive services and may include children who are eligible under rules adopted by the Early Learning Council. As used in this subsection, “at-risk child” means a child at least three years of age and not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal Head Start program.]

SECTION 2. ORS 329.172 is amended to read:

329.172. (1) The Preschool Promise Program is established. The Early Learning Division shall administer [a preschool program] the Preschool Promise Program as provided by this section. The [preschool program] Preschool Promise Program shall expand preschool options available to the children of this state.

(b) In administering the Preschool Promise Program, the Early Learning Division shall identify a local entity as provided under subsection (3) of this section within the region served by each Early Learning Hub that shall be responsible for awarding grants or contracts to preschool providers that meet the eligibility criteria established under subsections (4) and (5) this section.

[(2)(a)] (2) For the purpose of expanding and coordinating preschool options under the Preschool Promise Program, Early Learning Hubs shall:

(a) Once every two years, in consultation with resource and referral entities established under ORS 329A.100 to 329A.135, conduct a community needs assessment to assess the availability of high-quality

[2]
preschool programs within the region served by the Early Learning Hub.

[(A) Coordinate the providers of preschool programs under this section.]

[(B) Convene annual meetings between representatives of the Oregon prekindergarten program and the preschool program described in this section to coordinate the enrollment of eligible children in the programs before the eligible children are enrolled. The representatives shall collaborate to determine the program that best meets the needs of eligible children and their families within the Early Learning Hub.]

[(b) The Early Learning Hubs shall apply for state funding, coordinate local planning and enter into contracts with preschool providers.]

(b) Based on the results of the most recent community needs assessment, coordinate and collaborate with preschool providers to:

(A) Determine the preschool program that best meets the needs of eligible children and their families within the Early Learning Hub; and

(B) Enroll eligible children in preschool programs.

(3) A local entity may apply to the Early Learning Division to be responsible for awarding grants or contracts to preschool providers under this section if the local entity is:

(a) An Early Learning Hub designated under ORS 417.827;

(b) A resource and referral entity established under ORS 329A.100 to 329A.135;

(c) An education service district;

(d) A federal Head Start program;

(e) A community-based organization; or

(f) Another entity identified by the Early Learning Division.

[[3]] (4) A preschool provider that meets the requirements of this subsection may apply to participate in the [preschool program described in this section] Preschool Promise Program to receive grants or contracts under the program. The preschool provider:

(a) Must be establishing a new preschool program or expanding an exist-
(b) Must meet or exceed the requirements of subsection [(4)] (5) of this section.

(c) May be a federal Head Start program, an Oregon prekindergarten program, a child care provider, a relief nursery, a private preschool, a public school, a public charter school, an education service district or a community-based organization that provides a preschool program.

[(4)] (5) A preschool provider may participate in the preschool program described in this section \textbf{Preschool Promise Program} if the provider’s preschool program:

(a) Provides, at a minimum, the annual number of instructional hours required for full-day kindergarten.

(b) Takes into consideration the scheduling needs of families who need full-time child care.

(c) Serves children who:

(A) Are at least three years of age but not older than five years of age, as determined by the date used to determine kindergarten eligibility; and

(B)(i) Are members of families whose incomes, at the time of enrollment, are at or below 200 percent of the federal poverty guidelines; or

(ii) Otherwise meet criteria established by the Early Learning Council by rule.

(d) Provides continuity from infant and toddler services to early elementary grades.

(e) \textbf{Demonstrates an ability to maximize available federal, state and local funds.}

[(e)] (f) Demonstrates quality through meeting standards, including:

(A) Attaining one of the top two ratings of the quality rating and improvement system for early childhood programs.

(B) Adopting culturally responsive teaching methods and practices.

(C) Providing a high-quality, culturally responsive family engagement environment that supports parents as partners in a child’s learning and de-
(D) Providing high-quality, culturally responsive curricula, assessments and professional development that are linked to one another and to the state’s comprehensive early learning standards.

(E) Providing a classroom environment that is inclusive of all children, regardless of ability or family income.

(F) Providing highly trained lead preschool teachers who have:

(i) At least a bachelor’s degree in:

(I) Early childhood education or a field related to early childhood education; or

(II) A field not related to early childhood education if the Early Learning Division, based on rules adopted by the Early Learning Council, determines that the teacher has completed coursework that is equivalent to a major in early childhood education and has sufficient training in early childhood education;

(ii) An associate degree with additional training or additional certification in early childhood education or a field related to early childhood education, as determined by the Early Learning Division based on rules adopted by the Early Learning Council;

(iii) Sufficient alternative credentialing to indicate that the teacher is highly trained, as determined by the Early Learning Division based on rules adopted by the Early Learning Council.

(G) Providing lead preschool teachers and teaching assistants with a salary that meets the minimum salary requirements established by the Early Learning Council.

(H) Providing at least one teaching assistant in each classroom who provides support for academic instruction and who meets the state’s personnel qualification requirements of one of the top two tiers for the quality rating and improvement system for early childhood programs.

(I) Providing children and families with additional health and child development supports [for children and families], such as screening,
referrals and coordination with health care providers.

[(f)] (g) Incorporates best practices in outreach, enrollment and programming for diverse cultural and linguistic populations and children who have been historically underserved in preschool programs.

[(g)] (h) Works in collaboration with community programs to ensure that families have knowledge of, and are connected to, community resources and supports to meet the needs of children and families served by the preschool program.

[(h)] (i) Participates in an ongoing monitoring and program evaluation system that is used for continuous program improvement.

[\((5)(a)\) \(6)(a)\) While any moneys received under a grant received or a contract entered into as provided by this section must be used to serve children described in subsection [(4)(c)] \(5)(c)\) of this section, nothing in subsection [(4)(c)] \(5)(c)\) of this section prevents a preschool provider from serving additional children, including children who:

(A) Pay tuition for the preschool program and whose family [incomes] income at the time of enrollment exceeds 200 percent of federal poverty guidelines.

(B) Are funded by the Oregon prekindergarten program, a federal Head Start program or another source of funding.

(b) If a preschool [program] provider participating in the Preschool Promise Program serves children described in paragraph (a) of this subsection, moneys received under a grant or contract as provided by this section may not be used to pay for expenses incurred for the children described in paragraph (a) of this subsection.

[\((6)\) \(7)\) A preschool [program] provider participating in the Preschool Promise Program may receive a waiver of any of the requirements described in subsection [(4)] \(5)\) of this section if the waiver:

(a) Is for a preschool program that is maintaining progress toward quality;

(b) Is anticipated for the first years of the preschool program only; and
(c) Is granted for only one year at a time.

[(7)] [(8)] To assist the Early Learning Division in administering this section, the Early Learning Council shall:

(a) Identify resources necessary for the Early Learning Division to develop, support and sustain the implementation of a high-quality preschool program, including evaluations, professional development opportunities, technical assistance, monitoring guidance and administrative assistance.

(b) Ensure that pathways and supports are available to teaching staff to increase culturally and linguistically diverse staff to teach and assist in preschool classrooms.

(c) Establish minimum salary requirements and target salary guidelines for lead preschool teachers and teaching assistants at preschool providers participating in the Preschool Promise Program [as required under subsection (4)(e)(F) of this section]. Minimum salary requirements may be differentiated by program type. Target salary guidelines shall be, to the extent practicable, comparable to lead kindergarten teacher and teaching assistant salaries in public schools. The Early Learning Division shall provide guidelines and technical assistance to [programs] preschool providers participating in the Preschool Promise Program to address salary disparities among preschool teachers and preschool staff.

(d) Develop strategies that strive to increase the mean salary for lead preschool teachers and [other preschool staff in this state] teaching assistants employed by preschool providers participating in the Preschool Promise Program.

(e) Administer waivers as described in subsection [(6)] [(7)] of this section.

[(8)] [(9)] Each biennium, the Early Learning Division shall submit a report to the Legislative Assembly that describes:

(a) The number of children served by the [preschool program described in this section] Preschool Promise Program, including the number of children:

(A) Whose family incomes are at or below 200 percent of the federal
poverty guidelines;
(B) Whose family incomes are between 100 and 200 percent of the federal poverty guidelines;
(C) Who pay tuition; and
(D) Who are eligible for Head Start programs.
(b) The cost to serve each child described in subsection [(4)(c)] [(5)(c)] of this section.
(c) The level of state support received for implementing the [preschool program described in this section] Preschool Promise Program.
(d) The effectiveness of the [preschool program described in this section] Preschool Promise Program, including student progress and outcomes.
(e) Improvements that have been made to the administration and evaluation of the [preschool program] Preschool Promise Program to improve the effectiveness of the program.
(f) The salary, education levels and turnover rates of lead preschool teachers and teaching assistants employed by preschool providers participating in the Preschool Promise Program [receiving moneys under this section].
[(9)] [(10)] The Early Learning Division shall coordinate with the Department of Education and other state agencies in support of the [preschool program described in this section] Preschool Promise Program.
[(10)] [(11)] The Early Learning Division shall prescribe the form and timeline for applications to participate in the [preschool program as provided by this section] Preschool Promise Program.

SECTION 3. ORS 329.175 is amended to read:
329.175. (1) The Early Learning Division shall administer the Oregon prekindergarten program to assist eligible children with comprehensive services including educational, social, health and nutritional development to enhance their chances for success in school and life. Eligible children, upon request of parent or guardian, shall be admitted to approved Oregon prekindergartens to the extent that the Legislative Assembly provides funds.
(2)(a) In administering the Oregon prekindergarten program, the Early Learning Division shall adopt a funding formula and methodology that will ensure that Oregon prekindergartens offer high-quality services to eligible children and their families.

(b) Services may be provided under this section to pregnant women and families with children under the age of five years old who are not participating in a federal, state or local program providing comprehensive services and who qualify for eligibility under the federal Head Start program.

(3)(a) Nonsectarian organizations, including school districts and Head Start grantees, are eligible to compete for funds to establish an Oregon prekindergarten.

(b)(A) Grant recipients shall serve children eligible according to federal Head Start guidelines and other children who meet criteria of eligibility adopted by rule by the Early Learning Council.

(B) [However,] Grant recipients may serve children not described in subparagraph (A) of this paragraph, but not more than 20 percent of the total enrollment with a grant recipient shall consist of children who do not meet federal Head Start guidelines.

(c) School districts may contract with other governmental or nongovernmental nonsectarian organizations to conduct a portion of the program.

(d) Funds appropriated for the program shall be used to establish and maintain new or expanded Oregon prekindergartens and [shall] may not be used to supplant federally supported Head Start programs. Oregon prekindergartens also may accept gifts, grants and other funds for the purposes of this section.

(4) Applicants shall identify how they will serve the target population and provide all components as specified in the federal Head Start performance standards and guidelines, including staff qualifications and training, facilities and equipment, transportation and fiscal management.

(5) Applicants shall identify how they will provide, at a minimum,
the annual number of instructional hours required under performance
guidelines and standards of the federal Head Start programs.

(6) Oregon prekindergartens shall provide lead teachers and teaching assistants with a salary that meets the minimum salary requirements established by the Early Learning Council.

(7) Oregon prekindergartens must demonstrate an ability to maximize all available federal, state and local funds.

[(4)] (8) Oregon prekindergartens shall coordinate with each other and with federal Head Start programs to ensure efficient delivery of services and prevent overlap. Oregon prekindergartens shall also work with local organizations such as local education associations serving young children and make the maximum use of local resources.

[(5)] (9) Oregon prekindergartens shall coordinate services with other services provided through the Oregon Early Learning System. The coordination of services [shall] must be consistent with federal and state law.

[(6)(a)] (10)(a) The governing body of a recipient of grant funds under this section shall be subject to ORS 192.610 to 192.690 but is subject to ORS 192.311 to 192.478 only:

(A) With respect to records created at a meeting of the governing body, minutes of a meeting of a governing body or records presented at a meeting of the governing body; or

(B) As otherwise provided by law other than this subsection.

(b) As used in this subsection, “governing body” means a board or other entity of two or more persons who are authorized to make decisions with respect to a recipient or who are authorized to advise or make recommendations to a governing body of the recipient.

SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS 329.170 to 329.200.

SECTION 5. (1) The Higher Education Coordinating Commission and the Early Learning Division shall jointly administer a scholarship program and a grant program designed to ensure that there is an ad-
equate supply of highly qualified early childhood care and education professionals in this state.

(2) Scholarships awarded under this section must cover the costs of tuition, fees and materials needed to participate in an early childhood care or education degree program that is approved under subsection (3) of this section.

(3) The commission and division shall collaborate to approve degree programs for which a scholarship may be awarded under this section.

(4) A person is eligible to receive a scholarship under this section if the person:
   (a) Enrolls in a program approved under subsection (3) of this section;
   (b) Enrolls in a minimum of six credits, or the equivalent, per term; and
   (c) Files a Free Application for Federal Student Aid or the state equivalent.

(5) A person remains eligible to receive a scholarship under this section if the person:
   (a) Remains in good academic standing; and
   (b) Has not received the scholarship for the equivalent of four years of full-time study.

(6) The commission and division may prioritize a person currently employed in a position in the field of early childhood care or education for receiving a scholarship under this section.

(7) An institution of higher education may receive a one-time grant under this section to develop high-quality degree programs for early childhood care and education professionals.

(8) The Early Learning Council and the commission may adopt rules necessary to implement the scholarship program and grant program administered as provided by this section. Rules may provide for the reduction of the costs of the programs in the event amounts requested
under the programs exceed amounts available for the programs.

SECTION 6. ORS 329.183 is amended to read:

329.183. (1) The Prekindergarten Program Trust Fund is established as a
fund in the State Treasury, separate and distinct from the General Fund.
Interest earned by the trust fund shall be credited to the trust fund. The
primary [purpose] purposes of the trust fund [is] are to:

(a) Assist eligible children with comprehensive services, including edu-
cational, social, health and nutritional development, to enhance their
chances for success in school and life[.];

(b) Provide scholarships awarded to current and prospective early
childhood care and education professionals, as described in section 5
of this 2019 Act; and

(c) Provide grants to institutions of higher education to develop
high-quality degree programs for early childhood care and education
professionals, as described in section 5 of this 2019 Act.

(2) [For this purpose,] For the purposes identified in subsection (1)
of this section, the trust fund is continuously appropriated to the Early
Learning Division [for the Oregon prekindergarten program described in ORS
329.170 to 329.200].

[(2) (3) The division may solicit and accept money in the form of gifts,
contributions and grants to be deposited in the trust fund. Except as pro-
vided in ORS 329.185, the acceptance of federal grants for purposes of ORS
329.170 to 329.200 does not commit state funds nor place an obligation upon
the Legislative Assembly to continue the purposes for which the federal
funds are made available.

[(3)] (4) The trust fund may be listed, if otherwise qualified, on the
Oregon income tax return for checkoff pursuant to application made to the
Oregon Charitable Checkoff Commission under ORS 305.690 to 305.753 by the
division.

SECTION 7. ORS 329.200 is amended to read:

329.200. (1) The [Superintendent of Public Instruction] Early Learning
Division shall report to the Legislative Assembly on the merits of continuing and expanding the Oregon prekindergarten program or instituting other means of providing early childhood development assistance.

(2) The [superintendent’s] division’s report shall include specific recommendations on at least the following issues:

(a) The relationship of the state-funded Oregon prekindergarten program with the common school system;

(b) The types of children and their needs that the program should serve;

(c) The appropriate level of state support for implementing the program for all eligible children, including related projects to prepare instructors and provide facilities, equipment and transportation;

(d) The state administrative structure necessary to implement the program; and

(e) Licensing or endorsement of early childhood teachers.

(3) The [Early Learning] division shall examine, monitor and assess the effectiveness of the Oregon prekindergarten program. The superintendent shall and make biennial reports to the Legislative Assembly on the effectiveness of the program.
SUMMARY

Extends sunset on pilot program to decrease rates of school absenteeism by using trauma-informed approaches to education, health services and intervention strategies. Requires report on preliminary evaluation on progress of pilot program.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to pilot program to decrease school absenteeism; amending section 72, chapter 774, Oregon Laws 2015, and sections 5 and 6, chapter 68, Oregon Laws 2016; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 5, chapter 68, Oregon Laws 2016, as amended by section 1, chapter 137, Oregon Laws 2017, is amended to read:

Sec. 5. (1) As used in this section, “trauma-informed approach” means an approach that recognizes the signs and symptoms of trauma in students, families and staff and responds by fully integrating knowledge about trauma into policies, procedures and practices for the purposes of resisting the recurrence of trauma and promoting resiliency.

(2) The Chief Education Office, in coordination with the Oregon Health Authority and the Department of Education, shall distribute moneys as provided in this section to school districts and education service districts for the purpose of decreasing rates of school absenteeism.

(3)(a) A school district or an education service district may apply to receive moneys under this section:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.
(A) By submitting an application that includes a proposal consistent with subsection (4) of this section; and

(B) If the district has at least one school in the district with:

(i) A school-based health center; or

(ii) A school-based system for providing behavioral health services and care coordination that may include a school nurse, a school counselor, a school psychologist, a clinical psychologist or a school social worker.

(b) A school district or an education service district may submit an application jointly with one or more community partners that will participate with the district in the pilot program described in subsection (4) of this section.

(4) The office shall distribute moneys to an applicant based on the applicant’s proposal to design and implement a pilot program to decrease rates of school absenteeism by using trauma-informed approaches to education, health services and intervention strategies that are based in schools and take advantage of community resources. The proposal must include a plan that:

(a) Coordinates the services provided by:

(A) The school;

(B) The school-based health center or the administrator of the school-based system described in subsection (3)(a)(B)(ii) of this section; and

(C) Coordinated care organizations, public health entities, nonprofit youth service providers, community-based organizations, social justice groups and similar groups that are located in the community;

(b) Requires professional development and support for school staff, including educators, school district or education service district professionals, counselors, nurses, classified staff and other staff of the school district or education service district, to create a culture in the district and community that is informed about how to understand, recognize and respond to trauma;

(c) Provides for at least one trauma specialist who:

(A) Is permanently assigned at the school-based health center or at the
location where the school-based system described in subsection (3)(a)(B)(ii) of this section is provided; and

(B) Oversees the implementation of the plan, including coordinating the services described in paragraph (a) of this subsection and coordinating the professional development and support described in paragraph (b) of this subsection;

(d) Indicates how services coordinated under paragraph (a) of this subsection are provided based on a trauma-informed approach and with an understanding, recognition and responsiveness to the effects of trauma on education, absenteeism and school completion;

(e) Uses evidence-based and evidence-informed approaches, culturally specific approaches when appropriate and national models that are tailored to the community to ensure that data are collected and the effectiveness of the pilot program is determined;

(f) Provides matching community funding, or resources that are the monetary equivalent of matching funding, in a ratio determined by the office by rule; and

(g) Pursues additional funding opportunities, including funding under the federal Every Student Succeeds Act (P.L. 114-95).

(5) The office shall prescribe the timelines by which an applicant may submit an application for moneys under this section and the form of the application.

(6) The office shall evaluate and rank applications based on the proposals submitted in the applications.

(7) The office shall distribute moneys to applicants based on:

(a) The evaluations and rankings described in subsection (6) of this section;

(b) The moneys appropriated to the office for the purpose of this section;

(c) The amount of matching community funding available to the applicant; and

(d) Any available federal grants.
(8)(a) The office, in collaboration with the Oregon Health Authority and the Department of Education, shall provide coordination among school districts and education service districts receiving moneys under this section.

(b) The office may coordinate with a statewide nonprofit organization that has experience in supporting school-based health centers and student health organizations for the organization to provide technical assistance to school districts and education service districts receiving moneys under this section.

(9) Each participating school district and education service district shall provide regular reports on the progress of the district’s pilot program to the office to enable the office to:

(a) Determine the effectiveness of the pilot program; and

(b) Submit [a report] reports and recommendations for legislation to the interim committees of the Legislative Assembly related to education as required under subsection (10) of this section.

(10) [No later than October 15, 2019,] The Chief Education Office, the Oregon Health Authority and the Department of Education, in collaboration with the statewide nonprofit organization described in subsection (8) of this section, shall submit [a report] reports to the interim committees of the Legislative Assembly related to education[. The report] as follows:

(a) The first report must be submitted no later than June 30, 2020, and must provide a preliminary evaluation on the progress of the pilot programs.

(b) The second report must be submitted no later than June 30, 2022, and must provide individual and comprehensive evaluations on the outcomes of the pilot programs and include any recommendations for legislation based on the results of the pilot programs.

SECTION 2. Section 5, chapter 68, Oregon Laws 2016, as amended by section 1, chapter 137, Oregon Laws 2017, and section 1 of this 2019 Act, is amended to read:

Sec. 5. (1) As used in this section, “trauma-informed approach” means an approach that recognizes the signs and symptoms of trauma in students,
families and staff and responds by fully integrating knowledge about trauma
into policies, procedures and practices for the purposes of resisting the re-
ocurrence of trauma and promoting resiliency.

(2) The [Chief Education Office] **Department of Education**, in coordi-
nation with the Oregon Health Authority [and the Department of
Education], shall distribute moneys as provided in this section to school
districts and education service districts for the purpose of decreasing rates
of school absenteeism.

(3)(a) A school district or an education service district may apply to re-
ceive moneys under this section:

(A) By submitting an application that includes a proposal consistent with
subsection (4) of this section; and

(B) If the district has at least one school in the district with:

   (i) A school-based health center; or
   (ii) A school-based system for providing behavioral health services and
care coordination that may include a school nurse, a school counselor, a
school psychologist, a clinical psychologist or a school social worker.

(b) A school district or an education service district may submit an ap-
lication jointly with one or more community partners that will participate
with the district in the pilot program described in subsection (4) of this
section.

(4) The [office] **department** shall distribute moneys to an applicant based
on the applicant’s proposal to design and implement a pilot program to de-
crease rates of school absenteeism by using trauma-informed approaches to
education, health services and intervention strategies that are based in
schools and take advantage of community resources. The proposal must in-
clude a plan that:

(a) Coordinates the services provided by:

   (A) The school;
   (B) The school-based health center or the administrator of the school-
based system described in subsection (3)(a)(B)(ii) of this section; and
(C) Coordinated care organizations, public health entities, nonprofit youth service providers, community-based organizations, social justice groups and similar groups that are located in the community;
(b) Requires professional development and support for school staff, including educators, school district or education service district professionals, counselors, nurses, classified staff and other staff of the school district or education service district, to create a culture in the district and community that is informed about how to understand, recognize and respond to trauma;
(c) Provides for at least one trauma specialist who:
(A) Is permanently assigned at the school-based health center or at the location where the school-based system described in subsection (3)(a)(B)(ii) of this section is provided; and
(B) Oversees the implementation of the plan, including coordinating the services described in paragraph (a) of this subsection and coordinating the professional development and support described in paragraph (b) of this subsection;
(d) Indicates how services coordinated under paragraph (a) of this subsection are provided based on a trauma-informed approach and with an understanding, recognition and responsiveness to the effects of trauma on education, absenteeism and school completion;
(e) Uses evidence-based and evidence-informed approaches, culturally specific approaches when appropriate and national models that are tailored to the community to ensure that data are collected and the effectiveness of the pilot program is determined;
(f) Provides matching community funding, or resources that are the monetary equivalent of matching funding, in a ratio determined by the [office] State Board of Education by rule; and
(g) Pursues additional funding opportunities, including funding under the federal Every Student Succeeds Act (P.L. 114-95).
(5) The [office] department shall prescribe the timelines by which an applicant may submit an application for moneys under this section and the
form of the application.

(6) The [office] department shall evaluate and rank applications based on the proposals submitted in the applications.

(7) The [office] department shall distribute moneys to applicants based on:

(a) The evaluations and rankings described in subsection (6) of this section;
(b) The moneys appropriated to the [office] department for the purpose of this section;
(c) The amount of matching community funding available to the applicant; and
(d) Any available federal grants.

(8)(a) The [office] department, in collaboration with the Oregon Health Authority [and the Department of Education], shall provide coordination among school districts and education service districts receiving moneys under this section.

(b) The [office] department may coordinate with a statewide nonprofit organization that has experience in supporting school-based health centers and student health organizations for the organization to provide technical assistance to school districts and education service districts receiving moneys under this section.

(9) Each participating school district and education service district shall provide regular reports on the progress of the district’s pilot program to the [office] department to enable the [office] department to:

(a) Determine the effectiveness of the pilot program; and
(b) Submit reports and recommendations for legislation to the interim committees of the Legislative Assembly related to education as required under subsection (10) of this section.

(10) The [Chief Education Office,] Department of Education and the Oregon Health Authority [and the Department of Education], in collaboration with the statewide nonprofit organization described in subsection (8) of this
section, shall submit reports to the interim committees of the Legislative Assembly related to education as follows:

(a) The first report must be submitted no later than June 30, 2020, and must provide a preliminary evaluation on the progress of the pilot programs.
(b) The second report must be submitted no later than June 30, 2022, and must provide individual and comprehensive evaluations on the outcomes of the pilot programs and include any recommendations for legislation based on the results of the pilot programs.

SECTION 3. Section 72, chapter 774, Oregon Laws 2015, as amended by section 14, chapter 682, Oregon Laws 2015, section 20, chapter 763, Oregon Laws 2015, section 27, chapter 639, Oregon Laws 2017, and section 4, chapter 113, Oregon Laws 2018, is amended to read:

Sec. 72. (1)(a) Section 1, chapter 519, Oregon Laws 2011, as amended by section 8, chapter 519, Oregon Laws 2011, sections 20 and 21, chapter 36, Oregon Laws 2012, and section 1, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.
(b) Section 2, chapter 519, Oregon Laws 2011, as amended by section 1, chapter 36, Oregon Laws 2012, section 29, chapter 747, Oregon Laws 2013, and section 4, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.
(c) Section 3, chapter 519, Oregon Laws 2011, as amended by section 5, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.
(2) The amendments to ORS 326.021 by section 42, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.
(3) The amendments to ORS 326.300 by section 43, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.
(7) The amendments to ORS 327.380 by section 8, chapter 739, Oregon Laws 2013, become operative on June 30, 2019.

(8) The amendments to ORS 327.800 by section 67a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(9) The amendments to ORS 327.810 by section 68a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(10) The amendments to ORS 327.815 by section 69a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(11) The amendments to ORS 327.820 by section 70a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(15) The amendments to ORS 342.443 by section 56, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(16) The amendments to ORS 342.448 by section 76a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(17) The amendments to ORS 344.059 and 344.141 by sections 13 and 14, chapter 763, Oregon Laws 2015, become operative on June 30, 2019.


(20) The amendments to ORS 350.100 by section 75a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(21) The amendments to ORS 352.018 by section 58, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


[(29)] (30) Section 8, chapter 85, Oregon Laws 2014, becomes operative on June 30, 2019.

SECTION 4. Section 6, chapter 68, Oregon Laws 2016, is amended to read:


SECTION 5. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

[10]
SUMMARY

Specifies types of licensed health care practitioners authorized to perform assessments or examinations for purposes of determining special education services eligibility. Requires practitioners to report information obtained in assessment or examination to school district.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to special education services; creating new provisions; amending ORS 343.146; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 343.146 is amended to read:

343.146. (1) To receive special education, children with disabilities shall be determined eligible for special education services under a school district program approved under ORS 343.045 and as provided under ORS 343.221.

(2) Before initially providing special education, the school district shall ensure that a full and individual evaluation is conducted to determine the child’s eligibility for special education and the child’s special educational needs.

(3) Eligibility for special education shall be determined pursuant to rules adopted by the State Board of Education.

(4) Each school district shall conduct a reevaluation of each child with a disability in accordance with rules adopted by the State Board of Education.

(5) If a medical or vision examination or health assessment is required as
part of an initial evaluation or reevaluation, the evaluation shall be given:

[(a) In the case of a medical examination, by a physician licensed to prac-
tice by a state board of medical examiners or a state medical board or by a
naturopathic physician licensed under ORS chapter 685;]

[(b) In the case of a health assessment, by a nurse licensed by a state board
of nursing and specially certified as a nurse practitioner or by a licensed
physician assistant; and]

[(c) In the case of a vision examination, by an ophthalmologist or
optometrist licensed by a state board.]

(5) If a medical examination is required as part of an initial evalu-
ation or reevaluation, the examination must be given by:

(a) A physician licensed under ORS chapter 677 or by the appropriate
authority in another state;

(b) A naturopathic physician licensed under ORS chapter 685 or by
the appropriate authority in another state;

(c) A nurse practitioner licensed under ORS 678.375 to 678.390 or by
the appropriate authority in another state; or

(d) A physician assistant licensed under ORS 677.505 to 677.525 or
by the appropriate authority in another state.

(6) If a vision examination is required as part of an initial evalu-
ation or reevaluation, the examination must be given by:

(a) A person licensed to practice optometry under ORS chapter 683
or by the appropriate authority in another state; or

(b) A physician who specializes in ophthalmology and who is li-
censed under ORS chapter 677 or by the appropriate authority in an-
other state.

(7) If an audiological assessment is required as part of an initial
evaluation or reevaluation, the assessment must be given by an
audiologist licensed under ORS chapter 681 or by the appropriate au-
thority in another state.

(8) The information obtained in an examination or assessment per-
formed under subsection (5), (6) or (7) of this section must be reported
by the practitioner who performed the examination or assessment to
the school district in which the child is or will be enrolled.

SECTION 2. The amendments to ORS 343.146 by section 1 of this
2019 Act apply to assessments and examinations performed on and af-
ter the effective date of this 2019 Act.

SECTION 3. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Permits Office of Child Care to consider any information obtained by office when reviewing enrollment in Central Background Registry.

Adds to definition of “exempt prohibited individual,” for purposes of five-year prohibition against providing child care, individuals whose certification, registration or enrollment in Central Background Registry has been suspended.

Requires opportunity for hearing when office imposes condition on child care facility’s certification or registration. Permits office to impose emergency condition without hearing upon finding of serious danger to health and safety of children receiving care.

Permits office to take evidence, take depositions, compel appearance of witnesses, require answers to interrogatories, compel production of documents, issue subpoenas and inspect facility premises when investigating child care facilities.

A BILL FOR AN ACT

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 329A.030, as amended by section 1, chapter 115, Oregon Laws 2018, is amended to read:

329A.030. (1) The Office of Child Care shall establish a Central Background Registry and may maintain information in the registry through electronic records systems.

(2) A subject individual shall apply to and must be enrolled in the Central Background Registry as part of the individual’s application to operate a

NOTE: Matter in boldfaced type in an amended section is new; matter in italic and bracketed is existing law to be omitted. New sections are in boldfaced type.
program or serve in a position described in subsection (10) of this section.

(3) (a) Upon receiving an application for enrollment in the Central Background Registry, the office shall complete:

[(a)] (A) A criminal records check under ORS 181A.195;
[(b)] (B) A criminal records check of other registries or databases in accordance with rules adopted by the Early Learning Council;
[(c)] (C) A child abuse and neglect records check in accordance with rules adopted by the council; and
[(d)] (D) A foster care certification check and an adult protective services check in accordance with rules adopted by the council.

(b) In addition to the information that the office is required to check under paragraph (a) of this subsection, the office may consider any other information obtained by the office that is relevant to enrollment in the Central Background Registry.

(4)(a) The office shall enroll the individual in the Central Background Registry if the individual:

(A) Is determined to have no criminal, child abuse and neglect, negative adult protective services or negative foster home certification history, or to have dealt with the issues and provided adequate evidence of suitability for the registry;

(B) Has paid the applicable fee established pursuant to ORS 329A.275; and

(C) Has complied with the rules of the Early Learning Council adopted pursuant to this section.

(b) Notwithstanding subsection (3) of this section and paragraph (a) of this subsection, the office may enroll an individual in the registry if the Department of Human Services has completed a background check on the individual and the individual has received approval from the department for purposes of providing child care.

(5)(a) Notwithstanding subsections (3) and (4) of this section, the office may not enroll an individual in the Central Background Registry if:

(A) The individual has a disqualifying condition as defined in rules [2]
adopted by the council; or

(B) The individual is an exempt prohibited individual, as defined in ORS 329A.252.

(b) If an individual who has a disqualifying condition or who is an exempt prohibited individual is enrolled in the Central Background Registry, the office shall remove the individual from the registry.

(6)(a) The office may conditionally enroll an individual in the Central Background Registry pending the results of a nationwide criminal records check through the Federal Bureau of Investigation if the individual has met other requirements of the office for enrollment in the registry.

(b) The office may enroll an individual in the registry subject to limitations identified in rules adopted by the council.

(7) An enrollment in the Central Background Registry may be renewed upon application to the office, payment of the fee established pursuant to ORS 329A.275 and compliance with rules adopted by the Early Learning Council pursuant to this section. However, an individual who is determined to be ineligible for enrollment in the registry after the date of initial enrollment shall be removed or suspended from the registry by the office.

(8)(a) A child care facility shall not hire or employ an individual if the individual is not enrolled in the Central Background Registry.

(b) Notwithstanding paragraph (a) of this subsection, a child care facility may employ on a probationary basis an individual who is conditionally enrolled in the Central Background Registry.

(9) The Early Learning Council may adopt any rules necessary to carry out the purposes of this section, including but not limited to rules regarding expiration and renewal periods and limitations related to the subject individual’s enrollment in the Central Background Registry.

(10) For purposes of this section, “subject individual” means a subject individual as defined by the Early Learning Council by rule or a person who applies to be:

(a) The operator or an employee of a child care or treatment program;
(b) The operator or an employee of an Oregon prekindergarten program under ORS 329.170 to 329.200;

d) An individual in a child care facility who may have unsupervised contact with children as identified by the office;

e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534;

(f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency;

g) A contractor, employee or volunteer of a metropolitan service district organized under ORS chapter 268 who may have unsupervised contact with children and who is required to be enrolled in the Central Background Registry by the metropolitan service district;

(h) A provider of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056 who is providing respite services as a volunteer with a private agency or organization that facilitates the provision of such respite services; or

(i) The operator or an employee of an early learning program as defined in rules adopted by the council.

(11)(a) Information provided to a metropolitan service district organized under ORS chapter 268 about the enrollment status of the persons described in subsection (10)(g) of this section shall be subject to a reciprocal agreement with the metropolitan service district. The agreement must provide for the recovery of administrative, including direct and indirect, costs incurred by the office from participation in the agreement. Any moneys collected under this paragraph shall be deposited in the Child Care Fund established under ORS 329A.010.

(b) Information provided to a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pur-
suant to a properly executed power of attorney under ORS 109.056 about the
enrollment status of the persons described in subsection (10)(h) of this sec-
tion shall be subject to an agreement with the private agency or organiza-
tion. The agreement must provide for the recovery of administrative,
including direct and indirect, costs incurred by the office from participation
in the agreement. Any moneys collected under this paragraph shall be de-
posited in the Child Care Fund established under ORS 329A.010.

(c) Information provided to a private agency or organization about the
enrollment status of the persons described in subsection (10)(i) of this section
shall be subject to an agreement with the private agency or organization.
The agreement must provide for the recovery of administrative, including
direct and indirect, costs incurred by the office from participation in the
agreement. Any moneys collected under this paragraph shall be deposited in
the Child Care Fund established under ORS 329A.010.

SECTION 2. ORS 181A.195 is amended to read:

ORS 181A.195. (1) As used in this section:

(a) “Authorized agency” means state government as defined in ORS
174.111 and the Oregon State Bar. “Authorized agency” does not include:

(A) The Oregon State Lottery Commission or the Oregon State Lottery;
or
(B) A criminal justice agency, as defined in ORS 181A.010, that is au-
thorized by federal law to receive fingerprint-based criminal records checks
from the Federal Bureau of Investigation.

(b) “Subject individual” means a person from whom an authorized agency
may require fingerprints pursuant to statute for the purpose of enabling the
authorized agency to request a state or nationwide criminal records check.

(2)(a) An authorized agency may request that the Department of State
Police conduct a criminal records check on a subject individual for non-
criminal justice purposes.

(b) A criminal records check under this subsection must include a
check of the national sex offender registry maintained by the National
Crime Information Center.

(c) If a nationwide criminal records check of a subject individual is necessary, the authorized agency may request that the Department of State Police conduct the check, including fingerprint identification, through the Federal Bureau of Investigation.

(3) The Department of State Police shall provide the results of a criminal records check conducted pursuant to subsection (2) of this section to the authorized agency requesting the check.

(4) The Federal Bureau of Investigation shall return or destroy the fingerprint cards used to conduct the criminal records check and may not keep any record of the fingerprints, except that the Federal Bureau of Investigation may retain the fingerprint cards and records of the fingerprints for purposes described in ORS 181A.205. If the federal bureau policy authorizing return or destruction of the fingerprint cards is changed, the Department of State Police shall cease to send the cards to the federal bureau but shall continue to process the information through other available resources.

(5) If the Federal Bureau of Investigation returns the fingerprint cards to the Department of State Police, the Department of State Police shall destroy the fingerprint cards and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards or create facsimiles for the purpose of providing information under ORS 181A.205.

(6) If only a state criminal records check is conducted, after the criminal records check is completed, the Department of State Police shall destroy the fingerprint cards and the results of the criminal records check provided to the authorized agency and may not retain facsimiles or other material from which a fingerprint can be reproduced, except that the Department of State Police may retain the fingerprint cards and results or create facsimiles for the purpose of providing information under ORS 181A.205.

(7) An authorized agency may conduct criminal records checks on subject individuals through the Law Enforcement Data System maintained by the

[6]
Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(8) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using the rules adopted by the Oregon Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(10)(b) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

(10)(a) Except as otherwise provided in ORS 181A.400, 181A.875, 342.143, 342.223, 443.735, 475B.785 to 475B.949 and 703.090 and paragraph (d) of this subsection, an authorized agency, using the rules adopted by the Oregon Department of State Police in accordance with rules adopted, and procedures established, by the Department of State Police.

(10)(b) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.

(9) Each authorized agency, in consultation with the Department of State Police, may adopt rules to implement this section and other statutes relating to criminal offender information obtained through fingerprint-based criminal records checks. The rules may include but need not be limited to:

(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

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(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

(e) Establishing fees in an amount not to exceed the actual cost of acquiring and furnishing criminal offender information.

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(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

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(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

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(a) Identifying applicable categories of subject individuals as specified by the Oregon Department of Administrative Services under ORS 181A.215 who are subject to criminal records checks by the authorized agency.

(b) Identifying applicable information that may be required from a subject individual to permit a criminal records check as specified by the Oregon Department of Administrative Services under ORS 181A.215.

(c) Specifying which programs or services are subject to this section.

(d) If the authorized agency uses criminal records checks for agency employment purposes:

(A) Determining when and under what conditions a subject individual may be hired on a preliminary basis pending a criminal records check; and

(B) Defining the conditions under which a subject individual may participate in training, orientation and work activities pending completion of a criminal records check.

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(10)(b) An authorized agency and the Department of State Police shall permit a subject individual for whom a fingerprint-based criminal records check was conducted to inspect the individual's own state and national criminal offender records and, if requested by the subject individual, provide the individual with a copy of the individual’s own state and national criminal offender records.
Department of Administrative Services under ORS 181A.215, shall determine whether a subject individual is fit to hold a position, provide services, be employed or be granted a license, certification, registration or permit. If a subject individual is determined to be unfit, then the individual may not hold the position, provide services, be employed or be granted a license, certification, registration or permit.

(b)(A) Subject to subparagraph (B) of this paragraph, an authorized agency making a fitness determination of an individual under this subsection may request results of a previously made fitness determination from an authorized agency that has already made a fitness determination for the individual. An authorized agency that receives a request under this paragraph shall provide the requested information.

(B) An authorized agency may make a request under this paragraph only for individuals:

(i) Who are applying to hold a position, provide services, be employed or be granted a license, certification, registration or permit;

(ii) Who are in a category of individuals as specified by the Oregon Department of Administrative Services by rule under ORS 181A.215; and

(iii) For whom a fitness determination has already been made.

(c) Except as otherwise provided in ORS 181A.400, in making the fitness determination under this subsection, the authorized agency shall consider:

(A) The nature of the crime;

(B) The facts that support the conviction or pending indictment or that indicate the making of a false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the subject individual’s present or proposed position, services, employment, license, certification or registration; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification, registration or permit, such as:

(i) The passage of time since the commission of the crime;
(ii) The age of the subject individual at the time of the crime;
(iii) The likelihood of a repetition of offenses or of the commission of another crime;
(iv) The subsequent commission of another relevant crime;
(v) Whether the conviction was set aside and the legal effect of setting aside the conviction; and
(vi) The recommendation of an employer.
(d) An individual prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness as a subject individual under this subsection.

(11) Criminal offender information is confidential. Authorized agencies and the Department of State Police shall adopt rules to restrict dissemination of information received under this section to persons with a demonstrated and legitimate need to know the information.

(12) If a subject individual refuses to consent to the criminal records check or refuses to be fingerprinted, the authorized agency shall deny the employment of the individual, or revoke or deny any applicable position, authority to provide services, license, certification, registration or permit.

(13) If an authorized agency requires a criminal records check of employees, prospective employees, contractors, vendors or volunteers or applicants for a license, certification, registration or permit, the application forms of the authorized agency must contain a notice that the person is subject to fingerprinting and a criminal records check.

SECTION 3. ORS 329A.252, as amended by section 3, chapter 115, Oregon Laws 2018, is amended to read:

329A.252. (1) As used in this section, “exempt prohibited individual” means:

(a) An individual whose certification or registration has been denied for cause, suspended or revoked under ORS 329A.350.

(b) An individual whose enrollment in the Central Background Registry established by ORS 329A.030 has been denied for cause, suspended or re-
moved under ORS 329A.030.

(c) An individual whose certification, registration or enrollment in the Central Background Registry is subject to an emergency order of suspension under ORS 183.430 (2).

[(c)] (d) An individual who voluntarily surrendered the individual’s certification, registration or enrollment in the Central Background Registry while under investigation by the Office of Child Care or at any time after the Office of Child Care has given notice of an administrative proceeding against the individual or the individual’s child care facility.

(2) For five years following the date on which an individual becomes an exempt prohibited individual, the exempt prohibited individual:

(a) Is ineligible for enrollment in the Central Background Registry; and

(b) May not provide care to a child who is not related to the exempt prohibited individual by blood or marriage within the fourth degree as determined by civil law.

(3) After the five-year period described in subsection (2) of this section, an individual ceases to be an exempt prohibited individual if the individual enrolls in the Central Background Registry.

SECTION 4. ORS 329A.280 is amended to read:

329A.280. (1) A person may not operate a child care facility, except a facility subject to the registration requirements of ORS 329A.330, without a certification for the facility from the Office of Child Care.

(2) The Early Learning Council shall adopt rules for the certification of a family child care home caring for not more than 16 children. The rules shall be specifically adopted for the regulation of certified child care facilities operated in a facility constructed as a single-family dwelling. Notwithstanding fire and other safety regulations, the rules that the council adopts for certified child care facilities shall set standards that can be met without significant architectural modification of a typical home. In adopting the rules, the council may consider and set limits according to factors including the age of children in care, the ambulatory ability of children in care, the
number of the provider’s children present, the length of time a particular child is continuously cared for and the total amount of time a particular child is cared for within a given unit of time.

(3) In addition to rules adopted for and applied to a certified family child care home providing child care for not more than 16 children, the council shall adopt and apply separate rules appropriate for any child care facility that is a child care center.

(4) Any person seeking to operate a child care facility may apply for a certification for the facility from the Office of Child Care and receive a certification upon meeting certification requirements.

(5) A facility described in ORS 329A.250 (5)(d) may, but is not required to, apply for a certification under this section and receive a certification upon meeting certification requirements.

SECTION 5. ORS 329A.300, as amended by section 9, chapter 115, Oregon Laws 2018, is amended to read:

329A.300. (1) Upon receipt of an application for a certification, accompanied by the required fee, the Office of Child Care shall issue a certification if the office finds that the child care facility and its operations are in compliance with the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450.

(2) The Office of Child Care may issue a temporary certification, subject to reasonable terms and conditions, for a period not longer than 180 days to a child care facility that does not comply with the requirements and rules if the office finds that the health and safety of any child will not be endangered thereby. Not more than one temporary certification shall be issued for the same child care facility in any 12-month period.

(3)(a) If the Office of Child Care determines that it is necessary to protect the health and safety of the children for whom a child care facility is to provide care, the office may impose a condition on the facility’s certification that is reasonably designed to protect the health and safety of children. The
office may impose a condition during the application process for an initial
certification, during the application process for a renewal of a certification
or at any time after the issuance of a certification.

(b) Except as provided in paragraph (c) of this subsection, when the
office imposes a condition on a childcare facility’s certification, the
facility shall be afforded an opportunity for a hearing consistent with
the provisions of ORS chapter 183.

(c)(A) If the office finds a serious danger to the health and safety
of the children receiving care at a child care facility, the office shall
notify the facility of the specific reasons for the finding and may im-
pose an emergency condition on the facility’s certification without a
hearing.

(B) If the facility demands a hearing within 90 days after the office
notifies the facility of the emergency condition, a hearing consistent
with the provisions of ORS chapter 183 must be granted to the facility
as soon as practicable after the demand and the agency shall issue an
order consistent with the provisions of ORS chapter 183 confirming,
altering or revoking the order imposing the emergency condition.

(4) The Office of Child Care shall serve as the state agency authorized,
upon request, to certify compliance with applicable federal child care stan-
dards or requirements by any facility providing child care in the state.

SECTION 6. ORS 329A.330, as amended by section 10, chapter 115,
Oregon Laws 2018, is amended to read:

329A.330. (1) A provider operating a family child care home where care
is provided in the family living quarters of the provider’s home that is not
subject to the certification requirements of ORS 329A.280 may not operate
a child care facility without registering with the Office of Child Care.

(2) A child care facility holding a registration may care for a maximum
of 10 children, including the provider’s own children. Of the 10 children:

(a) No more than six may be younger than school age; and

(b) No more than two may be 24 months of age or younger.
(3)(a) To obtain a registration, a provider must apply to the Office of Child Care by submitting a completed application work sheet and a nonrefundable fee. The fee shall vary according to the number of children for which the facility is requesting to be registered, and shall be determined and applied through rules adopted by the Early Learning Council under ORS 329A.275. The fee shall be deposited as provided in ORS 329A.310 (2). The office may waive any or all of the fee if the office determines that imposition of the fee would impose a hardship on the provider.

(b) Upon receipt of an initial or renewal application satisfactory to the office, the office shall conduct an on-site review of the child care facility under this section. The on-site review shall be conducted within 30 days of the receipt of a satisfactory application.

(4) The office shall issue a registration to a provider operating a family child care home if:

(a) The provider has completed a child care overview class administered by the office;

(b) The provider has completed two hours of training on child abuse and neglect issues;

(c) The provider is currently certified in infant and child first aid and cardiopulmonary resuscitation;

(d) The provider is certified as a food handler under ORS 624.570; and

(e) The office determines that the application meets the requirements of ORS 181A.200, 329A.030 and 329A.250 to 329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200, 181A.215, 329A.030 and 329A.250 to 329A.450, and receives a satisfactory records check, including criminal records and protective services records.

(5) Unless the registration is revoked as provided in ORS 329A.350, the registration is valid for a period of two years from the date of issuance. The office may not renew a registration of a provider operating a family child care home unless the provider:

(a) Is currently certified in infant and child first aid and cardiopulmonary
resuscitation;

(b) Has completed a minimum of eight hours of training related to child care during the most recent registration period; and

c) Is certified as a food handler under ORS 624.570.

(6) A registration authorizes operation of the facility only on the premises described in the registration and only by the person named in the registration.

(7) The Early Learning Council shall adopt rules:

(a) Creating the application work sheet required under subsection (3) of this section;

(b) Defining full-time and part-time care;

(c) Establishing under what circumstances the adult to child ratio requirements may be temporarily waived; and

(d) Establishing health and safety procedures and standards on:

(A) The number and type of toilets and sinks available to children;

(B) Availability of steps or blocks for use by children;

(C) Room temperature;

(D) Lighting of rooms occupied by children;

(E) Glass panels on doors;

(F) Condition of floors;

(G) Availability of emergency telephone numbers; and

(H) Smoking.

(8) The office shall adopt the application work sheet required by subsection (3) of this section. The work sheet must include, but need not be limited to, the following:

(a) The number and ages of the children to be cared for at the facility; and

(b) The health and safety procedures in place and followed at the facility.

(9)(a) If the Office of Child Care determines that it is necessary to protect the health and safety of the children for whom a child care facility is to provide care, the office may impose a condition on the facility’s registration
that is reasonably designed to protect the health and safety of children. The
office may impose a condition during the application process for an initial
registration, during the application process for a renewal of a registration
or at any time after the issuance of a registration.

(b) Except as provided in paragraph (c) of this subsection, when the
office imposes a condition on a childcare facility’s registration, the
facility shall be afforded an opportunity for a hearing consistent with
the provisions of ORS chapter 183.

(c)(A) If the office finds a serious danger to the health and safety
of the children receiving care at a child care facility, the office shall
notify the facility of the specific reasons for the finding and may im-
pose an emergency condition on the facility’s registration without a
hearing.

(B) If the facility demands a hearing within 90 days after the office
notifies the facility of the emergency condition, a hearing consistent
with the provisions of ORS chapter 183 must be granted to the facility
as soon as practicable after the demand and the agency shall issue an
order consistent with the provisions of ORS chapter 183 confirming,
altering or revoking the order imposing the emergency condition.

(10) The office, upon good cause shown, may waive one or more of the
registration requirements. The office may waive a requirement only if ap-
propriate conditions or safeguards are imposed to protect the welfare of the
children and the consumer interests of the parents of the children. The office
may not waive the on-site review requirement for applicants applying for an
initial registration or renewal of a registration.

(11) The Early Learning Council, by rule, shall develop a list of recom-
mended standards consistent with standards established by professional or-
izations regarding child care programs for child care facilities. Com-
pliance with the standards is not required for a registration, but the
office shall encourage voluntary compliance and shall provide technical as-
sistance to a child care facility attempting to comply with the standards. The
child care facility shall distribute the list of recommended minimum stan-
dards to the parents of all children cared for at the facility.

(12) In adopting rules relating to registration, the Early Learning Council
shall consult with the appropriate legislative committee in developing the
rules to be adopted. If the rules are being adopted during a period when the
Legislative Assembly is not in session, the Early Learning Council shall
consult with the appropriate interim legislative committee.

SECTION 7. ORS 329A.390 is amended to read:

329A.390. (1) Whenever an authorized representative of the Office of Child
Care is advised or has reason to believe that child care that is subject to
regulation by the office is being provided without a certification, registration
or record, the authorized representative may visit and conduct an [on-site]
investigation [of the premises] of the facility at any reasonable time to de-
termine whether the facility is subject to the requirements of ORS 181A.200,
329A.030 and 329A.250 to 329A.450.

(2) At any reasonable time, an authorized representative of the Office of
Child Care may conduct an [on-site] investigation [of the premises] of any
certified or registered child care facility to determine whether the child care
facility is in conformity with ORS 181A.200, 329A.030 and 329A.250 to
329A.450 and the rules promulgated pursuant to ORS 181A.195, 181A.200,

(3) An authorized representative of the Office of Child Care shall conduct
an [on-site] investigation [of the premises] of any certified or registered child
care facility or of any other child care facility that is subject to regulation
by the office if the office receives a serious complaint about the child care
facility.

(4) Complaints, including but not limited to serious complaints, made by
individuals or entities regarding certified or registered child care facilities,
regulated subsidy facilities, preschool recorded programs or school-age re-
corded programs may be received and investigated by the Office of Child
Care. The name, address and other identifying information about the indi-
vidual or entity that made the complaint may not be disclosed.

(5) Any state agency that receives a complaint about a certified or regis-
tered child care facility, a regulated subsidy facility, a preschool recorded
program or a school-age recorded program shall notify the Office of Child
Care about the complaint and any subsequent action taken by the state
agency based on that complaint.

(6) A director or operator of a child care facility, a regulated subsidy fa-
cility, a preschool recorded program or a school-age recorded program shall
permit an authorized representative of the Office of Child Care to inspect
records of the facility or program and shall furnish promptly reports and
information required by the office.

(7) In conducting an investigation under this section, the office
may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person under
investigation, in the manner prescribed by law for depositions in civil
actions;

(c) Compel the appearance of witnesses, including the person under
investigation, in the manner prescribed by law for appearances in civil
actions;

(d) Require answers to interrogatories;

(e) Compel the production of books, papers, accounts, documents
or testimony that pertains to the matter under investigation;

(f) Issue subpoenas; and

(g) Inspect the premises of the facility under investigation.

[(7)] (8) The Office of Child Care may share information regarding inves-
tigations or inspections conducted under this section with other public enti-
ties when the office determines that sharing the information would support
the health or safety of children in child care.

[(8)] (9) The Early Learning Council shall adopt rules defining the terms
“serious complaint” and “regulated subsidy facility” as used in this section
and ORS 329A.020.

SECTION 8. ORS 329A.505 is amended to read:

ORS 329A.505. [(1) The Office of Child Care may visit and conduct on-site inspections of the premises of an exempt child care provider as defined by the Office of Child Care by rule whenever such inspections are required under federal law. The inspections may be conducted at any reasonable time and shall be limited to making a determination as to whether the requirements of applicable federal law have been met.]

[(2) The Office of Child Care may, as a condition of finalizing the inspection, require improvements, corrections or other measures to ensure that the exempt child care provider complies with the requirements of federal law for exempt child care providers.]

(1) At any reasonable time, an authorized representative of the Office of Child Care may conduct an investigation of an exempt child care provider as defined by the office by rule.

(2) In conducting an investigation under this section, the office may:

(a) Take evidence;

(b) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;

(c) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;

(d) Require answers to interrogatories;

(e) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation;

(f) Issue subpoenas; and

(g) Inspect the premises of the exempt child care provider under investigation.

(3) If an investigation under this section is required under federal
law, the office:

(a) Shall limit the investigation to making a determination as to whether the requirements of applicable federal law have been met; and

(b) May, as a condition of finalizing the investigation, require improvements, corrections or other measures to ensure that the exempt child care provider complies with the requirements of applicable federal law for exempt child care providers.

SECTION 9. ORS 329A.255 is amended to read:

329A.255. (1) A person operating a preschool recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the Office of Child Care as provided in this section.

(2) To obtain recording, the person must apply to the office by submitting a completed record application form and a nonrefundable fee as established by the office. The office shall determine and apply the fee through rules adopted by the Early Learning Council under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS 329A.310 (2).

(3) The office shall issue a record to a person operating a preschool recorded program if the office determines that the applicant meets the requirements of ORS 329A.250 to 329A.450 and the rules adopted pursuant to ORS 329A.250 to 329A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the preschool recorded program only on the premises described in the record and only by the person named in the record.

(6) The office shall create and maintain a database of preschool recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

(a) Name and address of the program;
(b) Name of operator; and
(c) Significant program information, as determined by the Early Learning Council by rule.

(7) A preschool recorded program recorded under this section must post, and provide parents with, a notice that the preschool recorded program is not certified under ORS 329A.280 or registered under ORS 329A.330.

(8) An initial application or renewal application for recording of a preschool recorded program may be denied, revoked or suspended, if the office finds:
(a) That the program or its operation does not comply with ORS 329A.250 to 329A.450, with applicable rules and with any term or condition imposed under the record; or
(b) That [visitation, on-site] investigation [or inspection] of [a] the program or its records authorized by ORS 329A.390 has not been permitted.

(9) The Early Learning Council shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed $100.

SECTION 10. ORS 329A.257 is amended to read:

329A.257. (1) A person operating a school-age recorded program may not operate the program without performing criminal background checks for all staff and volunteers and becoming recorded with the Office of Child Care as provided in this section.

(2) To obtain recording, the person must apply to the office by submitting a completed record application form and a nonrefundable fee as established by the office. The office shall determine and apply the fee through rules adopted by the Early Learning Council under ORS 329A.275. The office shall deposit fees received under this subsection as provided in ORS 329A.310 (2).

(3) The office shall issue a record to a person operating a school-age recorded program if the office determines that the applicant meets the requirements of ORS 329A.250 to 329A.450 and the rules adopted pursuant to
ORS 329A.250 to 329A.450 and subsection (9) of this section.

(4) Unless the record is revoked as provided in subsection (8) of this section, the record is valid for a period of two years from the date of issuance.

(5) A record authorizes operation of the school-age recorded program only on the premises described in the record and only by the person named in the record.

(6) The office shall create and maintain a database of school-age recorded programs recorded under this section and shall update the database annually. The database shall include, but need not be limited to, the following information:

(a) Name and address of the program;
(b) Name of operator; and
(c) Significant program information, as determined by the Early Learning Council by rule.

(7) A school-age recorded program recorded under this section must post, and provide parents with, a notice that the school-age recorded program is not certified under ORS 329A.280 or registered under ORS 329A.330.

(8) An initial application or renewal application for recording of a school-age recorded program may be denied, revoked or suspended, if the office finds:

(a) That the program or its operation does not comply with ORS 329A.250 to 329A.450, with applicable rules and with any term or condition imposed under the record; or

(b) That [visitation, on-site] investigation [or inspection] of [a] the program or its records authorized by ORS 329A.390 has not been permitted.

(9) The Early Learning Council shall adopt any rules necessary to carry out the provisions of this section.

(10) A person who violates any provision of this section or any term or condition of a record is subject to a civil penalty not to exceed $100.
SUMMARY

Modifies provisions for treatment of renewable energy certificates issued for generation of thermal energy.

A BILL FOR AN ACT

Relating to treatment of renewable energy certificates issued for the generation of thermal energy; amending ORS 469A.132.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 469A.132 is amended to read:

469A.132. (1) If a facility that generates electricity using biomass also generates thermal energy for a secondary purpose, the State Department of Energy[, as part of the system established under ORS 469A.130,] shall provide that renewable energy certificates must be issued for the generation of the thermal energy. Notwithstanding the definition of “qualifying electricity” in ORS 469A.005 or any other provision of law stating or implying that a renewable portfolio standard may be complied with only through the generation of electricity, renewable energy certificates for thermal energy:

(a) Shall be provided for pursuant to this subsection as part of the system established under ORS 469A.130;

(b) Shall be subject to the same requirements for issuance, transfer and use as all other renewable energy certificates created pursuant to the system established under ORS 469A.130; and

(c) May be used to comply with a renewable portfolio standard if:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(A) The facility that generates the thermal energy for which the renewable energy certificate is issued meets the requirements of ORS 469A.020 and 469A.135 for the electricity generated using biomass at the facility; and

(B) Consistent with the provisions of ORS 469A.025 (3), the thermal energy is not generated through the combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate.

(2) For purposes of issuing renewable energy certificates under this section, 3,412,000 British thermal units are equivalent to one megawatt-hour.
A BILL FOR AN ACT

Relating to mandatory payments to labor organizations by public employees;
amending ORS 243.650, 243.666, 243.672, 243.676, 243.682, 243.726, 292.055,
329A.430, 410.614, 443.733 and 652.610.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 243.650 is amended to read:
243.650. As used in ORS 243.650 to 243.782, unless the context requires
otherwise:
(1) “Appropriate bargaining unit” means the unit designated by the Em-
ployment Relations Board or voluntarily recognized by the public employer
to be appropriate for collective bargaining. However, an appropriate bar-
gaining unit may not include both academically licensed and unlicensed or
nonacademically licensed school employees. Academically licensed units may
include but are not limited to teachers, nurses, counselors, therapists, psy-
chologists, child development specialists and similar positions. This limita-
tion does not apply to any bargaining unit certified or recognized prior to
June 6, 1995, or to any school district with fewer than 50 employees.
(2) “Board” means the Employment Relations Board.
(3) “Certification” means official recognition by the board that a labor
organization is the exclusive representative for all of the employees in the

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.
appropriate bargaining unit.

(4) “Collective bargaining” means the performance of the mutual obligation of a public employer and the representative of its employees to meet at reasonable times and confer in good faith with respect to employment relations for the purpose of negotiations concerning mandatory subjects of bargaining, to meet and confer in good faith in accordance with law with respect to any dispute concerning the interpretation or application of a collective bargaining agreement, and to execute written contracts incorporating agreements that have been reached on behalf of the public employer and the employees in the bargaining unit covered by such negotiations. The obligation to meet and negotiate does not compel either party to agree to a proposal or require the making of a concession. This subsection may not be construed to prohibit a public employer and a certified or recognized representative of its employees from discussing or executing written agreements regarding matters other than mandatory subjects of bargaining that are not prohibited by law as long as there is mutual agreement of the parties to discuss these matters, which are permissive subjects of bargaining.

(5) “Compulsory arbitration” means the procedure whereby parties involved in a labor dispute are required by law to submit their differences to a third party for a final and binding decision.

(6) “Confidential employee” means one who assists and acts in a confidential capacity to a person who formulates, determines and effectuates management policies in the area of collective bargaining.

(7)(a) “Employment relations” includes, but is not limited to, matters concerning direct or indirect monetary benefits, hours, vacations, sick leave, grievance procedures and other conditions of employment.

(b) “Employment relations” does not include subjects determined to be permissive, nonmandatory subjects of bargaining by the Employment Relations Board prior to June 6, 1995.

(c) After June 6, 1995, “employment relations” does not include subjects that the Employment Relations Board determines to have a greater impact
on management’s prerogative than on employee wages, hours, or other terms and conditions of employment.

(d) “Employment relations” does not include subjects that have an insubstantial or de minimis effect on public employee wages, hours, and other terms and conditions of employment.

(e) For school district bargaining, “employment relations” excludes class size, the school or educational calendar, standards of performance or criteria for evaluation of teachers, the school curriculum, reasonable dress, grooming and at-work personal conduct requirements respecting smoking, gum chewing and similar matters of personal conduct, the standards and procedures for student discipline, the time between student classes, the selection, agendas and decisions of 21st Century Schools Councils established under ORS 329.704, requirements for expressing milk under ORS 653.077, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

(f) For employee bargaining involving employees covered by ORS 243.736 and employees of the Department of Corrections who have direct contact with inmates, “employment relations” includes safety issues that have an impact on the on-the-job safety of the employees or staffing levels that have a significant impact on the on-the-job safety of the employees.

(g) For all other employee bargaining except school district bargaining and except as provided in paragraph (f) of this subsection, “employment relations” excludes staffing levels and safety issues (except those staffing levels and safety issues that have a direct and substantial effect on the on-the-job safety of public employees), scheduling of services provided to the public, determination of the minimum qualifications necessary for any position, criteria for evaluation or performance appraisal, assignment of duties, workload when the effect on duties is insubstantial, reasonable dress, grooming, and at-work personal conduct requirements respecting smoking, gum chewing, and similar matters of personal conduct at work, and any other subject proposed that is permissive under paragraphs (b), (c) and (d) of this subsection.

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(8) “Exclusive representative” means the labor organization that, as a result of certification by the board or recognition by the employer, has the right to be the collective bargaining agent of all employees in an appropriate bargaining unit.

(9) “Fact-finding” means identification of the major issues in a particular labor dispute by one or more impartial individuals who review the positions of the parties, resolve factual differences and make recommendations for settlement of the dispute.

[(10) “Fair-share agreement” means an agreement between the public employer and the recognized or certified bargaining representative of public employees whereby employees who are not members of the employee organization are required to make an in-lieu-of-dues payment to an employee organization except as provided in ORS 243.666. Upon the filing with the board of a petition by 30 percent or more of the employees in an appropriate bargaining unit covered by such union security agreement declaring they desire that the agreement be rescinded, the board shall take a secret ballot of the employees in the unit and certify the results thereof to the recognized or certified bargaining representative and to the public employer. Unless a majority of the votes cast in an election favor the union security agreement, the board shall certify deauthorization of the agreement. A petition for deauthorization of a union security agreement must be filed not more than 90 calendar days after the collective bargaining agreement is executed. Only one such election may be conducted in any appropriate bargaining unit during the term of a collective bargaining agreement between a public employer and the recognized or certified bargaining representative.]

[(11) “Final offer” means the proposed contract language and cost summary submitted to the mediator within seven days of the declaration of impasse.

[(12) “Labor dispute” means any controversy concerning employment relations or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or
conditions of employment relations, regardless of whether the disputants stand in the proximate relation of employer and employee.

[(13)] (12) “Labor organization” means any organization that has as one of its purposes representing employees in their employment relations with public employers.

[(14)] (13) “Last best offer package” means the offer exchanged by parties not less than 14 days prior to the date scheduled for an interest arbitration hearing.

[(15)] (14) “Legislative body” means the Legislative Assembly, the city council, the county commission and any other board or commission empowered to levy taxes.

[(16)] (15) “Managerial employee” means an employee of the State of Oregon or a public university listed in ORS 352.002 who possesses authority to formulate and carry out management decisions or who represents management’s interest by taking or effectively recommending discretionary actions that control or implement employer policy, and who has discretion in the performance of these management responsibilities beyond the routine discharge of duties. A “managerial employee” need not act in a supervisory capacity in relation to other employees. Notwithstanding this subsection, “managerial employee” does not include faculty members at a community college, college or university.

[(17)] (16) “Mediation” means assistance by an impartial third party in reconciling a labor dispute between the public employer and the exclusive representative regarding employment relations.

[(18) “Payment-in-lieu-of-dues” means an assessment to defray the cost for services by the exclusive representative in negotiations and contract administration of all persons in an appropriate bargaining unit who are not members of the organization serving as exclusive representative of the employees. The payment must be equivalent to regular union dues and assessments, if any, or must be an amount agreed upon by the public employer and the exclusive representative of the employees.]
“Public employee” means an employee of a public employer but
does not include elected officials, persons appointed to serve on boards or
commissions, incarcerated persons working under [section 41,] Article I,
section 41, of the Oregon Constitution, or persons who are confidential em-
ployees, supervisory employees or managerial employees.

“Public employer” means the State of Oregon, and the following
political subdivisions: Cities, counties, community colleges, school districts,
special districts, mass transit districts, metropolitan service districts, public
service corporations or municipal corporations and public and quasi-public
corporations.

“Public employer representative” includes any individual or
individuals specifically designated by the public employer to act in its in-
terests in all matters dealing with employee representation, collective bar-
gaining and related issues.

“Strike” means a public employee’s refusal in concerted action
with others to report for duty, or his or her willful absence from his or her
position, or his or her stoppage of work, or his or her absence in whole or
in part from the full, faithful or proper performance of his or her duties of
employment, for the purpose of inducing, influencing or coercing a change
in the conditions, compensation, rights, privileges or obligations of public
employment; however, nothing shall limit or impair the right of any public
employee to lawfully express or communicate a complaint or opinion on any
matter related to the conditions of employment.

“Supervisory employee” means any individual having au-

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gaining agreement does not thereafter prevent assertion of supervisory status in any subsequent board proceeding or contract negotiation.

(b) “Supervisory employee” includes a faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who:

(A) Is employed as a president, vice president, provost, vice provost, dean, associate dean, assistant dean, head or equivalent position; or

(B) Is employed in an administrative position without a reasonable expectation of teaching, research or other scholarly accomplishments.

(c) “Supervisory employee” does not include:

(A) A nurse, charge nurse or nurse holding a similar position if that position has not traditionally been classified as supervisory;

(B) A firefighter prohibited from striking by ORS 243.736 who assigns, transfers or directs the work of other employees but does not have the authority to hire, discharge or impose economic discipline on those employees; or

(C) A faculty member of a public university listed in ORS 352.002 or the Oregon Health and Science University who is not a faculty member described in paragraph (b) of this subsection.

[(24)] (22) “Unfair labor practice” means the commission of an act designated an unfair labor practice in ORS 243.672.

[(25)] (23) “Voluntary arbitration” means the procedure whereby parties involved in a labor dispute mutually agree to submit their differences to a third party for a final and binding decision.

SECTION 2. ORS 243.666 is amended to read:

243.666. (1) A labor organization certified by the Employment Relations Board or recognized by the public employer is the exclusive representative of the employees of a public employer for the purposes of collective bargaining with respect to employment relations. [Nevertheless any agreements entered into involving union security including an all-union agreement or agency shop agreement must safeguard the rights of nonassociation of employees, based on bona fide religious tenets or teachings of a church or religious]
body of which such employee is a member. Such employee shall pay an amount
of money equivalent to regular union dues and initiation fees and assessments,
if any, to a nonreligious charity or to another charitable organization mutually
agreed upon by the employee affected and the representative of the labor or-
ganization to which such employee would otherwise be required to pay dues.
The employee shall furnish written proof to the employer of the employee that
this has been done.]

(2) Notwithstanding the provisions of subsection (1) of this section, an
individual employee or group of employees at any time may present griev-
ances to their employer and have such grievances adjusted, without the
intervention of the labor organization, if:

(a) The adjustment is not inconsistent with the terms of a collective
bargaining contract or agreement then in effect; and

(b) The labor organization has been given opportunity to be present at the
adjustment.

(3) Nothing in this section prevents a public employer from recognizing
a labor organization which represents at least a majority of employees as the
exclusive representative of the employees of a public employer when the
board has not designated the appropriate bargaining unit or when the board
has not certified an exclusive representative in accordance with ORS 243.686.

SECTION 3. ORS 243.672 is amended to read:

243.672. (1) It is an unfair labor practice for a public employer or its
designated representative to do any of the following:

(a) Interfere with, restrain or coerce employees in or because of the ex-
ercise of rights guaranteed in ORS 243.662.

(b) Dominate, interfere with or assist in the formation, existence or ad-
ministration of any employee organization.

(c) Discriminate in regard to hiring, tenure or any terms or condition of
employment for the purpose of encouraging or discouraging membership in
an employee organization. [Nothing in this section is intended to prohibit the
entering into of a fair-share agreement between a public employer and the ex-
exclusive bargaining representative of its employees. If a “fair-share” agreement has been agreed to by the public employer and exclusive representative, nothing prohibits the deduction of the payment-in-lieu-of-dues from the salaries or wages of the employees.]

(d) Discharge or otherwise discriminate against an employee because the employee has signed or filed an affidavit, petition or complaint or has given information or testimony under ORS 243.650 to 243.782.

(e) Refuse to bargain collectively in good faith with the exclusive representative.

(f) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

(g) Violate the provisions of any written contract with respect to employment relations including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept arbitration awards as final and binding upon them.

(h) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.

(i) Violate ORS 243.670 (2).

(2) Subject to the limitations set forth in this subsection, it is an unfair labor practice for a public employee or for a labor organization or its designated representative to do any of the following:

(a) Interfere with, restrain or coerce any employee in or because of the exercise of any right guaranteed under ORS 243.650 to 243.782.

(b) Refuse to bargain collectively in good faith with the public employer if the labor organization is an exclusive representative.

(c) Refuse or fail to comply with any provision of ORS 243.650 to 243.782.

(d) Violate the provisions of any written contract with respect to employment relations, including an agreement to arbitrate or to accept the terms of an arbitration award, where previously the parties have agreed to accept arbitration awards as final and binding upon them.

(e) Refuse to reduce an agreement, reached as a result of collective bargaining, to writing and sign the resulting contract.
It is an unfair labor practice for any labor organization to engage in unconventional strike activity not protected for private sector employees under the National Labor Relations Act on June 6, 1995. This provision applies to sitdown, slowdown, rolling, intermittent or on-and-off again strikes.

It is an unfair labor practice for a labor organization or its agents to picket or cause, induce, or encourage to be picketed, or threaten to engage in such activity, at the residence or business premises of any individual who is a member of the governing body of a public employer, with respect to a dispute over a collective bargaining agreement or negotiations over employment relations, if an objective or effect of such picketing is to induce another person to cease doing business with the governing body member's business or to cease handling, transporting or dealing in goods or services produced at the governing body's business. For purposes of this subsection, a member of the Legislative Assembly is a member of the governing body of a public employer when the collective bargaining negotiation or dispute is between the State of Oregon and a labor organization. The Governor and other statewide elected officials are not considered members of a governing body for purposes of this subsection.

Nothing in this subsection may be interpreted or applied in a manner that violates the right of free speech and assembly as protected by the Constitution of the United States or the Constitution of the State of Oregon.

An injured party may file a written complaint with the Employment Relations Board not later than 180 days following the occurrence of an unfair labor practice. For each unfair labor practice complaint filed, a fee of $300 is imposed. For each answer to an unfair labor practice complaint filed with the board, a fee of $300 is imposed. The board may allow any other person to intervene in the proceeding and to present testimony. A person allowed to intervene shall pay a fee of $300 to the board. The board may, in its discretion, order fee reimbursement to the prevailing party in any case.
in which the complaint or answer is found to have been frivolous or filed in
bad faith. The board shall deposit fees received under this section to the
credit of the Employment Relations Board Administrative Account.

SECTION 4. ORS 292.055 is amended to read:

292.055. (1) Upon receipt of the request in writing of a state officer or
employee so to do, the state official authorized to disburse funds in payment
of the salary or wages of such state officer or employee each month shall
deduct from the salary or wages of such officer or employee the amount of
money indicated in such request, for payment thereof to a labor organization
as the same is defined in ORS 243.650.

(2) Such state official each month shall pay such amount so deducted to
any such labor organization so designated to receive it.

(3) Unless there is a contract to the contrary, upon receipt of the request
in writing of such officer or employee so to do, such state official shall cease
making such deductions and payments.

(4) In addition to making such deductions and payments to any labor or-
ganization certified under the rules of the Employment Relations Board as
representatives of employees in a bargaining unit, any department, board,
commission, bureau, institution or other agency of the state shall make de-
ductions for and payments to noncertified, yet bona fide, labor organizations,
if requested to do so by officers and employees in that department, board,
commission, bureau, institution, or other state agency, and for so long as the
requests are not revoked. No deductions for and payments to any labor or-
ganization under this section shall be deemed an unfair labor practice under
ORS 243.672.

(5) Upon receipt from the Oregon Department of Administrative Services
of a copy of a valid fair-share agreement in a collective bargaining unit, the
state official authorized to disburse funds in payment of the salary or wages
of the employees in such unit each month shall deduct from the salary or wages
of the employees covered by the agreement the in-lieu-of-dues payment stated
in the agreement and pay such amount to the labor organization party the
agreement in the same manner as deducted dues are paid to a labor organization. Such deduction and payment shall continue for the life of the agreement.

SECTION 5. ORS 243.676 is amended to read:

243.676. (1) Whenever a written complaint is filed alleging that any person has engaged in or is engaging in any unfair labor practice listed in ORS 243.672 (1) [and (2)] to (4) and 243.752, the Employment Relations Board or its agent shall:

(a) Cause to be served upon such person a copy of the complaint;

(b) Investigate the complaint to determine if a hearing on the unfair labor practice charge is warranted. If the investigation reveals that no issue of fact or law exists, the board may dismiss the complaint; and

(c) Set the matter for hearing if the board finds in its investigation made pursuant to paragraph (b) of this subsection that an issue of fact or law exists. The hearing shall be before the board or an agent of the board not more than 20 days after a copy of the complaint has been served on the person.

(2) Where, as a result of the hearing required pursuant to subsection (1)(c) of this section, the board finds that any person named in the complaint has engaged in or is engaging in any unfair labor practice charged in the complaint, the board shall:

(a) State its findings of fact;

(b) Issue and cause to be served on such person an order that the person cease and desist from the unfair labor practice;

(c) Take such affirmative action, including but not limited to the reinstatement of employees with or without back pay, as necessary to effectuate the purposes of ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290;

(d) Designate the amount and award representation costs, if any, to the prevailing party; and

(e) Designate the amount and award attorney fees, if any, to the prevailing party on appeal, including proceedings for Supreme Court review, of a
board order.

(3) Where the board finds that the person named in the complaint has not engaged in or is not engaging in an unfair labor practice, the board shall:

(a) Issue an order dismissing the complaint; and

(b) Designate the amount and award representation costs, if any, to the prevailing party.

(4)(a) The board may award a civil penalty to any person as a result of an unfair labor practice complaint hearing, in the aggregate amount of up to $1,000 per case, without regard to attorney fees, if:

(A) The complaint has been affirmed pursuant to subsection (2) of this section and the board finds that the person who has committed, or who is engaging, in an unfair labor practice has done so repetitively, knowing that the action taken was an unfair labor practice and took the action disregarding this knowledge, or that the action constituting the unfair labor practice was egregious; or

(B) The complaint has been dismissed pursuant to subsection (3) of this section, and that the complaint was frivolously filed, or filed with the intent to harass the other person, or both.

(b) Notwithstanding paragraph (a) of this subsection, if the board finds that a public employer named in the complaint violated ORS 243.670 (2), the board shall impose a civil penalty equal to triple the amount of funds the public employer expended to assist, promote or deter union organizing.

(5) As used in subsections (1) to (4) of this section, “person” includes but is not limited to individuals, labor organizations, associations and public employers.

SECTION 6. ORS 243.682 is amended to read:

243.682. (1) If a question of representation exists, the Employment Relations Board shall:

(a) Upon application of a public employer, a public employee or a labor organization, designate the appropriate bargaining unit, and in making its determination shall consider such factors as community of interest, wages,
hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. The board may determine a unit to be the appropriate unit in a particular case even though some other unit might also be appropriate. Unless a labor organization and a public employer agree otherwise, the board may not designate as appropriate a bargaining unit that includes:

(A) A faculty member described in ORS 243.650 [(23)(c)(C)] (21)(c)(C) who supervises one or more other faculty members; and

(B) Any faculty member who is supervised by a faculty member described in subparagraph (A) of this paragraph.

(b) Investigate and conduct a hearing on a petition that has been filed by:

(A) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit desire to be represented for collective bargaining by an exclusive representative;

(B) A labor organization alleging that 30 percent of the employees in an appropriate bargaining unit assert that the designated exclusive representative is no longer the representative of the majority of the employees in the unit;

(C) A public employer alleging that one or more labor organizations has presented a claim to the public employer requesting recognition as the exclusive representative in an appropriate bargaining unit; or

(D) An employee or group of employees alleging that 30 percent of the employees assert that the designated exclusive representative is no longer the representative of the majority of employees in the unit.

(2)(a) Notwithstanding subsection (1) of this section, when an employee, group of employees or labor organization acting on behalf of the employees files a petition alleging that a majority of employees in a unit appropriate for the purpose of collective bargaining wish to be represented by a labor organization for that purpose, or when a labor organization files a petition alleging that the majority in a group of unrepresented employees seek to be

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added to an existing bargaining unit, the board shall investigate the petition. If the board finds that a majority of the employees in a unit appropriate for bargaining or a majority of employees in a group of unrepresented employees that is appropriate to add to an existing bargaining unit have signed authorizations designating the labor organization specified in the petition as the employees’ bargaining representative and that no other labor organization is currently certified or recognized as the exclusive representative of any of the employees in the unit or in the group of unrepresented employees seeking to be added to an existing bargaining unit, the board may not conduct an election but shall certify the labor organization as the exclusive representative unless a petition for a representation election is filed as provided in subsection (3) of this section.

(b) The board by rule shall develop guidelines and procedures for the designation by employees of a bargaining representative in the manner described in paragraph (a) of this subsection. The guidelines and procedures must include:

(A) Model collective bargaining authorization language that may be used for purposes of making the designations described in paragraph (a) of this subsection;

(B) Procedures to be used by the board to establish the authenticity of signed authorizations designating bargaining representatives;

(C) Procedures to be used by the board to notify affected employees of the filing of a petition requesting certification under subsection (3) of this section;

(D) Procedures for filing a petition to request a representation election, including a timeline of not more than 14 days after notice has been delivered to the affected employees of a petition filed under paragraph (a) of this subsection; and

(E) Procedures for expedited resolution of any dispute about the scope of the appropriate bargaining unit. The resolution of the dispute may occur after an election is conducted.
(c) Solicitation and rescission of a signed authorization designating bargaining representatives are subject to the provisions of ORS 243.672.

(3)(a) Notwithstanding subsection (2) of this section, when a petition requesting certification has been filed under subsection (2) of this section, an employee or a group of employees in the unit designated by the petition, or one or more of the unrepresented employees seeking to be added to an existing bargaining unit, may file a petition with the board to request that a representation election be conducted.

(b) The petition requesting a representation election must be supported by at least 30 percent of the employees in the bargaining unit designated by the petition, or 30 percent of the unrepresented employees seeking to be added to an existing bargaining unit.

(c) The representation election shall be conducted on-site or by mail not later than 45 days after the date on which the petition was filed.

(4) Except as provided in ORS 243.692, if the board finds in a hearing conducted pursuant to subsection (1)(b) of this section that a question of representation exists, the board shall conduct an election by secret ballot, at a time and place convenient for the employees of the jurisdiction and also within a reasonable period of time after the filing has taken place, and certify the results of the election.

SECTION 7. ORS 243.726 is amended to read:

243.726. (1) Participation in a strike shall be unlawful for any public employee who is not included in an appropriate bargaining unit for which an exclusive representative has been certified by the Employment Relations Board or recognized by the employer; or is included in an appropriate bargaining unit that provides for resolution of a labor dispute by petition to final and binding arbitration; or when the strike is not made lawful under ORS 240.060, 240.065, 240.080, 240.123, 243.650 to 243.782, 292.055 and 341.290.

(2) It shall be lawful for a public employee who is not prohibited from striking under subsection (1) of this section and who is in the appropriate bargaining unit involved in a labor dispute to participate in a strike over
mandatory subjects of bargaining provided:

(a) The requirements of ORS 243.712 and 243.722 relating to the resolution of labor disputes have been complied with in good faith;

(b) Thirty days have elapsed since the board has made public the fact finder’s findings of fact and recommendations or the mediator has made public the parties’ final offers;

(c) The exclusive representative has given 10 days’ notice by certified mail of its intent to strike and stating the reasons for its intent to strike to the board and the public employer;

(d) The collective bargaining agreement has expired, or the labor dispute arises pursuant to a reopener provision in a collective bargaining agreement or renegotiation under ORS 243.702 (1) or renegotiation under ORS 243.698; and

(e) The union’s strike does not include unconventional strike activity not protected under the National Labor Relations Act on June 6, 1995, and does not constitute an unfair labor practice under ORS 243.672 [(2)(f)] (3).

(3)(a) Where the strike occurring or is about to occur creates a clear and present danger or threat to the health, safety or welfare of the public, the public employer concerned may petition the circuit court of the county in which the strike has taken place or is to take place for equitable relief including but not limited to appropriate injunctive relief.

(b) If the strike is a strike of state employees the petition shall be filed in the Circuit Court of Marion County.

(c) If, after hearing, the court finds that the strike creates a clear and present danger or threat to the health, safety or welfare of the public, it shall grant appropriate relief. Such relief shall include an order that the labor dispute be submitted to final and binding arbitration within 10 days of the court’s order pursuant to procedures in ORS 243.746.

(4)(a) A labor organization may not declare or authorize a strike of public employees that is or would be in violation of this section. When it is alleged in good faith by the public employer that a labor organization has declared
or authorized a strike of public employees that is or would be in violation of this section, the employer may petition the board for a declaration that the strike is or would be unlawful. The board, after conducting an investigation and hearing, may make such declaration if it finds that such declaration or authorization of a strike is or would be unlawful.

(b) When a labor organization or individual disobey a strike order of the appropriate circuit court issued pursuant to enforcing an order of the board involving this section and ORS 243.736 or 243.738, they shall be punished according to the provisions of ORS 33.015 to 33.155, except that the amount of the fine shall be at the discretion of the court.

(5) An unfair labor practice by a public employer shall not be a defense to a prohibited strike. The board upon the filing of an unfair labor charge alleging that a public employer has committed an unfair labor practice during or arising out of the collective bargaining procedures set forth in ORS 243.712 and 243.722, shall take immediate action on such charge and if required, petition the court of competent jurisdiction for appropriate relief or a restraining order.

(6) As used in this section, “danger or threat to the health, safety or welfare of the public” does not include an economic or financial inconvenience to the public or to the public employer that is normally incident to a strike by public employees.

SECTION 8. ORS 329A.430 is amended to read:

329A.430. (1) As used in this section:

(a) “Certified family child care provider” means an individual who operates a family child care home that is certified under ORS 329A.280.

(b) “Child care subsidy” means a payment made by the state on behalf of eligible children for child care services provided for periods of less than 24 hours in a day.

(c) “Exempt family child care provider” means an individual who provides child care services in the home of the individual or in the home of the child, whose services are not required to be certified or registered under ORS 329A.280.
329A.250 to 329A.450 and who receives a child care subsidy.

(d) “Family child care provider” means an individual who is a certified, registered or exempt family child care provider.

(e) “Registered family child care provider” means an individual who operates a family child care home that is registered under ORS 329A.330.

(2) For purposes of collective bargaining under ORS 243.650 to 243.782, the State of Oregon is the public employer of record of family child care providers.

(3) Notwithstanding ORS 243.650 [(19)] (17), family child care providers are considered to be public employees governed by ORS 243.650 to 243.782. Family child care providers have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining on matters concerning labor relations. These rights shall be exercised in accordance with the rights granted to public employees, with mediation and interest arbitration under ORS 243.742 as the method of concluding the collective bargaining process. Family child care providers may not strike.

(4) Notwithstanding subsections (2) and (3) of this section, family child care providers are not for any other purpose employees of the State of Oregon or any other public body.

(5) The Oregon Department of Administrative Services shall represent the State of Oregon in collective bargaining negotiations with the certified or recognized exclusive representatives of all appropriate bargaining units of family child care providers. The Oregon Department of Administrative Services is authorized to agree to terms and conditions of collective bargaining agreements on behalf of the State of Oregon.

(6) Notwithstanding ORS 243.650 (1):

(a) The appropriate bargaining unit for certified and registered family child care providers is a bargaining unit of all certified and registered family child care providers in the state.

(b) The appropriate bargaining unit for exempt family child care providers
is a bargaining unit of all exempt family child care providers in the state.

(7) This section does not modify any right of a parent or legal guardian
to choose and terminate the services of a family child care provider.

**SECTION 9.** ORS 410.614 is amended to read:

410.614. (1) Notwithstanding ORS 243.650 [(19)] (17) and [(20)] (18), the Home Care Commission shall be considered a public employer and home care workers shall be considered public employees governed by ORS 243.650 to 243.782.

(2) Home care workers have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with the commission on matters concerning employment relations. These rights shall be exercised in accordance with the rights granted to public employees with mediation and interest arbitration under ORS 243.742 as the method of concluding the collective bargaining process.

(3) Home care workers are not public employees with respect to the Public Employees Retirement System, the Oregon Public Service Retirement Plan or the Public Employees' Benefit Board.

(4) Home care workers do not have the right to strike.

**SECTION 10.** ORS 410.614, as amended by section 16, chapter 75, Oregon Laws 2018, is amended to read:

410.614. (1) Notwithstanding ORS 243.650 [(19)] (17) and [(20)] (18), the Home Care Commission shall be considered a public employer and home care workers and personal support workers shall be considered public employees governed by ORS 243.650 to 243.782.

(2) Home care workers and personal support workers have the right to form, join and participate in the activities of labor organizations of their own choosing for the purpose of representation and collective bargaining with the commission on matters concerning employment relations. These rights shall be exercised in accordance with the rights granted to public employees with mediation and interest arbitration under ORS 243.742 as the
method of concluding the collective bargaining process.

(3) Home care workers and personal support workers are not public em-
ployees with respect to the Public Employees Retirement System, the Oregon
Public Service Retirement Plan or the Public Employees’ Benefit Board.

(4) Home care workers and personal support workers do not have the
right to strike.

SECTION 11. ORS 443.733 is amended to read:

443.733. (1) As used in this section, “adult foster care home provider”
means a person who operates an adult foster home in the provider’s home
and who receives fees or payments from state funds for providing adult foster
care home services. “Adult foster care home provider” does not include a
person:

(a) Who is a resident manager of an adult foster home who does not
provide adult foster care home services in the resident manager’s own home
or who does not have a controlling interest in, or is not an officer or partner
in, the entity that is the provider of adult foster care home services;

(b) Who is not a natural person; or

(c) Whose participation in collective bargaining is determined by the li-
censing agency to be inconsistent with this section or in violation of state
or federal law.

(2) For purposes of collective bargaining under ORS 243.650 to 243.782, the
State of Oregon is the public employer of record of adult foster care home
providers.

(3) Notwithstanding ORS 243.650 [(19)] (17), adult foster care home pro-
viders are considered to be public employees governed by ORS 243.650 to
243.782. Adult foster care home providers have the right to form, join and
participate in the activities of labor organizations of their own choosing for
the purposes of representation and collective bargaining on matters con-
cerning labor relations. Mandatory subjects of collective bargaining include
but are not limited to provider base rates and add-on payments. These rights
shall be exercised in accordance with the rights granted to public employees,
with mediation and interest arbitration under ORS 243.742 as the method of concluding the collective bargaining process. Adult foster care home providers may not strike.

(4) Notwithstanding subsections (2) and (3) of this section, adult foster care home providers are not for any other purpose employees of the State of Oregon or any other public body.

(5) The Oregon Department of Administrative Services shall represent the State of Oregon in collective bargaining negotiations with the certified or recognized exclusive representative of an appropriate bargaining unit of adult foster care home providers. The Oregon Department of Administrative Services is authorized to agree to terms and conditions of collective bargaining agreements on behalf of the State of Oregon.

(6) Notwithstanding ORS 243.650 (1), an appropriate bargaining unit for adult foster care home providers is any bargaining unit recognized by the Governor in an executive order issued prior to January 1, 2008.

(7) This section does not modify any right of an adult receiving foster care.

SECTION 12. ORS 652.610 is amended to read:

652.610. (1)(a) All persons, firms, partnerships, associations, cooperative associations, corporations, municipal corporations, the state and its political subdivisions, except the federal government and its agencies, employing, in this state, during any calendar month one or more persons, shall provide the employee on regular paydays and at other times payment of wages, salary or commission is made, with an itemized statement as described in paragraph (b) of this subsection.

(b) The statement required under this subsection must be a written statement, sufficiently itemized to show:

(A) The date of the payment;

(B) The dates of work covered by the payment;

(C) The name of the employee;

(D) The name and business registry number or business identification [22]
number;

(E) The address and telephone number of the employer;

(F) The rate or rates of pay;

(G) Whether the employee is paid by the hour, shift, day or week or on a salary, piece or commission basis;

(H) Gross wages;

(I) Net wages;

(J) The amount and purpose of each deduction made during the respective period of service that the payment covers;

(K) Allowances, if any, claimed as part of minimum wage;

(L) Unless the employee is paid on a salary basis and is exempt from overtime compensation as established by local, state or federal law, the regular hourly rate or rates of pay, the overtime rate or rates of pay, the number of regular hours worked and pay for those hours, and the number of overtime hours worked and pay for those hours; and

(M) If the employee is paid a piece rate, the applicable piece rate or rates of pay, the number of pieces completed at each piece rate and the total pay for each rate.

(c) Notwithstanding paragraph (b) of this subsection, the employer may provide the statement required under this subsection to the employee in electronic form pursuant to ORS 84.001 to 84.061 if:

(A) The statement contains the information described in paragraph (b) of this section;

(B) The employee expressly agrees to receive the statement in electronic form; and

(C) The employee has the ability to print or store the statement at the time of receipt.

(2)(a) The statement may be attached to or be a part of the check, draft, voucher or other instrument by which payment is made, or may be delivered separately from the instrument.

(b) The statement shall be provided electronically at the time payment is
made to all state officers and employees paid electronically under the state payroll system as provided by ORS 292.026.

(c) State agencies shall provide access to electronic statements to employees who do not have regular access to computers in their workplace.

(d) Notwithstanding paragraph (b) of this subsection, if an officer or employee paid under the state payroll system as provided by ORS 292.026 wants to receive payment of net salary and wages by check or to receive a paper statement of itemized payroll deductions, the officer or employee shall request paper statements or payment by check in accordance with the procedures adopted by rule by the Oregon Department of Administrative Services.

(3) An employer may not withhold, deduct or divert any portion of an employee's wages unless:

(a) The employer is required to do so by law;

(b) The deductions are voluntarily authorized in writing by the employee, are for the employee's benefit and are recorded in the employer's books;

(c) The employee has voluntarily signed an authorization for a deduction for any other item, provided that the ultimate recipient of the money withheld is not the employer and that the deduction is recorded in the employer's books;

(d) The deduction is authorized by a collective bargaining agreement to which the employer is a party;

(e) The deduction is authorized under ORS 18.736; or

(f) The deduction is made from the payment of wages upon termination of employment and is authorized pursuant to a written agreement between the employee and employer for the repayment of a loan made to the employee by the employer, if all of the following conditions are met:

(A) The employee has voluntarily signed the agreement;

(B) The loan was paid to the employee in cash or other medium permitted by ORS 652.110;

(C) The loan was made solely for the employee’s benefit and was not used, either directly or indirectly, for any purpose required by the employer or
connected with the employee’s employment with the employer;

(D) The amount of the deduction at termination of employment does not exceed the amount permitted to be garnished under ORS 18.385; and

(E) The deduction is recorded in the employer’s books.

(4) When an employer deducts an amount from an employee’s wages as required or authorized by law or agreement, the employer shall pay the amount deducted to the appropriate recipient as required by the law or agreement. The employer shall pay the amount deducted within the time required by the law or the agreement or, if the time for payment is not specified by the law or agreement, within seven days after the date the wages from which the deductions are made are due. Failure to pay the amount as required constitutes an unlawful deduction.

(5) This section does not:

(a) Prohibit the withholding of amounts authorized in writing by the employee to be contributed by the employee to charitable organizations, including contributions made pursuant to ORS [243.666 and] 663.110;

(b) Prohibit deductions by checkoff dues to labor organizations or service fees when the deductions are not otherwise prohibited by law; or

(c) Diminish or enlarge the right of any person to assert and enforce a lawful setoff or counterclaim or to attach, take, reach or apply an employee’s compensation on due legal process.
SUMMARY

Revises and clarifies circumstances in which individuals, including public officials and elected public officials, must register with Oregon Government Ethics Commission and file lobbyist registration statement. Specifically exempts individuals who are not lobbyists and who meet with legislator in personal capacity from requirement to register or file statement.

A BILL FOR AN ACT

Relating to identifying individuals who are required to report as lobbyists; creating new provisions; and amending ORS 171.735 and 171.740.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 171.735 is amended to read:

171.735. (1) Except as provided in subsections (2) and (3) of this section, ORS 171.740 and 171.745 apply to any person who is a lobbyist and who:

(a) Agrees to provide personal services for money or any other consideration for the purpose of lobbying in this state;

(b) Is not subject to paragraph (a) of this subsection, but who provides personal services as a representative of a corporation, association, organization or other group for the purpose of lobbying in this state and who:

(A) Receives compensation as defined in ORS 292.951, money or any other consideration, for lobbying;

(B) Spends an aggregate amount of more than 24 hours lobbying in a calendar quarter; or

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(C) Spends an aggregate amount of more than $100 lobbying during a calendar quarter; or

(c) Is also a public official serving a public body as defined in ORS 174.109 and who:

(A) Holds a position with a written job description that includes lobbying;

(B) Spends an aggregate amount of more than 24 hours lobbying in a calendar quarter; or

(C) Spends an aggregate amount of more than $100 lobbying during a calendar quarter.

(2) In determining whether the criteria set forth in subsection (1)(b)(A), (1)(b)(C) or (1)(c)(C) of this section have been satisfied, the reimbursement or amounts expended for personal living and travel expenses and office overhead, including salaries and wages paid for staff and secretarial assistance and maintenance expenses, shall be excluded.

(3) ORS 171.740 and 171.745 do not apply to the following persons:

[(1)] (a) News media, or their employees or agents, that in the ordinary course of business directly or indirectly urge legislative action but that engage in no other activities in connection with the legislative action.

[(2)] (b) Any legislative official acting in an official capacity.

[(3)] (c) Any person who is not a lobbyist, including an individual who does not receive compensation or reimbursement of expenses for lobbying, who meets with a member of the Legislative Assembly in a personal capacity or who limits lobbying activities solely to formal appearances to give testimony before public sessions of committees of the Legislative Assembly, or public hearings of state agencies, and who, when testifying, registers an appearance in the records of the committees or agencies.

[(4) A person who does not:]

[(a) Agree to provide personal services for money or any other consideration for the purpose of lobbying:]
(b) Spend more than an aggregate amount of 24 hours during any calendar quarter lobbying; and

(c) Spend an aggregate amount in excess of $100 lobbying during any calendar quarter.

(d) The Governor, chief of staff for the Governor, deputy chief of staff for the Governor, legal counsel to the Governor, deputy legal counsel to the Governor, Secretary of State, Deputy Secretary of State appointed pursuant to ORS 177.040, State Treasurer, Deputy State Treasurer appointed pursuant to ORS 178.060, chief of staff for the office of the State Treasurer, Attorney General, Deputy Attorney General appointed pursuant to ORS 180.130, Deputy Superintendent of Public Instruction appointed pursuant to ORS 326.300, Commissioner of the Bureau of Labor and Industries, deputy commissioner of the Bureau of Labor and Industries appointed pursuant to ORS 651.060, members and staff of the Oregon Law Commission who conduct the law revision program of the commission or any judge.

(e) A public official serving in an elected office:

(A) Who is elected or appointed to serve a:

(i) Local government;

(ii) Local service district as defined in ORS 174.116; or

(iii) Special government body as defined in ORS 174.117; and

(B) Whose lobbying activities are limited to lobbying in the public official’s official capacity in an elected office.

(f) A representative of a corporation, association, organization or other group whose responsibilities are limited to supervising lobbying activities of the corporation, association, organization or other group in this state or other states, but who does not spend an aggregate amount of more than 24 hours lobbying in this state during a calendar quarter.

SECTION 2. ORS 171.740 is amended to read:

171.740. (1) Within three business days [after exceeding the limit of time or expenditure specified in ORS 171.735 (4), or within three business days after
agreeing to provide personal services for money or any other consideration for the purpose of lobbying,] of meeting the requirements in ORS 171.735 (1), a lobbyist who is not exempt from filing a statement under ORS 171.735 (3) shall register with the Oregon Government Ethics Commission by filing with the commission a statement containing the following information:

(a) The name, address, electronic mail address and telephone number of the lobbyist.

(b) The name, address, electronic mail address and telephone number of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(c) A general description of the trade, business, profession or area of endeavor of any person designated under paragraph (b) of this subsection, and a statement by the person that the lobbyist is officially authorized to lobby for the person.

(d) The name of any member of the Legislative Assembly employed, retained or otherwise compensated by:

(A) The lobbyist designated under paragraph (a) of this subsection; or

(B) A person designated under paragraph (b) of this subsection.

(e) The general subject or subjects of the legislative action of interest to the person for whom the lobbyist is registered.

(2)(a) Not later than 10 calendar days after a lobbyist files a registration statement under this section, the designation of official authorization to lobby shall be signed by an official of each person that employs the lobbyist or in whose interest the lobbyist appears or works.

(b) A lobbyist may unilaterally withdraw a registration statement filed under this section not more than one time per calendar year for each person designated under subsection (1)(b) of this section if the withdrawal is made:

(A) Before the designation of official authorization to lobby has been signed in the manner required under paragraph (a) of this subsection; and

(B) No more than 10 calendar days after the lobbyist filed the registration statement.
(3) A lobbyist must file a separate registration statement under subsection (1) of this section for each person that employs the lobbyist or in whose interest the lobbyist appears or works. If a lobbyist appears or works for a person for whom the lobbyist has not registered, the lobbyist shall register with the commission not later than three business days after the day the lobbyist first appears or works for the person.

(4)(a) Except as provided in paragraph (b) of this subsection, if any of the information submitted by a lobbyist in the statement required under subsection (1) of this section changes, the lobbyist shall revise the statement within 30 days of the change.

(b) A lobbyist shall notify the commission within three business days if the lobbyist ceases to represent a person for whom the lobbyist is registered. Notification must be made by updating the registration statement required under subsection (1) of this section.

(5) A lobbyist registration expires December 31 of each odd-numbered year. If a lobbyist renews the registration before January 31 of the following even-numbered year, the commission shall consider the registration to have been effective as of December 31 of the odd-numbered year on which the registration expired.

(6) For the statement required by subsection (1) of this section, an entity composed of more than one lobbyist may file one statement for the lobbyists who compose the entity. The statement the entity files must include the names of the individuals authorized to lobby on behalf of the client listed in the statement.

SECTION 3. The amendments to ORS 171.735 and 171.740 by sections 1 and 2 of this 2019 Act first apply to lobbying, the registration of lobbyists and the filing of lobbyist registration statements and updates or revisions to lobbyist registration statements that occur on or after the effective date of this 2019 Act.
SUMMARY

Permits court to withhold award all or part of attorney fees to person who prevails against Oregon Government Ethics Commission in contested case proceeding if court finds that commission’s action was substantially justified or that special circumstances exist.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to payment of attorney fees in contested cases involving the Oregon Government Ethics Commission; creating new provisions; amending ORS 244.400; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 244.400 is amended to read:

244.400. (1) A person who prevails following a contested case hearing under this chapter or ORS 171.778 [shall] may be awarded reasonable attorney fees at the conclusion of the contested case or on appeal.

(2) Upon prevailing following a contested case hearing [or lawsuit], the person may petition the Marion County Circuit Court for the purpose of determining the award of reasonable attorney fees. The Oregon Government Ethics Commission shall be named as a respondent in the petition. The petitioner and respondent shall follow the procedure provided in ORCP 68 for the determination of reasonable attorney fees. The court:

(a) Shall allow the petitioner reasonable attorney fees and costs if the court finds in favor of the petitioner and determines that the commission acted without a reasonable basis in fact or in law.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(b) May withhold all or part of the attorney fees from any allowance to a petitioner if the court finds that the commission has proved that its action was substantially justified or that special circumstances exist that make the allowance of all or part of the attorney fees unjust.

(c) Shall give precedence on its docket to petitions filed under this subsection as the circumstances may require.

(3) An appellate court [shall] may award reasonable attorney fees to the person if the person prevails on appeal from any decision of the commission. The appellate court shall allow the person reasonable attorney fees and costs if the court finds in favor of the person and determines that the commission acted without a reasonable basis in fact or in law. The appellate court may withhold all or part of the attorney fees from any allowance to a person if the court finds that the commission has proved that its action was substantially justified or that special circumstances exist that make the allowance of all or part of the attorney fees unjust.

(4) Attorney fees to be awarded under this section shall be only those fees incurred by the person from the time the commission notifies the person that it has entered an order to move to a contested case proceeding.

(5) Any attorney fees awarded to the person pursuant to this section shall be paid from funds available to the commission [by the commission from moneys appropriated or allocated to the commission from the General Fund].

SECTION 2. The amendments to ORS 244.400 by section 1 of this 2019 Act apply to attorney fees awarded for contested case proceedings that begin on or after the effective date of this 2019 Act.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Permits Oregon Government Ethics Commission to issue commission advisory opinions, staff advisory opinions and written or oral advice on interpretation of lobbying laws.

A BILL FOR AN ACT

Relating to Oregon Government Ethics Commission advice on interpretation of lobbying laws; creating new provisions; and amending ORS 171.776.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 4 of this 2019 Act are added to and made a part of ORS 171.725 to 171.785.

SECTION 2. (1) Upon the written request of any person, or upon its own motion, the Oregon Government Ethics Commission, under signature of the chairperson, may issue and publish written commission advisory opinions on the application of any provision of ORS 171.725 to 171.785 to any proposed transaction or action or any actual or hypothetical circumstance. A commission advisory opinion, and a decision by the commission to issue an advisory opinion on its own motion, must be approved by a majority of the members of the commission. Legal counsel to the commission shall review a proposed commission advisory opinion before the opinion is considered by the commission.

(2) Not later than 60 days after the date the commission receives the written request for a commission advisory opinion, the commission shall issue either the opinion or a written denial of the request.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
The written denial shall explain the reasons for the denial. The commission may ask the person requesting the advisory opinion to supply additional information the commission considers necessary to render the opinion. The commission, by vote of a majority of the members of the commission, may extend the 60-day deadline by one period not to exceed 60 days.

(3) Except as provided in this subsection, unless the commission advisory opinion is revised or revoked, the commission may not impose a penalty under ORS 171.992 on a person for any good faith action the person takes in reliance on an advisory opinion issued under this section. The commission may impose a penalty under ORS 171.992 on the person who requested the advisory opinion if the commission determines that the person omitted or misstated material facts in making the request.

SECTION 3. (1) Upon the written request of any person, the executive director of the Oregon Government Ethics Commission may issue and publish written staff advisory opinions on the application of any provision of ORS 171.725 to 171.785 to any proposed transaction or action or any actual or hypothetical circumstance.

(2) Not later than 30 days after the date the executive director receives the written request for a staff advisory opinion, the executive director shall issue either the opinion or a written denial of the request. The written denial shall explain the reasons for the denial. The executive director may ask the person requesting the advisory opinion to supply additional information the executive director considers necessary to render the opinion. The executive director may extend the 30-day deadline by one period not to exceed 30 days. The executive director shall clearly designate an opinion issued under this section as a staff advisory opinion.

(3)(a) Except as provided in paragraph (b) of this subsection, unless the staff advisory opinion is revised or revoked, the commission may
only issue a written letter of reprimand, explanation or education for any good faith action a person takes in reliance on a staff advisory opinion issued under this section.

(b) The commission may impose, for an action that is subject to a penalty and that is taken in reliance on a staff advisory opinion issued under this section, a penalty under ORS 171.992 on the person who requested the opinion if the commission determines that the person omitted or misstated material facts in making the request.

(4) At each regular meeting of the commission, the executive director shall report to the commission on all staff advisory opinions issued since the last regular meeting of the commission. The commission on its own motion may issue a commission advisory opinion under section 2 of this 2019 Act on the same facts or circumstances that form the basis for any staff advisory opinion.

SECTION 4. (1) Upon the written or oral request of any person, the executive director or other staff of the Oregon Government Ethics Commission may issue written or oral staff advice on the application of any provision of ORS 171.725 to 171.785 to any proposed transaction or action or any actual or hypothetical circumstance. Any written advice not designated as a staff advisory opinion under section 3 of this 2019 Act is considered staff advice issued under this section.

(2) Before imposing any penalty under ORS 171.992, the commission may consider whether the action that may be subject to penalty was taken in reliance on staff advice issued under this section.

SECTION 5. ORS 171.776 is amended to read:

171.776. [(1)] In addition to the duties prescribed in ORS 171.772, the Oregon Government Ethics Commission may make inquiries or investigations in the manner prescribed in ORS 171.778 with respect to registrations, statements and reports filed under ORS 171.725 to 171.785, and with respect to any alleged failure to register or to file any statements or reports required under ORS 171.725 to 171.785, and upon signed complaint by any individual
or on its own instigation, with respect to apparent violation of any part of
ORS 171.725 to 171.785.

[(2) Upon written request of any lobbyist, lobbyist employer or any person,
or upon its own motion, the commission, under signature of the chairperson,
may issue and publish opinions on the requirements of ORS 171.725 to 171.785,
based on actual or hypothetical circumstances.]

[(3) If any lobbyist or lobbyist employer associated with the lobbyist is in
doubt whether a proposed transaction or action constitutes a violation of ORS
171.725 to 171.785, the lobbyist or lobbyist employer may request in writing a
determination from the commission. The requester shall supply such informa-
tion as the commission requests to enable it to issue the interpretation.]

[(4) A lobbyist or lobbyist employer associated with the lobbyist shall not
be liable under ORS 171.725 to 171.785 for any action or transaction carried
out in accordance with an advisory interpretation issued under subsection (3)
of this section. Such an advisory interpretation shall be considered a formal
opinion having precedential effect and shall be subject to review by legal
counsel to the commission before the interpretation is sent to the requester.]

SECTION 6. Sections 1 to 4 of this 2019 Act and the amendments
to ORS 171.776 by section 5 of this 2019 Act apply to requests for advice
or opinions on the application of ORS 171.725 to 171.785 that are made
on or after the effective date of this 2019 Act.
SUMMARY

Extends privilege taxes on merchantable forest products harvested on forestlands.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to forest products harvest taxation; amending ORS 321.015; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 321.015 is amended to read:

321.015. (1) For the calendar years beginning January 1, [2018] 2020, and January 1, [2019] 2021, there is levied a privilege tax of [90.00] ______ cents per thousand feet, board measure, upon taxpayers for the privilege of harvesting of all merchantable forest products harvested on forestlands. Subject to ORS 321.145, the proceeds of the tax shall be transferred as provided in ORS 321.152 (2) to the Forest Research and Experiment Account for use for the forest resource research, experimentation and studies described in ORS 526.215 and for the Forest Research Laboratory established under ORS 526.225.

(2) Except as provided in ORS 477.760, in addition to the tax levied by subsection (1) of this section, there is levied a forest products harvest tax upon taxpayers of 62.5 cents per thousand feet, board measure, for the privilege of harvesting all merchantable forest products harvested on forestlands for the payment of benefits related to fire suppression as provided in ORS 477.760.
321.005 to 321.185, 321.560 to 321.600 and 477.440 to 477.460.

(3) For the calendar years beginning January 1, [2018] 2020, and January 1, [2019] 2021, in addition to the taxes levied under subsections (1) and (2) of this section, there is levied a privilege tax upon taxpayers for the privilege of harvesting all merchantable forest products harvested on forestlands in the amount of [156.61] cents per thousand feet, board measure, for the purpose of administering the Oregon Forest Practices Act in an amount not to exceed 40 percent of the total expenditures approved by the Legislative Assembly for this purpose, including salary adjustments approved by the Legislative Assembly for fiscal years [2018 and 2019] 2020 and 2021.

(4) For the calendar years beginning January 1, [2018] 2020, and January 1, [2019] 2021, in addition to the taxes levied by subsections (1) to (3) of this section, there is levied a privilege tax of [10] cents per thousand feet, board measure, upon taxpayers for the privilege of harvesting all merchantable forest products harvested on forestlands. Subject to ORS 321.145, the proceeds of the tax shall be transferred as provided in ORS 321.152 (5) to the subaccount established pursuant to ORS 350.520 for use by Oregon State University for the purpose of making investments in professional forestry education at the College of Forestry.

(5) Subject to subsection (6) of this section, the taxes shall be measured by and be applicable to each per thousand feet, board measure, on the total quantity of forest products harvested in this state measured by use of any log scale which is or may be in general use in the logging industry and which is designed to measure total volume of merchantable forest products in board feet. However, if the Department of Revenue finds that the scale used by any taxpayer in computing the taxes due under ORS 321.005 to 321.185 and 321.560 to 321.600 does not accurately reflect the total quantity of merchantable forest products harvested by the taxpayer, it may require the taxpayer to adopt another log scale in general use in the industry which in the department’s opinion will accurately reflect merchantable harvest in board feet.
(6) The first 25,000 feet, board measure, of forest products harvested annually by any taxpayer during each calendar year shall be excluded from the total quantity of harvested forest products that constitutes the measure of the taxes under ORS 321.005 to 321.185 and 321.560 to 321.600.

SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Authorizes State Board of Geologist Examiners to adopt rules prescribing continuing education requirements.

A BILL FOR AN ACT

Relating to the State Board of Geologist Examiners; creating new provisions; and amending ORS 672.585 and 672.685.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 672.505 to 672.705.

SECTION 2. (1) The State Board of Geologist Examiners may establish or approve programs of continuing education that contribute to the competency of geologists. The board may charge a fee for the programs of continuing education established by the board.

(2) The board may require completion of a program of continuing education established or approved under this section as a condition for the renewal, restoration or reissuance of a certificate of registration as a geologist issued under ORS 672.585 or 672.685.

(3) The board may adopt rules to carry out the provisions of this section.

SECTION 3. ORS 672.585 is amended to read:

672.585. (1) The State Board of Geologist Examiners shall issue a certificate of registration[, upon payment of the registration fee,] to any applicant who[

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(a) Submits an application to the administrator;
(b) Pays the registration fee established under ORS 672.705; and
(c) In the opinion of the board, has satisfactorily met all the requirements of ORS 672.505 to 672.705.

(2) The issuance of a certificate of registration by the board shall be prima facie evidence that the person named [therein] on the certificate of registration is entitled to all the rights and privileges of a registered geologist, or certified specialty geologist, while the certificate remains unrevoked or unexpired.

[(2)] (3) [All certificates] Each year a person shall renew a certificate of registration [shall be renewed annually at such time as will be] at a time designated by the board. [All applications for renewal shall be filed with the administrator before the expiration date, accompanied by the annual renewal fee.]

(4) A person renewing a certificate of registration shall:
(a) Submit an application to the administrator before the expiration date of the certificate;
(b) Pay the renewal fee established under ORS 672.705; and
(c) Demonstrate compliance with the continuing education requirements established under section 2 of this 2019 Act.

(5) A [license which] certificate of registration that has expired for failure to renew may only be restored after application and payment of the prescribed restoration fee.

[(3)] (6) Reduced annual renewal fees for registrants reaching the age of 70 may be established by action of the board.

[(4)] (7) A new certificate of registration to replace any certificate lost, destroyed, or mutilated, may be issued subject to the rules of the board and payment of the fee.

SECTION 4. ORS 672.685 is amended to read:
672.685. The State Board of Geologist Examiners may reissue a certificate of registration to any person whose certificate has been revoked [upon] if [2]
the person:

(1) Submits a written application to the board [by the applicant,] showing good cause to justify the reissuance[.]; and

(2) Demonstrates compliance with the continuing education requirements established under section 2 of this 2019 Act.
SUMMARY

Authorizes State Board of Geologist Examiners to enter into interagency agreement with another state agency to provide for sharing of administrator.

Permits State Board of Geologist Examiners to determine by rule requirements to receive certification in geology specialty.

A BILL FOR AN ACT

Relating to the State Board of Geologist Examiners; creating new provisions; and amending ORS 672.565 and 672.615.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 672.615 is amended to read:

672.615. (1) The State Board of Geologist Examiners shall operate as a semi-independent state agency subject to ORS 182.456 to 182.472 for the purpose of carrying out ORS 672.505 to 672.705. The board shall consist of four geologists and one public member, appointed by the Governor.

(2) Each member of the board shall be a citizen of the United States, and shall have been a resident of this state for one year preceding appointment. Each of the appointed geologist members of the board shall be a geologist registered under ORS 672.505 to 672.705. The State Geologist shall be an ex officio member of the board. Insofar as possible the board shall be composed of members having diverse geological specialties including at least one engineering geologist.

(3) Members of the board shall hold office until the expiration of the term for which they were appointed and until their successors have been appointed and qualified. On the expiration of the term of any member, the
successor of the member shall be appointed in like manner for a term of three years.

(4) [No person shall] A person may not serve as a member of the board for more than two consecutive three-year terms.

(5) The Governor may remove any member of the board for misconduct, incompetency, neglect of duty or other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment as provided for in this section.

(6) The board shall hold at least two regular meetings each year.

(7) The board [may] shall fix the qualifications of [and appoint] an administrator [who shall].

(8) The board may:

(a) In accordance with ORS 182.468 (1), select and appoint an administrator; or

(b) Notwithstanding ORS 182.468 (1), enter into an interagency agreement with another state agency to provide for the sharing of an administrator.

(9) The administrator may not be a member of the board.

(10) The board shall fix the compensation of the administrator, who shall be in the unclassified service.

(11) The board shall have the authority to appoint committees as required or as considered advisable to perform such duties as the board may direct. Such committees shall be composed of registered geologists. Membership on all such committees is at the pleasure of the board.

SECTION 2. ORS 672.565 is amended to read:

672.565. (1) In addition to registering as a geologist, qualified persons also may be eligible for certification in a specialty. A specialty may be created by the State Board of Geologist Examiners by rule, with the rules to contain any required additional qualifications. Only a registered geologist is eligible for certification in a specialty. Application may be submitted for both registration as a geologist and for certification in a specialty at the same time,
but the applicant must be approved for registration as a geologist before being considered for certification in a specialty.

(2) An applicant for certification in a specialty shall meet all of the requirements of a registered geologist and any special requirements as the board may establish by rule, including a written examination. [In addition, the applicant’s seven years of geological work shall include one of the following:]

[(a) A minimum of three years performed under the supervision of a registered geologist who is certified in the specialty for which the applicant is seeking certification; or]

[(b) A minimum of five years’ experience in responsible charge of geological work in the specialty for which the applicant is seeking certification.]

(3) The board [shall] may establish professional affairs committees, as needed, to represent each of the specialties into which the board determines certification of registration may be divided. Membership of each committee shall include geologists certified or qualified in the particular specialty involved. Each committee [shall] may:

(a) Establish qualifications, which shall include a written examination, for certification in its specialty;

(b) Establish a definition description of the practice of that specialty, subject to approval of the board; and

(c) Advise the board on professional affairs in which the committee is concerned.

(4) Engineering geology shall be one of the specialties requiring certification.

(5) The board may establish by rule criteria for exempting persons applying for a certification in a specialty from a written examination requirement.

SECTION 3. The amendments to ORS 672.565 by section 2 of this 2019 Act apply to applications for certifications in a specialty received by the State Board of Geologist Examiners on or after the effective
date of this 2019 Act. Applications received before the effective date of this 2019 Act shall continue to be governed by the law applicable to applications for certifications in a specialty in effect immediately before the effective date of this 2019 Act.
SUMMARY

Establishes Workforce Housing Accelerator Program within Housing and Community Services Department. Requires program to assist local government efforts to increase workforce housing through technical assistance and direct funding.

Establishes Greater Oregon Housing Account within Oregon Housing Fund to fund program.

A BILL FOR AN ACT

Relating to workforce housing; creating new provisions; and amending ORS 458.610 and 458.620.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 458.600 to 458.665.

SECTION 2. (1) As used in this section:

(a) “Eligible employer” means a private employer for which a lack of available housing has impeded the employer’s ability to recruit, hire and retain employees.

(b) “Workforce housing” means housing for low or moderate income households that are located not more than 20 miles from an eligible employer.

(2) There is established the Greater Oregon Housing Accelerator Program in the Housing and Community Services Department.

(3) Through the program, the department may provide financial or technical assistance to further:

(a) The acquisition, construction, redevelopment or rehabilitation

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
of workforce housing;
(b) The creation and implementation of policies and programs promoting the development, protection and maintenance of workforce housing;
(c) The acquisition of additional land and public infrastructure to support workforce housing;
(d) Employer-assisted housing programs supporting workforce housing;
(e) The collection and assessment of housing and economic data; and
(f) The connection of employers, developers, property owners and landlords with local communities and housing development partners, including public housing authorities, community development corporations, community action agencies, tribal organizations and housing agencies, nonprofit corporations and private developers that support workforce housing.

(4) The department shall adopt rules necessary to carry out the provisions of this section, including rules establishing eligibility requirements for applicants, certification requirements for eligible employers and any necessary forms and procedures.

SECTION 3. ORS 458.610 is amended to read:

458.610. For purposes of ORS 458.600 to 458.665:
(1) “Council” means the Oregon Housing Stability Council established in ORS 456.567.
(2) “Department” means the Housing and Community Services Department established in ORS 456.555.
(3) “Low income” means income that is more than 50 percent and not more than 80 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

[2]
(4) “Minority” means an individual:
(a) Who has origins in one of the black racial groups of Africa but who
is not Hispanic;
(b) Who is of Hispanic culture or origin;
(c) Who has origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or
(d) Who is an American Indian or Alaskan Native having origins in one
of the original peoples of North America.

(5) “Moderate income” means income that is more than 80 percent and not more than 120 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

(6) “Organization” means a:
(a) Nonprofit corporation established under ORS chapter 65;
(b) Housing authority established under ORS 456.055 to 456.235; or
(c) Local government as defined in ORS 197.015.

(7) “Persons with disabilities” means persons with handicaps described in 42 U.S.C. 3602(h).

(8) “Very low income” means income that is 50 percent or less of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

(9) “Veteran” has the meaning given that term in ORS 408.225.

SECTION 4. ORS 458.620 is amended to read:
458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury, the Oregon Housing Fund, which consists of [six] seven separate revolving accounts:
(a) The Housing Development and Guarantee Account;
(b) The Emergency Housing Account;
(c) The Home Ownership Assistance Account;
(d) The Farmworker Housing Development Account;
(e) The General Housing Account; [and]
(f) The Wildfire Damage Housing Relief Account[.]; and
(g) The Greater Oregon Housing Account.

(2) Earnings on investment of moneys in:
(a) The Housing Development and Guarantee Account accrue to that ac-
count.
(b) The Emergency Housing Account accrue to that account.
(c) The Home Ownership Assistance Account accrue to that account.
(d) The Farmworker Housing Development Account accrue to that ac-
count.
(e) The General Housing Account accrue to that account.
(f) The Wildfire Damage Housing Relief Account accrue to that account.
(g) The Greater Oregon Housing Account accrue to that account.

(3)(a) Moneys in the Housing Development and Guarantee Account are
continuously appropriated to the Housing and Community Services Depart-
ment to carry out the provisions of ORS 458.625 and 458.630.
(b) Moneys in the Emergency Housing Account are continuously appro-
priated to the department to carry out the provisions of ORS 458.650.
(c) Moneys in the Home Ownership Assistance Account are continuously
appropriated to the department to carry out the provisions of ORS 458.655.
(d) Moneys in the Farmworker Housing Development Account are con-
tinuously appropriated to the department to carry out the provisions of ORS
458.660.
(e) Moneys in the General Housing Account are continuously appropri-
ated to the department to carry out the provisions of ORS 456.515 to 456.725.
(f) Moneys in the Wildfire Damage Housing Relief Account are contin-
uously appropriated to the department to carry out the provisions of ORS
458.667.
(g) Moneys in the Greater Oregon Housing Account are continuously appropriated to the department to carry out the provisions of section 2 of this 2019 Act.

(4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions to be credited to:

(a) The Housing Development and Guarantee Account; or

(b) The General Housing Account.

SECTION 5. In addition to and not in lieu of any other appropriation, there is appropriated to the Housing and Community Services Department, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $15,000,000 for deposit into the Greater Oregon Housing Account.
SUMMARY

Establishes Housing Development Grant Program. Decouples program from Housing Development and Guarantee Account. Eliminates Housing and Community Services Department’s ability to lend account funds.

Expands Guarantee Fund’s income eligibility to allow use by moderate income borrowers. Allows department to transfer surplus funds from Housing Development and Guarantee Account to Affordable Housing Land Acquisition Revolving Loan Program.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 458.625 is amended to read:

458.625. (1) [The] There is established the Housing Development Grant Program in the Housing and Community Services Department [may use the following to expand this state’s] for the purpose of expanding the supply of affordable rental housing for persons with [a] low or very low income. [, including, but not limited to, housing for persons over 65 years of age, persons with disabilities, farmworkers and Native Americans:]

[(a) The amount of moneys credited to the Housing Development and Guarantee Account that the department determines may be used for the purposes identified in this subsection and that is not used for the purposes set forth in ORS 458.630; and]

[(b) The revenue earned from investment of the principal in the Housing Development and Guarantee Account.]

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(2) The department may use account moneys and account investment revenue for the following purposes: **program shall pay the costs incurred in the administration of the program and award grants:**

[(a) In the form of grants or loans as determined by the department:] (A) (a) To assist organizations and for-profit business entities in constructing new housing, or in acquiring or rehabilitating existing structures, for housing for persons with [a] low or very low income.

[(B)] (b) To provide nonprofit organizations, as set forth in ORS 458.210 to 458.240, with technical assistance or predevelopment costs. Predevelopment costs include, but are not limited to, site acquisition, architectural services and project consultants. [Predevelopment costs do not include costs described in subparagraph (C) of this paragraph.]

[(C)] (c) (To pay for costs) To develop nonprofit organizations that show sufficient evidence of having strong community support and a strong likelihood of producing housing for persons with [a] low or very low income. [Account moneys and account investment revenue] Grants may not be used by an organization for its general operations.

[(D)] (d) To match public and private moneys available from other sources for production of housing for persons with [a] low or very low income.

[(b) To pay costs and expenses incurred in the administration of the account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the department.]

(3) The department shall give preference in making grants [or loans] from the program to those entities that the department determines will:

(a) [Provide] Construct, acquire or rehabilitate the greatest number per dollar granted of housing units for persons with [a] low or very low income [that are constructed, acquired or rehabilitated for the amount of account moneys and account investment revenue expended] by acquiring matching funds [account moneys and account investment revenue with] or other grant, loan or eligible in-kind contributions;

(b) Ensure the longest use for the units as housing for persons with [a]
low or very low income; or

(c) [Include social services to occupants of the proposed housing, including but not limited to, programs] Offer the occupants of the proposed housing services relevant to identified needs, including services that address home health care, mental health care, alcohol and drug treatment and post-treatment care, child care [and] or case management.

[(4)(a) Account investment revenue derived in any calendar year may be used to construct, acquire or rehabilitate housing for persons with a low or very low income but not more than 25 percent of the account investment revenue may be used to construct, acquire or rehabilitate housing for persons with a low income.]

[(b) Account moneys and account investment revenue not used by the department as grants or loans to construct, acquire or rehabilitate housing for persons with a low or very low income may be retained and credited as account principal.]

[(5) (4) The Oregon Housing Stability Council [shall adopt a policy that provides for distribution by the department of account moneys and account investment revenue] may adopt policies obligating the department to distribute grants statewide while concentrating [account moneys and account investment revenue] grants from the program in those areas of this state with the greatest need, as determined by the council, for housing for persons with [a] low or very low income.

[(6) The department may set interest rates on loans made with account moneys and account investment revenue.]

SECTION 2. ORS 458.630 is amended to read:

458.630. (1)(a) The Housing and Community Services Department may [hold and] use the [principal that is credited to the] Housing Development and Guarantee Account [as the] to establish a Guarantee Fund. The department may use the fund to pay the costs and expenses incurred in the administration of the fund and to guarantee repayment of loans made to finance the construction, development, acquisition or rehabilitation of:
[(A)] (a) Housing for **rental or ownership by** persons with [a low or] very low, **low or moderate** income; or

[(B)] (b) The commercial component of a structure that contains both commercial property and housing for persons with [a low or] very low, **low or moderate** income.

[(b)] (2) The department, by rule, shall specify **by rule** the grounds on which it may deny loan guarantees for a structure that contains both housing for persons with a low or very low income and a commercial component. The grounds for denial specified by the department must include, but need not be limited to, **described under subsection (1)(b) of this section, including the grounds that the structure contains** a commercial component that is excessive in scope or that is [designed for commercial activity] of a type incompatible with residential housing.

[(c)] (3) The Oregon Housing Stability Council shall review and approve policies for underwriting loans that are guaranteed by the Guarantee Fund to ensure that the loans meet prudent underwriting standards.

[(d)] (4) A guarantee may not be prepared or construed in such a manner as to violate the provisions of Article XI, section 7, of the Oregon Constitution.

[(2)] (5) The department may not issue any loan guarantee under this section that:

(a) Guarantees the repayment of more than 50 percent of the original principal balance of any loan[.]; or

[(3)] (b) [The department may not issue a loan guarantee if the guarantee] Would cause the aggregate dollar amount of all loan guarantees issued by the department under this section to exceed two times the total amount then in the Guarantee Fund. [established under subsection (1) of this section. Notwithstanding ORS 458.625, whenever payouts on loan guarantees cause the fund principal to decrease by five percent or more, the interest on the fund shall be deposited only to the principal account until the amount of the fund principal lost due to payouts on loan guarantees is restored.]
(4) Subject to council review under subsection (1) of this section, the department shall give preference for loan guarantees under this section to loans described in subsection (1)(a) of this section.

(6) The council may adopt preferences for using the Guarantee Fund to guarantee loans that the department determines will:

(a) Provide the greatest number of housing units for persons with [a low or] very low, low or moderate income constructed, acquired, developed or rehabilitated for the amount of guarantee allowed;

(b) Ensure the longest possible use for the units as housing units for persons with [a low or] very low, low or moderate income; or

(c) Include a program of services for the occupants of the proposed housing including, but not limited to, programs that address home health care, mental health services, alcohol and drug treatment and post-treatment care, child care [and] or case management, if the housing proposed is multifamily rental housing.

(7) The council may adopt a policy that gives loan guarantee preference to loans for housing or structures described in subsection (1)(a) of this section for which the department has provided a grant, loan, tax credit or other investment.

(8) Subject to approval by the council, each fiscal year the department may make a transfer from the Housing Development and Guarantee Account to the Affordable Housing Land Acquisition Revolving Loan Program under ORS 456.502 in an amount not to exceed 50 percent of the difference between the balance of the Guarantee Fund and one-half of the aggregate amount of all outstanding loans guaranteed by the Guarantee Fund.

SECTION 3. ORS 458.610 is amended to read:

458.610. For purposes of ORS 458.600 to 458.665:

(1) “Council” means the Oregon Housing Stability Council established in ORS 456.567.

(2) “Department” means the Housing and Community Services Department
established in ORS 456.555.

(3) “Low income” means income that is more than 50 percent and not more than 80 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

(4) “Minority” means an individual:

(a) Who has origins in one of the black racial groups of Africa but who is not Hispanic;

(b) Who is of Hispanic culture or origin;

(c) Who has origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent or the Pacific Islands; or

(d) Who is an American Indian or Alaskan Native having origins in one of the original peoples of North America.

(5) “Moderate income” means income that is more than 80 percent and not more than 120 percent of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

[5]

(6) “Organization” means a:

(a) Nonprofit corporation established under ORS chapter 65;

(b) Housing authority established under ORS 456.055 to 456.235; or

(c) Local government as defined in ORS 197.015.

[6]

(7) “Persons with disabilities” means persons with handicaps described in 42 U.S.C. 3602(h).

[7]

(8) “Very low income” means income that is 50 percent or less of the median family income for the area, subject to adjustment for areas with unusually high or low incomes or housing costs, all as determined by the council based on information from the United States Department of Housing and Urban Development.

[8]
"Veteran" has the meaning given that term in ORS 408.225.

SECTION 4. ORS 458.620 is amended to read:

458.620. (1) There is created, separate and distinct from the General Fund of the State Treasury, the Oregon Housing Fund, which consists of six separate revolving accounts:

(a) The Housing Development and Guarantee Account;
(b) The Emergency Housing Account;
(c) The Home Ownership Assistance Account;
(d) The Farmworker Housing Development Account;
(e) The General Housing Account; and
(f) The Wildfire Damage Housing Relief Account.

(2) Earnings on investment of moneys in:

(a) The Housing Development and Guarantee Account accrue to that account.
(b) The Emergency Housing Account accrue to that account.
(c) The Home Ownership Assistance Account accrue to that account.
(d) The Farmworker Housing Development Account accrue to that account.
(e) The General Housing Account accrue to that account.
(f) The Wildfire Damage Housing Relief Account accrue to that account.

(3)(a) Moneys in the Housing Development and Guarantee Account are continuously appropriated to the Housing and Community Services Department to carry out the provisions of ORS 458.625 and 458.630.
(b) Moneys in the Emergency Housing Account are continuously appropriated to the department to carry out the provisions of ORS 458.650.
(c) Moneys in the Home Ownership Assistance Account are continuously appropriated to the department to carry out the provisions of ORS 458.655.
(d) Moneys in the Farmworker Housing Development Account are continuously appropriated to the department to carry out the provisions of ORS 458.660.
(e) Moneys in the General Housing Account are continuously appropriated to the department...
ated to the department to carry out the provisions of ORS 456.515 to 456.725.

(f) Moneys in the Wildfire Damage Housing Relief Account are continuously appropriated to the department to carry out the provisions of ORS 458.667.

(4) Individuals and corporations, both for profit or nonprofit, may make monetary contributions to be credited to:

(a) The Housing Development and Guarantee Account; or

(b) The General Housing Account.

SECTION 5. ORS 458.650 is amended to read:

458.650. (1) The Emergency Housing Account shall be administered by the Housing and Community Services Department to assist homeless persons and those persons who are at risk of becoming homeless. An amount equal to 25 percent of moneys deposited in the account pursuant to ORS 294.187 is dedicated for expenditure for assistance to veterans who are homeless or at risk of becoming homeless. For purposes of this section, “account” means the Emergency Housing Account.

(2) The Oregon Housing Stability Council, with the advice of the Community Action Partnership of Oregon, shall develop policy for awarding grants to organizations that shall use the funds:

(a) To provide to low and very low income persons, including but not limited to, persons more than 65 years of age, persons with disabilities, farmworkers and Native Americans:

(A) Emergency shelters and attendant services;

(B) Transitional housing services designed to assist persons to make the transition from homelessness to permanent housing and economic independence;

(C) Supportive housing services to enable persons to continue living in their own homes or to provide in-home services for such persons for whom suitable programs do not exist in their geographic area;

(D) Programs that provide emergency payment of home payments, rents or utilities; or
(E) Some or all of the needs described in subparagraphs (A) to (D) of this paragraph.

(b) To align with federal strategies and resources that are available to prevent and end homelessness.

(3)(a) The council shall require as a condition of awarding a grant that the organization demonstrate to the satisfaction of the council that the organization has the capacity to deliver any service proposed by the organization.

(b) Any funds granted under this section shall not be used to replace existing funds. Funds granted under this section may be used to supplement existing funds. An organization may use funds to support existing programs or to establish new programs.

(c) The council, by policy, shall give preference in granting funds to those organizations that receive grants from the Housing Development Grant Program established under ORS 458.625.

(4) The department may expend funds from the account for administration of the account as provided for in the legislatively approved budget, as that term is defined in ORS 291.002, for the department.
SUMMARY

Sunsets on December 31, 2019.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to electronic transcripts in high school; creating new provisions; amending section 72, chapter 774, Oregon Laws 2015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Task Force on the Implementation of Electronic Transcripts in High School is established.

(2)(a) The task force consists of 12 members appointed as follows:

(A) The Superintendent of Public Instruction shall appoint six members. One of the members must be appointed in consultation with the Chief Education Office.

(B) The executive director of the Higher Education Coordinating Commission shall appoint six members. One of the members must be appointed in consultation with the Chief Education Office.

(b) In making appointments under paragraph (a) of this subsection, the appointing authority shall attempt to select members who reflect diverse perspectives, including diverse racial and ethnic groups, regions of the state, languages spoken and tribal affinity or membership.

(3) The task force shall determine how to implement a system that
provides electronic transcripts to students in the public high schools of this state. When making the determination, the task force:

(a) Must consider how electronic transcripts can be used to promote the following goals:

(A) Improve students' abilities to track credits earned through accelerated college credit programs;

(B) Increase students' access to financial aid;

(C) Provide equitable access to academic advising and admission counseling; and

(D) Provide equitable access to college and career planning to underserved students and students from rural communities.

(b) Must identify:

(A) Implications for schools and school districts in providing electronic transcripts to high school students and graduates under an electronic transcript system when the system is being initiated and maintained;

(B) The costs and benefits of an electronic transcript system for students, families, schools, school districts and post-secondary institutions of education, including the use of electronic transcripts as one measure for the placement of students into college-level courses;

(C) Data that can be tracked or questions that could be answered through the state longitudinal data system if the system is enhanced with data from the electronic transcript system;

(D) Potential benefits and uses of an electronic transcript system for youth development initiatives, including programs that promote career readiness;

(E) Other known electronic transcript systems, including systems in other states, and the effectiveness of those systems;

(F) Potential public or private partnerships that could be allowed under the electronic transcript system and other potential features of the system that would allow the system to be self-sustaining;
(G) Statutory and administrative rule changes necessary to implement the electronic transcript system and timelines for phasing in the system;

(H) Estimates of the cost to link the electronic transcript system with the state longitudinal data system; and

(I) Mechanisms by which student privacy interests can be protected.

(c) Must emphasize efficiencies that may be provided by an electronic transcript system to the state longitudinal data system and elements of the electronic transcript system that may increase the functionality of the state longitudinal data system.

(d) May consult with experts and other interested persons, including students, parents, counselors, advisors, vendors and legislators.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report, which may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than December 1, 2019.

(11) The Higher Education Coordinating Commission, the Department of Education and the Chief Education Office shall provide staff support to the task force.
Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force. All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 2. Section 1 of this 2019 Act is amended to read:

Sec. 1. (1) The Task Force on the Implementation of Electronic Transcripts in High School is established.

(2)(a) The task force consists of 12 members appointed as follows:

(A) The Superintendent of Public Instruction shall appoint six members. [One of the members must be appointed in consultation with the Chief Education Office.]

(B) The executive director of the Higher Education Coordinating Commission shall appoint six members. [One of the members must be appointed in consultation with the Chief Education Office.]

(b) In making appointments under paragraph (a) of this subsection, the appointing authority shall attempt to select members who reflect diverse perspectives, including diverse racial and ethnic groups, regions of the state, languages spoken and tribal affinity or membership.

(3) The task force shall determine how to implement a system that provides electronic transcripts to students in the public high schools of this state. When making the determination, the task force:

(a) Must consider how electronic transcripts can be used to promote the following goals:

(A) Improve students’ abilities to track credits earned through accelerated college credit programs;

(B) Increase students’ access to financial aid;

(C) Provide equitable access to academic advising and admission counseling; and
(D) Provide equitable access to college and career planning to underserved students and students from rural communities.

(b) Must identify:

(A) Implications for schools and school districts in providing electronic transcripts to high school students and graduates under an electronic transcript system when the system is being initiated and maintained;

(B) The costs and benefits of an electronic transcript system for students, families, schools, school districts and post-secondary institutions of education, including the use of electronic transcripts as one measure for the placement of students into college-level courses;

(C) Data that can be tracked or questions that could be answered through the state longitudinal data system if the system is enhanced with data from the electronic transcript system;

(D) Potential benefits and uses of an electronic transcript system for youth development initiatives, including programs that promote career readiness;

(E) Other known electronic transcript systems, including systems in other states, and the effectiveness of those systems;

(F) Potential public or private partnerships that could be allowed under the electronic transcript system and other potential features of the system that would allow the system to be self-sustaining;

(G) Statutory and administrative rule changes necessary to implement the electronic transcript system and timelines for phasing in the system;

(H) Estimates of the cost to link the electronic transcript system with the state longitudinal data system; and

(I) Mechanisms by which student privacy interests can be protected.

(c) Must emphasize efficiencies that may be provided by an electronic transcript system to the state longitudinal data system and elements of the electronic transcript system that may increase the functionality of the state longitudinal data system.

(d) May consult with experts and other interested persons, including stu-
dent, parents, counselors, advisors, vendors and legislators.

(4) A majority of the members of the task force constitutes a quorum for the transaction of business.

(5) Official action by the task force requires the approval of a majority of the members of the task force.

(6) The task force shall elect one of its members to serve as chairperson.

(7) If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(8) The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(9) The task force may adopt rules necessary for the operation of the task force.

(10) The task force shall submit a report, which may include recommendations for legislation, to an interim committee of the Legislative Assembly related to education no later than December 1, 2019.

(11) The Higher Education Coordinating Commission[,] and the Department of Education [and the Chief Education Office] shall provide staff support to the task force.

(12) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(13) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of duties of the task force and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the task force consider necessary to perform their duties.

SECTION 3. Section 72, chapter 774, Oregon Laws 2015, as amended by section 14, chapter 682, Oregon Laws 2015, section 20, chapter 763, Oregon Laws 2015, section 27, chapter 639, Oregon Laws 2017, and section 4, chapter 113, Oregon Laws 2018, is amended to read:

Sec. 72. (1)(a) Section 1, chapter 519, Oregon Laws 2011, as amended by section 8, chapter 519, Oregon Laws 2011, sections 20 and 21, chapter 36,
Oregon Laws 2012, and section 1, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.

(b) Section 2, chapter 519, Oregon Laws 2011, as amended by section 1, chapter 36, Oregon Laws 2012, section 29, chapter 747, Oregon Laws 2013, and section 4, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.

(c) Section 3, chapter 519, Oregon Laws 2011, as amended by section 5, chapter 774, Oregon Laws 2015, is repealed on June 30, 2019.

(2) The amendments to ORS 326.021 by section 42, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(3) The amendments to ORS 326.300 by section 43, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(7) The amendments to ORS 327.380 by section 8, chapter 739, Oregon Laws 2013, become operative on June 30, 2019.

(8) The amendments to ORS 327.800 by section 67a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(9) The amendments to ORS 327.810 by section 68a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(10) The amendments to ORS 327.815 by section 69a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(11) The amendments to ORS 327.820 by section 70a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(15) The amendments to ORS 342.443 by section 56, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(16) The amendments to ORS 342.448 by section 76a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(17) The amendments to ORS 344.059 and 344.141 by sections 13 and 14, chapter 763, Oregon Laws 2015, become operative on June 30, 2019.


(20) The amendments to ORS 350.100 by section 75a, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.

(21) The amendments to ORS 352.018 by section 58, chapter 774, Oregon Laws 2015, become operative on June 30, 2019.


(29) The amendments to section 1 of this 2019 Act by section 2 of this 2019 Act become operative on June 30, 2019.

[(29)] (30) Section 8, chapter 85, Oregon Laws 2014, becomes operative on June 30, 2019.

SECTION 4. Section 1 of this 2019 Act is repealed on December 31, 2019.

SECTION 5. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
Integrates foundational curricula and unified statewide transfer agreements into Transfer Student Bill of Rights and Responsibilities.

Requires Higher Education Coordinating Commission to establish work group to advise on designing standards to implement Transfer Student Bill of Rights and Responsibilities and to develop electronic system for disseminating information regarding foundational curricula and unified statewide transfer agreements.

Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to transfer of academic credits; creating new provisions; amending ORS 350.395; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 350.395 is amended to read:

350.395. (1) As used in this section:

(a) “Associate transfer degree” means an associate degree that is awarded by a community college and that is intended to allow a student to apply the credits earned for the degree toward a baccalaureate degree.

(b) “Community college” means a community college operated under ORS chapter 341.

(c) “Foundational curriculum” means a curriculum established under ORS 350.400.

[(c)] (d) “Public university” means a public university listed in ORS 352.002.

[(d)] (e) “Transfer program” means a one-year program that is designed

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
to allow a student to apply the credits earned through the program toward
a baccalaureate degree.

(f) “Unified statewide transfer agreement” means an agreement est-
established under ORS 350.404.

(2) The Higher Education Coordinating Commission shall develop stan-
dards related to the ability of students to apply credits earned through
courses of study at community colleges to baccalaureate degrees awarded by
public universities. The standards shall be known as the “Transfer Student
Bill of Rights and Responsibilities.” In developing these standards, the
commission shall consult with the work group established under sec-
tion 2 of this 2019 Act.

(3) The standards developed under this section must include:

(a) Admission standards to public universities for students who have
earned an associate transfer degree or who have attained the optimal
number of academic credits identified in a unified statewide transfer
agreement.

(b) Processes to align requirements for community college courses and
public university courses to ensure that credits earned for completion of
sufficiently similar courses are fully transferable between all community
colleges and public universities.

(c) Processes to minimize the number of credits that students who have
either earned an associate transfer degree or who have completed all
coursework in a transfer program, foundational curriculum or unified
statewide transfer agreement would need to complete prior to receiving
various types of baccalaureate degrees at public universities[, including
identifying majors in baccalaureate degree programs that require more than
two years to complete after a student has earned an associate transfer
degree].

(d) Processes to minimize the number of credits that students who have
completed a transfer program would need to complete prior to receiving various
types of baccalaureate degrees at public universities.]

[2]
(d) Processes by which a community college would award an associate degree to a student upon completion of necessary credits, regardless of whether the student applied to receive the degree or whether the student earned the credits for the degree at a community college or a public university.

(e) Processes to evaluate and make recommendations for the development of associate transfer degrees or unified statewide transfer agreements in specific areas of study, including engineering.

(f) Any other issues identified by the Higher Education Coordinating Commission that relate to courses of study at community colleges and the ability of a student to transfer credits to a community college or a public university, to be admitted to a public university or to earn a degree at a community college or a public university.

(g) Requirements that students must meet in order to benefit from the standards described in paragraphs (a) to (f) of this subsection.

(h) Each community college and public university shall submit annual reports to The Higher Education Coordinating Commission. The Higher Education Coordinating Commission shall annually submit a report in the manner provided by ORS 192.245 to the appropriate interim committees of the Legislative Assembly setting forth:

(a) The number of students who attend a community college and then a public university, or a public university and then a community college.

(b) The number of students who attend one community college and then a different community college.

(c) The number of students who transfer from a community college to a public university and who have an associate transfer degree or have completed a transfer program.

(d) The average number of credits students have when they transfer from a community college to a public university and the average number of credits accepted by the public university.

(e) The average number of credits students have when they attend one
community college and then a different community college.

(f) The average number of credits that a student earning an associate transfer degree completed at a community college.

(g) The average number of credits students who have transferred from a community college to a public university must earn prior to receiving a baccalaureate degree compared to the average number of credits students who did not transfer from a community college must earn prior to receiving a baccalaureate degree.

SECTION 2. The Higher Education Coordinating Commission shall establish a work group consisting of representatives from community colleges and public universities listed in ORS 352.002. The work group shall provide advice and recommendations to the commission on:

(1) Designing standards to effectively implement ORS 350.395; and

(2) Developing an electronic system for the dissemination of information regarding foundational curricula established under ORS 350.400 and unified statewide transfer agreements established under ORS 350.404.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Revises types of programs considered accelerated college credit programs for purpose of requirement that school districts provide accelerated college credit programs.

Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT
Relating to types of programs considered to be accelerated college credit programs; amending ORS 340.300, 340.310, 340.320 and 350.075; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 340.300 is amended to read:

340.300. [(1) As used in this section, “accelerated college credit programs” includes dual credit programs, two-plus-two programs, advanced placement programs and International Baccalaureate programs.]

(1) As used in this section, “accelerated college credit programs” includes:

(a) Dual credit programs;
(b) Sponsored dual credit programs;
(c) Assessment-based learning credit programs;
(d) Advanced placement programs;
(e) International Baccalaureate programs; and
(f) Any other high school programs that provide educational experiences at a post-secondary institution of education for the purpose of providing high school students with the opportunity to earn college

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
credit while in high school.

(2) Each school district shall:

(a) Provide students in grades 9 through 12 with accelerated college credit programs including, but not limited to, accelerated college credit programs related to English, mathematics and science; or

(b) Ensure that students in grades 9 through 12 have online access to accelerated college credit programs including, but not limited to, accelerated college credit programs related to English, mathematics and science.

SECTION 2. ORS 340.310 is amended to read:

ORS 340.310. (1) As used in this section, “accelerated college credit programs” includes dual credit programs, sponsored dual credit programs and assessment-based learning credit programs.

[(1)] (2) The Higher Education Coordinating Commission shall develop statewide standards for [dual] accelerated college credit programs to be implemented by public high schools, community colleges and public universities listed in ORS 352.002. The standards must establish the manner by which:

(a) A student in any grade from 9 through 12 may, upon completion of a course, earn course credit both for high school and for a community college or public university; and

(b) Teachers of courses that are part of [a dual] an accelerated college credit program will work together to determine the quality of the program and to ensure the alignment of the content, objectives and outcomes of individual courses.

[(2)] (3) Each public high school, community college and public university that provides [a dual] an accelerated college credit program must implement the statewide standards developed under subsection [(1)] (2) of this section.

[(3)] (4) Each school district, community college and public university that provides [a dual] an accelerated college credit program shall submit an annual report to the Higher Education Coordinating Commission on the
academic achievement of students enrolled in a dual credit program. The Higher Education Coordinating Commission shall establish the required contents of the report, which must provide sufficient information to allow the commission to determine the quality of the dual accelerated college credit program.

SECTION 3. ORS 340.320 is amended to read:

340.320. [(1) As used in this section, “accelerated college credit programs” includes dual credit programs, two-plus-two programs, advanced placement programs and International Baccalaureate programs.]

(1) As used in this section, “accelerated college credit programs” includes:

(a) Dual credit programs;
(b) Sponsored dual credit programs;
(c) Assessment-based learning credit programs;
(d) Advanced placement programs;
(e) International Baccalaureate programs; and
(f) Any other high school programs that provide educational experiences at a post-secondary institution of education for the purpose of providing high school students with the opportunity to earn college credit while in high school.

(2) The Department of Education shall administer a grant program that provides grants for the purposes of:

(a) Providing education or training to teachers who will provide or are providing instruction in accelerated college credit programs;
(b) Assisting students in paying for books, materials and other costs, other than test fees, related to accelerated college credit programs; and
(c) Providing classroom supplies for accelerated college credit programs.

(3) Any school district, community college district or state institution of higher education in this state may individually or jointly apply for a grant under this section.

(4) If a grant is awarded for the purpose of providing education or train-
ing to teachers who will provide or are providing instruction in an accelerated college credit program:

(a) The amount of the grant may not exceed one-third of the total cost of the education or training; and

(b) The department may award the grant on the condition that the teacher, school district, community college district and state institution of higher education pay the balance of the cost of the education or training in a proportion agreed to by the teacher, districts and institution.

(5) For the purposes described in subsection (2) of this section, the department may:

(a) Accept contributions of funds and assistance from the United States Government and its agencies or from any other source, public or private, and agree to conditions placed on the funds not inconsistent with the purposes of subsection (2) of this section; and

(b) Enter into agreements with school districts, community college districts and state institutions of higher education related to the funding to provide education or training to teachers who will provide or are providing instruction in an accelerated college credit program.

(6) All funds received by the department under this section shall be paid into the Accelerated College Credit Account established under ORS 340.330 to be used for the purposes described in subsection (2) of this section.

SECTION 4. ORS 350.075 is amended to read:

350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.
(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;
(iv) New facilities or programs;
(v) Capital improvements and deferred maintenance;
(vi) Special initiatives and investments; and
(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;
(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and
(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state’s community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;
(B) Do not unnecessarily duplicate academic programs offered by Oregon’s other community colleges or public universities;
(C) Are not located in a geographic area that will cause undue hardship
to Oregon’s other community colleges or public universities; and

(D) Are allocated among Oregon’s community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(L) Coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011.

(4)(a) The Higher Education Coordinating Commission shall implement a process to review and appropriately act on student complaints regarding any school operating in this state. As part of the process implemented under this subsection, the commission may:
(A) Receive student complaints from students regarding a school;
(B) Specify the type of information that must be included in a student complaint;
(C) Investigate and resolve student complaints that relate to state financial aid;
(D) Refer a student complaint to another entity for investigation and resolution as provided in paragraph (b) of this subsection;
(E) Adopt rules to implement the provisions of this subsection; and
(F) Enter into agreements to implement the provisions of this subsection.

(b) The commission may refer the investigation and resolution of a student complaint to:
(A) An appropriate state agency if the complaint alleges that a school has violated a state law concerning consumer protection, civil rights, employment rights or environmental quality;
(B) A school’s accrediting association if the complaint relates to the school’s authorization to offer academic degree programs or to the quality of the school’s academic degree programs; or
(C) The school at which the student is enrolled if the commission determines that the complaint should be resolved through the school’s internal review process.

(c) As used in this subsection:
(A)(i) “School” means an independent institution of higher education that meets the requirements of ORS 348.597 (2)(a).
(ii) “School” does not mean a school that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2)(b) or (c).
(B) “Student” means a person who is enrolled at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.
(5) A student complaint that is received by the Higher Education Coordinating Commission, including but not limited to a student complaint filed under subsection (4) of this section, is not subject to disclosure under ORS
192.311 to 192.478.

(6) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of [dual credit] accelerated college credit programs, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(7) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(8) With the exception of the rulemaking authority granted in subsection (7) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission
or to the executive director of the commission.

(9) The Higher Education Coordinating Commission may, subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in ORS chapters 341 and 348 and with statutory policies related to career schools and public universities.

(10) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.


350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and struc-
ture, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;
(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;
(C) Ensuring affordable access for qualified Oregon students at each college or public university;
(D) Removing barriers to on-time completion; and
(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;
(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;
(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;
(iv) New facilities or programs;
(v) Capital improvements and deferred maintenance;
(vi) Special initiatives and investments; and
(vii) Any other program, duty or function a public university listed in
ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state's community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon's other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon's other community colleges or public universities; and

(D) Are allocated among Oregon's community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:
(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4)(a) The Higher Education Coordinating Commission shall implement a process to review and appropriately act on student complaints regarding any school operating in this state. As part of the process implemented under this subsection, the commission may:

(A) Receive student complaints from students regarding a school;

(B) Specify the type of information that must be included in a student complaint;

(C) Investigate and resolve student complaints that relate to state financial aid;

(D) Refer a student complaint to another entity for investigation and re-
solution as provided in paragraph (b) of this subsection;

(E) Adopt rules to implement the provisions of this subsection; and

(F) Enter into agreements to implement the provisions of this subsection.

(b) The commission may refer the investigation and resolution of a student complaint to:

(A) An appropriate state agency if the complaint alleges that a school has violated a state law concerning consumer protection, civil rights, employment rights or environmental quality;

(B) A school’s accrediting association if the complaint relates to the school’s authorization to offer academic degree programs or to the quality of the school’s academic degree programs; or

(C) The school at which the student is enrolled if the commission determines that the complaint should be resolved through the school’s internal review process.

(c) As used in this subsection:

(A)(i) “School” means an independent institution of higher education that meets the requirements of ORS 348.597 (2)(a).

(ii) “School” does not mean a school that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2)(b) or (c).

(B) “Student” means a person who is enrolled at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.

(5) A student complaint that is received by the Higher Education Coordinating Commission, including but not limited to a student complaint filed under subsection (4) of this section, is not subject to disclosure under ORS 192.311 to 192.478.

(6) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and under-
served populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;
(B) Accelerated college credit programs for high school students;
(C) Applied baccalaureate and other transfer degrees;
(D) Programs and grants that span multiple institutions; and
(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of [dual credit] accelerated college credit programs, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state’s colleges and universities offer programs in high-demand occupations that meet Oregon’s workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(7) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(8) With the exception of the rulemaking authority granted in subsection (7) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(9) The Higher Education Coordinating Commission may, subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in ORS chapters 341 and 348 and with
statutory policies related to career schools and public universities.

(10) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.


350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated
to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance;

(vi) Special initiatives and investments; and

(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate
legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state’s community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon’s other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon’s other community colleges or public universities; and

(D) Are allocated among Oregon’s community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.
(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4) In addition to the duties described in subsections (2) and (3) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of [dual credit] **accelerated college credit programs**, career
and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(5) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(6) With the exception of the rulemaking authority granted in subsection (5) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(7) The Higher Education Coordinating Commission may, subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in ORS chapters 341 and 348 and with statutory policies related to career schools and public universities.

(8) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary institutions.

SECTION 7. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on July 1, 2019.
SUMMARY

Renames Oregon Youth Conservation Corps Advisory Committee Oregon Youth Conservation Corps Advisory Board.
Alters requirements for receipt of vouchers for completion of Oregon Community Stewardship Corps program.
Clarifies authorities governing Office of Community Colleges and Workforce Development.
Updates references to Office of Student Access and Completion to reflect current agency structure.
Abolishes alternative student loan program.
Establishes June 30, 2021, repeal for Oregon Troops to Teachers program and Oregon Roadmap to Language Excellence Scholarships.
Clarifies that Higher Education Coordinating Commission, rather than Oregon Department of Administrative Services, is responsible for disbursement of state aid to community colleges.
Gives commission implied and direct authority to exercise powers, duties and functions granted to commission by Legislative Assembly.
Clarifies commission’s use of fingerprints to conduct criminal background checks for specific positions.
Clarifies contents of reports on review of employees at public institutions of higher education.
Clarifies that public universities are eligible to participate in grant program for seismic rehabilitation of facilities.

A BILL FOR AN ACT


NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 418.650 is amended to read:

418.650. (1) The Legislative Assembly of the State of Oregon finds and declares that:

(a) It is the policy of the State of Oregon to maintain a strong economy in order to provide its citizens a stable and plentiful job market, and to conserve and protect its natural resources, scenic beauty, historical and cultural sites and other community facilities;

(b) The development and maintenance of a healthy economy for Oregon depends substantially upon a strong work ethic among Oregon’s disadvantaged and at-risk young adults;

(c) Many public lands and environmental resources, including parks, rangelands, forests, wildlife habitats, fisheries, soils and waters are and will continue to be subject to resource production demand and public uses;

(d) In order to instill and preserve superior work attitudes among Oregon’s disadvantaged and at-risk young adults and to maintain, protect and conserve the valuable resources of the State of Oregon, programs need to be implemented which will assure continued economic productivity and scenic beauty, as well as the public health, safety and social benefit;

(e) To these ends, conservation work programs may prove successful and cost-effective both in providing jobs for disadvantaged and at-risk young adults and in assisting land preservation and management agencies to conserve and protect natural and urban facilities; and

(f) As a result of such employment opportunities, benefits will redound to the state’s environmental maintenance and productivity, the state’s economy and to the disadvantaged and at-risk youth participants who benefit from the exposure to and respect for the work ethic in the context of safeguarding and improving the environmental resources of the state.

(2) The general purposes of ORS 418.650 to 418.663 are:
(a) To establish a disadvantaged and at-risk youth work program in order
to perform conservation work of public value in the most cost-effective
manner;
(b) To utilize such a program as a means of needed assistance to protect,
conserve, rehabilitate and improve the natural, historical and cultural re-
sources of the state; and
(c) To utilize such a program to increase educational, training and em-
ployment opportunities for disadvantaged and at-risk youth for the purpose
of improving work skills, instilling [the] a work ethic and increasing
employability.

SECTION 2. ORS 418.653 is amended to read:
418.653. (1) Subject to the availability of funds [therefor], there is created
an Oregon Youth Conservation Corps that shall provide emergency services,
public conservation, rehabilitation and improvement programs. The corps
shall be headed by a program director, and shall be administered through the
[Office of Community Colleges and Workforce Development] Higher Educa-
tion Coordinating Commission.
(2) Upon implementation of subsection (1) of this section, there shall be
created an Oregon Youth Conservation Corps Advisory [Committee] Board
to consist of nine members, three to be appointed by the President of the
Senate, three to be appointed by the Speaker of the House of Representatives
and three public members to be appointed by the Governor. No more than
one Senator and one Representative shall be appointed.
(3) [Committee] Board members may receive reimbursement of necessary
and actual expenses under ORS 292.495 (2), but may not receive compensation
under ORS 292.495 (1) or otherwise for participation as a [committee] board
member.
(4) [Committee] Board members may be removed by the appointing au-
thority. Vacancies shall be filled by the appointing authority. [Committee]
Board members shall serve for a term of three years and may be reappointed
for an additional consecutive term.
(5) The advisory [committee] board established under subsection (2) of this section shall advise the program director on the implementation of ORS 418.650 to 418.663.

**SECTION 3.** ORS 418.657 is amended to read:

418.657. (1) In consultation with the Oregon Youth Conservation Corps Advisory [Committee] Board and the executive director of the Higher Education Coordinating Commission [Office of Community Colleges and Workforce Development], or the designee of the executive director, the program director of the Oregon Youth Conservation Corps shall:

(a) Establish eligibility criteria for participants. Such criteria shall not render the program ineligible for federal funds. Participants shall be lawful permanent residents of this state.

(b) Establish criteria in order to make the required determination that enrollment in the corps was not the reason that an individual ceased attendance at a secondary school.

(c) Assume that application of the eligibility and participation criteria results in enrollment of at least 75 percent disadvantaged and at-risk youth among the total number of participants.

(2) The program director, in consultation with the executive director [of the Office of Community Colleges and Workforce Development], or the designee of the executive director, may take the following actions, including but not limited to:

(a) Applying for and accepting grants or contributions of funds from any public or private source;

(b) Making agreements with any local, state or federal agency to utilize any service, material or property of any such agency, where such agreements are considered reasonable and necessary; and

(c) Purchasing or contracting for necessary private services, equipment, materials and property where such are needed to carry out the projects approved for and undertaken by the corps.

(3) The [Higher Education Coordinating] commission may adopt all nec-
necessary rules to carry out the purposes and objectives of the program and to
regulate the standards of conduct and other operating guidelines for corps
members and other personnel.

(4) Corps members are exempt from:
  (a) State Personnel Relations Law; and
  (b) ORS 279C.800 to 279C.870.

SECTION 4. ORS 418.658 is amended to read:

418.658. (1) The program director of the Oregon Youth Conservation Corps
shall establish a separate program known as the Oregon Community
Stewardship Corps. In addition to the established purposes of the Oregon
Youth Conservation Corps, the purpose of the Oregon Community
Stewardship Corps is to promote community service activities throughout the
state for a broad cross section of Oregon disadvantaged and at-risk youth
through programs that also include appropriate educational and job training
opportunities for participants.

(2) In addition to projects submitted under ORS 418.660 (1), projects of the
Oregon Community Stewardship Corps may include, but shall not be limited
to:
  (a) Child care services.
  (b) Elderly and disabled care services.
  (c) Literacy education programs.
  (d) Recycling and other waste reduction services.

(3) The Oregon Community Stewardship Corps shall offer employment and
educational opportunities of at least three but not more than 12 months’
duration for selected participants.

(4) Under rules adopted by the Higher Education Coordinating Commis-
sion, participants who successfully complete any [12-month] program under
this section shall be eligible for up to $1,500 in [tuition] support vouchers
that can be used [at any career school or post-secondary educational institution
that is qualified to receive assistance through the Director of the Office of
Student Access and Completion] to pay for tuition, books or other items
or services that enhance and support education or employment.

(5) All Oregonians who are at least 13 years of age and under 25 years of age are eligible to participate in the program. To ensure that Oregon Community Stewardship Corps participants represent a broad cross section of Oregonians, special emphasis shall be given to recruiting school dropouts and other disadvantaged and at-risk youth, according to criteria established by the Oregon Youth Conservation Corps Advisory [Committee] Board.

(6) To the extent practicable, the program director shall enlist state and federal agencies, local government, nonprofit organizations and private businesses, and any combination of such entities, to act as sponsors for programs administered under this section. Selection of sponsors shall be based on criteria that include the following:

(a) The availability of other resources on a matching basis, including contributions from private sources, other federal, state and local agencies, and moneys available through the federal Workforce Innovation and Opportunity Act;

(b) The provision of related educational and job training programs to participants, including but not limited to school and college coursework, training for approved high school equivalency tests such as the General Educational Development (GED), project-related education and professional training;

(c) Assurances that proposed projects will not displace existing employees or duplicate existing private or government programs; and

(d) Assurances that proposed projects are devoted to the enhancement of the community and are not based in maintenance activities and that these projects meet an identified need.

(7) In consultation with the advisory [committee] board, the program director shall make grants for programs administered under this section.

SECTION 5. ORS 418.660 is amended to read:

418.660. (1) The programs established under ORS 418.650 to 418.663 may include, but shall not be limited to, projects such as:
(a) Rangeland conservation, rehabilitation and improvement;
(b) Endangered species and other wildlife habitat conservation, rehabilitation and improvement;
(c) Urban revitalization;
(d) Historical and cultural site preservation and maintenance;
(e) Recreational area development, maintenance, improvement and beautification;
(f) Road and trail maintenance and improvement;
(g) Soil conservation work, including erosion control;
(h) Flood, drought and storm damage assistance and relief;
(i) Stream, lake, waterfront harbor and port improvement and pollution control;
(j) Fish culture and habitat maintenance and improvement;
(k) Insect, disease, rodent and other pestilence control;
(L) Improvement of abandoned railroad land and right of way;
(m) Land reclamation and improvement, including strip-mined lands, public landscape work and tree planting programs;
(n) Energy conservation projects including assistance in the performance of energy efficiency audits, weatherization and renewable resource enhancement;
(o) Emergency assistance in times of natural or other disaster; [and]
(p) Recycling projects; and
(q) Garden, greenhouse and farming programs.

(2) In consultation with the Oregon Youth Conservation Corps Advisory Board and the executive director of the Office of Community Colleges and Workforce Development Higher Education Coordinating Commission, or the designee of the executive director, the program director of the Oregon Youth Conservation Corps shall ensure that projects selected under ORS 418.650 to 418.663 shall be consistent with all other provisions of applicable state and federal law relating to the management, oversight and administration of affected public lands.
SECTION 6. ORS 657.350 is amended to read:

657.350. The Higher Education Coordinating Commission [Director of the Employment Department, in consultation with the Office of Community Colleges and Workforce Development,] shall promulgate rules as necessary for the administration of ORS 657.335 to 657.360, including but not limited to procedures for approval, undertaking periodic reviews for continued approval, or for disapproval of career and technical training for an individual. 

SECTION 7. ORS 350.150 is amended to read:

350.150. (1) The Office of Community Colleges and Workforce Development is established within the Higher Education Coordinating Commission. The office shall function under the direction and control of the commission, with the Director of the Office of Community Colleges and Workforce Development serving as an administrative officer for community college matters.

(2) Except as provided in subsection (3) of this section, the commission may adopt any rules necessary for the effective and efficient administration of the office or for the administration of laws that the office is charged with administering.

(3) The commission, in consultation with the State Workforce and Talent Development Board, workforce partners and the Education and Workforce Policy Advisor and pursuant to ORS chapter 183, may adopt any rules necessary for the administration of laws related to the federal Workforce Innovation and Opportunity Act that the [office or] commission is charged with administering.

SECTION 8. ORS 350.095 is amended to read:

350.095. (1) The Higher Education Coordinating Commission is authorized to:

(a) Request, as part of the funding request under ORS 350.090, appropriations for budgetary items, including but not limited to education and general operations, statewide public services, state funded debt service, capital improvements, deferred maintenance, special initiatives and investments or
any other purpose listed under ORS 350.075 (3)(e); [and]

(b) Allocate moneys, from funds appropriated to the commission and other
available moneys, to public universities listed in ORS 352.002; and

(c) Request, as part of the funding request relating to duties au-
thorized under ORS 660.300 to 660.364, appropriations for budgetary
items, including but not limited to workforce development and coor-
dination of the state workforce development system.

(2) The commission shall certify to the Legislative Assembly, in any
funding request pursuant to subsection (1)(a) of this section for state bonds
under Article XI-F(1) of the Oregon Constitution for the benefit of a public
university listed in ORS 352.002, its evaluation of the revenue sufficiency,
as defined in ORS 286A.830, of the public university that will receive the
proceeds of any Article XI-F(1) bonds approved by the Legislative Assembly.

SECTION 9. ORS 348.290 is amended to read:

348.290. The [Executive] Director of the Office of Student Access and
Completion shall apply the interest on the amount transferred to the Oregon
Student Assistance Fund under section 4, chapter 377, Oregon Laws 1985, to
provide financial aid, as defined in ORS 348.505, to students to study bar-
bering, hairdressing, manicure and esthetics at eligible post-secondary
schools.

SECTION 10. ORS 315.237 is amended to read:

315.237. (1) As used in this section, “qualified scholarship” means a
scholarship that meets the criteria set forth or incorporated into the letter
of employee and dependent scholarship program certification issued [by the
Oregon Student Access Commission] under ORS 348.618.

(2) A credit against the taxes otherwise due under ORS chapter 316 is
allowed to a resident employer (or, if the taxpayer is a corporation that is
an employer, under ORS chapter 317 or 318) that has received:

(a) Program certification [from the commission] under ORS 348.618; and

(b) Tax credit certification under ORS 348.621 for the calendar year in
which the tax year of the taxpayer begins.
(3) The amount of the credit allowed to a taxpayer under this section shall equal 50 percent of the amount of qualified scholarship funds actually paid to or on behalf of qualified scholarship recipients during the tax year.

(4) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year.

(5) The credit allowed to a taxpayer for a tax year under this section may not exceed $50,000.

(6) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer’s tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used in the second succeeding tax year, and likewise any credit not used in that second succeeding tax year may be carried forward and used in the third succeeding tax year, and any credit not used in that third succeeding tax year may be carried forward and used in the fourth succeeding tax year, and any credit not used in that fourth succeeding tax year may be carried forward and used in the fifth succeeding tax year, but may not be carried forward for any tax year thereafter.

(7) In the case of a credit allowed under this section for purposes of ORS chapter 316:

(a) A nonresident shall be allowed the credit under this section in the proportion provided in ORS 316.117.

(b) If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(c) If a change in the taxable year of a taxpayer occurs as described in ORS 314.085, or if the Department of Revenue terminates the taxpayer’s taxable year under ORS 314.440, the credit allowed under this section shall be prorated or computed in a manner consistent with ORS 314.085.

(8) The credit shall be claimed on the form and in the time and manner in which the department shall prescribe. If the taxpayer is required to do so
by the department, the taxpayer shall file a copy of the letter of tax credit 
certification [issued by the commission] with the taxpayer’s return for the tax 
year in which a credit under this section is claimed.

SECTION 11. ORS 366.931 is amended to read:

366.931. (1) As used in this section, “Armed Forces of the United States” 
[has the meaning given that term in ORS 348.282.] means:

(a) The Army, Navy, Air Force, Marine Corps and Coast Guard of 
the United States;

(b) The reserves of the Army, Navy, Air Force, Marine Corps and 
Coast Guard of the United States; and

(c) The Oregon National Guard and a National Guard of any other 
state or territory.

(2) To recognize and honor those who were killed in action or who died 
as a result of wounds received in action while serving in the Armed Forces 
of the United States, the Department of Transportation shall erect and 
maintain a Fallen Hero roadside memorial sign if:

(a) The Legislative Assembly adopts a concurrent resolution that recog- 
nizes the individual killed in the line of duty; and

(b) The department receives the payment of a fee determined by the de- 
partment under subsection (3) of this section.

(3) The department shall determine the amount of the fee required under 
subsection (2)(b) of this section by rule. The fee may not exceed the direct 
and indirect expenses associated with erecting, maintaining and removing a 
roadside memorial sign.

(4) The department shall deposit the fees that the department collects 
under this section into the Roadside Memorial Fund established under ORS 
366.932.

(5) A public body, as defined in ORS 174.109, may not expend moneys for 
the purpose of paying the fee required under this section.

(6) The department, by rule, shall establish the size, design and location 
of a roadside memorial sign erected under this section. The sign must include
the name of the individual the sign is recognizing.

**SECTION 12.** ORS 97.130 is amended to read:

97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a written signed instrument or by preparing or prearranging with any funeral service practitioner licensed under ORS chapter 692, may direct any lawful manner of disposition of the individual's remains. Except as provided under subsection (6) of this section, disposition directions or disposition prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under ORS chapter 692 are not subject to cancellation or substantial revision.

(2) A person within the first applicable listed class among the following listed classes that is available at the time of death, in the absence of actual notice of a contrary direction by the decedent as described under subsection (1) of this section or actual notice of opposition by completion of a written instrument by a member of the same class or a member of a prior class, may direct any lawful manner of disposition of a decedent’s remains by completion of a written instrument:

(a) The spouse of the decedent.

(b) A son or daughter of the decedent 18 years of age or older.

(c) Either parent of the decedent.

(d) A brother or sister of the decedent 18 years of age or older.

(e) A guardian of the decedent at the time of death.

(f) A person in the next degree of kindred to the decedent.

(g) The personal representative of the estate of the decedent.

(h) The person nominated as the personal representative of the decedent in the decedent’s last will.

(i) A public health officer.

(3)(a) The decedent or any person authorized in subsection (2) of this section to direct the manner of disposition of the decedent’s remains may delegate such authority to any person 18 years of age or older.

(b) Delegation of the authority to direct the manner of disposition of re-
mains must be made by completion of:

(A) The written instrument described in subsection (7) of this section; or

(B) A written instrument recognized by the Armed Forces of the United States, as that term is defined in ORS \[348.282\] \[366.931\], if the decedent died while serving in the Armed Forces of the United States.

(c) The person to whom the authority is delegated has the same authority under subsection (2) of this section as the person delegating the authority.

(4) If a decedent or the decedent’s designee issues more than one authorization or direction for the disposal of the decedent’s remains, only the most recent authorization or direction is binding.

(5) A donation of anatomical gifts under ORS 97.951 to 97.982 takes priority over directions for the disposition of a decedent’s remains under this section only if the person making the donation is of a priority under subsection (1) or (2) of this section the same as or higher than the priority of the person directing the disposition of the remains.

(6) If the decedent directs a disposition under subsection (1) of this section and those financially responsible for the disposition are without sufficient funds to pay for such disposition or the estate of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful, the direction is void and disposition shall be in accordance with the direction provided by the person given priority in subsection (2) of this section and who agrees to be financially responsible.

(7) The signature of the individual delegating the authority to direct the manner of disposition is required for the completion of the written instrument required in subsection (3)(b)(A) of this section. The following form or a form substantially similar shall be used by all individuals:

________________________________________________________________________

APPOINTMENT OF PERSON
TO MAKE DECISIONS
CONCERNING DISPOSITION
OF REMAINS
I, ________________, appoint __________________, whose address is ________________ and whose telephone number is (___) ____________, as the person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation. In the event ________________ is unable to act, I appoint ________________, whose address is ________________ and whose telephone number is (___) ____________, as my alternate person to make all decisions regarding the disposition of my remains upon my death for my burial or cremation.

It is my intent that this Appointment of Person to Make Decisions Concerning Disposition of Remains act as and be accepted as the written authorization presently required by ORS 97.130 (or its corresponding future provisions) or any other provision of Oregon Law, authorizing me to name a person to have authority to dispose of my remains.

DATED this ___ day of ______, ______.

______________________
(Signature)

DECLARATION OF WITNESSES

We declare that ________________ is personally known to us, that he/she signed this Appointment of Person to Make Decisions Concerning Disposition of Remains in our presence, that he/she appeared to be of sound mind and not acting under duress, fraud or undue influence, and that neither of us is the person so appointed by this document.

Witnessed By:
______________________ Date: ______

Witnessed By:
______________________ Date: ______
(8) Subject to the provisions of ORS 97.951 to 97.982, if disposition of the remains of a decedent has not been directed and authorized under this section within 10 days after the date of the death of the decedent, a public health officer may direct and authorize disposition of the remains.

(9) Notwithstanding subsection (2) of this section, a person arrested for or charged with criminal homicide by reason of the death of the decedent may not direct the disposition of the decedent’s remains. The disposition of the decedent’s remains shall be made in accordance with the directions of an eligible person within the first applicable class established under subsection (2) of this section.

(10) Notwithstanding subsections (2) and (3) of this section, if the person who has the authority to direct the manner of disposition of cremated remains pursuant to subsection (1) or (2) of this section transfers any portion of the cremated remains to another person, the recipient of the cremated remains has the authority to direct the manner of disposition of the cremated remains in the recipient’s possession.

SECTION 13. ORS 135.385 is amended to read:

135.385. (1) The court shall not accept a plea of guilty or no contest to a felony or other charge on which the defendant appears in person without first addressing the defendant personally and determining that the defendant understands the nature of the charge.

(2) The court shall inform the defendant:

(a) That by a plea of guilty or no contest the defendant waives the right:

(A) To trial by jury;

(B) Of confrontation; and

(C) Against self-incrimination.

(b) Of the maximum possible sentence on the charge, including the maximum possible sentence from consecutive sentences.

(c) When the offense charged is one for which a different or additional penalty is authorized by reason of the fact that the defendant may be
adjudged a dangerous offender, that this fact may be established after a plea
in the present action, thereby subjecting the defendant to different or addi-
tional penalty.

(d) That if the defendant is not a citizen of the United States conviction
of a crime may result, under the laws of the United States, in deportation,
exclusion from admission to the United States or denial of naturalization.

(e) That if the defendant is entering a guilty plea pursuant to a plea offer
and agreed disposition recommendation under ORS 135.405, the court will
agree to impose sentence as provided in the agreed disposition recommen-
dation.

(f) That if the defendant enters a plea of guilty or no contest to an offense
involving domestic violence, as defined in ORS 135.230, and is convicted of
the offense, federal law may prohibit the defendant from possessing, receiv-
ing, shipping or transporting any firearm or firearm ammunition and that the
conviction may negatively affect the defendant’s ability to serve in the
Armed Forces of the United States as defined in ORS [348.282] 366.931 or to
be employed in law enforcement.

SECTION 14. ORS 399.242 is amended to read:

399.242. (1) As used in this section, “service member” means:

(a) A member of the organized militia who is called into active service
of the state by the Governor under ORS 399.065 (1) for 30 or more consec-
utive days.

(b) A member of the Armed Forces of the United States, as that term is
defined in ORS [348.282] 366.931, who is called into active federal service
under Title 10 of the United States Code.

(2)(a) Except as provided in subsection (6) of this section, a service
member who has obtained the following services from a telecommunications
service provider, an Internet service provider, a health club as defined in
ORS 431A.450, a health spa as defined in ORS 646A.030 or a provider of
television services may terminate or suspend the provision of services upon
written notice and as provided in paragraph (b) of this subsection:
(A) Telecommunications services.
(B) Internet services.
(C) Health spa services as defined in ORS 646A.030.
(D) Exercise or athletic activities offered by a health club.
(E) Television services, including but not limited to cable television, direct satellite and other television-like services.

(b) The service member must provide proof to the service provider of the official orders showing that the service member has been called into active service:
(A) At the time written notice is given; or
(B) If precluded by military necessity or circumstances that make the provision of proof at the time of giving written notice unreasonable or impossible, within 90 days after written notice has been given.

(3) A termination or suspension of services under this section is effective on the day written notice is given under subsection (2) of this section.
(4)(a) A service member who terminates or suspends the provision of services under this section and who is no longer in active service may reinstate the provision of services on the same terms and conditions as originally agreed to with the service provider before the termination or suspension upon written notice to the provider that the service member is no longer in active service. Written notice under this subsection must be given within 90 days after termination of the service member’s active service.
(b) Upon receipt of the written notice of reinstatement, the service provider shall resume the provision of services or, if the services are no longer available, provide substantially similar services within a reasonable time not to exceed 30 days from the date of receipt of the written notice of reinstatement.
(5) A service member who terminates, suspends or reinstates the provision of services under this section:
(a) May not be charged a penalty, fee, loss of deposit or any other additional cost because of the termination, suspension or reinstatement; and
(b) Is not liable for payment for any services after the effective date of
the termination or suspension, or until the effective date of a reinstatement
of services as described in subsection (4) of this section.

(6) A service member may terminate a contract for any service provided
by a commercial mobile radio services provider in accordance with 50 U.S.C.
535a.

SECTION 15. Section 2, chapter 91, Oregon Laws 2018, is amended to
read:

Sec. 2. (1) As used in this section:

(a) “Armed Forces of the United States” has the meaning given that term
in ORS 366.931.

(b) “Descendant” has the meaning given that term in ORS 111.005.

(c) “Military medal” means a medal or decoration awarded to a person for
military service in the Armed Forces of the United States and presumed to
be abandoned under ORS 98.302 to 98.436.

(d) “Service member” means the person to whom a military medal was
initially awarded by the Armed Forces of the United States.

(2) Notwithstanding ORS 98.382 and 98.384, the Department of State Lands
may not sell or destroy a military medal. Except as provided in subsection
(4) of this section, upon receiving a military medal, the department shall
retain the military medal until a claim is filed for the military medal by a
service member or by a descendant of a deceased service member.

(3) The department may make a photograph or other visual depiction of
the military medal available to the public, together with any information in
the records of the holder, excluding Social Security numbers, that the de-
partment determines is necessary to facilitate the identification and location
of a service member or a descendant of a deceased service member.

(4) The department may deliver a military medal to one of the following
custodians if the recipient custodian agrees, in writing, to retain the military
medal for the service member or a descendant of a deceased service member:

(a) A military veterans’ organization qualified under section 501(c)(19) of
the Internal Revenue Code;
(b) The agency that awarded the military medal;
(c) A state or federal agency; or
(d) The Oregon Military Museum established under ORS 396.555.
(5) If the department transfers custody of a military medal as provided in subsection (4) of this section, the department is relieved of any duty to safeguard the military medal.
(6) The department may adopt rules to implement the provisions of this section, including:
(a) Identifying procedures the department must take to reasonably identify a service member or a descendant of a deceased service member.
(b) Specifying documentation necessary for a service member or a descendant of a deceased service member to submit a claim for a military medal.
(c) Prioritizing claims if more than one of a deceased service member’s descendants submits a claim for a military medal.

SECTION 16. ORS 348.180 is amended to read:
348.180. As used in this section and ORS 348.205, 348.250, 348.260[,] and 348.263 [and 348.285]:
(1) “Cost of education” includes but is not limited to, tuition, fees and living expenses.
(2) “Eligible post-secondary institution” means:
(a) A public university listed in ORS 352.002;
(b) A community college operated under ORS chapter 341;
(c) The Oregon Health and Science University; or
(d) An Oregon-based, generally accredited, not-for-profit institution of higher education.
(3) “Qualified student” means any resident student, or student exempted from paying nonresident tuition under ORS 352.287, who plans to attend an eligible post-secondary institution and who:
(a) Has not achieved a baccalaureate or higher degree from any post-
secondary institution;
(b) Is enrolled in an eligible program as defined by rule of the Higher Education Coordinating Commission; and
(c) Is making satisfactory academic progress as defined by rule of the commission.

SECTION 17. ORS 341.626 is amended to read:
341.626. (1) Subject to rules adopted by the Higher Education Coordinating Commission and to ORS 291.232 to 291.260, the Director of the Office of Community Colleges and Workforce Development shall distribute state aid to each community college district and community college service district.
(2) The rules adopted by the commission shall provide:
(a) No state aid for hobby and recreation classes;
(b) Procedures for proper and accurate record keeping;
(c) Procedures that will ensure reasonable year-to-year stability in the delivery of appropriated moneys to the colleges; and
(d) Procedures to ensure that the full state appropriation is distributed to the colleges.

[3] Upon compliance with the rules adopted by the commission, the director shall, as soon as practicable following the receipt of required reports from the districts, prepare, certify and transmit to the Oregon Department of Administrative Services the names and the amounts due each district. The Oregon Department of Administrative Services shall audit the amounts certified by the director and draw its warrants on the State Treasury payable out of the General Fund to the districts.]

SECTION 18. ORS 350.075 is amended to read:
350.075. (1) As used in this section, “student access programs” means scholarship, loan, grant and access programs described in ORS chapter 348.
(2) The Higher Education Coordinating Commission shall be guided by the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and mission of post-secondary education set forth in ORS 350.009 and 350.014.
(3) The Higher Education Coordinating Commission shall:
(a) Develop state goals for the state post-secondary education system, including community colleges and public universities listed in ORS 352.002, and for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded
debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance;

(vi) Special initiatives and investments; and

(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state’s community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;
(B) Do not unnecessarily duplicate academic programs offered by Oregon’s other community colleges or public universities;
(C) Are not located in a geographic area that will cause undue hardship to Oregon’s other community colleges or public universities; and
(D) Are allocated among Oregon’s community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:
(A) Approve the mission statement adopted by a governing board of a public university.
(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.
(C) Advise the Governor and the Legislative Assembly on issues of university governance.
(D) Approve and authorize degrees.
(E) Perform the evaluation and certification required by ORS 350.095.
(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.
(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.
(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.
(L) Coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011.

(4)(a) The Higher Education Coordinating Commission shall implement a
process to review and appropriately act on student complaints regarding any school operating in this state. As part of the process implemented under this subsection, the commission may:

(A) Receive student complaints from students regarding a school;
(B) Specify the type of information that must be included in a student complaint;
(C) Investigate and resolve student complaints that relate to state financial aid;
(D) Refer a student complaint to another entity for investigation and resolution as provided in paragraph (b) of this subsection;
(E) Adopt rules to implement the provisions of this subsection; and
(F) Enter into agreements to implement the provisions of this subsection.

(b) The commission may refer the investigation and resolution of a student complaint to:

(A) An appropriate state agency if the complaint alleges that a school has violated a state law concerning consumer protection, civil rights, employment rights or environmental quality;
(B) A school’s accrediting association if the complaint relates to the school’s authorization to offer academic degree programs or to the quality of the school’s academic degree programs; or
(C) The school at which the student is enrolled if the commission determines that the complaint should be resolved through the school’s internal review process.

(c) As used in this subsection:

(A)(i) “School” means an independent institution of higher education that meets the requirements of ORS 348.597 (2)(a).
(ii) “School” does not mean a school that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2)(b) or (c).
(B) “Student” means a person who is enrolled at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.
(5) A student complaint that is received by the Higher Education Coordinating Commission, including but not limited to a student complaint filed under subsection (4) of this section, is not subject to disclosure under ORS 192.311 to 192.478.

(6) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:

(A) Transfers and coenrollment throughout the higher education system;

(B) Accelerated college credit programs for high school students;

(C) Applied baccalaureate and other transfer degrees;

(D) Programs and grants that span multiple institutions; and

(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(7) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(8) With the exception of the rulemaking authority granted in subsection
(7) of this section, the Higher Education Coordinating Commission may del-
egate any of its powers, duties or functions to a committee of the commission
or to the executive director of the commission.

(9) The Higher Education Coordinating Commission may, subject to the
Public Contracting Code, enter into contracts and agreements, including
grant agreements, with public and private entities for those higher education
and workforce development activities that are consistent with ORS 350.001
and 350.005, with the policies set forth in ORS chapters 341 and 348 and with
statutory policies related to career schools and public universities.

(10)(a) The Higher Education Coordinating Commission may exercise only
powers, duties and functions expressly granted by the Legislative Assembly.
Except as otherwise expressly provided by law, all other authorities reside
at the institutional level with the respective boards of the post-secondary
institutions.

(b) The commission has implied and direct authority to implement
the powers, duties and functions expressly granted to the commission
by the Legislative Assembly.

SECTION 19. ORS 350.075, as amended by section 61, chapter 774, Oregon
Laws 2015, section 6, chapter 30, Oregon Laws 2016, section 56, chapter 117,
Oregon Laws 2016, section 8, chapter 66, Oregon Laws 2017, section 2, chap-
ter 98, Oregon Laws 2017, section 6, chapter 185, Oregon Laws 2017, section
22, chapter 297, Oregon Laws 2017, and section 2b, chapter 440, Oregon Laws
2017, is amended to read:

350.075. (1) As used in this section, “student access programs” means
scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by
the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and

(3) The Higher Education Coordinating Commission shall:

(a) Develop state goals for the state post-secondary education system, in-
cluding community colleges and public universities listed in ORS 352.002, and
for student access programs.

(b) Determine strategic investments in the state’s community colleges, public universities and student access programs necessary to achieve state post-secondary education goals.

(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and gen-
eral operations and state-funded debt service;
(iv) New facilities or programs;
(v) Capital improvements and deferred maintenance;
(vi) Special initiatives and investments; and
(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.
(B) In the development of the consolidated higher education agency request budget:
(i) Determine the costs necessary to provide quality post-secondary education;
(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and
(iii) Solicit public input regarding educational priorities.
(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state’s community colleges and public universities, as appropriate.
(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:
(A) Are consistent with the mission statement of the community college or public university;
(B) Do not unnecessarily duplicate academic programs offered by Oregon’s other community colleges or public universities;
(C) Are not located in a geographic area that will cause undue hardship to Oregon’s other community colleges or public universities; and

(D) Are allocated among Oregon’s community colleges and public universities to maximize the achievement of statewide needs and requirements.

(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4)(a) The Higher Education Coordinating Commission shall implement a process to review and appropriately act on student complaints regarding any school operating in this state. As part of the process implemented under this subsection, the commission may:

(A) Receive student complaints from students regarding a school;
(B) Specify the type of information that must be included in a student complaint;
(C) Investigate and resolve student complaints that relate to state financial aid;
(D) Refer a student complaint to another entity for investigation and resolution as provided in paragraph (b) of this subsection;
(E) Adopt rules to implement the provisions of this subsection; and
(F) Enter into agreements to implement the provisions of this subsection.

(b) The commission may refer the investigation and resolution of a student complaint to:

(A) An appropriate state agency if the complaint alleges that a school has violated a state law concerning consumer protection, civil rights, employment rights or environmental quality;
(B) A school’s accrediting association if the complaint relates to the school’s authorization to offer academic degree programs or to the quality of the school’s academic degree programs; or
(C) The school at which the student is enrolled if the commission determines that the complaint should be resolved through the school’s internal review process.

(c) As used in this subsection:

(A)(i) “School” means an independent institution of higher education that meets the requirements of ORS 348.597 (2)(a).
(ii) “School” does not mean a school that is exempt from ORS 348.594 to 348.615 under ORS 348.597 (2)(b) or (c).

(B) “Student” means a person who is enrolled at a school for the purpose of obtaining a degree, certificate or other recognized educational credential offered by that school.

(5) A student complaint that is received by the Higher Education Coordinating Commission, including but not limited to a student complaint filed under subsection (4) of this section, is not subject to disclosure under ORS 192.311 to 192.478.
(6) In addition to the duties described in subsections (2) to (4) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:
   (A) Transfers and coenrollment throughout the higher education system;
   (B) Accelerated college credit programs for high school students;
   (C) Applied baccalaureate and other transfer degrees;
   (D) Programs and grants that span multiple institutions; and
   (E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state's colleges and universities offer programs in high-demand occupations that meet Oregon's workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(7) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(8) With the exception of the rulemaking authority granted in subsection (7) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(9) The Higher Education Coordinating Commission may, subject to the
Public Contracting Code, enter into contracts and agreements, including
grant agreements, with public and private entities for those higher education
and workforce development activities that are consistent with ORS 350.001
and 350.005, with the policies set forth in ORS chapters 341 and 348 and with
statutory policies related to career schools and public universities.

(10)(a) The Higher Education Coordinating Commission may exercise only
powers, duties and functions expressly granted by the Legislative Assembly.
Except as otherwise expressly provided by law, all other authorities reside
at the institutional level with the respective boards of the post-secondary
institutions.

(b) The commission has implied and direct authority to implement
the powers, duties and functions expressly granted to the commission
by the Legislative Assembly.

SECTION 20. ORS 350.075, as amended by section 61, chapter 774, Oregon
Laws 2015, section 6, chapter 30, Oregon Laws 2016, section 56, chapter 117,
Oregon Laws 2016, section 8, chapter 66, Oregon Laws 2017, sections 2 and
3, chapter 98, Oregon Laws 2017, section 6, chapter 185, Oregon Laws 2017,
section 22, chapter 297, Oregon Laws 2017, and section 2b, chapter 440,
Oregon Laws 2017, is amended to read:

350.075. (1) As used in this section, “student access programs” means
scholarship, loan, grant and access programs described in ORS chapter 348.

(2) The Higher Education Coordinating Commission shall be guided by
the legislative findings in ORS 341.009, 350.001 and 350.005 and the goals and

(3) The Higher Education Coordinating Commission shall:
(a) Develop state goals for the state post-secondary education system, in-
cluding community colleges and public universities listed in ORS 352.002, and
for student access programs.

(b) Determine strategic investments in the state’s community colleges,
public universities and student access programs necessary to achieve state
post-secondary education goals.
(c) Coordinate the post-secondary elements of data collection and structure, with the advice and recommendation of the state’s independent institutions, community colleges and public universities, as appropriate, in order to construct a state longitudinal data system.

(d) Adopt a strategic plan for achieving state post-secondary education goals, taking into consideration the contributions of this state’s independent institutions, philanthropic organizations and other organizations dedicated to helping Oregonians reach state goals. State post-secondary education goals as described in this section should include, but need not be limited to:

(A) Increasing the educational attainment of the population;

(B) Increasing this state’s global economic competitiveness and the quality of life of its residents;

(C) Ensuring affordable access for qualified Oregon students at each college or public university;

(D) Removing barriers to on-time completion; and

(E) Tracking progress toward meeting the state’s post-secondary education goals established in the strategic plan described in this paragraph.

(e)(A) Each biennium, after receiving funding requests from the state’s community colleges and public universities as authorized by law, recommend to the Governor a consolidated higher education agency request budget aligned with the strategic plan described in paragraph (d) of this subsection, including appropriations for:

(i) Student access programs;

(ii) Public universities listed in ORS 352.002, including but not limited to education and general operations, statewide public services and state-funded debt service;

(iii) Community colleges, including but not limited to education and general operations and state-funded debt service;

(iv) New facilities or programs;

(v) Capital improvements and deferred maintenance;

(vi) Special initiatives and investments; and
(vii) Any other program, duty or function a public university listed in ORS 352.002 is authorized to undertake.

(B) In the development of the consolidated higher education agency request budget:

(i) Determine the costs necessary to provide quality post-secondary education;

(ii) Solicit input from educators, education policy experts, appropriate legislative committees, students and other persons interested in the development of the funding model; and

(iii) Solicit public input regarding educational priorities.

(f) Adopt rules governing the distribution of appropriations from the Legislative Assembly to community colleges, public universities listed in ORS 352.002 and student access programs. These rules must be based on allocation formulas developed in consultation with the state’s community colleges and public universities, as appropriate.

(g) Approve or disapprove any significant change to the academic program of a community college or a public university listed in ORS 352.002. In reaching a decision under this paragraph, the commission shall consider the recommendation from the community college or public university seeking to make the change to an academic program that is issued pursuant to the obligation of the governing board of a community college or public university to review and approve academic programs. The commission shall ensure that approved programs:

(A) Are consistent with the mission statement of the community college or public university;

(B) Do not unnecessarily duplicate academic programs offered by Oregon’s other community colleges or public universities;

(C) Are not located in a geographic area that will cause undue hardship to Oregon’s other community colleges or public universities; and

(D) Are allocated among Oregon’s community colleges and public universities to maximize the achievement of statewide needs and requirements.
(h) For public universities listed in ORS 352.002:

(A) Approve the mission statement adopted by a governing board of a public university.

(B) Review and determine whether a proposed annual increase of resident undergraduate enrollment fees of greater than five percent is appropriate.

(C) Advise the Governor and the Legislative Assembly on issues of university governance.

(D) Approve and authorize degrees.

(E) Perform the evaluation and certification required by ORS 350.095.

(i) Authorize degrees to be offered by independent post-secondary institutions in this state under ORS 348.594 to 348.615.

(j) Oversee the licensing of career schools under ORS 345.010 to 345.450.

(k) Have the authority to enter into and administer interstate agreements regarding the provision of post-secondary distance education. The participation by an educational institution that is not based in this state in distance learning courses or programs that are part of an interstate agreement entered into and administered under this paragraph does not constitute operating in this state for purposes of ORS 348.594 to 348.615. The commission, by rule, may impose a fee on any educational institution that seeks to operate under or participate in such interstate agreements. The fee amount shall be established to recover designated expenses incurred by the commission in participating in such agreements.

(4) In addition to the duties described in subsections (2) and (3) of this section, the Higher Education Coordinating Commission shall advise the Legislative Assembly, the Governor, community colleges, public universities and other state boards and commissions on policies in order to:

(a) Ensure or improve access to higher education by diverse and underserved populations.

(b) Encourage student success and completion initiatives.

(c) Improve the coordination of the provision of educational services, including:
(A) Transfers and coenrollment throughout the higher education system;
(B) Accelerated college credit programs for high school students;
(C) Applied baccalaureate and other transfer degrees;
(D) Programs and grants that span multiple institutions; and
(E) Reciprocity agreements with other states.

(d) In coordination with the State Board of Education, enhance the use and quality of dual credit, career and technical pathways and efforts to create a culture of college attendance in this state.

(e) In coordination with the State Workforce and Talent Development Board, local workforce development boards, the Oregon Health and Science University and independent institutions, ensure that the state’s colleges and universities offer programs in high-demand occupations that meet Oregon’s workforce needs.

(f) Improve economies of scale by encouraging and facilitating the use of the shared services among post-secondary institutions in this state.

(5) The Higher Education Coordinating Commission, in a manner consistent with ORS chapter 183, may adopt administrative rules.

(6) With the exception of the rulemaking authority granted in subsection (5) of this section, the Higher Education Coordinating Commission may delegate any of its powers, duties or functions to a committee of the commission or to the executive director of the commission.

(7) The Higher Education Coordinating Commission may, subject to the Public Contracting Code, enter into contracts and agreements, including grant agreements, with public and private entities for those higher education and workforce development activities that are consistent with ORS 350.001 and 350.005, with the policies set forth in ORS chapters 341 and 348 and with statutory policies related to career schools and public universities.

(8)(a) The Higher Education Coordinating Commission may exercise only powers, duties and functions expressly granted by the Legislative Assembly. Except as otherwise expressly provided by law, all other authorities reside at the institutional level with the respective boards of the post-secondary
institutions.

(b) The commission has implied and direct authority to implement the powers, duties and functions expressly granted to the commission by the Legislative Assembly.

SECTION 21. ORS 345.030 is amended to read:

345.030. (1) A person may not open, conduct or do business as a career school in this state without obtaining a license under ORS 345.010 to 345.450.

(2) Except as provided in subsection (8) of this section, the Higher Education Coordinating Commission may issue a license to conduct a career school only after the applicant has presented proof satisfactory to the commission that the applicant complies with applicable standards adopted under ORS 345.325 and 670.280. For the purpose of this subsection, ORS 670.280 applies to individuals who hold positions of authority or control in the operation of the school and to its faculty members and agents.

(3) A career school licensed in any other state must be licensed in this state before establishing a physical presence in this state such as offices or agents, or both, for the purpose of solicitation of students.

(4) In determining whether to issue a license to a career school, the commission may consider the prior history of the applicant in operating other career schools. The prior history of operating other career schools includes, but is not limited to:

(a) Conduct by the applicant that is cause for a notice of corrective action or for suspension or revocation of a license as provided in ORS 345.120 (3);

(b) Failure to comply with ORS 345.010 to 345.450 or rules adopted under ORS 345.010 to 345.450; and

(c) The history of the applicant in operating career schools in other states.

(5) The commission may not issue a license to or renew the license of a career school until the applicant provides all of the following to the commission:

(a) A financial statement, certified true and accurate and signed by the
owner of the school;

(b) Proof of compliance with the tuition protection policy established by the commission pursuant to ORS 345.110; and

(c) Fingerprints of individuals as described in subsection (6) of this section.

(6)(a) Except as provided in paragraph (c) of this subsection, an applicant for an initial issuance of a license or a renewal of a license must provide to the commission the fingerprints of faculty members and agents of the school and individuals who hold positions of authority or control in the operation of the school if the career school will be enrolling or does enroll persons under 18 years of age.

(b) In addition to requirements provided under paragraph (a) of this subsection, the commission may require a career school to provide the fingerprints of any agents of the school who will have contact with persons under 18 years of age on behalf of the career school.

(c) An applicant is not required to provide fingerprints under paragraph (a) or (b) of this subsection if the commission has conducted a state or nationwide criminal records check on the person within the three years preceding the date of the application.

[(d) Fingerprints acquired under this subsection may be used only for the purpose of requesting a state or nationwide criminal records check under ORS 181A.195.]  

d) The commission shall request a state or nationwide criminal records check under ORS 181A.195. Fingerprints acquired under this subsection may be used only for the purpose of obtaining a criminal records check under this section.

(7) Notwithstanding ORS 345.325 (10), the commission may issue a notice for corrective action or deny, suspend or revoke a license if the commission finds that an individual who holds a position of authority or control in the operation of the school was convicted of a crime listed in ORS 342.143.

(8) The commission may issue a conditional license to a career school that
meets the requirements of subsection (5) of this section but that does not comply with the applicable standards adopted by rule under ORS 345.325. A conditional license issued under this subsection is effective for a period prescribed by the commission, which may not exceed 90 days.

(9)(a) Except as provided in paragraph (b) of this subsection, a career school license is nontransferable. The licensee must give 30 days of notice to the commission when transferring ownership of a career school.

(b) The commission may transfer a career school license or allow the ownership of a career school to transfer with less than 30 days of notice if:

(A) The owner of the school dies, is incapacitated or is incarcerated; or

(B) Other circumstances render the owner unable to operate the career school.

(10) Each career school shall display its license in a prominent place.

SECTION 22. ORS 348.563 is amended to read:

348.563. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Higher Education Coordinating Commission may require the fingerprints of a person who:

[(1)(a) Is employed or applying for employment by the Director of the Office of Student Access and Completion; or]

[(b) Provides services or seeks to provide services to the director as a contractor or volunteer; and]

[(2) is, or will be, working or providing services in a position:

[(a)] (1) In which the person has direct access to facilities where students reside or to persons under 18 years of age, elderly persons or persons with disabilities;

[(b)] (2) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

[(c)] (3) In which the person has access to information, the disclosure of which is prohibited by state or federal laws, rules or regulations or infor-
mation that is defined as confidential under state or federal laws, rules or
regulations; or

[(d)] (4) That has payroll functions or in which the person has responsi-
bility for receiving, receipting or depositing money or negotiable instru-
ments, for billing, collections or other financial transactions or for
purchasing or selling property or has access to property held in trust or to
private property in the temporary custody of the state.

SECTION 23. ORS 350.360, as amended by section 12, chapter 72, Oregon
Laws 2018, is amended to read:

350.360. (1) As used in this section, “employee group” means each category
of employee employed by a public institution of higher education, including
at least categories for:

(a) Administrative or management employees;
(b) Faculty employees; and
(c) Classified or professional nonfaculty employees.

(2)(a) The Higher Education Coordinating Commission shall conduct an
annual review of each public institution of higher education with respect to
the employment of all employee groups at the institution. For the purpose
of conducting the annual reviews, the commission shall determine definitions
and data that will be used.

(b) Each public institution of higher education shall provide the data re-
quired for the purposes of paragraph (a) of this subsection to the commission
prior to June 30 of each year. The institution must use the data the institu-
tion provided to a national post-secondary data collection system within the
United States Department of Education by November 1 of the previous year.

The institution shall supplement the data required to be used under
this paragraph with any additional data the institution deems neces-
sary to comply with the requirements of this section.

(c) The commission shall report the results of the annual reviews to the
Legislative Assembly and the Governor before December 1 of each year.

(3) The annual reviews conducted under this section must include the
following information for each employee group and for both full-time and part-time employees:

(a) The total number of employees in the employee group;

(b) The total number of full-time equivalent positions worked by employees in the employee group;

(c) The [average] number of [employees supervised by a member of] supervisors in the employee group;

(d) The average salary of a member of the employee group;

(e) The ratio of students to employees in the employee group;

(f) The ratio of instruction among faculty groups; and

(g) The number of employees in the employee group eligible for health care and other benefits.

SECTION 24. ORS 401.910 is amended to read:

401.910. (1) The Oregon Business Development Department shall develop a grant program for the disbursement of funds for the seismic rehabilitation of critical public buildings, including hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs’ offices, other facilities used by state, county, district or municipal law enforcement agencies and buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, education service districts and institutions of higher education, including but not limited to public universities listed in ORS 352.002. The Oregon Infrastructure Finance Authority established in the department by ORS 285A.096 shall administer the grant program developed under this section. The funds for the seismic rehabilitation of critical public buildings under the grant program are to be provided from the issuance of bonds pursuant to the authority provided in Articles XI-M and XI-N of the Oregon Constitution.

(2) The grant program shall include the appointment of a grant committee. The grant committee may be composed of any number of persons with qualifications that the authority determines necessary. However, the au-
authority shall include persons with experience in administering state grant programs and representatives of entities with responsibility over critical public buildings. The authority shall also include as permanent members representatives of:

(a) The Office of Emergency Management;
(b) The State Department of Geology and Mineral Industries;
(c) The Seismic Safety Policy Advisory Commission;
(d) The Oregon Department of Administrative Services;
(e) The Department of Education;
(f) The Oregon Health Authority;
(g) The Oregon Fire Chiefs Association;
(h) The Oregon Association Chiefs of Police;
(i) The Oregon Association of Hospitals and Health Systems; and
(j) The Confederation of Oregon School Administrators.

The authority shall determine the form and method of applying for grants from the grant program, the eligibility requirements for grant applicants, and general terms and conditions of the grants. The authority shall also provide that the grant committee review grant applications and make a determination of funding based on a scoring system that is directly related to the statewide needs assessment performed by the State Department of Geology and Mineral Industries. Additionally, the grant process may:

(a) Require that the grant applicant provide matching funds for completion of any seismic rehabilitation project.
(b) Provide authority to the grant committee to waive requirements of the grant program based on special circumstances such as proximity to fault hazards, community value of the structure, emergency functions provided by the structure and storage of hazardous materials.
(c) Allow an applicant to appeal any determination of grant funding to the authority for reevaluation.
(d) Provide that applicants release the state, the authority and the grant committee from any claims of liability for providing funding for seismic re-
habilitation.

(e) Provide separate rules for funding rehabilitation of structural and nonstructural building elements.

(4) Subject to the grant rules established by the authority and subject to reevaluation by the authority, the grant committee has the responsibility to review and make determinations on grant applications under the grant program established pursuant to this section.

SECTION 25. ORS 348.570 is amended to read:

348.570. (1)(a) There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the Oregon Student Assistance Fund. Interest earned by the fund shall be credited to the fund.

(b) The fund shall consist of moneys appropriated to the Higher Education Coordinating Commission for deposit into the fund, collections and penalties received by the Director of the Office of Student Access and Completion under ORS 442.545 and any donations or grants received by the commission for a purpose of the fund.

(c) Moneys in the fund are continuously appropriated to the commission for:

(A) Investments as provided by ORS 293.701 to 293.857;

(B) The payment of expenses of the commission in carrying out the purposes of ORS 348.250, [348.285,] 348.505 to 348.615, [348.625 to 348.695,] 348.696 and 348.992; and

(C) The purpose of carrying out the provisions of ORS 348.272.

(d) The commission shall use moneys in the fund for those purposes for which the moneys were provided to or received or collected by the commission.

(2) There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the ASPIRE Program Fund. Moneys received from donations and grants shall be credited to the ASPIRE Program Fund. Moneys in the fund are continuously appropriated to the commission for the purposes of investment, as provided by ORS 293.701 to 293.857, and
for carrying out the provisions of ORS 348.500. Interest earned by the fund shall be credited to the fund.

(3)(a) There is established in the State Treasury the Nursing Faculty Loan Repayment Fund, separate and distinct from the General Fund. Interest earned on the Nursing Faculty Loan Repayment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the commission for carrying out ORS 348.440 to 348.448. The Nursing Faculty Loan Repayment Fund consists of:

(A) Moneys appropriated to the commission for the Nursing Faculty Loan Repayment Program created in ORS 348.444; and

(B) Grants, gifts or donations received by the commission for the program.

(b) Any unexpended funds in the fund at the end of a biennium shall be retained in the fund and may be expended in subsequent biennia.


SECTION 27. ORS 348.282, 348.283 and 348.285 are repealed.

SUMMARY

Defines “video lottery terminal” for purposes of lottery chapter and amusement device excise tax provision.

Provides that claimed prize is valid if ticket or share is mailed and postmarked by claim deadline.

Provides that potential vendors must make certain disclosures when given notice of intent to award contract, instead of at time that bid, proposal or offer is submitted.

Provides that Oregon State Lottery may include costs of entering into agreements with third parties to research problem gambling in costs of administration.

Directs Oregon State Lottery Commission to adopt rules to protect, secure and maintain confidentiality of personally identifiable player data.

Makes various statutory changes to clarify statutes and align statutes with current terminology and practice.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 461.010 is amended to read:

461.010. Unless the context requires otherwise, the definitions contained in this [chapter] section shall govern the construction of this chapter.

(1) “Commissioner” means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon.
Oregon and this chapter to oversee the state lottery.

(2) “Director” means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter as the chief administrator of the Oregon State Lottery.

(3) “Lottery” or “state lottery” means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.

(4) “Lottery commission” or “commission” means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.

(5) “Lottery contractor” means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.

(6) “Lottery game” or “game” means any procedure authorized by the commission whereby prizes are distributed among natural persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win such prizes.

(7) “Lottery game retailer” means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) “Lottery vendor” or “vendor” means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.

(9) “Person” means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.

(10)(a) “Personally identifiable player data” means:

(A) Information associated with an individual that contains personal financial information, including information relating to payment cards or accounts held by the individual at a financial institution;

(B) Information associated with an individual that relates to the individual’s playing of lottery games, including frequency of play and amounts paid for tickets or shares; and
(C) Other information associated with an individual that the individual reasonably would not want publicly disclosed.

(b) “Personally identifiable player data” does not include information pertaining to individuals that is collected, accumulated or analyzed in the aggregate or otherwise anonymously.

(11) “Video lottery game” means a lottery game played on a video lottery terminal.

(12) “Video lottery game retailer” means a lottery game retailer with whom the lottery has contracted for the purpose of placing video lottery terminals and offering video lottery games, either exclusively or in addition to other lottery games.

(13) “Video lottery terminal” means a device for playing lottery games that:

(a) Is owned, operated, controlled or maintained by the commission;
(b) Is placed in a fixed location for an extended duration;
(c) Consists of a console that includes a video display and a random number generator;
(d) Is connected to and monitored by a central system; and
(e) Accepts payment that enables an individual to play the lottery games offered on the device.

SECTION 2. ORS 320.005 is amended to read:

320.005. As used in ORS 320.005 to 320.150, unless the context requires otherwise:

(1) “Amusement device” means a video lottery [game] terminal[, including but not limited to any electronic, mechanical-electronic or nonmechanical device that:] [(a) Displays a ticket through the use of a video display screen;] [(b) Is available for consumer play upon the payment of consideration;] [(c) Determines winners through the element of chance; and] [(d) Displays possible prizes on the device.] as defined in ORS 461.010.

(2) “Department” means the Department of Revenue.
(3) “Net receipts” has the meaning given the term “net receipts from video lottery games” under ORS 461.547.

(4) “Operate” means to make an amusement device available for use by the public for gain, benefit or advantage.

(5)(a) “Person” means every individual, partnership (limited or not), corporation (for-profit or not-for-profit), company, cooperative, joint stock company, joint venture, firm, business trust, association, organization, institution, club, society, receiver, assignee, trustee in bankruptcy, auctioneer, syndicate, trust, trustee, estate, personal representative or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(b) “Person” includes this or another state, a municipal corporation, quasi-municipal corporation or political subdivision of this or another state, and the agencies, departments and institutions of this or another state, irrespective of the nature of the activities engaged in or functions performed, but does not include the United States or a foreign government or any agency, department or instrumentality of the United States or of any foreign government.

(6) “Tax year” means a period of 12 months beginning July 1 and ending the following June 30.

SECTION 3. ORS 461.050 is amended to read:

461.050. The Oregon State Lottery shall have its [principal offices] headquarters in the capital city.

SECTION 4. ORS 461.100 is amended to read:

461.100. (1) The Oregon State Lottery Commission is hereby created in state government.

(2)(a) The Oregon State Lottery Commission shall consist of five members appointed by the Governor and confirmed by the Senate who shall serve at the pleasure of the Governor.

(b) The members shall be appointed for terms of four years.

(c) Vacancies shall be filled [within 30 days] as soon as practicable by
the Governor, subject to confirmation by the Senate, for the unexpired portion of the term in which they occur.

(3) At least one of the commissioners shall have a minimum of five years’ experience in law enforcement and at least one of the commissioners shall be a certified public accountant. No person shall be appointed as a lottery commissioner who has been convicted of a felony or a gambling related offense. No more than three members of the commission shall be members of the same political party.

(4) The commission shall exercise all powers necessary to effectuate the purpose of this chapter. In all decisions, the commission shall take into account the particularly sensitive nature of the lottery and shall act to promote and [insure] ensure fairness, integrity, security[,] and honesty [and fairness] in the operation and administration of the state lottery.

(5) Lottery commissioners shall be eligible for compensation and expenses under ORS 292.495.

(6) Lottery commissioners shall file a verified statement of economic interest with the Oregon Government Ethics Commission and shall be subject to the provisions of ORS chapter 244.

(7) The Governor shall select annually from the membership of the commission a chairperson who serves at the pleasure of the Governor. The chairperson or a majority of the members of the commission then in office shall have the power to call special meetings of the commission.

(8) Meetings of the commission shall be open and public in accordance with state law. Records of the commission shall be open and available to the public in accordance with state law. The commission shall meet with the Director of the Oregon State Lottery not less than monthly to make recommendations and set policy, to approve or reject reports of the director, to adopt rules and to transact other business.

(9) A quorum of the commission shall consist of a majority of the members of the commission then in office. All decisions of the commission shall be made by a majority vote of all of the commissioners then in office.
(10) The commission shall prepare quarterly and annual reports of the operation of the state lottery. Such reports shall include a full and complete statement of state lottery revenues, prize disbursements, expenses, net revenues and all other financial transactions involving state lottery funds. The commission shall, not less than annually, contact interested parties, including those named in ORS 461.180 (3), and provide them with such quarterly and annual reports as they may request.

SECTION 5. ORS 461.110 is amended to read:

461.110. (1) Upon the request of the Oregon State Lottery Commission or the Director of the Oregon State Lottery, the office of the Attorney General and the Oregon State Police shall furnish to the director and to the Assistant Director for Security such information as may tend to ensure security, fairness, integrity, security and honesty in the operation and administration of the Oregon State Lottery as the office of the Attorney General and the Oregon State Police may have in their possession, including, but not limited to, manual or computerized information and data.

(2) In order to determine an applicant’s suitability to enter into a contract with or to be employed by the Oregon State Lottery, each applicant identified in this subsection shall be fingerprinted. The Assistant Director for Security may submit to the Department of State Police and to the Federal Bureau of Investigation, for the purpose of verifying the identity of the following persons and obtaining records of their arrests and criminal convictions, fingerprints of:

(a) With respect to video lottery game retailers, each person for whom ORS 461.300 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person’s name and address;

(b) With respect to lottery vendors and lottery contractors, each person for whom ORS 461.410 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person’s name and address;

(c) Applicants for employment with the Oregon State Lottery; and

(d) With respect to other persons and entities that apply for contracts or
have contracts with the Oregon State Lottery, each person for whom ORS 461.300 requires disclosure of the person’s name and address and for whom the Assistant Director for Security has prepared written reasons, approved in writing by the director, for requiring the confirmation of the person’s identity and records.

(3) For the purpose of requesting and receiving the information described in subsections (1) and (2) of this section, the Oregon State Lottery Commission is a state agency and a criminal justice agency and its enforcement agents are peace officers pursuant to ORS 181A.355 to 181A.670 and rules adopted thereunder.

(4) Enforcement agents, designated as such by the commission, shall have the same authority with respect to service and execution of warrants of arrest and search warrants as is conferred upon peace officers of this state.

SECTION 6. ORS 461.150 is amended to read:

461.150. (1) The Governor shall appoint a Director of the Oregon State Lottery, subject to confirmation by the Senate, who shall serve at the pleasure of the Governor. The director shall implement and operate a state lottery pursuant to the rules, and under the guidance, of the commission.

(2) The director shall be qualified by training and experience to direct the operations of a state-operated lottery. No [person shall] individual may be appointed as lottery director who has been convicted of a felony or any gambling related offense.

(3) The director shall receive such salary as may be set by the commission with the approval of the Governor, and shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. The director shall render full-time service to the duties of office.

(4) The director shall, subject to the approval of the commission, perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities and carry out and effect the purposes of this chapter. The director shall act as secretary and executive officer of the commission. The director shall supervise and administer the operation of the Oregon State
Lottery in accordance with this chapter, and the rules adopted by the commission. In all decisions, the director shall take into account the particularly sensitive nature of the state lottery, and shall act to promote and [insure] ensure fairness, integrity, security[,] and honesty [and fairness of] in the operation and administration of the state lottery.

(5) The director shall recommend to the commission the establishment of rules pertaining to the employment, termination and compensation of all commission staff. The rules shall conform to generally accepted personnel practices based upon merit principles. Under the rules so established, the director may set the compensation, prescribe the duties and supervise [persons] individuals so hired. The director may terminate or otherwise discipline [persons] individuals so hired. No [person shall] individual may be employed by the state lottery who has been convicted of a felony or any gambling related offense.

(6) If a lottery employee transfers to a state agency that is subject to ORS chapter 240, the employee is entitled to transfer accrued sick leave, adjusted if necessary to reflect the accrual rate in use for management and unrepresented employees under rules of the Personnel Division.

(7) Subject to approval of the commission, the director may appoint, prescribe the duties of and terminate or otherwise discipline no more than four assistant directors as the director deems necessary. The compensation of each assistant director shall be established by the director subject to approval of the commission. The director shall supervise the assistant directors.

(8) The director and each assistant director shall file a verified statement of economic interest with the Oregon Government Ethics Commission and shall be subject to the provisions of ORS chapter 244.

SECTION 7. ORS 461.190 is amended to read:

461.190. The Assistant Director for Security appointed pursuant to the Constitution of the State of Oregon and this chapter shall be responsible for a security division to [assure] ensure fairness, integrity, security[,] and
honesty [and fairness] in the operation and administration of the Oregon State Lottery, including but not limited to[,] an examination of the background of all prospective employees, lottery game retailers, lottery vendors and lottery contractors. The Assistant Director for Security shall be qualified by training and experience, including at least five years of law enforcement experience, and knowledge and experience in [computer] information technology and digital security, to fulfill these responsibilities. The Assistant Director for Security shall, in conjunction with the Director of the Oregon State Lottery, confer with the Attorney General or designee as the Assistant Director for Security deems necessary and advisable to promote and [insure] ensure fairness, integrity, security[, ] and honesty [and fairness of] in the operation and administration of the state lottery. The Assistant Director for Security, in conjunction with the director, shall report any alleged violation of law to the Attorney General and any other appropriate law enforcement authority for further investigation and action.

**SECTION 8.** ORS 461.202 is amended to read:


**SECTION 9.** ORS 461.215 is amended to read:

461.215. (1) The Oregon State Lottery Commission may initiate [a game or games using video devices] video lottery games, the proceeds from which shall be transferred to the Administrative Services Economic Development Fund for allocation as provided by law.

(2) In the approval and purchase of video lottery games, [game terminals and equipment] video lottery terminals and other devices and equipment for video lottery games, the lottery commission and any game operator, distributor, retailer or owner shall prefer goods or services that have been manufactured in this state if price, fitness and quality are otherwise equal.

(3) The lottery commission shall separately record and account for the costs and net proceeds of games operated under this section. At such time
as the lottery commission makes the quarterly transfer of net proceeds pro-
vided for by ORS 461.540, it shall certify to the Oregon Department of Ad-
ministrative Services the amount of such transfer which represents the net
proceeds of video lottery games [provided for in subsection (1) of this
section].

SECTION 10. Nothing in this chapter prohibits the Oregon State
Lottery Commission from initiating or offering lottery games that may
be accessed or played on devices or equipment other than video lottery
terminals.

SECTION 11. ORS 461.217 is amended to read:

ORS 461.217. [(1) As used in this section, “video lottery game retailer” means a
contractor under contract with the Oregon State Lottery to place video lottery
game terminals on premises authorized by the contract.]

[(2)] (1) A video lottery [game] terminal [that offers a video lottery game
authorized by the Director of the Oregon State Lottery]:

(a) May be placed for operation only in or on the premises of an estab-
lishment that has a contract with the Oregon State Lottery as a video lottery
game retailer.

(b) Must be within the control of an employee of the video lottery game
retailer.

(c) May not be placed in any other business or location.

[(3)] (2) A video lottery [game] terminal may be placed only on the
premises of an establishment licensed by the Oregon Liquor Control Com-
mission with a full on-premises sales license, a limited on-premises sales li-
cense or a brewery-public house license. A video lottery [game] terminal may
be placed only in that part of the premises that is posted by the Oregon Li-
quor Control Commission as being closed to minors. In addition to the re-
quirements of this subsection, the director may by rule establish other
criteria and conditions as the director determines appropriate for the place-
ment of video lottery [game] terminals in establishments.

[(4)] (3) No more than six video lottery [game] terminals may be placed
in or on premises described in subsection [(3)] (2) of this section.

[(5)] (4) No more than 10 video lottery [game] terminals may be placed in
or on the premises of a race meet licensee licensed under ORS 462.020 that
qualifies as a video lottery game retailer.

SECTION 12. ORS 461.220 is amended to read:

ORS 461.220. (1) Upon recommendation of the Director of the Oregon State
Lottery, the Oregon State Lottery Commission shall adopt rules that specify
the number and value of prizes for winning tickets or shares in each lottery
game including, without limitation, cash prizes, merchandise prizes, prizes
consisting of deferred payments or annuities and prizes of tickets or shares
in the same lottery game or other lottery games [conducted by the Oregon
State Lottery].

(2) In each lottery game utilizing tickets, the following information shall
be printed on each ticket:

(a) A close approximation of the odds of winning some prize or some cash
prize, as appropriate for the lottery game.

(b) An approximation of a payout percentage that will be returned to
players in the form of prizes for the lottery game. For online games, the
approximation may be based on the average payout percentage over several
prior years.

(c) The statement that “Lottery games are based on chance, should be
played for entertainment only and should not be played for investment pur-
poses.”

(3) A detailed tabulation of the estimated number of prizes of each par-
ticular prize denomination that are expected to be awarded in each lottery
game and the close approximation of the odds of winning such prizes shall
be [available at each location at which tickets or shares in such lottery games
are offered for sale to the public] made available by the commission to the
public in a manner determined by the commission by rule.

(4) Notwithstanding subsection (1) of this section[.]:

(a) The commission [may] shall either specify by rule the number and
value of prizes for video lottery games [that use video devices or that use
tickets or shares that allow a player to manually reveal covered play symbols,
or the commission may] or make such information available at each location
[that offers such games using video devices, tickets or shares for sale to the
public] at which video lottery terminals are placed for operation.

(b) The commission shall either specify by rule the number and
value of prizes for games that use tickets or shares that allow a player
to manually reveal covered play symbols or make such information
available at each location where such tickets or shares are offered for
sale to the public.

(5) All television, radio and newspaper advertising of a lottery game shall
include a disclaimer representing a close approximation of the odds of win-
ning some prize and an approximation of the amount that will be returned
to the players in the form of prizes for the game in the following words:
“The odds of winning some prize are one in (some number). The prize payout
percentage is (some number).” where the numbers stated represent a close
approximation of the odds of winning some prize and the prize payout per-
centage. However, this subsection does not apply to advertising the purpose
of which is to advertise the location where tickets may be purchased or to
provide information about the winners.

(6) All television, radio and newspaper advertising of lottery games
funded by the lottery commission, including advertising that is intended to
indicate where tickets may be purchased or to provide information about
prize winners, shall include the disclaimer that “Lottery games are based on
chance, should be played for entertainment only and should not be played for
investment purposes.”

(7) All television, radio and newspaper advertising intended to publicize
projects or programs funded by lottery dollars shall include the disclaimer
that “Lottery games are based on chance and should be played for enter-
tainment only.” However, this subsection does not apply to any such adver-
tising that has the sole purpose of educating the public about gambling
addiction or available treatments.

(8) All billboard advertising intended to promote a lottery game, to indicate where tickets may be purchased or to provide information about prize winners shall include the disclaimer that “Lottery games should not be played for investment purposes.”

(9) All billboard advertising intended to publicize projects or programs funded by lottery dollars shall include the disclaimer that “Lottery games should be played for entertainment only.”

(10) A disclaimer required by this section to be included in a written advertisement shall be of a size and in a form that allows an individual to readily notice and read the statement. A disclaimer required by this section to be included in a television or radio advertisement shall be spoken aloud and, in the case of television, must also be displayed visually in a form that allows an individual to readily notice and read the statement.

SECTION 13. ORS 461.230 is amended to read:

461.230. (1) Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules that specify the method for determining winners in each lottery game.

(2) If a lottery game utilizes a manual drawing of winning numbers, a manual drawing among entries or a manual drawing among finalists:

(a) The drawing must be open to the public;

(b) The drawing must be witnessed by an independent certified public accountant or a professional representative of an independent certified public accountancy organization;

(c) Any equipment used in the drawing must be inspected by the independent certified public accountant or the professional representative of an independent certified public accountancy organization and an employee of the lottery both before and after the drawing; and

(d) The drawing and such inspections shall be recorded on both video and audio tape.

(3)(a) [When] If a drawing is held out of this state in conjunction with
other state lotteries, the Oregon State Lottery shall conduct periodic studies
of the drawing’s security procedures. Any equipment used in a manual
drawing must be inspected both before and after the drawing by a profes-
sional representative of an independent certified public accountancy organ-
ization and a representative of the [state lottery] **Oregon State Lottery**
designated by the director.

(b) Any manual drawing and such inspections shall be recorded on both
video and audio tape.

(4) The lottery may use any of a variety of existing or future methods or
technologies in determining winners.

**SECTION 14.** ORS 461.250 is amended to read:

461.250. Upon recommendation of the Director of the Oregon State Lot-
tery, the Oregon State Lottery Commission shall adopt rules to establish a
system of verifying the validity of tickets or shares claimed to win prizes and
to effect payment of such prizes, provided:

(1) For the convenience of the public, lottery game retailers may be au-
thorized by the commission to pay winners of up to $5,000 after performing
validation procedures on their premises appropriate to the lottery game in-
volved.

(2) A prize may not be paid to a person under 18 years of age.

(3) A video lottery game prize may not be paid to a person under 21 years
of age.

(4) A prize may not be paid arising from claimed tickets or shares that
are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in
error, unreadable, not received or not recorded by the Oregon State Lottery
by applicable deadlines, lacking in captions that confirm and agree with the
lottery play symbols as appropriate to the lottery game involved or not in
compliance with such additional specific rules or with public or confidential
validation and security tests of the lottery appropriate to the particular lot-
tery game involved. However, the commission may adopt rules to establish
a system of verifying the validity of claims to prizes greater than $600 that
are otherwise not payable under this subsection due to a lottery game retailer’s losing, damaging or destroying the winning ticket or share while performing validation procedures thereon, and to effect payment of verified claims. A verification system established by the commission shall include appropriate public or confidential validation and security tests.

(5) A particular prize in any lottery game may not be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(6) The commission may specify that winners of less than $25 claim such prizes from either the same lottery game retailer who sold the winning ticket or share or from the lottery itself and may also specify that the lottery game retailer who sold the winning ticket or share be responsible for directly paying that prize.

(7)(a) Holders of tickets or shares shall have the right to claim prizes for one year after the drawing or the end of the lottery game or play in which the prize was won, subject to ORS 187.010. The commission may define shorter time periods to claim prizes and for eligibility for entry into drawings involving entries or finalists. If a valid claim is not made for a prize payable directly by the lottery commission within the applicable period, the unclaimed prize shall remain the property of the commission and shall be allocated to the benefit of the public purpose described in Article XV, section 4, of the Oregon Constitution.

(b) A ticket or share that is transmitted through the United States mail or by private express carrier is deemed to be claimed on the date shown by the cancellation mark or other record of transmittal, or on the date the ticket or share was mailed or deposited for transmittal if proof satisfactory to the director establishes that the mailing or deposit occurred on a date earlier than the date shown by the record of transmittal.

(8)(a) The right of any person to a prize shall not be assignable, except
that:

(A) Payment of any prize may be made according to the terms of a deceased prize winner's signed beneficiary designation form filed with the commission or, if no such form has been filed, to the estate of the deceased prize winner.

(B) Payment of any prize shall be made to a person designated pursuant to an appropriate judicial order or pursuant to a judicial order approving the assignment of the prize in accordance with ORS 461.253.

(b) The director, commission and state shall be discharged of all further liability with respect to a specific prize payment upon making that prize payment in accordance with this subsection or ORS 461.253.

(9) A ticket or share may not be purchased by, and a prize may not be paid to, a member of the commission, the director, the assistant directors or any employee of the state lottery or to any spouse, child, brother, sister or parent of such person.

(10) Payments made according to the terms of a deceased prize winner's signed beneficiary designation form filed with the commission are effective by reason of the contract involved and this statute and are not to be considered as testamentary devices or subject to ORS chapter 112. The director, commission and state shall be discharged of all liability upon payment of a prize.

(11) In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C.A. app. 525), a person while in active military service may claim exemption from the one-year ticket redemption requirement under subsection (7) of this section. However, the person must notify the commission by providing satisfactory evidence of possession of the winning ticket within the one-year period, and must claim the prize or share no later than one year after discharge from active military service.

SECTION 15. ORS 461.257 is amended to read:

461.257. Notwithstanding ORS 461.250 (8) [or] and 461.253, if it is ever determined that prize winners who do not seek to assign their prize payments
are subject to immediate income taxes on the prize payments just as if those
prize winners had so assigned their prizes, the Oregon State Lottery Com-
mission may intervene in a proceeding commenced under ORS 461.253 in or-
der to raise the issue of adverse tax consequences in the proceeding. If the
court determines that ORS 461.250 (8) and 461.253 or the issuance of an order
approving an assignment of prize payments subjects prize winners who do
not seek assignment of prize payments to immediate income taxes on their
prize payments, the court shall refuse to authorize an assignment and shall
issue an order that ORS 461.250 (8)(a)(B) and 461.253 are suspended and are
of no force or effect so long as such determination and adverse tax conse-
quences are in effect. An order issued by a court under this section shall
suspend ORS 461.250 (8)(a)(B) and 461.253 throughout this state. An order
issued under this section shall be final and shall remain in effect unless or
until overturned or modified by a subsequent court order or the order of a
reviewing court.

SECTION 16. ORS 461.300 is amended to read:

461.300. (1) The Oregon State Lottery Commission shall adopt rules spec-
ifying the terms and conditions for contracting with lottery game retailers
so as to provide adequate and convenient availability of tickets or shares to
prospective buyers of each lottery game as appropriate for each such game.
Nothing in this subsection is intended to preclude the lottery from selling
tickets or shares directly to the public.

(2)(a) The Director of the Oregon State Lottery shall, pursuant to this
chapter, and the rules of the commission, select as lottery game retailers
such persons as deemed to best serve the public convenience and promote the
sale of tickets or shares. A natural person under the age of 18 may not be
a lottery game retailer. In the selection of a lottery game retailer, the di-
rector shall consider factors such as financial responsibility, integrity, rep-
utation, accessibility of the place of business or activity to the public,
security of the premises, the sufficiency of existing lottery game retailers for
any particular lottery game to serve the public convenience and the
projected volume of sales for the lottery game involved.

(b) Except when the director recommends, and the commission concludes, that it is reasonable and prudent to waive disclosure requirements under this section and that to do so will not jeopardize the fairness, integrity, security and honesty of the lottery, prior to the execution of any contract with a potential lottery game retailer[.]:

(A) The potential lottery game retailer shall disclose to the lottery the names and addresses of the following:

[(A)] (i) If the potential lottery game retailer is a corporation but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock in such corporation.

[(B)] (ii) If the potential lottery game retailer is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

[(C)] (iii) If the potential lottery game retailer is an association but not a nonprofit private club as described in ORS 471.175, the members, officers and directors.

[(D)] (iv) If the potential lottery game retailer is a subsidiary but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock of the parent corporation thereof.

[(E)] (v) If the potential lottery game retailer is a partnership, joint venture or limited liability company, all of the general partners, limited partners, joint venturers, members of a limited liability company whose investment commitment or membership interest is 10 percent or more, and managers of a limited liability company.

[(F) If the parent company, general partner, limited partner, joint venturer, stockholder, member or manager of a limited liability company is itself a corporation, trust, association, subsidiary, partnership, joint venture or limited
liability company, then the director may require that all of the information required by this paragraph be disclosed for such other entity as if it were itself a lottery game retailer to the end that full disclosure of ultimate ownership be achieved.

[(G) If any member, 18 years of age or older, of the immediate family of any video lottery game retailer, or any member, 18 years of age or older, of the immediate family of any individual whose name is required to be disclosed under this paragraph, is involved in the video lottery game retailer’s business in any capacity, then all of the information required in this paragraph shall be disclosed for such immediate family member as if the family member were a video lottery game retailer.]

[(H) If any immediate family member, 18 years of age or older, of any lottery game retailer, other than a video lottery game retailer, or of any person whose name is required to be disclosed under this paragraph is involved in the lottery game retailer’s business in any capacity, then the lottery game retailer shall identify the immediate family member to the Oregon State Lottery, and shall report the capacity in which the immediate family member is involved in the lottery game retailer’s business if requested by the director. Full disclosure of immediate family members working in the business may be required only if the director has just cause for believing the immediate family member may be a threat to the fairness, integrity, security or honesty of the lottery.]

[(I) (vi) If the potential lottery game retailer is a nonprofit private club as described in ORS 471.175, the treasurer, officers, directors and trustees who oversee or direct the operation of the food, beverage, lottery or other gambling-related activities of the nonprofit private club and each manager in charge of the food, beverage, lottery or other gambling-related activities of the nonprofit private club.

[(J)] (vii) Any other person required by rule of the commission.

(B)(i) If the potential lottery game retailer is a limited liability company whose parent company, general partner, limited partner, joint venturer, stockholder, member or manager is itself a corpo-
ration, trust, association, subsidiary, partnership, joint venture or limited liability company, then the director may require that all of the information required by this paragraph be disclosed for such other entity as if it were itself a potential lottery game retailer to the end that full disclosure of ultimate ownership be achieved.

(ii) If any member, 18 years of age or older, of the immediate family of any potential video lottery game retailer, or any member, 18 years of age or older, of the immediate family of any individual whose name is required to be disclosed under this paragraph, is involved in the potential video lottery game retailer's business in any capacity, then all of the information required in this paragraph shall be disclosed for such immediate family member as if the family member were a potential video lottery game retailer.

(iii) If any immediate family member, 18 years of age or older, of any potential lottery game retailer, other than a potential video lottery game retailer, or of any person whose name is required to be disclosed under this paragraph is involved in the potential lottery game retailer's business in any capacity, then the potential lottery game retailer shall identify the immediate family member to the Oregon State Lottery, and shall report the capacity in which the immediate family member is involved in the potential lottery game retailer's business if requested by the director. Full disclosure of immediate family members working in the business may be required only if the director has just cause for believing the immediate family member may be a threat to the fairness, integrity, security or honesty of the lottery.

(c) Any person required to disclose information under paragraph (b) of this subsection shall disclose additional information for retail contract approval that the director determines to be appropriate.

(d) The commission may refuse to grant a lottery game [retail] retailer contract to any potential lottery game retailer or any natural person whose
name is required to be disclosed under paragraph (b) of this subsection, who has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime. The lottery may require payment by each lottery game retailer to the lottery of an initial nonrefundable application fee or an annual fee, or both, to maintain the contract to be a lottery game retailer.

(e) A person who is a lottery game retailer may not be engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state or political subdivision property or an owner or lessee of premises which lawfully sells alcoholic beverages may be selected as a lottery game retailer. State agencies, except for the state lottery, political subdivisions or their agencies or departments may not be selected as a lottery game retailer. The director may contract with lottery game retailers on a permanent, seasonal or temporary basis.

(3) The authority to act as a lottery game retailer is not assignable or transferable.

(4) The director may terminate a contract with a lottery game retailer based on the grounds for termination included in the contract or commission rules governing the contract. The grounds for termination must include, but are not limited to, the knowing sale of lottery tickets or shares to any person under the age of 18 years or knowingly permitting a person under the age of 21 years to operate a video lottery [game] terminal.

(5) Notwithstanding subsection (4) of this section, when a lottery game [retail] retailer contract requires the lottery game retailer to maintain a minimum weekly sales average, the lottery game retailer may avoid termination of the contract for failure to meet the minimum weekly sales average by agreeing, prior to termination, to pay the state lottery the difference between the actual weekly cost incurred by the lottery to maintain the contract and the weekly proceeds that are collected by the lottery from the sales of that lottery game retailer, less expenses that are dedicated by statute, rule or contract to other purposes. The director may not terminate the contract
of a lottery game retailer for failure to meet a minimum weekly sales average unless the director first allows the lottery game retailer an opportunity to make the payment described in this subsection.

(6) The commission shall adopt by rule an alternative dispute resolution process for disputes arising from a contract with a lottery game retailer that must be included in every contract between the commission and lottery game retailers. The commission shall develop the dispute resolution process required by this section in conformity with ORS 183.502.

SECTION 17. ORS 461.310 is amended to read:

461.310. (1) Upon recommendation of the Director of the Oregon State Lottery, the commission shall determine the compensation to be paid to lottery game retailers for their sales of lottery tickets or shares. Until the commission shall otherwise determine, the compensation paid to lottery game retailers shall be five percent of the retail price of the tickets or shares plus an incentive bonus of one percent based on attainment of sales volume or other objectives specified by the director for each lottery game. In cases of a lottery game retailer whose rental payments for premises are contractually computed in whole or in part, on the basis of a percentage of retail sales, and where such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state-operated lottery, the compensation received by the lottery game retailer from the Oregon State Lottery shall be deemed to be the amount of the retail sale for the purposes of such contractual computation.

(2) This section applies only to compensation paid by the Oregon State Lottery to lottery game retailers with respect to lottery games other than video lottery games.

SECTION 18. ORS 461.330 is amended to read:

461.330. (1) No lottery tickets or shares shall be sold by a lottery game retailer unless the lottery game retailer has on display on the premises a certificate of authority signed by the Director of the Oregon State Lottery to sell lottery tickets or shares.
(2) The director may require a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 from any lottery game retailer in an amount specified in the Oregon State Lottery rules adopted by the commission or may purchase a blanket bond or a blanket letter of credit issued by an insured institution as defined in ORS 706.008 covering the activities of all or a selected group of lottery game retailers.

(3) No payment by lottery game retailers to the lottery for tickets or shares shall be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer or other recorded financial instrument as determined by the director.

(4) Proceeds of sales of lottery tickets or shares by a lottery game retailer are held in trust by the lottery game retailer for the benefit of the Oregon State Lottery. Before such proceeds are transferred to the Oregon State Lottery, the proceeds are exempt from the requirements of ORS 293.265 and 295.002.

SECTION 19. ORS 461.335 is amended to read:

461.335. (1) The Oregon State Lottery Commission may grant a temporary letter of authority for a period not to exceed 90 days on change of ownership applications for certificates of authority granted under this chapter if the applicant pays the fee prescribed by the commission for a temporary letter of authority. A temporary letter of authority issued under this section does not constitute a lottery game retailer contract for the purposes of ORS 461.300.

(2) The commission, summarily and without prior administrative proceedings, may revoke a temporary letter of authority any time during the 90 days if the commission finds that any of the grounds for refusing a lottery game retailer contract or terminating a contract under ORS 461.300 exist.

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary letter of authority. However,
the proceedings are not a contested case under ORS chapter 183.

SECTION 20. ORS 461.400 is amended to read:

461.400. Notwithstanding other provisions of law, the Director of the Oregon State Lottery may purchase or lease such goods or services as are necessary for effectuating the purposes of this chapter. The commission may not contract with any private party or nongovernmental entity for the operation and administration of the Oregon State Lottery established by this chapter. However, the foregoing shall not preclude procurements which integrate functions such as lottery game design, supply of goods and services, advertising and public relations. In all procurement decisions, the director and Oregon State Lottery Commission shall take into account the particularly sensitive nature of the state lottery, shall consider the lottery's potential contribution to the development of and citizen's access to the state's telecommunications infrastructure, shall promote and ensure fairness, integrity, security, and honesty in the operation and administration of the state lottery and the objective of raising net revenues for the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon.

SECTION 21. ORS 461.410 is amended to read:

461.410. (1) In order to allow an evaluation by the Oregon State Lottery of the competence, integrity, background, character and nature of the true ownership and control of lottery vendors, any vendor who submits a bid, proposal or offer as part of a procurement for a contract for the printing of tickets used in any lottery game, any goods or services involving the receiving or recording of number selection in any lottery game, or any goods or services involving the determination of winners in any lottery game, which are hereby referred to as major procurements, shall disclose the following information immediately after the state lottery issues a notice of intent to award a contract based on the vendor's bid, proposal or offer:
(a) A disclosure of [the lottery vendor's name and address and], as applicable, the name and address of the following:

(A) If the vendor is a corporation, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the vendor is an association, the members, officers and directors.

(D) If the vendor is a subsidiary, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(E) If the vendor is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner or joint venturer of any vendor is itself a corporation, trust, association, subsidiary, partnership or joint venture, then all of the information required in this section shall be disclosed for such other entity as if it were itself a vendor to the end that full disclosure of ultimate ownership be achieved.

(G) If any member of the immediate family of any vendor is involved in the vendor’s business in any capacity, then all of the information required in this section shall be disclosed for such immediate family member as if the family member were a vendor.

(H) If the vendor subcontracts any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for such subcontractor as if it were itself a vendor.

(I) The persons or entities in subparagraphs (A) to (H) of this paragraph, along with the vendor itself, shall be referred to as control persons.
(b) A disclosure of all the states and jurisdictions in which each control
person does business, and the nature of that business for each such state or
jurisdiction.
(c) A disclosure of all the states and jurisdictions in which each control
person has contracts to supply gaming goods or services, including, but not
limited to, lottery goods and services and the nature of the goods or services
involved for each such state or jurisdiction.
(d) A disclosure of all the states and jurisdictions in which each control
person has applied for, has sought renewal of, has received, has been denied,
has pending or has had revoked a gaming license of any kind, and the dis-
position of such in each such state or jurisdiction. If any gaming license has
been revoked or has not been renewed or any gaming license application has
been either denied or is pending and has remained pending for more than six
months, all of the facts and circumstances underlying this failure to receive
such a license must be disclosed.
(e) A disclosure of the details of any conviction or judgment of a state
or federal court of each control person of any felony and any other criminal
offense other than traffic offenses.
(f) A disclosure of the details of any bankruptcy, insolvency, reorganiza-
tion or any pending litigation of each control person.
(g) A disclosure for each control person who is a natural person of em-
ployment, residence, education and military history since the age of 18 years,
and any federal, state or local elective position ever held by such person.
(h) A disclosure consolidating all reportable information on all reportable
contributions by each control person to any local, state or federal political
candidate or political committee in this state for the past five years that is
reportable under any existing state or federal law.
(i) A disclosure of the identity of any entity with which each control
person has a joint venture or other contractual arrangement to supply any
state or jurisdiction with gaming goods or services, including a disclosure
with regard to such entity of all of the information requested under para-
graphs (a) to (h) of this subsection.

(j) A disclosure consisting of financial statements of the lottery vendor for the past three years.

(k) A disclosure of any economic interest as contemplated by ORS 244.060 and 244.070, known to the lottery vendor to be held by any of the persons named in ORS 244.050 (1)(a), any lottery commissioner, the lottery director, or the assistant directors of the state lottery, in any lottery vendor or its control persons.

(L) Such additional disclosures and information as the director may determine to be appropriate for the procurement involved.

(2) No contract for a major procurement with any vendor who has not complied with the disclosure requirements described in this section for each of its control persons shall be entered into or be enforceable. Any contract with any lottery contractor who does not comply with such requirements for periodically updating such disclosures from each of its control persons during the tenure of [such] the contract as may be specified in [such] the contract may be terminated by the commission.

SECTION 22. ORS 461.445 is amended to read:

461.445. In establishing its schedule of payments to lottery contractors, the Oregon State Lottery Commission shall undertake to develop a system that maximizes the net revenue to the state for the public purpose described in Article XV, section 4, of the Oregon Constitution, consistent with providing a reasonable rate of return for lottery contractors.

SECTION 23. ORS 461.500 is amended to read:

461.500. (1) Except for such moneys as are necessary to temporarily fund the start-up of the state-operated lottery established by the Constitution of the State of Oregon and this chapter, the Oregon State Lottery shall operate as a self-supporting revenue-raising agency of state government and appropriations, loans or other transfers of state funds may not be made to it.

(2) At least 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes
and net revenues benefiting the public purpose described in Article XV, section 4, of the Constitution of the State of Oregon. At least 50 percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter. All unclaimed prize money shall remain the property of the commission and shall be allocated to the benefit of the public purpose.

(3) No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the state lottery as described in this chapter. To the extent that expenses, including the contingency reserve, of the state lottery are less than 16 percent of the total annual revenues as described in this chapter, any surplus funds shall also be allocated to the benefit of the public purpose.

(4) For the purpose of ensuring the fairness, integrity, security, and honesty of the state lottery, the Oregon State Lottery may use moneys allocated, as costs of administration, for the payment of expenses of the state lottery pursuant to subsection (3) of this section for expenses incurred to:

(a) Adopt and implement rules intended to minimize problem gambling risks and mitigate problem gambling harms;

(b) Advertise the availability of problem gambling treatment programs in this state, including contact information for the programs;

(c) Collect and report data, and establish metrics, regarding problem gambling; 

d) Enter into agreements with independent, third-party institutions to administer and award grants for research related to responsible gaming and problem gambling in Oregon, in the United States or internationally; and

(d) Cooperate with or assist the Oregon Health Authority and providers of problem gambling treatment programs to the extent that the cooperation or assistance is consistent with the mission, described in ORS 461.200, to operate the state lottery so as to produce the maximum amount
of net revenues to benefit the public purpose described in Article XV, section 4, of the Constitution of the State of Oregon, commensurate with the public good.

SECTION 24. ORS 461.540 is amended to read:

461.540. (1) There is established in the General Fund of the State Treasury the Administrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund, interest earnings credited to this fund and other moneys authorized to be transferred to this fund from whatever source are appropriated continuously for any of the following public purposes:

(a) Creating jobs;
(b) Furthering economic development in Oregon; or
(c) Financing public education.

(2) Moneys shall be transferred from the Administrative Services Economic Development Fund to:

(a) The Education Stability Fund established under ORS 348.696 as described in section 4, Article XV of the Oregon Constitution; and
(b) The School Capital Matching Fund established under ORS 286A.806 as described in section 4, Article XI-P of the Oregon Constitution.

(3) As used in this section [and section 4, Article XV of the Oregon Constitution]:

(a) “Creating jobs” includes, but is not limited to:
(A) Supporting the creation of new jobs in Oregon;
(B) Helping prevent the loss of existing jobs in Oregon;
(C) Assisting with work transition to new jobs in Oregon; [or] and
(D) Training or retraining workers.
(b) “Education” includes, but is not limited to, the Education Stability Fund established under ORS 348.696 and specific programs that support the following:
(A) Prekindergartens;
(B) Elementary and secondary schools;
(C) Community colleges;
(D) Higher education;
(E) Continuing education;
(F) Workforce training and education programs; or
(G) Financial assistance to Oregon students.
(c) “Furthering economic development” includes, but is not limited to, providing:
(A) Services or financial assistance to for-profit and nonprofit businesses located or to be located in Oregon;
(B) Services or financial assistance to business or industry associations to promote, expand or prevent the decline of their businesses; or
(C) Services or financial assistance for facilities, physical environments or development projects, as defined in ORS 285B.410, that benefit Oregon’s economy.

SECTION 25. ORS 461.547 is amended to read:
461.547. (1) The Oregon State Lottery Commission shall transfer an amount equal to 2.5 percent of the net receipts from video lottery games allocated to the Administrative Services Economic Development Fund to counties for economic development activities. Ninety percent of the moneys shall be distributed to each county in proportion to the gross receipts from video lottery games from each county. Ten percent of the moneys shall be distributed in equal amounts to each county.
(2) As used in this section:
(a) “Gross receipts from video lottery games” means the amount of money inserted into video lottery [games] terminals plus the value of any free game prizes used by players for subsequent games.
(b) “Net receipts from video lottery games” means the amount of money that is received from the operation of video lottery games after the payment of prizes but prior to any other payment.

SECTION 26. ORS 461.548 is amended to read:
461.548. Notwithstanding any other provision of law, the Oregon State
Lottery Commission shall meet the constitutional requirements for prizes and administrative costs separately for video lottery games and all other lottery games. The lottery commission shall not intermingle the results of video lottery games for the purpose of calculating the allowable limit on administrative expenses of other lottery games.

**SECTION 27.** ORS 461.600 is amended to read:

461.600. (1) Tickets or shares in lottery games, including tickets or shares sold from vending machines or other devices, may not be sold to a person under 18 years of age.

(2) Video lottery [game] terminals may not be operated by a person under 21 years of age.

(3) The Oregon State Lottery Commission shall establish safeguards to ensure that lottery game retailers comply with the requirements of this section.

**SECTION 28.** (1) The Legislative Assembly finds that:

(a) Personally identifiable player data submitted by players of lottery games, particularly information submitted through mobile or Internet-enabled devices, may, if disclosed, expose players to identity theft, financial risk or invasion of personal privacy;

(b) Players of lottery games voluntarily submit personally identifiable player data to the Oregon State Lottery and reasonably expect that such information will be protected and secured by the Oregon State Lottery;

(c) The inability or failure of the Oregon State Lottery to ensure the confidentiality of personally identifiable player data will result in a decreased willingness of individuals to play lottery games and a resultant decrease in lottery revenue; and

(d) The Oregon State Lottery Commission is responsible for the protection and security of personally identifiable player data and should make every reasonable effort to maintain the confidentiality of such information.
(2) The commission shall adopt rules to ensure that the systems, standards and procedures of the Oregon State Lottery protect, secure and maintain the confidentiality of personally identifiable player data. The commission may, by rule, designate categories of information to be protected as personally identifiable player data.


SECTION 30. Sections 1 to 4, chapter 2, Oregon Laws 2017, are added to and made a part of ORS chapter 327.

SECTION 31. The amendments to ORS 320.005 by section 2 of this 2019 Act apply to tax years beginning on or after January 1, 2019.
SUMMARY

Defines “video lottery terminal” for purposes of lottery chapter and amusement device excise tax provision.

Provides that claimed prize is valid if ticket or share is mailed and postmarked by claim deadline.

Provides that potential vendors must make certain disclosures when given notice of intent to award contract, instead of at time that bid, proposal or offer is submitted.

Provides that Oregon State Lottery may include costs of entering into agreements with third parties to research problem gambling in costs of administration.

Directs Oregon State Lottery Commission to adopt rules to protect, secure and maintain confidentiality of personally identifiable player data.

Makes various statutory changes to clarify statutes and align statutes with current terminology and practice.

A BILL FOR AN ACT

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 461.010 is amended to read:

461.010. Unless the context requires otherwise, the definitions contained in this [chapter] section shall govern the construction of this chapter.

(1) “Commissioner” means one of the members of the lottery commission appointed by the Governor pursuant to the Constitution of the State of Oregon.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Oregon and this chapter to oversee the state lottery.

(2) “Director” means the Director of the Oregon State Lottery appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter as the chief administrator of the Oregon State Lottery.

(3) “Lottery” or “state lottery” means the Oregon State Lottery established and operated pursuant to the Constitution of the State of Oregon and this chapter.

(4) “Lottery commission” or “commission” means the five-member body appointed by the Governor pursuant to the Constitution of the State of Oregon and this chapter to oversee the lottery and the director.

(5) “Lottery contractor” means a person with whom the state lottery has contracted for the purpose of providing goods and services for the state lottery.

(6) “Lottery game” or “game” means any procedure authorized by the commission whereby prizes are distributed among natural persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win such prizes.

(7) “Lottery game retailer” means a person with whom the lottery commission has contracted for the purpose of selling tickets or shares in lottery games to the public.

(8) “Lottery vendor” or “vendor” means any person who submits a bid, proposal or offer to provide goods or services to the commission or lottery.

(9) “Person” means any natural person or corporation, trust, association, partnership, joint venture, subsidiary or other business entity.

(10)(a) “Personally identifiable player data” means:

(A) Information associated with an individual that contains personal financial information, including information relating to payment cards or accounts held by the individual at a financial institution;

(B) Information associated with an individual that relates to the individual's playing of lottery games, including frequency of play and amounts paid for tickets or shares; and

...
(C) Other information associated with an individual that the individual reasonably would not want publicly disclosed.

(b) “Personally identifiable player data” does not include information pertaining to individuals that is collected, accumulated or analyzed in the aggregate or otherwise anonymously.

(11) “Video lottery game” means a lottery game played on a video lottery terminal.

(12) “Video lottery game retailer” means a lottery game retailer with whom the lottery has contracted for the purpose of placing video lottery terminals and offering video lottery games, either exclusively or in addition to other lottery games.

(13) “Video lottery terminal” means a device for playing lottery games that:
(a) Is owned, operated, controlled or maintained by the commission;
(b) Is placed in a fixed location for an extended duration;
(c) Consists of a console that includes a video display and a random number generator;
(d) Is connected to and monitored by a central system; and
(e) Accepts payment that enables an individual to play the lottery games offered on the device.

SECTION 2. ORS 320.005 is amended to read:
320.005. As used in ORS 320.005 to 320.150, unless the context requires otherwise:

(1) “Amusement device” means a video lottery [game] terminal[, including but not limited to any electronic, mechanical-electronic or nonmechanical device that:] [(a) Displays a ticket through the use of a video display screen;]
[(b) Is available for consumer play upon the payment of consideration;]
[(c) Determines winners through the element of chance; and]
[(d) Displays possible prizes on the device.] as defined in ORS 461.010.

(2) “Department” means the Department of Revenue.
(3) “Net receipts” has the meaning given the term “net receipts from video lottery games” under ORS 461.547.

(4) “Operate” means to make an amusement device available for use by the public for gain, benefit or advantage.

(5)(a) “Person” means every individual, partnership (limited or not), corporation (for-profit or not-for-profit), company, cooperative, joint stock company, joint venture, firm, business trust, association, organization, institution, club, society, receiver, assignee, trustee in bankruptcy, auctioneer, syndicate, trust, trustee, estate, personal representative or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(b) “Person” includes this or another state, a municipal corporation, quasi-municipal corporation or political subdivision of this or another state, and the agencies, departments and institutions of this or another state, irrespective of the nature of the activities engaged in or functions performed, but does not include the United States or a foreign government or any agency, department or instrumentality of the United States or of any foreign government.

(6) “Tax year” means a period of 12 months beginning July 1 and ending the following June 30.

SECTION 3. ORS 461.050 is amended to read:

461.050. The Oregon State Lottery shall have its [principal offices] headquarters in the capital city.

SECTION 4. ORS 461.100 is amended to read:

461.100. (1) The Oregon State Lottery Commission is hereby created in state government.

(2)(a) The Oregon State Lottery Commission shall consist of five members appointed by the Governor and confirmed by the Senate who shall serve at the pleasure of the Governor.

(b) The members shall be appointed for terms of four years.

(c) Vacancies shall be filled [within 30 days] as soon as practicable by
the Governor, subject to confirmation by the Senate, for the unexpired portion of the term in which they occur.

(3) At least one of the commissioners shall have a minimum of five years’ experience in law enforcement and at least one of the commissioners shall be a certified public accountant. No person shall be appointed as a lottery commissioner who has been convicted of a felony or a gambling related offense. No more than three members of the commission shall be members of the same political party.

(4) The commission shall exercise all powers necessary to effectuate the purpose of this chapter. In all decisions, the commission shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure fairness, integrity, security and honesty in the operation and administration of the state lottery.

(5) Lottery commissioners shall be eligible for compensation and expenses under ORS 292.495.

(6) Lottery commissioners shall file a verified statement of economic interest with the Oregon Government Ethics Commission and shall be subject to the provisions of ORS chapter 244.

(7) The Governor shall select annually from the membership of the commission a chairperson who serves at the pleasure of the Governor. The chairperson or a majority of the members of the commission then in office shall have the power to call special meetings of the commission.

(8) Meetings of the commission shall be open and public in accordance with state law. Records of the commission shall be open and available to the public in accordance with state law. The commission shall meet with the Director of the Oregon State Lottery not less than monthly to make recommendations and set policy, to approve or reject reports of the director, to adopt rules and to transact other business.

(9) A quorum of the commission shall consist of a majority of the members of the commission then in office. All decisions of the commission shall be made by a majority vote of all of the commissioners then in office.
(10) The commission shall prepare quarterly and annual reports of the operation of the state lottery. Such reports shall include a full and complete statement of state lottery revenues, prize disbursements, expenses, net revenues and all other financial transactions involving state lottery funds. The commission shall, not less than annually, contact interested parties, including those named in ORS 461.180 (3), and provide them with such quarterly and annual reports as they may request.

SECTION 5. ORS 461.110 is amended to read:

461.110. (1) Upon the request of the Oregon State Lottery Commission or the Director of the Oregon State Lottery, the office of the Attorney General and the Oregon State Police shall furnish to the director and to the Assistant Director for Security such information as may tend to ensure [security] fairness, integrity, security and honesty [and fairness] in the operation and administration of the Oregon State Lottery as the office of the Attorney General and the Oregon State Police may have in their possession, including, but not limited to, manual or computerized information and data.

(2) In order to determine an applicant’s suitability to enter into a contract with or to be employed by the Oregon State Lottery, each applicant identified in this subsection shall be fingerprinted. The Assistant Director for Security may submit to the Department of State Police and to the Federal Bureau of Investigation, for the purpose of verifying the identity of the following persons and obtaining records of their arrests and criminal convictions, fingerprints of:

(a) With respect to video lottery game retailers, each person for whom ORS 461.300 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person’s name and address;

(b) With respect to lottery vendors and lottery contractors, each person for whom ORS 461.410 or an administrative rule of the Oregon State Lottery Commission requires disclosure of the person’s name and address;

(c) Applicants for employment with the Oregon State Lottery; and

(d) With respect to other persons and entities that apply for contracts or
have contracts with the Oregon State Lottery, each person for whom ORS 461.300 requires disclosure of the person’s name and address and for whom the Assistant Director for Security has prepared written reasons, approved in writing by the director, for requiring the confirmation of the person’s identity and records.

(3) For the purpose of requesting and receiving the information described in subsections (1) and (2) of this section, the Oregon State Lottery Commission is a state agency and a criminal justice agency and its enforcement agents are peace officers pursuant to ORS 181A.355 to 181A.670 and rules adopted thereunder.

(4) Enforcement agents, designated as such by the commission, shall have the same authority with respect to service and execution of warrants of arrest and search warrants as is conferred upon peace officers of this state.

SECTION 6. ORS 461.150 is amended to read:

461.150. (1) The Governor shall appoint a Director of the Oregon State Lottery, subject to confirmation by the Senate, who shall serve at the pleasure of the Governor. The director shall implement and operate a state lottery pursuant to the rules, and under the guidance, of the commission.

(2) The director shall be qualified by training and experience to direct the operations of a state-operated lottery. No [person shall] individual may be appointed as lottery director who has been convicted of a felony or any gambling related offense.

(3) The director shall receive such salary as may be set by the commission with the approval of the Governor, and shall be reimbursed for all expenses actually and necessarily incurred in the performance of official duties. The director shall render full-time service to the duties of office.

(4) The director shall, subject to the approval of the commission, perform all duties, exercise all powers and jurisdiction, assume and discharge all responsibilities and carry out and effect the purposes of this chapter. The director shall act as secretary and executive officer of the commission. The director shall supervise and administer the operation of the Oregon State
Lottery in accordance with this chapter, and the rules adopted by the com-
mission. In all decisions, the director shall take into account the particularly
sensitive nature of the state lottery, and shall act to promote and [insure]
**ensure fairness**, integrity, security[,] and honesty [and fairness of] in the
operation and administration of the state lottery.

(5) The director shall recommend to the commission the establishment of
rules pertaining to the employment, termination and compensation of all
commission staff. The rules shall conform to generally accepted personnel
practices based upon merit principles. Under the rules so established, the
director may set the compensation, prescribe the duties and supervise [per-
sons] **individuals** so hired. The director may terminate or otherwise disci-
pline [persons] **individuals** so hired. No [person shall] **individual may** be
employed by the state lottery who has been convicted of a felony or any
gambling related offense.

(6) If a lottery employee transfers to a state agency that is subject to ORS
chapter 240, the employee is entitled to transfer accrued sick leave, adjusted
if necessary to reflect the accrual rate in use for management and unrepre-
sented employees under rules of the Personnel Division.

(7) Subject to approval of the commission, the director may appoint, pre-
scribe the duties of and terminate or otherwise discipline no more than four
assistant directors as the director deems necessary. The compensation of
each assistant director shall be established by the director subject to ap-
proval of the commission. The director shall supervise the assistant direc-
tors.

(8) The director and each assistant director shall file a verified statement
of economic interest with the Oregon Government Ethics Commission and
shall be subject to the provisions of ORS chapter 244.

**SECTION 7.** ORS 461.190 is amended to read:

461.190. The Assistant Director for Security appointed pursuant to the
Constitution of the State of Oregon and this chapter shall be responsible for
a security division to [assure] **ensure fairness**, integrity, security[,] and
honesty [and fairness] in the operation and administration of the Oregon State Lottery, including but not limited to[,] an examination of the background of all prospective employees, lottery game retailers, lottery vendors and lottery contractors. The Assistant Director for Security shall be qualified by training and experience, including at least five years of law enforcement experience, and knowledge and experience in [computer] information technology and digital security, to fulfill these responsibilities. The Assistant Director for Security shall, in conjunction with the Director of the Oregon State Lottery, confer with the Attorney General or designee as the Assistant Director for Security deems necessary and advisable to promote and [insure] ensure fairness, integrity, security[,] and honesty [and fairness of] in the operation and administration of the state lottery. The Assistant Director for Security, in conjunction with the director, shall report any alleged violation of law to the Attorney General and any other appropriate law enforcement authority for further investigation and action.

SECTION 8. ORS 461.202 is amended to read:


SECTION 9. ORS 461.215 is amended to read:

461.215. (1) The Oregon State Lottery Commission may initiate [a game or games using video devices] video lottery games, the proceeds from which shall be transferred to the Administrative Services Economic Development Fund for allocation as provided by law.

(2) In the approval and purchase of video lottery games, [game terminals and equipment] video lottery terminals and other devices and equipment for video lottery games, the lottery commission and any game operator, distributor, retailer or owner shall prefer goods or services that have been manufactured in this state if price, fitness and quality are otherwise equal.

(3) The lottery commission shall separately record and account for the costs and net proceeds of games operated under this section. At such time
as the lottery commission makes the quarterly transfer of net proceeds pro-
vided for by ORS 461.540, it shall certify to the Oregon Department of Ad-
mministrative Services the amount of such transfer which represents the net
proceeds of video lottery games [provided for in subsection (1) of this
section].

SECTION 10. Nothing in this chapter prohibits the Oregon State
Lottery Commission from initiating or offering lottery games that may
be accessed or played on devices or equipment other than video lottery
terminals.

SECTION 11. ORS 461.217 is amended to read:

461.217. [(1) As used in this section, “video lottery game retailer” means a
contractor under contract with the Oregon State Lottery to place video lottery
terminals on premises authorized by the contract.]

[(2)] (1) A video lottery [game] terminal [that offers a video lottery game
authorized by the Director of the Oregon State Lottery]:

(a) May be placed for operation only in or on the premises of an estab-
ishment that has a contract with the Oregon State Lottery as a video lottery
game retailer.

(b) Must be within the control of an employee of the video lottery game
retailer.

(c) May not be placed in any other business or location.

[(3)] (2) A video lottery [game] terminal may be placed only on the
premises of an establishment licensed by the Oregon Liquor Control Com-
mission with a full on-premises sales license, a limited on-premises sales li-
cense or a brewery-public house license. A video lottery [game] terminal may
be placed only in that part of the premises that is posted by the Oregon Li-
quor Control Commission as being closed to minors. In addition to the re-
quirements of this subsection, the director may by rule establish other
criteria and conditions as the director determines appropriate for the place-
ment of video lottery [game] terminals in establishments.

[(4)] (3) No more than six video lottery [game] terminals may be placed
in or on premises described in subsection [(3)] (2) of this section.

[(5)] (4) No more than 10 video lottery [game] terminals may be placed in or on the premises of a race meet licensee licensed under ORS 462.020 that qualifies as a video lottery game retailer.

**SECTION 12.** ORS 461.220 is amended to read:

461.220. (1) Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules that specify the number and value of prizes for winning tickets or shares in each lottery game including, without limitation, cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities and prizes of tickets or shares in the same lottery game or other lottery games [conducted by the Oregon State Lottery].

(2) In each lottery game utilizing tickets, the following information shall be printed on each ticket:

(a) A close approximation of the odds of winning some prize or some cash prize, as appropriate for the lottery game.

(b) An approximation of a payout percentage that will be returned to players in the form of prizes for the lottery game. For online games, the approximation may be based on the average payout percentage over several prior years.

(c) The statement that “Lottery games are based on chance, should be played for entertainment only and should not be played for investment purposes.”

(3) A detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game and the close approximation of the odds of winning such prizes shall be [available at each location at which tickets or shares in such lottery games are offered for sale to the public] **made available by the commission to the public in a manner determined by the commission by rule.**

(4) Notwithstanding subsection (1) of this section[,]:

(a) The commission [may] **shall either** specify by rule the number and
value of prizes for video lottery games [that use video devices or that use tickets or shares that allow a player to manually reveal covered play symbols, or the commission may] or make such information available at each location [that offers such games using video devices, tickets or shares for sale to the public] at which video lottery terminals are placed for operation.

(b) The commission shall either specify by rule the number and value of prizes for games that use tickets or shares that allow a player to manually reveal covered play symbols or make such information available at each location where such tickets or shares are offered for sale to the public.

(5) All television, radio and newspaper advertising of a lottery game shall include a disclaimer representing a close approximation of the odds of winning some prize and an approximation of the amount that will be returned to the players in the form of prizes for the game in the following words: “The odds of winning some prize are one in (some number). The prize payout percentage is (some number).” where the numbers stated represent a close approximation of the odds of winning some prize and the prize payout percentage. However, this subsection does not apply to advertising the purpose of which is to advertise the location where tickets may be purchased or to provide information about the winners.

(6) All television, radio and newspaper advertising of lottery games funded by the lottery commission, including advertising that is intended to indicate where tickets may be purchased or to provide information about prize winners, shall include the disclaimer that “Lottery games are based on chance, should be played for entertainment only and should not be played for investment purposes.”

(7) All television, radio and newspaper advertising intended to publicize projects or programs funded by lottery dollars shall include the disclaimer that “Lottery games are based on chance and should be played for entertainment only.” However, this subsection does not apply to any such advertising that has the sole purpose of educating the public about gambling...
addiction or available treatments.

(8) All billboard advertising intended to promote a lottery game, to indicate where tickets may be purchased or to provide information about prize winners shall include the disclaimer that “Lottery games should not be played for investment purposes.”

(9) All billboard advertising intended to publicize projects or programs funded by lottery dollars shall include the disclaimer that “Lottery games should be played for entertainment only.”

(10) A disclaimer required by this section to be included in a written advertisement shall be of a size and in a form that allows an individual to readily notice and read the statement. A disclaimer required by this section to be included in a television or radio advertisement shall be spoken aloud and, in the case of television, must also be displayed visually in a form that allows an individual to readily notice and read the statement.

SECTION 13. ORS 461.230 is amended to read:

461.230. (1) Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules that specify the method for determining winners in each lottery game.

(2) If a lottery game utilizes a manual drawing of winning numbers, a manual drawing among entries or a manual drawing among finalists:

(a) The drawing must be open to the public;

(b) The drawing must be witnessed by an independent certified public accountant or a professional representative of an independent certified public accountancy organization;

(c) Any equipment used in the drawing must be inspected by the independent certified public accountant or the professional representative of an independent certified public accountancy organization and an employee of the lottery both before and after the drawing; and

(d) The drawing and such inspections shall be recorded on both video and audio tape.

(3)(a) [When] If a drawing is held out of this state in conjunction with
other state lotteries, the Oregon State Lottery shall conduct periodic studies of the drawing’s security procedures. Any equipment used in a manual drawing must be inspected both before and after the drawing by a professional representative of an independent certified public accountancy organization and a representative of the Oregon State Lottery designated by the director.

(b) Any manual drawing and such inspections shall be recorded on both video and audio tape.

(4) The lottery may use any of a variety of existing or future methods or technologies in determining winners.

SECTION 14. ORS 461.250 is amended to read:

461.250. Upon recommendation of the Director of the Oregon State Lottery, the Oregon State Lottery Commission shall adopt rules to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, provided:

(1) For the convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to $5,000 after performing validation procedures on their premises appropriate to the lottery game involved.

(2) A prize may not be paid to a person under 18 years of age.

(3) A video lottery game prize may not be paid to a person under 21 years of age.

(4) A prize may not be paid arising from claimed tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Oregon State Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols as appropriate to the lottery game involved or not in compliance with such additional specific rules or with public or confidential validation and security tests of the lottery appropriate to the particular lottery game involved. However, the commission may adopt rules to establish a system of verifying the validity of claims to prizes greater than $600 that
are otherwise not payable under this subsection due to a lottery game retailer's losing, damaging or destroying the winning ticket or share while performing validation procedures thereon, and to effect payment of verified claims. A verification system established by the commission shall include appropriate public or confidential validation and security tests.

(5) A particular prize in any lottery game may not be paid more than once, and in the event of a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of such claimants is the award to each of them of an equal share in the prize.

(6) The commission may specify that winners of less than $25 claim such prizes from either the same lottery game retailer who sold the winning ticket or share or from the lottery itself and may also specify that the lottery game retailer who sold the winning ticket or share be responsible for directly paying that prize.

(7)(a) Holders of tickets or shares shall have the right to claim prizes for one year after the drawing or the end of the lottery game or play in which the prize was won, subject to ORS 187.010. The commission may define shorter time periods to claim prizes and for eligibility for entry into drawings involving entries or finalists. If a valid claim is not made for a prize payable directly by the lottery commission within the applicable period, the unclaimed prize shall remain the property of the commission and shall be allocated to the benefit of the public purpose described in Article XV, section 4, of the Oregon Constitution.

(b) A ticket or share that is transmitted through the United States mail or by private express carrier is deemed to be claimed on the date shown by the cancellation mark or other record of transmittal, or on the date the ticket or share was mailed or deposited for transmittal if proof satisfactory to the director establishes that the mailing or deposit occurred on a date earlier than the date shown by the record of transmittal.

(8)(a) The right of any person to a prize shall not be assignable, except
that:

(A) Payment of any prize may be made according to the terms of a deceased prize winner’s signed beneficiary designation form filed with the commission or, if no such form has been filed, to the estate of the deceased prize winner.

(B) Payment of any prize shall be made to a person designated pursuant to an appropriate judicial order or pursuant to a judicial order approving the assignment of the prize in accordance with ORS 461.253.

(b) The director, commission and state shall be discharged of all further liability with respect to a specific prize payment upon making that prize payment in accordance with this subsection or ORS 461.253.

(9) A ticket or share may not be purchased by, and a prize may not be paid to, a member of the commission, the director, the assistant directors or any employee of the state lottery or to any spouse, child, brother, sister or parent of such person.

(10) Payments made according to the terms of a deceased prize winner’s signed beneficiary designation form filed with the commission are effective by reason of the contract involved and this statute and are not to be considered as testamentary devices or subject to ORS chapter 112. The director, commission and state shall be discharged of all liability upon payment of a prize.

(11) In accordance with the provisions of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C.A. app. 525), a person while in active military service may claim exemption from the one-year ticket redemption requirement under subsection (7) of this section. However, the person must notify the commission by providing satisfactory evidence of possession of the winning ticket within the one-year period, and must claim the prize or share no later than one year after discharge from active military service.

**SECTION 15.** ORS 461.257 is amended to read:

461.257. Notwithstanding ORS 461.250 (8) [or] and 461.253, if it is ever determined that prize winners who do not seek to assign their prize payments
are subject to immediate income taxes on the prize payments just as if those
prize winners had so assigned their prizes, the Oregon State Lottery Com-
mission may intervene in a proceeding commenced under ORS 461.253 in or-
der to raise the issue of adverse tax consequences in the proceeding. If the
court determines that ORS 461.250 (8) and 461.253 or the issuance of an order
approving an assignment of prize payments subjects prize winners who do
not seek assignment of prize payments to immediate income taxes on their
prize payments, the court shall refuse to authorize an assignment and shall
issue an order that ORS 461.250 (8)(a)(B) and 461.253 are suspended and are
of no force or effect so long as such determination and adverse tax conse-
quences are in effect. An order issued by a court under this section shall
suspend ORS 461.250 (8)(a)(B) and 461.253 throughout this state. An order
issued under this section shall be final and shall remain in effect unless or
until overturned or modified by a subsequent court order or the order of a
reviewing court.

SECTION 16. ORS 461.300 is amended to read:

461.300. (1) The Oregon State Lottery Commission shall adopt rules spec-
ifying the terms and conditions for contracting with lottery game retailers
so as to provide adequate and convenient availability of tickets or shares to
prospective buyers of each lottery game as appropriate for each such game.
Nothing in this subsection is intended to preclude the lottery from selling
tickets or shares directly to the public.

(2)(a) The Director of the Oregon State Lottery shall, pursuant to this
chapter, and the rules of the commission, select as lottery game retailers
such persons as deemed to best serve the public convenience and promote the
sale of tickets or shares. A natural person under the age of 18 may not be
a lottery game retailer. In the selection of a lottery game retailer, the di-
rector shall consider factors such as financial responsibility, integrity, rep-
utation, accessibility of the place of business or activity to the public,
security of the premises, the sufficiency of existing lottery game retailers for
any particular lottery game to serve the public convenience and the
projected volume of sales for the lottery game involved.

(b) Except when the director recommends, and the commission concludes, that it is reasonable and prudent to waive disclosure requirements under this section and that to do so will not jeopardize the fairness, integrity, security and honesty of the lottery, prior to the execution of any contract with a potential lottery game retailer:

(A) The potential lottery game retailer shall disclose to the lottery the names and addresses of the following:

[(A)] (i) If the potential lottery game retailer is a corporation but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock in such corporation.

[(B)] (ii) If the potential lottery game retailer is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

[(C)] (iii) If the potential lottery game retailer is an association but not a nonprofit private club as described in ORS 471.175, the members, officers and directors.

[(D)] (iv) If the potential lottery game retailer is a subsidiary but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock of the parent corporation thereof.

[(E)] (v) If the potential lottery game retailer is a partnership, joint venture or limited liability company, all of the general partners, limited partners, joint venturers, members of a limited liability company whose investment commitment or membership interest is 10 percent or more, and managers of a limited liability company.

[(F) If the parent company, general partner, limited partner, joint venturer, stockholder, member or manager of a limited liability company is itself a corporation, trust, association, subsidiary, partnership, joint venture or limited liability company, the parent company, general partner, limited partner, joint venturer, stockholder, member or manager of the limited liability company shall disclose to the lottery the names and addresses of the following:

[(F.1)] (i) If the parent company is a corporation but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock in such corporation.

[(F.2)] (ii) If the parent company is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

[(F.3)] (iii) If the parent company is an association but not a nonprofit private club as described in ORS 471.175, the members, officers and directors.

[(F.4)] (iv) If the parent company is a subsidiary but not a nonprofit private club as described in ORS 471.175, the officers, each director who owns or controls three percent or more of the voting stock and each stockholder who owns 10 percent or more of the outstanding stock of the parent corporation thereof.

[(F.5)] (v) If the parent company is a partnership, joint venture or limited liability company, all of the general partners, limited partners, joint venturers, members of a limited liability company whose investment commitment or membership interest is 10 percent or more, and managers of a limited liability company.
liability company, then the director may require that all of the information
required by this paragraph be disclosed for such other entity as if it were itself
a lottery game retailer to the end that full disclosure of ultimate ownership
be achieved.]

[(G) If any member, 18 years of age or older, of the immediate family of any
video lottery game retailer, or any member, 18 years of age or older, of the
immediate family of any individual whose name is required to be disclosed
under this paragraph, is involved in the video lottery game retailer’s business
in any capacity, then all of the information required in this paragraph shall
be disclosed for such immediate family member as if the family member were
a video lottery game retailer.]

[(H) If any immediate family member, 18 years of age or older, of any lot-
tery game retailer, other than a video lottery game retailer, or of any person
whose name is required to be disclosed under this paragraph is involved in the
lottery game retailer’s business in any capacity, then the lottery game retailer
shall identify the immediate family member to the Oregon State Lottery, and
shall report the capacity in which the immediate family member is involved in
the lottery game retailer’s business if requested by the director. Full disclosure
of immediate family members working in the business may be required only if
the director has just cause for believing the immediate family member may be
a threat to the fairness, integrity, security or honesty of the lottery.]

[(I)] (vi) If the potential lottery game retailer is a nonprofit private club
as described in ORS 471.175, the treasurer, officers, directors and trustees
who oversee or direct the operation of the food, beverage, lottery or other
gambling-related activities of the nonprofit private club and each manager
in charge of the food, beverage, lottery or other gambling-related activities
of the nonprofit private club.

[(J)] (vii) Any other person required by rule of the commission.

(B)(i) If the potential lottery game retailer is a limited liability
company whose parent company, general partner, limited partner,
joint venturer, stockholder, member or manager is itself a corpo-
ration, trust, association, subsidiary, partnership, joint venture or limited liability company, then the director may require that all of the information required by this paragraph be disclosed for such other entity as if it were itself a potential lottery game retailer to the end that full disclosure of ultimate ownership be achieved.

(ii) If any member, 18 years of age or older, of the immediate family of any potential video lottery game retailer, or any member, 18 years of age or older, of the immediate family of any individual whose name is required to be disclosed under this paragraph, is involved in the potential video lottery game retailer’s business in any capacity, then all of the information required in this paragraph shall be disclosed for such immediate family member as if the family member were a potential video lottery game retailer.

(iii) If any immediate family member, 18 years of age or older, of any potential lottery game retailer, other than a potential video lottery game retailer, or of any person whose name is required to be disclosed under this paragraph is involved in the potential lottery game retailer's business in any capacity, then the potential lottery game retailer shall identify the immediate family member to the Oregon State Lottery, and shall report the capacity in which the immediate family member is involved in the potential lottery game retailer's business if requested by the director. Full disclosure of immediate family members working in the business may be required only if the director has just cause for believing the immediate family member may be a threat to the fairness, integrity, security or honesty of the lottery.

(c) Any person required to disclose information under paragraph (b) of this subsection shall disclose additional information for retail contract approval that the director determines to be appropriate.

(d) The commission may refuse to grant a lottery game [retail] retailer contract to any potential lottery game retailer or any natural person whose
name is required to be disclosed under paragraph (b) of this subsection, who has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime. The lottery may require payment by each lottery game retailer to the lottery of an initial nonrefundable application fee or an annual fee, or both, to maintain the contract to be a lottery game retailer.

(e) A person who is a lottery game retailer may not be engaged exclusively in the business of selling lottery tickets or shares. A person lawfully engaged in nongovernmental business on state or political subdivision property or an owner or lessee of premises which lawfully sells alcoholic beverages may be selected as a lottery game retailer. State agencies, except for the state lottery, political subdivisions or their agencies or departments may not be selected as a lottery game retailer. The director may contract with lottery game retailers on a permanent, seasonal or temporary basis.

(3) The authority to act as a lottery game retailer is not assignable or transferable.

(4) The director may terminate a contract with a lottery game retailer based on the grounds for termination included in the contract or commission rules governing the contract. The grounds for termination must include, but are not limited to, the knowing sale of lottery tickets or shares to any person under the age of 18 years or knowingly permitting a person under the age of 21 years to operate a video lottery [game] terminal.

(5) Notwithstanding subsection (4) of this section, when a lottery game [retail] retailer contract requires the lottery game retailer to maintain a minimum weekly sales average, the lottery game retailer may avoid termination of the contract for failure to meet the minimum weekly sales average by agreeing, prior to termination, to pay the state lottery the difference between the actual weekly cost incurred by the lottery to maintain the contract and the weekly proceeds that are collected by the lottery from the sales of that lottery game retailer, less expenses that are dedicated by statute, rule or contract to other purposes. The director may not terminate the contract
of a lottery game retailer for failure to meet a minimum weekly sales average
unless the director first allows the lottery game retailer an opportunity to
make the payment described in this subsection.

(6) The commission shall adopt by rule an alternative dispute resolution
process for disputes arising from a contract with a lottery game retailer that
must be included in every contract between the commission and lottery game
retailers. The commission shall develop the dispute resolution process re-
quired by this section in conformity with ORS 183.502.

SECTION 17. ORS 461.310 is amended to read:

461.310. (1) Upon recommendation of the Director of the Oregon State
Lottery, the commission shall determine the compensation to be paid to lot-
ttery game retailers for their sales of lottery tickets or shares. Until the
commission shall otherwise determine, the compensation paid to lottery game
retailers shall be five percent of the retail price of the tickets or shares plus
an incentive bonus of one percent based on attainment of sales volume or
other objectives specified by the director for each lottery game. In cases of
a lottery game retailer whose rental payments for premises are contractually
computed in whole or in part, on the basis of a percentage of retail sales,
and where such computation of retail sales is not explicitly defined to in-
clude sales of tickets or shares in a state-operated lottery, the compensation
received by the lottery game retailer from the Oregon State Lottery shall be
deemed to be the amount of the retail sale for the purposes of such con-
tractual computation.

(2) This section applies only to compensation paid by the Oregon
State Lottery to lottery game retailers with respect to lottery games
other than video lottery games.

SECTION 18. ORS 461.330 is amended to read:

461.330. (1) No lottery tickets or shares shall be sold by a lottery game
retailer unless the lottery game retailer has on display on the premises a
certificate of authority signed by the Director of the Oregon State Lottery
to sell lottery tickets or shares.
The director may require a bond or an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 from any lottery game retailer in an amount specified in the Oregon State Lottery rules adopted by the commission or may purchase a blanket bond or a blanket letter of credit issued by an insured institution as defined in ORS 706.008 covering the activities of all or a selected group of lottery game retailers.

No payment by lottery game retailers to the lottery for tickets or shares shall be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer or other recorded financial instrument as determined by the director.

Proceeds of sales of lottery tickets or shares by a lottery game retailer are held in trust by the lottery game retailer for the benefit of the Oregon State Lottery. Before such proceeds are transferred to the Oregon State Lottery, the proceeds are exempt from the requirements of ORS 293.265 and 295.002.

SECTION 19. ORS 461.335 is amended to read:

461.335. (1) The Oregon State Lottery Commission may grant a temporary letter of authority for a period not to exceed 90 days on change of ownership applications for certificates of authority granted under this chapter if the applicant pays the fee prescribed by the commission for a temporary letter of authority. A temporary letter of authority issued under this section does not constitute a lottery game retailer contract for the purposes of ORS 461.300.

(2) The commission, summarily and without prior administrative proceedings, may revoke a temporary letter of authority any time during the 90 days if the commission finds that any of the grounds for refusing a lottery game retailer contract or terminating a contract under ORS 461.300 exist.

(3) A person subject to subsection (2) of this section shall be given an interview under the direction of the commission if the person requests an interview prior to revocation of a temporary letter of authority. However,
the proceedings are not a contested case under ORS chapter 183.

**SECTION 20.** ORS 461.400 is amended to read:

461.400. Notwithstanding other provisions of law, the Director of the Oregon State Lottery may purchase or lease such goods or services as are necessary for effectuating the purposes of this chapter. The commission may not contract with any private party or nongovernmental entity for the operation and administration of the Oregon State Lottery established by this chapter. However, the foregoing shall not preclude procurements which integrate functions such as lottery game design, supply of goods and services, advertising and public relations. In all procurement decisions, the director and Oregon State Lottery Commission shall take into account the particularly sensitive nature of the state lottery, shall consider the lottery’s potential contribution to the development of and citizen’s access to the state’s telecommunications infrastructure, and shall act to promote and ensure fairness, integrity, security and honesty in the operation and administration of the state lottery and the objective of raising net revenues for the benefit of the public purpose described in section 4, Article XV of the Constitution of the State of Oregon.

**SECTION 21.** ORS 461.410 is amended to read:

461.410. (1) In order to allow an evaluation by the Oregon State Lottery of the competence, integrity, background, character and nature of the true ownership and control of lottery vendors, any vendor who submits a bid, proposal or offer as part of a procurement for a contract for the printing of tickets used in any lottery game, any goods or services involving the receiving or recording of number selection in any lottery game, or any goods or services involving the determination of winners in any lottery game, which are hereby referred to as major procurements, shall disclose the following information immediately after the state lottery issues a notice of intent to award a contract based on the vendor’s bid, proposal or offer:

[24]
(a) A disclosure of [the lottery vendor’s name and address and], as applicable, the name and address of the following:

(A) If the vendor is a corporation, the officers, directors and each stockholder in such corporation; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust.

(C) If the vendor is an association, the members, officers and directors.

(D) If the vendor is a subsidiary, the officers, directors and each stockholder of the parent corporation thereof; except that, in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to beneficially own 15 percent or more of such securities need be disclosed.

(E) If the vendor is a partnership or joint venture, all of the general partners, limited partners or joint venturers.

(F) If the parent company, general partner, limited partner or joint venturer of any vendor is itself a corporation, trust, association, subsidiary, partnership or joint venture, then all of the information required in this section shall be disclosed for such other entity as if it were itself a vendor to the end that full disclosure of ultimate ownership be achieved.

(G) If any member of the immediate family of any vendor is involved in the vendor’s business in any capacity, then all of the information required in this section shall be disclosed for such immediate family member as if the family member were a vendor.

(H) If the vendor subcontracts any substantial portion of the work to be performed to a subcontractor, then all of the information required in this section shall be disclosed for such subcontractor as if it were itself a vendor.

(I) The persons or entities in subparagraphs (A) to (H) of this paragraph, along with the vendor itself, shall be referred to as control persons.

[25]
(b) A disclosure of all the states and jurisdictions in which each control person does business, and the nature of that business for each such state or jurisdiction.

(c) A disclosure of all the states and jurisdictions in which each control person has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services and the nature of the goods or services involved for each such state or jurisdiction.

(d) A disclosure of all the states and jurisdictions in which each control person has applied for, has sought renewal of, has received, has been denied, has pending or has had revoked a gaming license of any kind, and the disposition of such in each such state or jurisdiction. If any gaming license has been revoked or has not been renewed or any gaming license application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying this failure to receive such a license must be disclosed.

(e) A disclosure of the details of any conviction or judgment of a state or federal court of each control person of any felony and any other criminal offense other than traffic offenses.

(f) A disclosure of the details of any bankruptcy, insolvency, reorganization or any pending litigation of each control person.

(g) A disclosure for each control person who is a natural person of employment, residence, education and military history since the age of 18 years, and any federal, state or local elective position ever held by such person.

(h) A disclosure consolidating all reportable information on all reportable contributions by each control person to any local, state or federal political candidate or political committee in this state for the past five years that is reportable under any existing state or federal law.

(i) A disclosure of the identity of any entity with which each control person has a joint venture or other contractual arrangement to supply any state or jurisdiction with gaming goods or services, including a disclosure with regard to such entity of all of the information requested under para-
graphs (a) to (h) of this subsection.

(j) A disclosure consisting of financial statements of the lottery vendor for the past three years.

(k) A disclosure of any economic interest as contemplated by ORS 244.060 and 244.070, known to the lottery vendor to be held by any of the persons named in ORS 244.050 (1)(a), any lottery commissioner, the lottery director, or the assistant directors of the state lottery, in any lottery vendor or its control persons.

(L) Such additional disclosures and information as the director may determine to be appropriate for the procurement involved.

(2) No contract for a major procurement with any vendor who has not complied with the disclosure requirements described in this section for each of its control persons shall be entered into or be enforceable. Any contract with any lottery contractor who does not comply with such requirements for periodically updating such disclosures from each of its control persons during the tenure of [such] the contract as may be specified in [such] the contract may be terminated by the commission.

SECTION 22. ORS 461.445 is amended to read:

461.445. In establishing its schedule of payments to lottery contractors, the Oregon State Lottery Commission shall undertake to develop a system that maximizes the net revenue to the state for the public purpose described in Article XV, section 4, of the Oregon Constitution, consistent with providing a reasonable rate of return for lottery contractors.

SECTION 23. ORS 461.500 is amended to read:

461.500. (1) Except for such moneys as are necessary to temporarily fund the start-up of the state-operated lottery established by the Constitution of the State of Oregon and this chapter, the Oregon State Lottery shall operate as a self-supporting revenue-raising agency of state government and appropriations, loans or other transfers of state funds may not be made to it.

(2) At least 84 percent of the total annual revenues from the sale of state lottery tickets or shares shall be returned to the public in the form of prizes
and net revenues benefiting the public purpose described in Article XV, section 4, of the Constitution of the State of Oregon. At least 50 percent of the total annual revenues shall be returned to the public in the form of prizes as described in this chapter. All unclaimed prize money shall remain the property of the commission and shall be allocated to the benefit of the public purpose.

(3) No more than 16 percent of the total annual revenues shall be allocated for payment of expenses of the state lottery as described in this chapter. To the extent that expenses, including the contingency reserve, of the state lottery are less than 16 percent of the total annual revenues as described in this chapter, any surplus funds shall also be allocated to the benefit of the public purpose.

(4) For the purpose of ensuring the fairness, integrity, security and honesty of the state lottery, the Oregon State Lottery may use moneys allocated, as costs of administration, for the payment of expenses of the state lottery pursuant to subsection (3) of this section for expenses incurred to:

(a) Adopt and implement rules intended to minimize problem gambling risks and mitigate problem gambling harms;

(b) Advertise the availability of problem gambling treatment programs in this state, including contact information for the programs;

(c) Collect and report data, and establish metrics, regarding problem gambling; [and]

(d) Enter into agreements with independent, third-party institutions to administer and award grants for research related to responsible gaming and problem gambling in Oregon, in the United States or internationally; and

[(d)] (e) Cooperate with or assist the Oregon Health Authority and providers of problem gambling treatment programs to the extent that the cooperation or assistance is consistent with the mission, described in ORS 461.200, to operate the state lottery so as to produce the maximum amount [28]
of net revenues to benefit the public purpose described in Article XV, section 4, of the Constitution of the State of Oregon, commensurate with the public good.

**SECTION 24.** ORS 461.540 is amended to read:

461.540. (1) There is established in the General Fund of the State Treasury the Administrative Services Economic Development Fund. All moneys transferred from the State Lottery Fund, interest earnings credited to this fund and other moneys authorized to be transferred to this fund from whatever source are appropriated continuously for any of the following public purposes:

(a) Creating jobs;
(b) Furthering economic development in Oregon; or
(c) Financing public education.

(2) Moneys shall be transferred from the Administrative Services Economic Development Fund to:

(a) The Education Stability Fund established under ORS 348.696 as described in section 4, Article XV of the Oregon Constitution; and
(b) The School Capital Matching Fund established under ORS 286A.806 as described in section 4, Article XI-P of the Oregon Constitution.

(3) As used in this section [and section 4, Article XV of the Oregon Constitution]:

(a) “Creating jobs” includes, but is not limited to:
(A) Supporting the creation of new jobs in Oregon;
(B) Helping prevent the loss of existing jobs in Oregon;
(C) Assisting with work transition to new jobs in Oregon; [or] and
(D) Training or retraining workers.
(b) “Education” includes, but is not limited to, the Education Stability Fund established under ORS 348.696 and specific programs that support the following:

(A) Prekindergartens;
(B) Elementary and secondary schools;
(C) Community colleges;
(D) Higher education;
(E) Continuing education;
(F) Workforce training and education programs; or
(G) Financial assistance to Oregon students.

(c) “Furthering economic development” includes, but is not limited to, providing:

(A) Services or financial assistance to for-profit and nonprofit businesses located or to be located in Oregon;
(B) Services or financial assistance to business or industry associations to promote, expand or prevent the decline of their businesses; or
(C) Services or financial assistance for facilities, physical environments or development projects, as defined in ORS 285B.410, that benefit Oregon’s economy.

SECTION 25. ORS 461.547 is amended to read:

461.547. (1) The Oregon State Lottery Commission shall transfer an amount equal to 2.5 percent of the net receipts from video lottery games allocated to the Administrative Services Economic Development Fund to counties for economic development activities. Ninety percent of the moneys shall be distributed to each county in proportion to the gross receipts from video lottery games from each county. Ten percent of the moneys shall be distributed in equal amounts to each county.

(2) As used in this section:

(a) “Gross receipts from video lottery games” means the amount of money inserted into video lottery [games] terminals plus the value of any free game prizes used by players for subsequent games.

(b) “Net receipts from video lottery games” means the amount of money that is received from the operation of video lottery games after the payment of prizes but prior to any other payment.

SECTION 26. ORS 461.548 is amended to read:

461.548. Notwithstanding any other provision of law, the Oregon State
Lottery Commission shall meet the constitutional requirements for prizes and administrative costs separately for video lottery games and all other lottery games. The lottery commission shall not intermingle the results of video lottery games for the purpose of calculating the allowable limit on administrative expenses of other lottery games.

SECTION 27. ORS 461.600 is amended to read:

461.600. (1) Tickets or shares in lottery games, including tickets or shares sold from vending machines or other devices, may not be sold to a person under 18 years of age.

(2) Video lottery [game] terminals may not be operated by a person under 21 years of age.

(3) The Oregon State Lottery Commission shall establish safeguards to ensure that lottery game retailers comply with the requirements of this section.

SECTION 28. (1) The Legislative Assembly finds that:

(a) Personally identifiable player data submitted by players of lottery games, particularly information submitted through mobile or Internet-enabled devices, may, if disclosed, expose players to identity theft, financial risk or invasion of personal privacy;

(b) Players of lottery games voluntarily submit personally identifiable player data to the Oregon State Lottery and reasonably expect that such information will be protected and secured by the Oregon State Lottery;

(c) The inability or failure of the Oregon State Lottery to ensure the confidentiality of personally identifiable player data will result in a decreased willingness of individuals to play lottery games and a resultant decrease in lottery revenue; and

(d) The Oregon State Lottery Commission is responsible for the protection and security of personally identifiable player data and should make every reasonable effort to maintain the confidentiality of such information.
(2) The commission shall adopt rules to ensure that the systems, standards and procedures of the Oregon State Lottery protect, secure and maintain the confidentiality of personally identifiable player data. The commission may, by rule, designate categories of information to be protected as personally identifiable player data.


SECTION 30. Sections 1 to 4, chapter 2, Oregon Laws 2017, are added to and made a part of ORS chapter 327.

SECTION 31. The amendments to ORS 320.005 by section 2 of this 2019 Act apply to tax years beginning on or after January 1, 2019.
Permits guardian to change abode or placement of adult protected person without 15-day notice under certain circumstances.

A BILL FOR AN ACT
Relating to guardianships; creating new provisions; and amending ORS 125.225 and 125.320.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 125.

SECTION 2. (1) As used in this section, “move” means a change of abode or placement in a mental health treatment facility, a nursing home or another residential facility.

(2)(a) When a guardian moves an adult protected person, the guardian shall file with the court and serve a notice of the move in the manner provided for serving a motion under ORS 125.065 to the persons specified in ORS 125.060 (3) and (8).

(b) Except as provided in subsection (3) of this section, the guardian must file and serve the notice required under this subsection at least 15 days prior to each move of the protected person.

(c) In addition to the requirements of ORS 125.070 (1), the notice given to the protected person under this section must clearly indicate the manner in which the protected person may object to the proposed move.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(3)(a) A guardian may move an adult protected person prior to filing and serving the notice required under subsection (2) of this section if the notice is filed and served with as much advance notice as possible, but in no event later than two judicial days following the move, in any of the following circumstances:

(A) The protected person’s move is the first move following the guardian’s appointment and the petition for appointment included statement of intent to place the protected person in the same type of facility or placement option as the actual move arranged;

(B) The protected person desires the move and the guardian determines that delaying the protected person’s move may jeopardize securing the new abode or placement; or

(C) The guardian determines that the protected person’s move must occur in less than 15 days to protect the immediate health, welfare or safety of the protected person or others.

(b) If the guardian files and serves the notice less than 15 days prior to moving the protected person under this subsection, the guardian must describe in the notice the circumstances necessitating the protected person’s move.

(4)(a) The court shall schedule a hearing on any objection to a notice made in the manner provided by ORS 125.075 for presenting objections to a petition or motion in a protective proceeding.

(b) The guardian may move the adult protected person prior to a hearing on any objection if the move is made due to circumstances described in subsection (3) of this section.

(c) If no objection is made, the guardian may move the protected person without further court order.

(5) The requirement under this section that notice be served on an attorney for a protected person under ORS 125.060 (8) does not impose any responsibility on the attorney receiving the notice to represent the adult protected person in the protective proceeding.
SECTION 3. ORS 125.225 is amended to read:

125.225. (1) A court shall remove a fiduciary whenever that removal is in the best interests of the protected person.

(2) In addition to any other grounds, the court may remove a conservator if the conservator fails to use good business judgment and diligence in the management of the estate under the control of the conservator. The court may apply a higher standard of care to a conservator who claims to have greater than ordinary skill or expertise.

(3) The court may remove a guardian if the guardian changes the abode of the adult protected person or places the protected person in a mental health treatment facility, a nursing home or other residential facility and:

(a) Failed to disclose in the petition for appointment that the guardian intended to make the placement; or

(b) Failed to comply with [ORS 125.320 (3)] section 2 of this 2019 Act before making the placement.

(4) On termination of the authority of a fiduciary, an interim fiduciary may be appointed by the court to serve for a period not to exceed 60 days. An interim fiduciary under this subsection may be appointed by the court without the appointment of a visitor, additional notices or any other additional procedure, except as may be determined necessary by the court.

(5) Upon termination of the authority of a fiduciary, the court may appoint a successor fiduciary. A petition for appointment as successor fiduciary must be filed in the same manner as provided for an original petition, and is subject to all provisions applicable to an original petition for the appointment of a fiduciary. No filing fee shall be charged or collected for the filing of a petition for the appointment of a successor fiduciary.

SECTION 4. ORS 125.320 is amended to read:

125.320. (1) A guardian may not authorize the sterilization of the protected person.

(2) A guardian may not use funds from the protected person’s estate for room and board that the guardian or guardian’s spouse, parent or child have
furnished the protected person unless the charge for the service is approved
by order of the court before the payment is made.

(3) Except as provided in section 2 of this 2019 Act, a guardian may
not change an adult protected person's abode or place an adult pro-
tected person in a mental health treatment facility, a nursing home
or another residential facility without prior court order approving the
change of abode or placement.

[(3)(a) Before a guardian may change the abode of an adult protected person
or place an adult protected person in a mental health treatment facility, a
nursing home or other residential facility, the guardian must file with the
court and serve a statement declaring that the guardian intends to make the
change of abode or placement in the manner set forth in paragraph (b) of this
subsection.]

[(b)(A) The statement must be filed and served in the manner provided for
serving a motion under ORS 125.065 to the persons specified in ORS 125.060
(3) and (8) at least 15 days prior to each change of abode or placement of the
protected person.]

[(B) When the guardian determines that the change of abode or placement
must occur in less than 15 days to protect the immediate health, welfare or
safety of the protected person or others, the statement shall declare that the
change of abode or placement must occur in less than 15 days to protect the
immediate health, welfare or safety of the protected person or others. The
statement must be filed and served with as much advance notice as possible,
in no event later than two judicial days after the change of abode or placement
occurs. The guardian may make the change of abode or placement prior to a
hearing on any objection.]

[(c) In addition to the requirements of ORS 125.070 (1), the notice given to
the protected person must clearly indicate the manner in which the protected
person may object to the proposed placement.]

[(d) The court shall schedule a hearing on any objection to a statement filed
under this subsection made in the manner provided by ORS 125.075 for pre-
senting objections to a petition or motion in a protective proceeding. If no ob-
jection is made, the guardian may change the abode of the adult protected
person or place the adult protected person in a mental health treatment facility,
a nursing home or other residential facility without further court order.]
[(e) The requirement that notice be served on an attorney for a protected
person under ORS 125.060 (8) does not impose any responsibility on the attor-
ney receiving the notice to represent the protected person in the protective
proceeding.]}

SECTION 5. Section 2 of this 2019 Act and the amendments to ORS
125.225 and 125.320 by sections 3 and 4 of this 2019 Act apply to moves
of an adult protected person occurring on or after the effective date
of this 2019 Act.
SUMMARY

Permits Oregon Public Guardian and Conservator to establish county, regional and statewide high-risk teams to determine options available for addressing safety risks facing highly vulnerable adults.

Permits high-risk teams to disclose protected health information and other confidential information in certain situations.

A BILL FOR AN ACT

Relating to persons with disabilities.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section and section 2 of this 2019 Act, “highly vulnerable adult” means a person with a disability who is:

(a) At least 18 years of age;

(b) At imminent risk of serious harm; and

(c) Unable to independently protect themselves from the harm due to the effects of the person’s disability.

(2) The Oregon Public Guardian and Conservator appointed under ORS 125.678 may establish county or regional high-risk teams that may consist of, but not be limited to, the following:

(a) The Oregon Public Guardian and Conservator.

(b) The Department of Human Services or a designee of the Department of Human Services.

(c) The Oregon Health Authority or a designee of the Oregon Health Authority.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(d) Representatives of:

(A) Local hospitals.

(B) Local crisis response teams.

(C) Homeless services programs.

(D) Veterans' services programs.

(E) Organizations designated by the Department of Human Services as area agencies on aging.

(F) Any other agency or nonprofit organization that provides services to persons with disabilities.

(3) The Oregon Public Guardian and Conservator may establish a statewide high-risk team that may consist of, but not be limited to, representatives of the following:

(a) The Department of Human Services, including developmental disabilities programs and adult abuse prevention programs within the department.

(b) The Oregon Health Authority.

(c) The Oregon State Hospital.

(d) The Department of Veterans’ Affairs.

(e) The office of the Long Term Care Ombudsman appointed under ORS 441.403.

(f) The office of the Residential Facilities Ombudsman appointed under ORS 443.382.

(g) Any other statewide agency or program that has direct contact with highly vulnerable adults or that provides services addressing serious safety concerns of highly vulnerable adults.

(4) The Oregon Public Guardian and Conservator may delegate the responsibility to develop a high-risk team under this section to a designee or administrator who is or will be a member of the high-risk team pursuant to a written agreement.

(5) A high-risk team shall discuss situations where highly vulnerable adults are at risk of harm, or are currently experiencing harm,
and determine the available options for addressing the safety risk, focusing on the least restrictive alternatives.

(6) Each high-risk team shall develop a written protocol establishing the purpose of the team, potential membership within each community and confidentiality procedures consistent with section 2 of this 2019 Act.

(7) The Oregon Public Guardian and Conservator may adopt rules to carry out the provisions of this section.

SECTION 2. (1) As used in this section, “personal representative” and “protected health information” have the meanings given those terms in ORS 192.556.

(2) All information and records acquired by a high-risk team established under section 1 of this 2019 Act in the exercise of its duties are confidential and may be disclosed only when necessary to carry out the purposes of the high-risk team.

(3) A member agency of a high-risk team or a member of a high-risk team may use or disclose protected health information without obtaining an authorization from an individual or a personal representative of the individual if use or disclosure is necessary for public health purposes, including the prevention, investigation and mitigation of safety risks facing a highly vulnerable adult.
SUMMARY

Changes conversion facilities from type of “residential facility” for purposes of Residential Facilities Ombudsman Program to type of “long term care facility” for purposes of Long Term Care Ombudsman Program.

A BILL FOR AN ACT
Relating to the office of the Long Term Care Ombudsman; amending ORS 441.402, 441.417 and 443.380.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 441.402 is amended to read:
441.402. As used in ORS 441.402 to 441.419:
(1) “Administrative action” means any action, inaction or decision made by an owner, employee or agent of a long term care facility or by a public agency that affects the services to residents of long term care facilities.
(2) “Designee” means an individual appointed by the Long Term Care Ombudsman under ORS 441.413 to serve as a representative in a local community in order to carry out the purpose of ORS 441.402 to 441.419.
(3) “Long term care facility” means:
(a) [Any] A licensed skilled nursing facility or intermediate care facility, as defined in rules adopted under ORS 442.015;
(b) An adult foster [homes] home, as defined in ORS 443.705, with residents over 60 years of age;
(c) A residential care [facilities] facility, as defined in ORS 443.400;
[and]
(d) A continuing care retirement [communities] community, as defined

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
in ORS 101.020; and

e) A conversion facility licensed under ORS 443.431.

(4) “Long Term Care Ombudsman Program” means the services provided
by the Long Term Care Ombudsman.

SECTION 2. ORS 443.380 is amended to read:

443.380. As used in ORS 443.380 to 443.394:

(1) “Administrative action” means an action, inaction or decision by an
owner, employee or agent of a residential facility or by a state, local, social
service or health agency that could affect the health, safety, welfare or
rights of residents of the facility.

(2) “Designee” means an individual appointed by the Residential Facilities
Ombudsman in accordance with ORS 443.386.

(3) “Legal representative” means a person to whom a resident or a court
has granted legal authority to permit access to the resident’s personal in-
formation and medical records.

(4) “Long Term Care Ombudsman” means the individual appointed by the
Governor under ORS 441.403.

(5) “Resident” means an individual who resides in a residential facility.

(6)(a) “Residential facility” means one of the following:

(A) A residential training facility, as defined in ORS 443.400.

(B) A residential training home, as defined in ORS 443.400.

(C) A licensed adult foster home as defined in ORS 443.705 that serves
persons with mental illness or developmental disabilities.

(D) A developmental disability child foster home, as defined in ORS
443.830.

(E) A residential treatment facility, as defined in ORS 443.400.

(F) A residential treatment home, as defined in ORS 443.400.

(G) A conversion facility licensed under ORS 443.431.

(b) “Residential facility” does not include a:

(A) Secured facility housing persons committed under ORS 161.327; or

(B) Facility licensed by the Oregon Health Authority to provide alcohol
and drug treatment.

(7) “Residential Facilities Ombudsman Program” means the services provided by the Residential Facilities Ombudsman.

**SECTION 3.** ORS 441.417 is amended to read:

441.417. The Residential Ombudsman and Public Guardianship Advisory Board shall:

(1) Monitor the **office of the** Long Term Care Ombudsman [*Program*].

(2) Advise the Governor and the Legislative Assembly on the Long Term Care Ombudsman Program.

(3) Nominate, after interviews and according to prescribed criteria, three persons to fill the Long Term Care Ombudsman position or to fill a vacancy in the position.
SUMMARY

Clarifies type of authorization to practice issued by Oregon State Board of Nursing. Clarifies that board approves nursing education programs.
Declares emergency, effective on passage.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 336.479 is amended to read:

336.479. (1) As used in this section, “participation” means participation in sports practices and actual interscholastic sports competition.

(2) Each school district shall require students who participate in extracurricular sports in grades 7 through 12 in the schools of the district to have a physical examination prior to participation. A person conducting the physical examination shall use a form and protocol prescribed by rule of the State Board of Education pursuant to subsection (6) of this section.

(3) A school district shall require students who continue to participate in
extracurricular sports in grades 7 through 12 to have a physical examination once every two years.

(4) Notwithstanding subsection (3) of this section, a school district shall require a student who is diagnosed with a significant illness or has had a major surgery to have a physical examination prior to further participation in extracurricular sports.

(5) Any physical examination required by this section shall be conducted by a:

(a) Physician possessing an unrestricted license to practice medicine;
(b) Licensed naturopathic physician;
(c) Licensed physician assistant;
(d) [Certified] Licensed nurse practitioner; or
(e) Licensed chiropractic physician who has clinical training and experience in detecting cardiopulmonary diseases and defects.

(6) The State Board of Education shall by rule prescribe the form and protocol to be used for physical examinations required by this section.

SECTION 2. ORS 336.485, as amended by section 1, chapter 121, Oregon Laws 2018, is amended to read:

336.485. (1) As used in this section:

(a) “Coach” means a person who instructs or trains members on a school athletic team, as identified by criteria established by the State Board of Education by rule.

[(b) “Qualified health care professional” means:]

[(A) A physician licensed pursuant to ORS 677.100 to 677.228; or]

[(B) A health care professional who meets the requirements described in section 3 of this 2018 Act to provide a medical release for a member of a school athletic team who is suspected of having a concussion.]

(b) “Health care professional” means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed under the laws of this state.

(2)(a) Each school district shall ensure that coaches receive annual
training to learn how to recognize the symptoms of a concussion and how
to seek proper medical treatment for a person [who is] suspected of having
a concussion.

(b) The board shall establish by rule:

(A) The requirements of the training described in paragraph (a) of this
subsection, which shall be provided by using community resources to the
extent practicable; and

(B) Timelines to ensure that, to the extent practicable, every coach re-
ceives the training described in paragraph (a) of this subsection before the
beginning of the season for the school athletic team.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a school athletic team to partic-
ipate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion
following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a school athletic team who is pro-
hibited from participating in an athletic event or training, as described in
paragraph (a) of this subsection, to participate in an athletic event or
training no sooner than the day after the member experienced a blow to the
head or body and only after the member:

(A) No longer exhibits signs, symptoms or behaviors consistent with a
concussion; and

(B) Receives a medical release form from a [qualified] health care pro-
fessional.

(4) A coach may allow a member of a school athletic team to participate
in any athletic event or training at any time after an athletic trainer regis-
tered by the Board of Athletic Trainers[, or a physician licensed pursuant to
ORS 677.100 to 677.228,] determines that the member has not suffered a
concussion. The athletic trainer [or physician] may, but is not required to,
consult with a [qualified] health care professional in making the determi-
nation that the member [of a school athletic team] has not suffered a concussion.

**SECTION 3.** ORS 336.485, as amended by section 1, chapter 121, Oregon Laws 2018, and section 2 of this 2019 Act, is amended to read:

336.485. (1) As used in this section:

(a) “Coach” means a person who instructs or trains members [on] of a school athletic team, as identified by criteria established by the State Board of Education by rule.

(b) “Health care professional” means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed under the laws of this state.

(b) “Qualified health care professional” means:

(A) A physician licensed pursuant to ORS 677.100 to 677.228; or

(B) A health care professional who meets the requirements described in section 3, chapter 121, Oregon Laws 2018, to provide a medical release for a member of a school athletic team who is suspected of having a concussion.

(2)(a) Each school district shall ensure that coaches receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person who is suspected of having a concussion.

(b) The board shall establish by rule:

(A) The requirements of the training described in paragraph (a) of this subsection, which shall be provided by using community resources to the extent practicable; and

(B) Timelines to ensure that, to the extent practicable, every coach receives the training described in paragraph (a) of this subsection before the beginning of the season for the school athletic team.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a school athletic team to participate in any athletic event or training on the same day that the member:
(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or
(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a school athletic team who is prohibited from participating in an athletic event or training, as described in paragraph (a) of this subsection, to participate in an athletic event or training no sooner than the day after the member experienced a blow to the head or body and only after the member:
(A) No longer exhibits signs, symptoms or behaviors consistent with a concussion; and
(B) Receives a medical release [form] from a qualified health care professional.

(4) A coach may allow a member of a school athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers, or a physician licensed pursuant to ORS 677.100 to 677.228, determines that the member has not suffered a concussion. The athletic trainer or physician may, but is not required to, consult with a qualified health care professional in making the determination that the member of a school athletic team has not suffered a concussion.

SECTION 4. ORS 342.475 is amended to read:

342.475. (1) “School nurse” is established as a category of specialization in nursing.

(2) The Teacher Standards and Practices Commission shall issue a certificate as a school nurse to a person who complies with the rules established by the commission for the certification and practice of school nursing or who has been [certified] licensed by the Oregon State Board of Nursing [as a school nurse practitioner]. In establishing rules for the certification and practice of any specialization of school nursing, the commission shall consider the recommendations of the Oregon State Board of Nursing.

(3) The commission may issue an emergency certificate that authorizes a
person licensed as a registered nurse in this state who does not meet the
requirements of subsection (2) of this section to practice as a school nurse.
Such certificates shall be issued for a limited time as set by the commission.

(4) Notwithstanding subsections (1) to (3) of this section, the commission
shall issue a certificate in a school nurse specialization category to a regis-
tered nurse who applies for certification and who is employed by a school,
school district or education service district to conduct and coordinate a
school or district health services program or who serves in such a capacity
on a voluntary basis on November 1, 1981. A certificate issued under this
subsection shall be issued without further proof of qualification by the ap-
plicant.

(5) A certificate issued under this section is not a teaching license. The
nurse holding a certificate issued under this section is not subject to ORS
238.280 or 342.805 to 342.937.

SECTION 5. ORS 343.146 is amended to read:
343.146. (1) To receive special education, children with disabilities shall
be determined eligible for special education services under a school district
program approved under ORS 343.045 and as provided under ORS 343.221.

(2) Before initially providing special education, the school district shall
ensure that a full and individual evaluation is conducted to determine the
child’s eligibility for special education and the child’s special educational
needs.

(3) Eligibility for special education shall be determined pursuant to rules
adopted by the State Board of Education.

(4) Each school district shall conduct a reevaluation of each child with
a disability in accordance with rules adopted by the State Board of Educa-
tion.

(5) If a medical or vision examination or health assessment is required
as part of an initial evaluation or reevaluation, the evaluation shall be
given:

(a) In the case of a medical examination, by a physician licensed to
practice by a state board of medical examiners or a state medical board or
by a naturopathic physician licensed under ORS chapter 685;
(b) In the case of a health assessment, by a nurse practitioner licensed
by a state board of nursing [and specially certified as a nurse practitioner]
or by a licensed physician assistant; and
(c) In the case of a vision examination, by an ophthalmologist or
optometrist licensed by a state board.

SECTION 6. ORS 414.025 is amended to read:
414.025. As used in this chapter and ORS chapters 411 and 413, unless the
context or a specially applicable statutory definition requires otherwise:
(1)(a) “Alternative payment methodology” means a payment other than a
fee-for-services payment, used by coordinated care organizations as compens-
sation for the provision of integrated and coordinated health care and ser-

(b) “Alternative payment methodology” includes, but is not limited to:
(A) Shared savings arrangements;
(B) Bundled payments; and
(C) Payments based on episodes.
(2) “Behavioral health assessment” means an evaluation by a behavioral
health clinician, in person or using telemedicine, to determine a patient’s
need for immediate crisis stabilization.
(3) “Behavioral health clinician” means:
(a) A licensed psychiatrist;
(b) A licensed psychologist;
(c) A [certified] licensed nurse practitioner with a specialty in psychiatric
mental health;
(d) A licensed clinical social worker;
(e) A licensed professional counselor or licensed marriage and family
therapist;
(f) A certified clinical social work associate;
(g) An intern or resident who is working under a board-approved super-

[7]
visory contract in a clinical mental health field; or
(h) Any other clinician whose authorized scope of practice includes mental health diagnosis and treatment.

(4) “Behavioral health crisis” means a disruption in an individual’s mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the individual’s mental or physical health.

(5) “Behavioral health home” means a mental health disorder or substance use disorder treatment organization, as defined by the Oregon Health Authority by rule, that provides integrated health care to individuals whose primary diagnoses are mental health disorders or substance use disorders.

(6) “Category of aid” means assistance provided by the Oregon Supplemental Income Program, aid granted under ORS 411.877 to 411.896 and 412.001 to 412.069 or federal Supplemental Security Income payments.

(7) “Community health worker” means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who:

(a) Has expertise or experience in public health;

(b) Works in an urban or rural community, either for pay or as a volunteer in association with a local health care system;

(c) To the extent practicable, shares ethnicity, language, socioeconomic status and life experiences with the residents of the community where the worker serves;

(d) Assists members of the community to improve their health and increases the capacity of the community to meet the health care needs of its residents and achieve wellness;

(e) Provides health education and information that is culturally appropriate to the individuals being served;

(f) Assists community residents in receiving the care they need;

(g) May give peer counseling and guidance on health behaviors; and

(h) May provide direct services such as first aid or blood pressure
(8) “Coordinated care organization” means an organization meeting criteria adopted by the Oregon Health Authority under ORS 414.625.

(9) “Dually eligible for Medicare and Medicaid” means, with respect to eligibility for enrollment in a coordinated care organization, that an individual is eligible for health services funded by Title XIX of the Social Security Act and is:

(a) Eligible for or enrolled in Part A of Title XVIII of the Social Security Act; or

(b) Enrolled in Part B of Title XVIII of the Social Security Act.

(10)(a) “Family support specialist” means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides supportive services to and has experience parenting a child who:

(A) Is a current or former consumer of mental health or addiction treatment; or

(B) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A “family support specialist” may be a peer wellness specialist or a peer support specialist.

(11) “Global budget” means a total amount established prospectively by the Oregon Health Authority to be paid to a coordinated care organization for the delivery of, management of, access to and quality of the health care delivered to members of the coordinated care organization.


(13) “Health services” means at least so much of each of the following as are funded by the Legislative Assembly based upon the prioritized list of health services compiled by the Health Evidence Review Commission under ORS 414.690:

(a) Services required by federal law to be included in the state’s medical assistance program in order for the program to qualify for federal funds;
(b) Services provided by a physician as defined in ORS 677.010, a nurse practitioner [certified] licensed under ORS 678.375, a behavioral health clinician or other licensed practitioner within the scope of the practitioner’s practice as defined by state law, and ambulance services;

c) Prescription drugs;

d) Laboratory and X-ray services;

e) Medical equipment and supplies;

(f) Mental health services;

(g) Chemical dependency services;

(h) Emergency dental services;

(i) Nonemergency dental services;

(j) Provider services, other than services described in paragraphs (a) to (i), (k), (L) and (m) of this subsection, defined by federal law that may be included in the state’s medical assistance program;

(k) Emergency hospital services;

(L) Outpatient hospital services; and

(m) Inpatient hospital services.

(14) “Income” has the meaning given that term in ORS 411.704.

(15)(a) “Integrated health care” means care provided to individuals and their families in a patient centered primary care home or behavioral health home by licensed primary care clinicians, behavioral health clinicians and other care team members, working together to address one or more of the following:

(A) Mental illness.

(B) Substance use disorders.

(C) Health behaviors that contribute to chronic illness.

(D) Life stressors and crises.

(E) Developmental risks and conditions.

(F) Stress-related physical symptoms.

(G) Preventive care.

(H) Ineffective patterns of health care utilization.
(b) As used in this subsection, “other care team members” includes but
is not limited to:

(A) Qualified mental health professionals or qualified mental health as-
        sociates meeting requirements adopted by the Oregon Health Authority by
        rule;

(B) Peer wellness specialists;

(C) Peer support specialists;

(D) Community health workers who have completed a state-certified
        training program;

(E) Personal health navigators; or

(F) Other qualified individuals approved by the Oregon Health Authority.

(16) “Investments and savings” means cash, securities as defined in ORS
        59.015, negotiable instruments as defined in ORS 73.0104 and such similar
        investments or savings as the department or the authority may establish by
        rule that are available to the applicant or recipient to contribute toward
        meeting the needs of the applicant or recipient.

(17) “Medical assistance” means so much of the medical, mental health,
        preventive, supportive, palliative and remedial care and services as may be
        prescribed by the authority according to the standards established pursuant
        to ORS 414.065, including premium assistance and payments made for ser-
        vices provided under an insurance or other contractual arrangement and
        money paid directly to the recipient for the purchase of health services and
        for services described in ORS 414.710.

(18) “Medical assistance” includes any care or services for any individual
        who is a patient in a medical institution or any care or services for any in-
        dividual who has attained 65 years of age or is under 22 years of age, and
        who is a patient in a private or public institution for mental diseases. Except
        as provided in ORS 411.439 and 411.447, “medical assistance” does not include
        care or services for a resident of a nonmedical public institution.

(19) “Patient centered primary care home” means a health care team or
        clinic that is organized in accordance with the standards established by the
Oregon Health Authority under ORS 414.655 and that incorporates the following core attributes:

(a) Access to care;
(b) Accountability to consumers and to the community;
(c) Comprehensive whole person care;
(d) Continuity of care;
(e) Coordination and integration of care; and
(f) Person and family centered care.

(20) “Peer support specialist” means any of the following individuals who meet qualification criteria adopted by the authority under ORS 414.665 and who provide supportive services to a current or former consumer of mental health or addiction treatment:

(a) An individual who is a current or former consumer of mental health treatment; or
(b) An individual who is in recovery, as defined by the Oregon Health Authority by rule, from an addiction disorder.

(21) “Peer wellness specialist” means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who is responsible for assessing mental health and substance use disorder service and support needs of a member of a coordinated care organization through community outreach, assisting members with access to available services and resources, addressing barriers to services and providing education and information about available resources for individuals with mental health or substance use disorders in order to reduce stigma and discrimination toward consumers of mental health and substance use disorder services and to assist the member in creating and maintaining recovery, health and wellness.

(22) “Person centered care” means care that:
(a) Reflects the individual patient’s strengths and preferences;
(b) Reflects the clinical needs of the patient as identified through an individualized assessment; and
(c) Is based upon the patient’s goals and will assist the patient in
achieving the goals.

(23) “Personal health navigator” means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who provides information, assistance, tools and support to enable a patient to make the best health care decisions in the patient’s particular circumstances and in light of the patient’s needs, lifestyle, combination of conditions and desired outcomes.

(24) “Prepaid managed care health services organization” means a managed dental care, mental health or chemical dependency organization that contracts with the authority under ORS 414.654 or with a coordinated care organization on a prepaid capitated basis to provide health services to medical assistance recipients.

(25) “Quality measure” means the health outcome and quality measures and benchmarks identified by the Health Plan Quality Metrics Committee and the metrics and scoring subcommittee in accordance with ORS 413.017 (4) and 414.638.

(26) “Resources” has the meaning given that term in ORS 411.704. For eligibility purposes, “resources” does not include charitable contributions raised by a community to assist with medical expenses.

(27)(a) “Youth support specialist” means an individual who meets qualification criteria adopted by the authority under ORS 414.665 and who, based on a similar life experience, provides supportive services to an individual who:

(A) Is not older than 30 years of age; and

(B)(i) Is a current or former consumer of mental health or addiction treatment; or

(ii) Is facing or has faced difficulties in accessing education, health and wellness services due to a mental health or behavioral health barrier.

(b) A “youth support specialist” may be a peer wellness specialist or a peer support specialist.

SECTION 7. ORS 414.625, as amended by section 3, chapter 49, Oregon
Laws 2018, is amended to read:

414.625. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and requirements for a coordinated care organization and shall integrate the criteria and requirements into each contract with a coordinated care organization. Coordinated care organizations may be local, community-based organizations or statewide organizations with community-based participation in governance or any combination of the two. Coordinated care organizations may contract with counties or with other public or private entities to provide services to members. The authority may not contract with only one statewide organization. A coordinated care organization may be a single corporate structure or a network of providers organized through contractual relationships. The criteria and requirements adopted by the authority under this section must include, but are not limited to, a requirement that the coordinated care organization:

(a) Have demonstrated experience and a capacity for managing financial risk and establishing financial reserves.

(b) Meet the following minimum financial requirements:

(A) Maintain restricted reserves of $250,000 plus an amount equal to 50 percent of the coordinated care organization’s total actual or projected liabilities above $250,000.

(B) Maintain a net worth in an amount equal to at least five percent of the average combined revenue in the prior two quarters of the participating health care entities.

(C) Expend a portion of the annual net income or reserves of the coordinated care organization that exceed the financial requirements specified in this paragraph on services designed to address health disparities and the social determinants of health consistent with the coordinated care organization’s community health improvement plan and transformation plan and the terms and conditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315).

(c) Operate within a fixed global budget and, by January 1, 2023, spend
on primary care, as defined in section 2, chapter 575, Oregon Laws 2015, at least 12 percent of the coordinated care organization’s total expenditures for physical and mental health care provided to members, except for expenditures on prescription drugs, vision care and dental care.

(d) Develop and implement alternative payment methodologies that are based on health care quality and improved health outcomes.

(e) Coordinate the delivery of physical health care, mental health and chemical dependency services, oral health care and covered long-term care services.

(f) Engage community members and health care providers in improving the health of the community and addressing regional, cultural, socioeconomic and racial disparities in health care that exist among the coordinated care organization’s members and in the coordinated care organization’s community.

(2) In addition to the criteria and requirements specified in subsection (1) of this section, the authority must adopt by rule requirements for coordinated care organizations contracting with the authority so that:

(a) Each member of the coordinated care organization receives integrated person centered care and services designed to provide choice, independence and dignity.

(b) Each member has a consistent and stable relationship with a care team that is responsible for comprehensive care management and service delivery.

(c) The supportive and therapeutic needs of each member are addressed in a holistic fashion, using patient centered primary care homes, behavioral health homes or other models that support patient centered primary care and behavioral health care and individualized care plans to the extent feasible.

(d) Members receive comprehensive transitional care, including appropriate follow-up, when entering and leaving an acute care facility or a long term care setting.

(e) Members receive assistance in navigating the health care delivery
system and in accessing community and social support services and statewide resources, including through the use of certified health care interpreters and qualified health care interpreters, as those terms are defined in ORS 413.550.

(f) Services and supports are geographically located as close to where members reside as possible and are, if available, offered in nontraditional settings that are accessible to families, diverse communities and underserved populations.

(g) Each coordinated care organization uses health information technology to link services and care providers across the continuum of care to the greatest extent practicable and if financially viable.

(h) Each coordinated care organization complies with the safeguards for members described in ORS 414.635.

(i) Each coordinated care organization convenes a community advisory council that meets the criteria specified in ORS 414.627.

(j) Each coordinated care organization prioritizes working with members who have high health care needs, multiple chronic conditions, mental illness or chemical dependency and involves those members in accessing and managing appropriate preventive, health, remedial and supportive care and services, including the services described in ORS 414.766, to reduce the use of avoidable emergency room visits and hospital admissions.

(k) Members have a choice of providers within the coordinated care organization’s network and that providers participating in a coordinated care organization:

(A) Work together to develop best practices for care and service delivery to reduce waste and improve the health and well-being of members.

(B) Are educated about the integrated approach and how to access and communicate within the integrated system about a patient’s treatment plan and health history.

(C) Emphasize prevention, healthy lifestyle choices, evidence-based practices, shared decision-making and communication.

(D) Are permitted to participate in the networks of multiple coordinated
care organizations.

(E) Include providers of specialty care.

(F) Are selected by coordinated care organizations using universal application and credentialing procedures and objective quality information and are removed if the providers fail to meet objective quality standards.

(G) Work together to develop best practices for culturally appropriate care and service delivery to reduce waste, reduce health disparities and improve the health and well-being of members.

(L) Each coordinated care organization reports on outcome and quality measures adopted under ORS 414.638 and participates in the health care data reporting system established in ORS 442.464 and 442.466.

(m) Each coordinated care organization uses best practices in the management of finances, contracts, claims processing, payment functions and provider networks.

(n) Each coordinated care organization participates in the learning collaborative described in ORS 413.259 (3).

(o) Each coordinated care organization has a governing body that complies with section 2, chapter 49, Oregon Laws 2018, and that includes:

(A) At least one member representing persons that share in the financial risk of the organization;

(B) A representative of a dental care organization selected by the coordinated care organization;

(C) The major components of the health care delivery system;

(D) At least two health care providers in active practice, including:

(i) A physician licensed under ORS chapter 677 or a nurse practitioner [certified] licensed under ORS 678.375, whose area of practice is primary care; and

(ii) A mental health or chemical dependency treatment provider;

(E) At least two members from the community at large, to ensure that the organization’s decision-making is consistent with the values of the members and the community; and
(F) At least one member of the community advisory council.

(p) Each coordinated care organization’s governing body establishes standards for publicizing the activities of the coordinated care organization and the organization’s community advisory councils, as necessary, to keep the community informed.

(3) The authority shall consider the participation of area agencies and other nonprofit agencies in the configuration of coordinated care organizations.

(4) In selecting one or more coordinated care organizations to serve a geographic area, the authority shall:

(a) For members and potential members, optimize access to care and choice of providers;

(b) For providers, optimize choice in contracting with coordinated care organizations; and

(c) Allow more than one coordinated care organization to serve the geographic area if necessary to optimize access and choice under this subsection.

(5) On or before July 1, 2014, each coordinated care organization must have a formal contractual relationship with any dental care organization that serves members of the coordinated care organization in the area where they reside.

**SECTION 8.** ORS 414.625, as amended by section 14, chapter 489, Oregon Laws 2017, and section 4, chapter 49, Oregon Laws 2018, is amended to read:

414.625. (1) The Oregon Health Authority shall adopt by rule the qualification criteria and requirements for a coordinated care organization and shall integrate the criteria and requirements into each contract with a coordinated care organization. Coordinated care organizations may be local, community-based organizations or statewide organizations with community-based participation in governance or any combination of the two. Coordinated care organizations may contract with counties or with other public or private entities to provide services to members. The authority may not
contract with only one statewide organization. A coordinated care organization may be a single corporate structure or a network of providers organized through contractual relationships. The criteria and requirements adopted by the authority under this section must include, but are not limited to, a requirement that the coordinated care organization:

(a) Have demonstrated experience and a capacity for managing financial risk and establishing financial reserves.

(b) Meet the following minimum financial requirements:

(A) Maintain restricted reserves of $250,000 plus an amount equal to 50 percent of the coordinated care organization’s total actual or projected liabilities above $250,000.

(B) Maintain a net worth in an amount equal to at least five percent of the average combined revenue in the prior two quarters of the participating health care entities.

(C) Expend a portion of the annual net income or reserves of the coordinated care organization that exceed the financial requirements specified in this paragraph on services designed to address health disparities and the social determinants of health consistent with the coordinated care organization’s community health improvement plan and transformation plan and the terms and conditions of the Medicaid demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315).

(c) Operate within a fixed global budget and spend on primary care, as defined by the authority by rule, at least 12 percent of the coordinated care organization’s total expenditures for physical and mental health care provided to members, except for expenditures on prescription drugs, vision care and dental care.

(d) Develop and implement alternative payment methodologies that are based on health care quality and improved health outcomes.

(e) Coordinate the delivery of physical health care, mental health and chemical dependency services, oral health care and covered long-term care services.
(f) Engage community members and health care providers in improving
the health of the community and addressing regional, cultural, socioeconomic
and racial disparities in health care that exist among the coordinated care
organization’s members and in the coordinated care organization’s commu-
nity.

(2) In addition to the criteria and requirements specified in subsection (1)
of this section, the authority must adopt by rule requirements for coordi-
nated care organizations contracting with the authority so that:

(a) Each member of the coordinated care organization receives integrated
person centered care and services designed to provide choice, independence
and dignity.

(b) Each member has a consistent and stable relationship with a care
team that is responsible for comprehensive care management and service
delivery.

(c) The supportive and therapeutic needs of each member are addressed
in a holistic fashion, using patient centered primary care homes, behavioral
health homes or other models that support patient centered primary care and
behavioral health care and individualized care plans to the extent feasible.

(d) Members receive comprehensive transitional care, including appropri-
ate follow-up, when entering and leaving an acute care facility or a long
term care setting.

(e) Members receive assistance in navigating the health care delivery
system and in accessing community and social support services and statewide
resources, including through the use of certified health care interpreters and
qualified health care interpreters, as those terms are defined in ORS 413.550.

(f) Services and supports are geographically located as close to where
members reside as possible and are, if available, offered in nontraditional
settings that are accessible to families, diverse communities and underserved
populations.

(g) Each coordinated care organization uses health information technol-
ology to link services and care providers across the continuum of care to the
greatest extent practicable and if financially viable.

(h) Each coordinated care organization complies with the safeguards for members described in ORS 414.635.

(i) Each coordinated care organization convenes a community advisory council that meets the criteria specified in ORS 414.627.

(j) Each coordinated care organization prioritizes working with members who have high health care needs, multiple chronic conditions, mental illness or chemical dependency and involves those members in accessing and managing appropriate preventive, health, remedial and supportive care and services, including the services described in ORS 414.766, to reduce the use of avoidable emergency room visits and hospital admissions.

(k) Members have a choice of providers within the coordinated care organization’s network and that providers participating in a coordinated care organization:

(A) Work together to develop best practices for care and service delivery to reduce waste and improve the health and well-being of members.

(B) Are educated about the integrated approach and how to access and communicate within the integrated system about a patient’s treatment plan and health history.

(C) Emphasize prevention, healthy lifestyle choices, evidence-based practices, shared decision-making and communication.

(D) Are permitted to participate in the networks of multiple coordinated care organizations.

(E) Include providers of specialty care.

(F) Are selected by coordinated care organizations using universal application and credentialing procedures and objective quality information and are removed if the providers fail to meet objective quality standards.

(G) Work together to develop best practices for culturally appropriate care and service delivery to reduce waste, reduce health disparities and improve the health and well-being of members.

(L) Each coordinated care organization reports on outcome and quality
measures adopted under ORS 414.638 and participates in the health care data
reporting system established in ORS 442.464 and 442.466.

(m) Each coordinated care organization uses best practices in the man-
agement of finances, contracts, claims processing, payment functions and
provider networks.

(n) Each coordinated care organization participates in the learning
collaborative described in ORS 413.259 (3).

(o) Each coordinated care organization has a governing body that com-
plies with section 2, chapter 49, Oregon Laws 2018, and that includes:

(A) At least one member representing persons that share in the financial
risk of the organization;

(B) A representative of a dental care organization selected by the coor-
dinated care organization;

(C) The major components of the health care delivery system;

(D) At least two health care providers in active practice, including:

(i) A physician licensed under ORS chapter 677 or a nurse practitioner
[certified] licensed under ORS 678.375, whose area of practice is primary
care; and

(ii) A mental health or chemical dependency treatment provider;

(E) At least two members from the community at large, to ensure that the
organization’s decision-making is consistent with the values of the members
and the community; and

(F) At least one member of the community advisory council.

(p) Each coordinated care organization’s governing body establishes
standards for publicizing the activities of the coordinated care organization
and the organization’s community advisory councils, as necessary, to keep
the community informed.

(3) The authority shall consider the participation of area agencies and
other nonprofit agencies in the configuration of coordinated care organiza-
tions.

(4) In selecting one or more coordinated care organizations to serve a
geographic area, the authority shall:

(a) For members and potential members, optimize access to care and choice of providers;

(b) For providers, optimize choice in contracting with coordinated care organizations; and

(c) Allow more than one coordinated care organization to serve the geographic area if necessary to optimize access and choice under this subsection.

(5) On or before July 1, 2014, each coordinated care organization must have a formal contractual relationship with any dental care organization that serves members of the coordinated care organization in the area where they reside.

SECTION 9. ORS 417.875, as amended by section 2, chapter 121, Oregon Laws 2018, is amended to read:

417.875. (1) As used in this section:

(a) “Coach” means a person who volunteers for, or is paid to instruct or train members of, a nonschool athletic team.

(b) “Health care professional” means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed under the laws of this state.

[(b)] (c) “League governing body” means a governing body that:

(A) Oversees an association of nonschool athletic teams that provide instruction or training for team members and that may compete with each other; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

[(c)] (d) “Nonschool athletic team” means an athletic team that includes members who are under 18 years of age and that is not affiliated with a public school in this state.

[(d) “Qualified health care professional” means:] [(A) A physician licensed pursuant to ORS 677.100 to 677.228; or]
(B) A health care professional who meets the requirements described in section 3 of this 2018 Act to provide a medical release for a member of a nonschool athletic team who is suspected of having a concussion.]

(e) “Referee” means a person who volunteers or is paid to act as a referee, as an umpire or in a similar supervisory position for events involving nonschool athletic teams.

(f) “Referee governing body” means a governing body that:

(A) Trains and certifies individuals to serve as referees for nonschool athletic team events; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

(2)(a) Each league governing body and each referee governing body shall ensure that the coaches and the referees, respectively, receive annual training to learn how to recognize the symptoms of a concussion and how to seek proper medical treatment for a person [who is] suspected of having a concussion.

(b) Each league governing body and each referee governing body shall adopt a policy that establishes:

(A) The requirements of the training described in paragraph (a) of this subsection; and

(B) Procedures that ensure that every coach and referee receives the training described in paragraph (a) of this subsection.

(3) Except as provided in subsection (4) of this section:

(a) A coach may not allow a member of a nonschool athletic team to participate in any athletic event or training on the same day that the member:

(A) Exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head or body; or

(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a nonschool athletic team who is prohibited from participating in an athletic event or training, as described
in paragraph (a) of this subsection, to participate in an athletic event or
training no sooner than the day after the member experienced a blow to the
head or body and only after the member:
(A) No longer exhibits signs, symptoms or behaviors consistent with a
concussion; and
(B) Receives a medical release form from a [qualified] health care pro-

(4) A coach may allow a member of a nonschool athletic team to partic-
ipate in any athletic event or training at any time after an athletic trainer
registered by the Board of Athletic Trainers[; or a physician licensed pursuant to ORS 677.100 to 677.228,] determines that the member [of a nonschool
athletic team] has not suffered a concussion. The athletic trainer [or physi-
cian] may, but is not required to, consult with a [qualified] health care pro-

(5) The league governing body shall develop or use existing guidelines and
other relevant materials, and shall make available those guidelines and ma-
terials, to inform and educate persons under 18 years of age desiring to be
a member [of] on a nonschool athletic team, the parents and legal guardians
of the persons and the coaches about the symptoms and warning signs of a
concussion.

(6) For each year of participation, and prior to a person under 18 years
of age participating as a member [of] on a nonschool athletic team, at least
one parent or legal guardian of the person must acknowledge the receipt of
the guidelines and materials described in subsection (5) of this section and
the review of those guidelines and materials by:
(a) The parent or legal guardian of the person; and
(b) If the person is 12 years of age or older, the person.

(7) A league governing body may hold an informational meeting prior to
the start of any season for each nonschool athletic team regarding the
symptoms and warning signs of a concussion.
(8)(a) Any person who regularly serves as a coach or as a referee and who complies with the provisions of this section is immune from civil or criminal liability related to a head injury unless the person acted or failed to act because of gross negligence or willful or wanton misconduct.

(b) Nothing in this section shall be construed to affect the civil or criminal liability related to a head injury of a person who does not regularly serve as a coach or a referee.

SECTION 10. ORS 417.875, as amended by section 2, chapter 121, Oregon Laws 2018, and section 9 of this 2019 Act, is amended to read:

417.875. (1) As used in this section:

(a) “Coach” means a person who volunteers for, or is paid to instruct or train members of, a nonschool athletic team.

[(b) “Health care professional” means a physician licensed under ORS 677.100 to 677.228, psychologist, physician assistant or nurse practitioner licensed under the laws of this state.]

[(c) “League governing body” means a governing body that:

(A) Oversees an association of nonschool athletic teams that provide instruction or training for team members and that may compete with each other; and

(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit corporation established as provided by ORS chapter 65.

[(d) “Nonschool athletic team” means an athletic team that includes members who are under 18 years of age and that is not affiliated with a public school in this state.

(d) “Qualified health care professional” means:

(A) A physician licensed pursuant to ORS 677.100 to 677.228; or

(B) A health care professional who meets the requirements described in section 3, chapter 121, Oregon Laws 2018, to provide a medical release for a member of a nonschool athletic team who is suspected of having a concussion.

(e) “Referee” means a person who volunteers or is paid to act as a referee,
as an umpire or in a similar supervisory position for events involving non-
school athletic teams.

(f) “Referee governing body” means a governing body that:
(A) Trains and certifies individuals to serve as referees for nonschool
athletic team events; and
(B) Is affiliated with, or otherwise sponsored or organized by, a nonprofit
corporation established as provided by ORS chapter 65.

(2)(a) Each league governing body and each referee governing body shall
ensure that the coaches and the referees, respectively, receive annual train-
ing to learn how to recognize the symptoms of a concussion and how to seek
proper medical treatment for a person who is suspected of having a
concussion.

(b) Each league governing body and each referee governing body shall
adopt a policy that establishes:
(A) The requirements of the training described in paragraph (a) of this
subsection; and
(B) Procedures that ensure that every coach and referee receives the
training described in paragraph (a) of this subsection.

(3) Except as provided in subsection (4) of this section:
(a) A coach may not allow a member of a nonschool athletic team to
participate in any athletic event or training on the same day that the mem-
ber:
(A) Exhibits signs, symptoms or behaviors consistent with a concussion
following an observed or suspected blow to the head or body; or
(B) Has been diagnosed with a concussion.

(b) A coach may allow a member of a nonschool athletic team who is
prohibited from participating in an athletic event or training, as described
in paragraph (a) of this subsection, to participate in an athletic event or
training no sooner than the day after the member experienced a blow to the
head or body and only after the member:
(A) No longer exhibits signs, symptoms or behaviors consistent with a

[27]
(B) Receives a medical release [form] from a qualified health care professional.

(4) A coach may allow a member of a nonschool athletic team to participate in any athletic event or training at any time after an athletic trainer registered by the Board of Athletic Trainers, or a physician licensed pursuant to ORS 677.100 to 677.228, determines that the member of a nonschool athletic team has not suffered a concussion. The athletic trainer or physician may, but is not required to, consult with a qualified health care professional in making the determination that the member of a nonschool athletic team has not suffered a concussion.

(5) The league governing body shall develop or use existing guidelines and other relevant materials, and shall make available those guidelines and materials, to inform and educate persons under 18 years of age desiring to be a member of a nonschool athletic team, the parents and legal guardians of the persons and the coaches about the symptoms and warning signs of a concussion.

(6) For each year of participation, and prior to a person under 18 years of age participating as a member of a nonschool athletic team, at least one parent or legal guardian of the person must acknowledge the receipt of the guidelines and materials described in subsection (5) of this section and the review of those guidelines and materials by:

(a) The parent or legal guardian of the person; and

(b) If the person is 12 years of age or older, the person.

(7) A league governing body may hold an informational meeting prior to the start of any season for each nonschool athletic team regarding the symptoms and warning signs of a concussion.

(8)(a) Any person who regularly serves as a coach or as a referee and who complies with the provisions of this section is immune from civil or criminal liability related to a head injury unless the person acted or failed to act because of gross negligence or willful or wanton misconduct.
(b) Nothing in this section shall be construed to affect the civil or crimi-
nal liability related to a head injury of a person who does not regularly
serve as a coach or a referee.

SECTION 11. ORS 426.005 is amended to read:
426.005. (1) As used in ORS 426.005 to 426.390, unless the context requires
otherwise:
(a) “Community mental health program director” means the director of
an entity that provides the services described in ORS 430.630 (3) to (5).
(b) “Director of the facility” means a superintendent of a state mental
hospital, the chief of psychiatric services in a community hospital or the
person in charge of treatment and rehabilitation programs at other treatment
facilities.
(c) “Facility” means a state mental hospital, community hospital, resi-
dential facility, detoxification center, day treatment facility or such other
facility as the authority determines suitable that provides diagnosis and
evaluation, medical care, detoxification, social services or rehabilitation to
persons who are in custody during a prehearing period of detention or who
have been committed to the Oregon Health Authority under ORS 426.130.
(d) “Licensed independent practitioner” means:
(A) A physician, as defined in ORS 677.010;
(B) A nurse practitioner [certified] licensed under ORS 678.375 and au-
thorized to write prescriptions under ORS 678.390; or
(C) A naturopathic physician licensed under ORS chapter 685.
(e) “Nonhospital facility” means any facility, other than a hospital, that
is approved by the authority to provide adequate security, psychiatric, nurs-
ing and other services to persons under ORS 426.232 or 426.233.
(f) “Person with mental illness” means a person who, because of a mental
disorder, is one or more of the following:
(A) Dangerous to self or others.
(B) Unable to provide for basic personal needs that are necessary to avoid
serious physical harm in the near future, and is not receiving such care as
is necessary to avoid such harm.

(C) A person:

(i) With a chronic mental illness, as defined in ORS 426.495;

(ii) Who, within the previous three years, has twice been placed in a hospital or approved inpatient facility by the authority or the Department of Human Services under ORS 426.060;

(iii) Who is exhibiting symptoms or behavior substantially similar to those that preceded and led to one or more of the hospitalizations or inpatient placements referred to in sub-subparagraph (ii) of this subparagraph; and

(iv) Who, unless treated, will, to a reasonable medical probability, to physically or mentally deteriorate so that the person will become a person described under either subparagraph (A) or (B) of this paragraph or both.

(g) “Prehearing period of detention” means a period of time calculated from the initiation of custody during which a person may be detained under ORS 426.228, 426.231, 426.232 or 426.233.

(2) Whenever a community mental health program director, director of the facility, superintendent of a state hospital or administrator of a facility is referred to, the reference includes any designee such person has designated to act on the person’s behalf in the exercise of duties.

SECTION 12. ORS 430.010 is amended to read:

430.010. As used in this chapter:

(1) “Outpatient service” means:

(a) A program or service providing treatment by appointment and by:

(A) Physicians licensed under ORS 677.100 to 677.228;

(B) Psychologists licensed by the Oregon Board of Psychology under ORS 675.010 to 675.150;

(C) Registered nurse practitioners licensed by the Oregon State Board of Nursing under ORS 678.010 to 678.410;

(D) Regulated social workers authorized to practice regulated social work
(E) Professional counselors or marriage and family therapists licensed by the Oregon Board of Licensed Professional Counselors and Therapists under ORS 675.715 to 675.835; or

(F) Naturopathic physicians licensed by the Oregon Board of Naturopathic Medicine under ORS chapter 685; or

(b) A program or service providing treatment by appointment that is licensed, approved, established, maintained, contracted with or operated by the authority under:

(A) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(B) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(C) ORS 430.610 to 430.880 for mental or emotional disturbances.

(2) “Residential facility” means a program or facility providing an organized full-day or part-day program of treatment. Such a program or facility shall be licensed, approved, established, maintained, contracted with or operated by the authority under:

(a) ORS 430.265 to 430.380 and 430.610 to 430.880 for alcoholism;

(b) ORS 430.265 to 430.380, 430.405 to 430.565 and 430.610 to 430.880 for drug addiction; or

(c) ORS 430.610 to 430.880 for mental or emotional disturbances.

SECTION 13. ORS 438.010 is amended to read:

438.010. As used in ORS 438.010 to 438.510, unless the context requires otherwise:

(1) “Authority” means the Oregon Health Authority.

(2) “Clinical laboratory” or “laboratory” means a facility where the microbiological, serological, chemical, hematological, immunohematological, immunological, toxicological, cytogenetical, exfoliative cytological, histological, pathological or other examinations are performed on materials derived from the human body, for the purpose of diagnosis, prevention of disease or treatment of patients by physicians, dentists and other persons.
who are authorized by license to diagnose or treat humans.

(3) “Clinical laboratory specialty” or “laboratory specialty” means the examination of materials derived from the human body for the purpose of diagnosis and treatment of patients or assessment of health, employing one of the following sciences: Serology, microbiology, chemistry, hematology, immunohematology, immunology, toxicology, cytogenetics, exfoliative cytology, histology or pathology.

(4) “Clinician” means a nurse practitioner licensed [and certified] by the Oregon State Board of Nursing, or a physician assistant licensed by the Oregon Medical Board.

(5) “Custody chain” means the handling of specimens in a way that supports legal testimony to prove that the sample integrity and identification of the sample have not been violated, as well as the documentation describing those procedures from specimen collection to the final report.

(6) “Dentist” means a person licensed to practice dentistry by the Oregon Board of Dentistry.

(7) “Director of clinical laboratory” or “director” means the person who plans, organizes, directs and participates in any or all of the technical operations of a clinical laboratory, including but not limited to reviewing laboratory procedures and their results, training and supervising laboratory personnel, and evaluating the technical competency of such personnel.

(8) “Health screen testing” means tests performed for the purpose of identifying health risks, providing health information and referring the person being tested to medical care.

(9) “High complexity laboratory” means a facility that performs testing classified as highly complex in the specialties of microbiology, chemistry, hematology, diagnostic immunology, immunohematology, clinical cytogenetics, cytology, histopathology, oral pathology, pathology, radiobioassay and histocompatibility and that may also perform moderate complexity tests and waived tests.

(10) “High complexity test” means a procedure performed on materials
derived from the human body that meet the criteria for this category of
testing in the specialties of microbiology, chemistry, hematology,
immunohematology, diagnostic immunology, clinical cytogenetics, cytology,
histopathology, oral pathology,

pathology, radiobioassay and histocompatibility as established by

the authority.

(11) “Laboratory evaluation system” means a system of testing clinical
laboratory methods, procedures and proficiency by periodic performance and
reporting on test specimens submitted for examination.

(12) “Moderate complexity laboratory” means a facility that performs
testing classified as moderately complex in the specialties of microbiology,
hematology, chemistry, immunohematology or diagnostic immunology and
may also perform any waived test.

(13) “Moderate complexity test” means a procedure performed on materi-
als derived from the human body that meet the criteria for this category of
testing in the specialties of microbiology, hematology, chemistry,
immunohematology or diagnostic immunology as established by the author-
ity.

(14) “Operator of a substances of abuse on-site screening facility” or
“operator” means the person who plans, organizes, directs and participates
in any or all of the technical and administrative operations of a substances
of abuse on-site screening facility.

(15) “Owner of a clinical laboratory” means the person who owns the
clinical laboratory, or a county or municipality operating a clinical labora-
tory or the owner of any institution operating a clinical laboratory.

(16) “Physician” means a person licensed to practice medicine by the
Oregon Medical Board.

(17) “Physician performed microscopy procedure” means a test personally
performed by a physician or other clinician during a patient’s visit on a
specimen obtained during the examination of the patient.

(18) “Physician performed microscopy procedures” means a limited group
of tests that are performed only by a physician or clinician.

(19) “Specimen” means materials derived from a human being or body.

(20) “Substances of abuse” means ethanol, cannabis and controlled sub-
stances.

(21) “Substances of abuse on-site screening facility” or “on-site facility”
means a location where on-site tests are performed on specimens for the
purpose of screening for the detection of substances of abuse.

(22) “Substances of abuse on-site screening test” or “on-site test” means
a substances of abuse test that is easily portable and can meet the require-
ments of the federal Food and Drug Administration for commercial distrib-
ution or an alcohol screening test that meets the requirements of the
conforming products list found in the United States Department of Trans-
portation National Highway Traffic Safety Administration Docket No. 94-004
and meets the standards of the United States Department of Transportation

(23) “Waived test” means a procedure performed on materials derived from
the human body that meet the criteria for this category of testing as estab-
lished by the authority.

SECTION 14. ORS 441.064 is amended to read:

441.064. (1) As used in this section:

(a) “Nurse practitioner” has the meaning given that term in ORS 678.010;
(b) “Physician” has the meaning given that term in ORS 677.010; and
(c) “Physician assistant” has the meaning given that term in ORS 677.495.

(2) The rules of any hospital in this state may grant privileges to nurse
practitioners and physician assistants for purposes of patient care.

(3) Rules must be in writing and may include, but need not be limited to:
(a) Limitations on the scope of privileges;
(b) Monitoring and supervision of nurse practitioners and physician as-
sistants in the hospital by physicians who are members of the medical staff;
(c) A requirement that a nurse practitioner or physician assistant co-
admit patients with a physician who is a member of the medical staff; and
(d) Qualifications of nurse practitioners and physician assistants to be eligible for privileges including but not limited to requirements of prior clinical and hospital experience.

(4) The rules may:
(a) Regulate the credentialing and conduct of nurse practitioners and physician assistants while using the facilities of the hospital;
(b) Prescribe the procedures for suspension or termination of a nurse practitioner’s or physician assistant’s privileges;
(c) Allow the hospital to refuse privileges to a nurse practitioner, but only on the same basis that the hospital refuses privileges to other medical providers; and
(d) Allow the hospital to refuse privileges to a physician assistant based on the refusal of privileges to the physician assistant’s supervising physician.

(5) Notwithstanding subsection (3) of this section, rules adopted by a hospital that grant privileges to licensed registered nurses who are [certified] licensed by the Oregon State Board of Nursing as nurse midwife nurse practitioners must:
(a) Include admitting privileges;
(b) Be consistent with the privileges of the other medical staff; and
(c) Permit the nurse midwife nurse practitioner to exercise the voting rights of the other members of the medical staff.

(6) Rules described in this section are subject to hospital and medical staff bylaws and rules governing credentialing and staff privileges.

SECTION 15. ORS 441.098 is amended to read:

441.098. (1) As used in this section and ORS 441.099 and 441.991:
(a) “Facility” means a hospital, outpatient clinic owned by a hospital, ambulatory surgical center, freestanding birthing center or facility that receives Medicare reimbursement as an independent diagnostic testing facility.
(b) “Financial interest” means a five percent or greater direct or indirect ownership interest.
(c)(A) “Health practitioner” means a physician, naturopathic physician
licensed under ORS chapter 685, dentist, direct entry midwife, [licensed reg-
istered nurse who is certified by the Oregon State Board of Nursing as a nurse
midwife nurse practitioner, certified nurse practitioner,] licensed physician
assistant or medical imaging licensee under ORS 688.405 to 688.605 or a
nurse midwife nurse practitioner or nurse practitioner licensed under
ORS chapter 678.

(B) “Health practitioner” does not include a provider in a health main-
tenance organization as defined in ORS 750.005.

(d) “Physician” has the meaning given that term in ORS 677.010.

(2) A health practitioner’s decision to refer a patient to a facility for a
diagnostic test or health care treatment or service shall be based on the
patient’s clinical needs and personal health choices.

(3) If a health practitioner refers a patient for a diagnostic test or health
care treatment or service at a facility in which the health practitioner or
an immediate family member of the health practitioner has a financial in-
terest, the health practitioner or the practitioner’s designee shall inform the
patient orally and in writing of that interest at the time of the referral.

(4)(a) If a health practitioner refers a patient to a facility for a diagnostic
test or health care treatment or service, the health practitioner or the
practitioner’s designee shall inform the patient, in the form and manner
prescribed by the Oregon Health Authority by rule, that:

(A) The patient may receive the test, treatment or service at a different
facility of the patient’s choice; and

(B) If the patient chooses a different facility, the patient should contact
the patient’s insurer regarding the extent of coverage or the limitations on
coverage for the test, treatment or service at the facility chosen by the pa-
tient.

(b) Rules concerning the form and manner for informing a patient as re-
quired by this subsection shall:

(A) Be designed to ensure that the information is conveyed in a timely
and meaningful manner;
(B) Be administratively simple; and

(C) Accommodate a provider’s adoption and use of electronic health re-

cord systems.

(5) A health practitioner may not deny, limit or withdraw a referral to a

facility solely for the reason that the patient chooses to obtain the test, 
treatment or service from a different facility.

(6) The authority may not impose additional restrictions or limitations 
on any referral described in this section that are in addition to the require-
ments specified in subsections (3) and (4) of this section.

(7) In obtaining informed consent for a diagnostic test or health care 
treatment or service that will take place at a facility, a health practitioner 
shall disclose the manner in which care will be provided in the event that 
complications occur that require health services beyond what the facility has 
the capability to provide.

(8) Subsections (3) to (5) of this section do not apply to a referral for a 
diagnostic test or health care treatment or service:

(a) For a patient who is receiving inpatient hospital services or services 
in an emergency department if the referral is for a diagnostic test or health 
care treatment or service to be performed while the patient is in the hospital 
or emergency department;

(b) Made to a particular facility after the initial referral of the patient 
to that facility; or

(c) Made by the facility or provider to whom a patient was referred.

SECTION 16. ORS 475.005 is amended to read:

475.005. As used in ORS 475.005 to 475.285 and 475.752 to 475.980, unless 
the context requires otherwise:

(1) “Abuse” means the repetitive excessive use of a drug short of de-

pendence, without legal or medical supervision, which may have a detri-
mental effect on the individual or society.

(2) “Administer” means the direct application of a controlled substance, 
whether by injection, inhalation, ingestion or any other means, to the body
of a patient or research subject by:

(a) A practitioner or an authorized agent thereof; or

(b) The patient or research subject at the direction of the practitioner.

(3) “Administration” means the Drug Enforcement Administration of the United States Department of Justice, or its successor agency.

(4) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(5) “Board” means the State Board of Pharmacy.

(6) “Controlled substance”:

(a) Means a drug or its immediate precursor classified in Schedules I through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812, as modified under ORS 475.035. The use of the term “precursor” in this paragraph does not control and is not controlled by the use of the term “precursor” in ORS 475.752 to 475.980.

(b) Does not include:

(A) The plant Cannabis family Cannabaceae;

(B) Any part of the plant Cannabis family Cannabaceae, whether growing or not;

(C) Resin extracted from any part of the plant Cannabis family Cannabaceae;

(D) The seeds of the plant Cannabis family Cannabaceae; or

(E) Any compound, manufacture, salt, derivative, mixture or preparation of a plant, part of a plant, resin or seed described in this paragraph.

(7) “Counterfeit substance” means a controlled substance or its container or labeling, which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor or dispenser other than the person who in fact manufactured, delivered or dispensed the substance.

(8) “Deliver” or “delivery” means the actual, constructive or attempted
transfer, other than by administering or dispensing, from one person to another of a controlled substance, whether or not there is an agency relationship.

(9) “Device” means instruments, apparatus or contrivances, including their components, parts or accessories, intended:

(a) For use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals; or

(b) To affect the structure of any function of the body of humans or animals.

(10) “Dispense” means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, and includes the prescribing, administering, packaging, labeling or compounding necessary to prepare the substance for that delivery.

(11) “Dispenser” means a practitioner who dispenses.

(12) “Distributor” means a person who delivers.

(13) “Drug” means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of humans or animals; and

(d) Substances intended for use as a component of any article specified in paragraph (a), (b) or (c) of this subsection; however, the term does not include devices or their components, parts or accessories.

(14) “Electronically transmitted” or “electronic transmission” means a communication sent or received through technological apparatuses, including computer terminals or other equipment or mechanisms linked by telephone or microwave relays, or any similar apparatus having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
(15) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(a) By a practitioner as an incident to administering or dispensing of a controlled substance in the course of professional practice; or

(b) By a practitioner, or by an authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale.

(16) “Person” includes a government subdivision or agency, business trust, estate, trust or any other legal entity.

(17) “Practitioner” means physician, dentist, veterinarian, scientific investigator, [certified] licensed nurse practitioner, physician assistant or other person licensed, registered or otherwise permitted by law to dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state but does not include a pharmacist or a pharmacy.

(18) “Prescription” means a written, oral or electronically transmitted direction, given by a practitioner for the preparation and use of a drug. When the context requires, “prescription” also means the drug prepared under such written, oral or electronically transmitted direction. Any label affixed to a drug prepared under written, oral or electronically transmitted direction shall prominently display a warning that the removal thereof is prohibited by law.

(19) “Production” includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(20) “Research” means an activity conducted by the person registered with the federal Drug Enforcement Administration pursuant to a protocol ap-
proved by the United States Food and Drug Administration.

(21) “Ultimate user” means a person who lawfully possesses a controlled substance for the use of the person or for the use of a member of the household of the person or for administering to an animal owned by the person or by a member of the household of the person.

(22) “Usable quantity” means:
(a) An amount of a controlled substance that is sufficient to physically weigh independent of its packaging and that does not fall below the uncertainty of the measuring scale; or
(b) An amount of a controlled substance that has not been deemed unweighable, as determined by a Department of State Police forensic laboratory, due to the circumstances of the controlled substance.

(23) “Within 1,000 feet” means a straight line measurement in a radius extending for 1,000 feet or less in every direction from a specified location or from any point on the boundary line of a specified unit of property.

SECTION 17. ORS 496.018 is amended to read:

496.018. In order to be considered a person with a disability under the wildlife laws, a person shall provide to the State Fish and Wildlife Commission either:
(1) Written certification from a licensed physician, [certified] licensed nurse practitioner or licensed physician assistant that states that the person:
(a) Is permanently unable to walk without the use of, or assistance from, a brace, cane, crutch, prosthetic device, wheelchair, scooter or walker;
(b) Is restricted by lung disease to the extent that the person’s forced expiratory volume for one second, when measured by a spirometer, is less than 35 percent predicted, or arterial oxygen tension is less than 55 mm/Hg on room air at rest;
(c) Has a cardiac condition to the extent that the person’s functional limitations are classified in severity as Class III or Class IV, according to standards established by the American Heart Association;
(d) Has a permanent, physical impairment that prevents the person from
holding or shooting a firearm or bow or from holding a fishing rod in hand; or
(e) Has central visual acuity that permanently does not exceed 20/200 in the better eye with corrective lenses, or the widest diameter of the visual field is no greater than 20 degrees; or
(2) Written proof that the last official certification of record by the United States Department of Veterans Affairs or any branch of the Armed Forces of the United States shows the person to be at least 65 percent disabled.

SECTION 18. ORS 659A.150 is amended to read:
659A.150. As used in ORS 659A.150 to 659A.186:
(1) “Covered employer” means an employer described in ORS 659A.153.
(2) “Eligible employee” means any employee of a covered employer other than those employees exempted under the provisions of ORS 659A.156.
(3) “Family leave” means a leave of absence described in ORS 659A.159, except that “family leave” does not include leave taken by an eligible employee who is unable to work because of a disabling compensable injury, as defined in ORS 656.005, under ORS chapter 656.
(4) “Family member” means the spouse of an employee, the biological, adoptive or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis.
(5) “Health care provider” means:
(a) A person who is primarily responsible for providing health care to an eligible employee or a family member of an eligible employee, who is performing within the scope of the person’s professional license or certificate and who is:
(A) A physician licensed under ORS chapter 677;
(B) A physician assistant licensed under ORS 677.505 to 677.525;
(C) A dentist licensed under ORS 679.090;
(D) A psychologist licensed under ORS 675.030;
(E) An optometrist licensed under ORS 683.070;
(F) A naturopath licensed under ORS 685.080;
(G) A registered nurse licensed under ORS 678.050;
(H) A nurse practitioner [certified] licensed under ORS 678.375;
(I) A direct entry midwife licensed under ORS 687.420;
(J) A licensed registered nurse [who is certified] licensed by the Oregon State Board of Nursing as a nurse midwife nurse practitioner;
(K) A regulated social worker authorized to practice regulated social work under ORS 675.510 to 675.600; or
(L) A chiropractic physician licensed under ORS 684.054, but only to the extent the chiropractic physician provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by X-rays.

(b) A person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely through spiritual means, including but not limited to a Christian Science practitioner.

(6) “Serious health condition” means:
(a) An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility;
(b) An illness, disease or condition that in the medical judgment of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care; or
(c) Any period of disability due to pregnancy, or period of absence for prenatal care.

SECTION 19. ORS 676.115 is amended to read:
676.115. An individual may not use the title “nurse” unless the individual:
(1) Has earned a nursing degree or a nursing certificate from [an accredited] a nursing education program that is:
(a) Approved by the Oregon State Board of Nursing; or
(b) Accredited or approved by another state or United States territory as described under ORS 678.040 and approved by the board; and

(2) Is licensed by a health professional regulatory board to practice the particular health care profession in which the individual’s nursing degree or nursing certificate was earned.

SECTION 20. ORS 676.340 is amended to read:

676.340. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient’s informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the
practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;
(b) A nurse licensed under ORS 678.040 to 678.101;
(c) A nurse practitioner licensed under ORS 678.375 to 678.390;
(d) A clinical nurse specialist [certified] licensed under ORS 678.370 and 678.372;
(e) A physician assistant licensed under ORS 677.505 to 677.525;
(f) A dental hygienist licensed under ORS 680.010 to 680.205;
(g) A dentist licensed under ORS 679.060 to 679.180;
(h) A pharmacist licensed under ORS chapter 689;
(i) An optometrist licensed under ORS chapter 683; and
(j) A naturopathic physician licensed under ORS chapter 685.

SECTION 21. ORS 678.010 is amended to read:

678.010. As used in ORS 678.010 to 678.410, unless the context requires otherwise:

(1) “Board” means the Oregon State Board of Nursing.

(2) “Clinical nurse specialist” means a licensed registered nurse who has been [certified] licensed by the board as qualified to practice the expanded clinical specialty nursing role.

(3) “Diagnosing” in the context of the practice of nursing means identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing care.

(4) “Human responses” means signs, symptoms and processes that denote
the person’s interaction with an actual or potential health problem.

(5) “Long term care facility” means a licensed skilled nursing facility or intermediate care facility as those terms are used in ORS 442.015, an adult foster home as defined in ORS 443.705 that has residents over 60 years of age, or a residential care facility, including an assisted living facility, as defined in ORS 443.400.

(6) “Nurse practitioner” means a registered nurse who has been licensed by the board as qualified to practice in an expanded specialty role within the practice of nursing.

(7) “Physician” means a person licensed to practice under ORS chapter 677.

(8)(a) “Practice of nursing” means diagnosing and treating human responses to actual or potential health problems through services such as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being and including the performance of additional services requiring education and training that are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and that are recognized by rules of the board.

(b) “Practice of nursing” includes:

(A) Executing medical orders prescribed by a physician, dentist, clinical nurse specialist, nurse practitioner, certified registered nurse anesthetist or other licensed health care provider licensed or certified by this state and authorized by the board by rule to issue orders for medical treatment; and

(B) Providing supervision of nursing assistants.

(c) “Practice of nursing” does not include the execution of medical orders described in this subsection by a member of the immediate family for another member or by a person designated by or on behalf of a person requiring care as provided by board rule if the person executing the order is not licensed under ORS 678.010 to 678.410.

(9) “Practice of practical nursing” means the application of knowledge
drawn from basic education in the social and physical sciences in planning
and giving nursing care and in assisting persons toward achieving of health
and well-being.

(10) “Practice of registered nursing” means the application of knowledge
drawn from broad in-depth education in the social and physical sciences in
assessing, planning, ordering, giving, delegating, teaching and supervising
care that promotes the person’s optimum health and independence.

(11) “Treating” means selection and performance of therapeutic measures
essential to the effective execution and management of the nursing care and
execution of the prescribed medical orders.

SECTION 22. ORS 678.023 is amended to read:

678.023. An individual may not use the title “nurse” unless the individual:

(1) Has earned a nursing degree or a nursing certificate from an accredited
nursing education program; and

(a) Approved by the Oregon State Board of Nursing; or

(b) Accredited or approved by another state or United States territory
as described under ORS 678.010 and approved by the board; and

(2) Is licensed by a health professional regulatory board as defined in ORS
676.160 to practice the particular health care profession in which the
individual’s nursing degree or nursing certificate was earned.

SECTION 23. ORS 678.031 is amended to read:

678.031. ORS 678.010 to 678.410 do not apply to:

(1) The employment of nurses in institutions or agencies of the federal
government.

(2) The practice of nursing incidental to the planned program of study for
students enrolled in nursing education programs approved by the Oregon State Board of Nursing or accredited or approved by another
state or United States territory as described under ORS 678.040 and approved
by the board.

(3) Nursing practiced outside this state that is incidental to a distance
learning program provided by an institution of higher education located in

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Oregon.

(4) The furnishing of nursing assistance in an emergency.

(5) The practice of any other occupation or profession licensed under the laws of this state.

(6) Care of the sick with or without compensation when performed in connection with the practice of the religious tenets of a well-recognized church or denomination that relies exclusively on treatment by prayer and spiritual means by adherents thereof so long as the adherent does not engage in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990 or hold oneself out as a registered nurse or a licensed practical nurse.

(7) Nonresident nurses licensed and in good standing in another state if they are practicing in this state on a single, temporary assignment of not to exceed 30 days, renewable for not to exceed 30 days, for assignments that are for the general public benefit limited to the following:

(a) Transport teams;

(b) Red Cross Blood Services personnel;

(c) Presentation of educational programs;

(d) Disaster teams;

(e) Staffing a coronary care unit, intensive care unit or emergency department in a hospital that is responding to a temporary staffing shortage and would be otherwise unable to meet its critical care staffing requirements;

(f) Staffing a long term care facility that is responding to a temporary staffing shortage and would be otherwise unable to meet its staffing requirements; or

(g) Providing health care for students who attend school outside of Oregon and who are participating in a school-sponsored event.

(8)(a) Nonresident nurses licensed and in good standing in another state if they are practicing in this state without compensation on no more than two temporary assignments not to exceed five days in any 12-month period if the assignments are for the general public benefit.

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(b) A nonresident nurse practicing under this subsection may not pre-
scribe drugs unless the nonresident nurse applies to the board in a form and
manner prescribed by the board by rule and the board approves the applica-
tion.

SECTION 24. ORS 678.031, as amended by section 2, chapter 207, Oregon
Laws 2013, and section 2, chapter 247, Oregon Laws 2017, is amended to read:
678.031. ORS 678.010 to 678.410 do not apply to:
(1) The employment of nurses in institutions or agencies of the federal
government.
(2) The practice of nursing incidental to the planned program of study for
students enrolled in nursing education programs [accredited] approved by
the Oregon State Board of Nursing or accredited or approved by another
state or United States territory as described under ORS 678.040 and approved
by the board.
(3) Nursing practiced outside this state that is incidental to a distance
learning program provided by an institution of higher education located in
Oregon.
(4) The furnishing of nursing assistance in an emergency.
(5) The practice of any other occupation or profession licensed under the
laws of this state.
(6) Care of the sick with or without compensation when performed in
connection with the practice of the religious tenets of a well-recognized
church or denomination that relies exclusively on treatment by prayer and
spiritual means by adherents thereof so long as the adherent does not engage
in the practice of nursing as defined in ORS 678.010 to 678.410 and 678.990
or hold oneself out as a registered nurse or a licensed practical nurse.
(7) Nonresident nurses licensed and in good standing in another state if
they are practicing in this state on a single, temporary assignment of not to
exceed 30 days, renewable for not to exceed 30 days, for assignments that are
for the general public benefit limited to the following:
(a) Transport teams;
(b) Red Cross Blood Services personnel;
(c) Presentation of educational programs;
(d) Disaster teams;
(e) Staffing a coronary care unit, intensive care unit or emergency de-
partment in a hospital that is responding to a temporary staffing shortage
and would be otherwise unable to meet its critical care staffing require-
ments;
(f) Staffing a long term care facility that is responding to a temporary
staffing shortage and would be otherwise unable to meet its staffing re-
quirements; or
(g) Providing health care for students who attend school outside of
Oregon and who are participating in a school-sponsored event.

SECTION 25. ORS 678.040 is amended to read:
678.040. Each applicant for a license under ORS 678.010 to 678.448 shall
provide satisfactory evidence that the applicant’s physical and
mental health is such that it is safe for the applicant to practice, and that:
(1) The applicant has graduated from a registered nurse or licensed prac-
tical nurse nursing education program [accredited] approved by the Oregon
State Board of Nursing;
(2) The applicant has graduated from a nursing program in the United
States which program is either accredited or approved by the licensing
board for nurses in a particular state or United States territory, or, if the
licensing board is not the accrediting or approval agency in that state or
United States territory, the program is accredited or approved by the ap-
propriate accrediting agency for that state or United States territory; or
(3) The applicant has graduated in another country and has an education
equivalent to that provided by accredited or approved programs in this
country.

SECTION 26. ORS 678.050 is amended to read:
678.050. (1) Examinations for the licensing of applicants under ORS
678.010 to 678.448 must be held at least once a year. The applicant must pass
an examination in subjects relating to nursing at the practical or registered level as the Oregon State Board of Nursing may determine necessary to protect the public health and welfare.

(2) All duly qualified applicants who pass the examination and meet other standards established by the board shall be issued the license provided for in ORS 678.010 to 678.448 according to the nature of the license for which application is made and examination taken and passed. The board shall provide evidence of current licensure. The board shall determine by rule the form and manner of the evidence of current licensure.

(3)(a) The board may issue a license by indorsement to an applicant qualified as provided in ORS 678.040 who has passed the examination used by the board and who meets other standards established by the board. The board may also require evidence of competency to practice nursing at the level for which application is made.

(b) For the purposes of the licensing procedure, the board may not accept monetary assistance from anyone except the nurse applying for licensure by indorsement.

(c) Except as provided in ORS 676.308, the board shall process in order applications for licensure by indorsement of qualified applicants.

(d) Paragraphs (b) and (c) of this subsection do not prohibit the board from processing requests to employ nurses to meet temporary staffing shortages, as described in ORS 678.031 or 678.034, in facilities in this state not involved in labor disputes.

(4) Subject to terms and conditions that the board may impose, the board may issue a limited license to practice registered or practical nursing:

(a) To an applicant whose license has become void for nonpayment of fees at either level and who otherwise meets the requirements of the board. The board may, in issuing a limited license, require the applicant to demonstrate ability to give safe nursing care by undergoing a supervised experience in nursing practice designated by the board, or by satisfactorily completing a continuing education program approved by the board. The license issued
under this paragraph expires on the date set in the license by the board.
Upon the applicant’s satisfactory completion of the board’s requirements, and
payment of the renewal fee and delinquency fee, the board shall issue to the
applicant a license to practice nursing.

(b) To an applicant who has not practiced nursing in any state for a pe-
period of five years, but has maintained a current license by the payment of
fees. The applicant may not practice nursing in Oregon unless the applicant
applies to the board for a limited license and the board issues the limited
license to the applicant. The board may, in issuing a limited license, require
the applicant to demonstrate ability to give safe nursing care by undergoing
a supervised experience in nursing practice designated by the board, or by
satisfactorily completing a continuing education program approved or desig-
nated by the board. The board may not issue a license if, in the judgment
of the board, the applicant’s conduct has been such, during absence from
practice, that the applicant would be denied a license if applying for an ini-
tial license to practice nursing in this state.

(c) To a licensee who has been placed on probation or has been otherwise
subjected to disciplinary action by the board.

(d) To any of the following persons if the person is affiliated with a
planned program of study in Oregon consistent with the standards and re-
quirements established by the board:

(A) A foreign nurse;

(B) A foreign student nurse; or

(C) A nurse licensed in another jurisdiction.

(5) The board may adopt by rule requirements and procedures for placing
a license or certificate in inactive status.

(6)(a) Retired status may be granted to a person licensed [or certified] as
a registered nurse, licensed practical nurse, nurse practitioner, certified
registered nurse anesthetist or clinical nurse specialist and who surrenders
the person’s license [or certificate] while in good standing with the issuing
authority if the person is not subject to any pending disciplinary investi-
gation or action. The board may adopt by rule requirements, procedures and
fees for placing a license [or certificate] in retired status.

(b) A person granted retired status by the board under the provisions of
paragraph (a) of this subsection:

(A) Shall pay a fee in an amount to be determined by the board for retired
status.

(B) May not practice nursing or offer to practice nursing in this state.

(C) May use the title or abbreviation with the retired license [or certif-
icate] only if the designation “retired” appears after the title or abbreviation.

SECTION 27. ORS 678.101 is amended to read:

678.101. (1) Every person licensed to practice nursing shall apply for re-
newal of the license other than a limited license in every second year before
12:01 a.m. on the anniversary of the birthdate of the person in the odd-
numbered year for persons whose birth occurred in an odd-numbered year
and in the even-numbered year for persons whose birth occurred in an
even-numbered year. Persons whose birthdate anniversary falls on February
29 shall be treated as if the anniversary were March 1.

(2) Each application must be accompanied by a nonrefundable renewal fee
payable to the Oregon State Board of Nursing.

(3) The board may not renew the license of a person licensed to practice
nursing unless:

(a) The requirements of subsections (1) and (2) of this section are met; and

(b) Prior to payment of the renewal fee described in subsection (2) of this
section the person completes, or provides documentation of previous com-
pletion of:

(A) A pain management education program approved by the board and
developed in conjunction with the Pain Management Commission established
under ORS 413.570; or

(B) An equivalent pain management education program, as determined by
the board.

(4) The license of any person not renewed for failure to comply with
subsections (1) to (3) of this section is expired and the person shall be con-

cidered delinquent and is subject to [the] any delinquent fee [specified in] 
established under ORS 678.410.

(5) A registered nurse who has been issued a license [or certificate] as a 
nurse practitioner, clinical nurse specialist or certified registered nurse 
anesthetist shall apply as specified by the board by rule for renewal of the 
license [or certificate] and for renewal of the prescriptive privileges in every 
second year before 12:01 a.m. on the anniversary of the birthdate, as deter-
mined for the person’s license to practice nursing.

**SECTION 28.** ORS 678.111 is amended to read:

678.111. In the manner prescribed in ORS chapter 183 for a contested case:

(1) Issuance of the license to practice nursing, whether by examination 
or by indorsement, of any person may be refused or the license may be re-
voked or suspended or the licensee may be placed on probation for a period 
specified by the Oregon State Board of Nursing and subject to such condition 
as the board may impose or may be issued a limited license or may be 
reprimanded or censured by the board, for any of the following causes:

(a) Conviction of the licensee of crime where such crime bears demon-
strable relationship to the practice of nursing. A copy of the record of such 
conviction, certified to by the clerk of the court entering the conviction, 
shall be conclusive evidence of the conviction.

(b) Gross incompetence or gross negligence of the licensee in the practice 
of nursing at the level for which the licensee is licensed.

(c) Any willful fraud or misrepresentation in applying for or procuring a 
license or renewal thereof.

(d) Fraud or deceit of the licensee in the practice of nursing or in ad-
mission to such practice.

(e) Impairment as defined in ORS 676.303.

(f) Conduct derogatory to the standards of nursing.

(g) Violation of any provision of ORS 678.010 to 678.448 or rules adopted 
thereunder.
(h) Revocation or suspension of a license to practice nursing by any state
or territory of the United States, or any foreign jurisdiction authorized to
issue nursing credentials whether or not that license or credential was relied
upon in issuing that license in this state. A certified copy of the order of
revocation or suspension shall be conclusive evidence of such revocation or
suspension.

(i) Physical condition that makes the licensee unable to conduct safely
the practice for which the licensee is licensed.

(j) Violation of any condition imposed by the board when issuing a limited
license.

(2) A [certificate of special competence] license may be denied or suspended
or revoked for the reasons stated in subsection (1) of this section.

(3) A license [or certificate] in inactive status may be denied or suspended
or revoked for the reasons stated in subsection (1) of this section.

(4) A license [or certificate] in retired status may be denied or suspended
or revoked for any cause stated in subsection (1) of this section.

SECTION 29. ORS 678.113 is amended to read:

678.113. (1) During the course of an investigation into the performance
or conduct of an applicant, certificate holder or licensee, the Oregon State
Board of Nursing may order mental health, physical condition or chemical
dependency evaluations of the applicant, certificate holder or licensee upon
reasonable belief that the applicant, certificate holder or licensee is unable
to practice nursing with reasonable skill and safety to patients.

(2) When the board has reasonable cause to believe that an applicant,
certificate holder or licensee is or may be unable to practice nursing with
reasonable skill and safety to patients, the board may order a competency
examination of the applicant, certificate holder or licensee for the purpose
of determining the fitness of the applicant, certificate holder or licensee to
practice nursing with reasonable skill and safety to patients.

(3) A licensee or certificate holder by practicing nursing, or an applicant
by applying to practice nursing in Oregon, gives consent to submit to mental
health, physical condition or chemical dependency evaluations when ordered
by the board and waives any objection on the grounds of privileged commu-
nication to the admissibility of information derived from evaluations ordered
by the board.

(4) By rule, the board may require evidence of continuing education in
[an accredited] a nursing education program approved by the board as a
prerequisite for renewal of registered or practical nursing licenses, or both,
or may require continuing education for persons whose license has lapsed for
nonpayment of fees, who have not practiced nursing for five years, or who
have their licenses suspended or revoked as a condition to relicensure.

SECTION 30. ORS 678.123 is amended to read:
678.123. It shall be unlawful for any person:
(1) To sell or fraudulently obtain or furnish any diploma or license or
record thereof for any person not graduated from [an accredited] a nursing
education program described under ORS 678.040 or is not licensed under
ORS 678.010 to 678.410 or to sell or fraudulently obtain or furnish any cer-
tificate to a person not certified as a nursing assistant.
(2) To practice nursing under authority of a diploma or license or record
thereof illegally or fraudulently obtained or issued unlawfully.
(3) To employ unlicensed persons to practice practical or registered
nursing.

SECTION 31. ORS 678.150 is amended to read:
678.150. (1) The Oregon State Board of Nursing shall elect annually from
its number a president, a president-elect and a secretary, each of whom shall
serve until a successor is elected and qualified. The board shall meet on the
call of the president or as the board may require. Special meetings of the
board may be called by the secretary upon the request of any three members.
Five members constitute a quorum.
(2) The board shall adopt a seal which shall be in the care of the execu-
tive director.
(3) The board shall keep a record of all its proceedings and of all persons
licensed and schools or programs [accredited or] approved under ORS 678.010 to 678.448. The records must at all reasonable times be open to public scrutiny.

(4) The executive director of the board may hire and define the duties of employees as necessary to carry out the provisions of ORS 678.010 to 678.448. The executive director, with approval of the board, may employ special consultants. All salaries, compensation and expenses incurred or allowed shall be paid out of funds received by the board.

(5) The board shall determine the qualifications of applicants for a license to practice nursing in this state and establish educational and professional standards for such applicants subject to laws of this state.

(6) The board shall:

(a) Exercise general supervision over the practice of nursing in this state.

(b)Prescribe standards and approve curricula for nursing education programs preparing persons for licensing under ORS 678.010 to 678.448.

(c) Provide for surveys of nursing education programs as may be necessary.

(d) [Accredit] Approve nursing education programs that meet the requirements of ORS 678.010 to 678.448 and of the board.

(e) Deny or withdraw [accreditation] approval from nursing education programs for failure to meet prescribed standards.

(f) Examine, license and renew the licenses of duly qualified applicants.

(g) Issue subpoenas for any records relevant to a board investigation, including patient and other medical records, personnel records applicable to nurses and nursing assistants, records of schools of nursing and nursing assistant training records and any other relevant records; issue subpoenas to persons for personal interviews relating to board investigations; compel the attendance of witnesses; and administer oaths or affirmations to persons giving testimony during an investigation or at hearings. In any proceeding under this subsection, when a subpoena is issued to an applicant, certificate holder or licensee of the board, a claim of nurse-patient privilege under ORS
40.240 or of psychotherapist-patient privilege under ORS 40.230 is not grounds for quashing the subpoena or for refusing to produce the material that is subject to the subpoena.

(h) Enforce the provisions of ORS 678.010 to 678.448, and incur necessary expenses for the enforcement.

(i) Prescribe standards for the delegation of tasks of patient care to nursing assistants and for the supervision of nursing assistants. The standards must include rules governing the delegation of administration of noninjectable medication by nursing assistants and must include rules prescribing the types of noninjectable medication that can be administered by nursing assistants, and the circumstances, if any, and level of supervision under which nursing assistants can administer noninjectable medication. In formulating the rules governing the administration of noninjectable medication by nursing assistants, the board shall consult with nurses and other stakeholders appropriate to the context of patient care. Notwithstanding any other provision of this paragraph, however, the registered nurse issuing the order shall determine the appropriateness of the delegation of a task of patient care.

(j) Notify licensees at least annually of changes in legislative or board rules that affect the licensees. Notice may be by newsletter or other appropriate means.

(7) The board shall determine the scope of practice as delineated by the knowledge acquired through approved courses of education or through experience.

(8) For local correctional facilities, lockups and juvenile detention facilities, as defined in ORS 169.005, for youth correction facilities as defined in ORS 420.005, for facilities operated by a public agency for detoxification of persons who use alcohol excessively, for homes or facilities licensed under ORS 443.705 to 443.825 for adult foster care, and for facilities licensed under ORS 443.400 to 443.455 for residential care, training or treatment, the board shall adopt rules pertaining to the provision of nursing care, and to the
various tasks relating to the administration of noninjectable medication in-
cluding administration of controlled substances. The rules must provide for
delegation of nursing care and tasks relating to the administration of
medication to other than licensed nursing personnel by a physician licensed
by the Oregon Medical Board or by a registered nurse, designated by the
facility. The delegation must occur under the procedural guidance, initial
direction and periodic inspection and evaluation of the physician or regis-
tered nurse. However, the provision of nursing care may be delegated only
by a registered nurse.

(9) The Oregon State Board of Nursing may require applicants, licensees
and certificate holders under ORS 678.010 to 678.448 to provide to the board
data concerning the individual’s nursing employment and education.

(10) For the purpose of requesting a state or nationwide criminal records
check under ORS 181A.195, the board may require the fingerprints of a per-
son who is:

(a) Applying for a license or certificate that is issued by the board;

(b) Applying for renewal of a license or certificate that is issued by the
board; or

(c) Under investigation by the board.

(11) Pursuant to ORS chapter 183, the board shall adopt rules necessary
to carry out the provisions of ORS 678.010 to 678.448.

SECTION 32. ORS 678.285 is amended to read:

678.285. Consistent with the provisions of ORS 678.245 to 678.285, the
Oregon State Board of Nursing shall adopt rules necessary to establish:

(1) The scope of practice of a certified registered nurse anesthetist;

(2) Procedures for [issuing certification of special competency for] licens-
ing a certified registered nurse anesthetist;

(3) Educational and competency requirements required for [certification]
licensure; and

(4) Procedures for the maintenance of [certification] licensure as a certi-
fied registered nurse anesthetist, including but not limited to fees necessary
for original or renewal [certification] licensure.

**SECTION 33.** ORS 678.340 is amended to read:

678.340. (1) Any institution desiring to establish a nursing education pro-
gram leading to licensing or a continuing education program that may be
recognized or required by the Oregon State Board of Nursing to supplement
such program shall apply to the board and submit satisfactory evidence that
it is prepared to meet the curricula and standards prescribed by the board.

(2) In considering applications under subsection (1) of this section the
board shall review:

(a) Statewide needs for nursing education programs or supplementary
programs[,]; and

(b) The financial and clinical resources of the institution making appli-
cation [, its clinical resources and its] and the ability of the institution to
retain qualified faculty.

(3) [No] An institution or program [shall] may not represent itself as
qualified or [accredited] approved to prepare nurses for licensing unless [it
is accredited] the institution is approved by the board.

**SECTION 34.** ORS 678.360 is amended to read:

678.360. [(1) From time to time as considered necessary by the Oregon State
Board of Nursing, it shall cause a survey of the institutions accredited to
provide nursing education programs to be made. A report in writing shall be
submitted to the board. The report is to include an evaluation of physical fa-
cilities and clinical resources, courses of study and qualifications of instruc-
tors. If, in the opinion of the board, the requirements for accredited programs
are not being met by any institution, notice thereof shall be given to the in-
titution in writing specifying the defect and prescribing the time within which
the defect must be corrected.]

(1) As determined necessary by the Oregon State Board of Nursing,
the board shall survey the institutions approved to provide nursing
education programs.

(2) An institution shall submit to the board a written report that
includes an evaluation of physical facilities, clinical resources, courses of study and qualifications of instructors.

(3) If the board determines an institution does not meet requirements for approved programs, the board shall issue to the institution written notice that specifies the defect and the time within which the institution must correct the defect.

[(2)] (4) The board shall withdraw [accreditation] approval from an institution [which] that fails to correct the defect [reported to it] specified under subsection [(1)] (3) of this section within the period of time prescribed in the [report] notice. The institution may request and if requested shall be granted a hearing before the board in the manner required for contested cases under ORS chapter 183.

SECTION 35. ORS 678.370 is amended to read:

678.370. (1) The Oregon State Board of Nursing shall issue a [certification] license to act as a clinical nurse specialist to any nurse who meets the requirements established by the board pursuant to ORS 678.372.

(2) A person may not act as a clinical nurse specialist, use the name, title, designation, initial or abbreviation of clinical nurse specialist or otherwise hold oneself out as a clinical nurse specialist unless the person is [certified] licensed as a clinical nurse specialist pursuant to subsection (1) of this section.

(3) A [certified] licensed clinical nurse specialist is authorized to prescribe drugs for the use of and administration to other persons if approval has been given under ORS 678.390. The authority to prescribe and dispense prescription drugs shall be included within the scope of practice of [certified] licensed clinical nurse specialists as defined by rules of the board.

SECTION 36. ORS 678.372 is amended to read:

678.372. The Oregon State Board of Nursing shall adopt rules to implement ORS 678.370, including but not limited to rules establishing:

(1) Procedures and requirements for initial issuance and continuation of [certification] licensure to act as a clinical nurse specialist, including but
not limited to educational requirements;

(2) The scope of practice of clinical nurse specialists, including the authority to prescribe and dispense prescription drugs after approval of an application to do so by the board;

(3) Educational requirements for clinical nurse specialists applying for prescriptive authority that include but are not limited to:
   (a) At least 45 contact hours in pharmacology; and
   (b) Clinical education in patient management, including pharmacotherapeutics, that is comparable to the requirements for completion of a nurse practitioner program;

(4) The amount of any fees necessary for issuance and renewal of licensure, initial application for prescriptive authority and renewal of application for prescriptive authority; and

(5) [Such other rules as may be necessary to implement and administer]

**Other rules necessary to carry out the provisions of ORS 678.370.**

**SECTION 37.** ORS 678.375 is amended to read:

678.375. (1) The Oregon State Board of Nursing is authorized to issue licenses to licensed registered nurses to practice as nurse practitioners if they meet the requirements of the board pursuant to ORS 678.380.

(2) [No] A person [shall] **may not** practice as a nurse practitioner or hold oneself out to the public or to an employer, or use the initials, name, title, designation or abbreviation as a nurse practitioner until and unless [such] the person is [certified] licensed by the board.

(3) A registered nurse[, certified] licensed as a nurse practitioner[,] is authorized to complete and sign reports of death. Reports of death signed by a [certified] licensed nurse practitioner [shall be accepted as fulfilling all] fulfill the requirements of the laws dealing with reports of death. A [certified] licensed nurse practitioner who [prepares] **completes** a report of death [must] shall comply with [all provisions of] ORS 432.133.
(4) A registered nurse, certified licensed as a nurse practitioner[,] is authorized to prescribe drugs for the use of and administration to other persons if approval has been given under ORS 678.390. The drugs [which] that the nurse practitioner is authorized to prescribe shall be included within the [certified] licensed nurse practitioner’s scope of practice as defined by rules of the board.

(5) A licensed pharmacist may fill and a licensed pharmacist or an employee of the licensed pharmacist may dispense medications prescribed by a nurse practitioner in accordance with the terms of the prescription. The filling of such a prescription does not constitute evidence of negligence on the part of the pharmacist if the prescription was dispensed within the reasonable and prudent practice of pharmacy.

(6) As used in this section:

(a) “Drug” means:

(A) Articles recognized as drugs in the official United States Pharmacopoeia, official National Formulary, official Homeopathic Pharmacopoeia, other drug compendium or any supplement to any of them;

(B) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human beings;

(C) Articles other than food that are intended to affect the structure or any function of the body of human beings; and

(D) Articles intended for use as a component of any articles specified in subparagraph (A), (B) or (C) of this paragraph.

(b) “Prescribe” means to direct, order or designate the preparation, use of or manner of using by spoken or written words or other means.

SECTION 38. ORS 678.380 is amended to read:

678.380. The Oregon State Board of Nursing may adopt rules [applicable to] regarding nurse practitioners that:

(1) [Which] Establish [their] the education, training and qualifications necessary for [certification] licensure.

(2) [Which] Limit or restrict practice.
(3) [Which] Establish categories [of] and define the scope of nurse practitioner practice [and define the scope of such practice].

(4) [Which] Establish procedures for maintaining [certification] licensure, including continuing education and procedures for the reinstatement of [certificates] licenses rendered void by reason of nonpayment of fees.

SECTION 39. ORS 678.390 is amended to read:

678.390. (1) The Oregon State Board of Nursing may authorize a [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist to write prescriptions, including prescriptions for controlled substances listed in schedules II, III, III N, IV and V.

(2) A [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist may submit an application to the Oregon State Board of Nursing to dispense prescription drugs. The Oregon State Board of Nursing shall provide immediate notice to the State Board of Pharmacy upon approving an application submitted by a [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist to dispense prescription drugs.

(3) An application for the authority to dispense prescription drugs under this section must include any information required by the Oregon State Board of Nursing by rule.

(4) Prescription drugs dispensed by a [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist must be personally dispensed by the [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist, except that nonjudgmental dispensing functions may be delegated to staff assistants when:

(a) The accuracy and completeness of the prescription is verified by the [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist; and

(b) The prescription drug is labeled with the name of the patient to whom it is being dispensed.

(5) The Oregon State Board of Nursing shall adopt rules requiring:
(a) Prescription drugs dispensed by [certified] licensed nurse practitioners and [certified] licensed clinical nurse specialists to be either prepackaged by a manufacturer registered with the State Board of Pharmacy or repackaged by a pharmacist licensed by the State Board of Pharmacy under ORS chapter 689;

(b) Labeling requirements for prescription drugs dispensed by [certified] licensed nurse practitioners and [certified] licensed clinical nurse specialists that are the same as labeling requirements required of pharmacies licensed under ORS chapter 689;

(c) Record keeping requirements for prescriptions and prescription drug dispensing by a [certified] licensed nurse practitioner and a [certified] licensed clinical nurse specialist that are the same as the record keeping requirements required of pharmacies licensed under ORS chapter 689;

(d) A dispensing [certified] licensed nurse practitioner and a dispensing [certified] licensed clinical nurse specialist to have available at the dispensing site a hard copy or electronic version of prescription drug reference works commonly used by professionals authorized to dispense prescription medications; and

(e) A dispensing [certified] licensed nurse practitioner and a dispensing [certified] licensed clinical nurse specialist to allow representatives of the State Board of Pharmacy, upon receipt of a complaint, to inspect a dispensing site after prior notice to the Oregon State Board of Nursing.

(6) The Oregon State Board of Nursing has sole disciplinary authority regarding [certified] licensed nurse practitioners and [certified] licensed clinical nurse specialists who have prescription drug dispensing authority.

(7) The authority to write prescriptions or dispense prescription drugs may be denied, suspended or revoked by the Oregon State Board of Nursing upon proof that the authority has been abused. The procedure shall be a contested case under ORS chapter 183. Disciplinary action under this subsection is grounds for discipline of the [certified] licensed nurse practitioner or [certified] licensed clinical nurse specialist in the same manner as a
licensee may be disciplined under ORS 678.111.

**SECTION 40.** ORS 678.410 is amended to read:

678.410. (1) The Oregon State Board of Nursing may [impose fees for the following:]

[(a) License renewal.]

[(b) Examination.]

[(c) License by indorsement.]

[(d) Limited license.]

[(e) Examination proctor service.]

[(f) Duplicate license.]

[(g) Extension of limited license.]

[(h) Nurse practitioner certificate.]

[(i) Reexamination for licensure.]

[(j) Delinquent fee.]

[(k) Renewal fee nurse practitioner.]

[(L) Verification of a license of a nurse applying for license by indorsement in another state.]

[(m) Certified nurse practitioner's initial application and registration for writing prescriptions.]

[(n) Renewal of certified nurse practitioner's application for writing prescriptions.]

[(o) Approval of training program for nursing assistants.]

[(p) Issuance, renewal and delinquency of a nursing assistant certificate.]

[(q) Clinical nurse specialist certification established pursuant to ORS 678.370.]

[(r) Clinical nurse specialist's initial application for prescriptive authority.]

[(s) Renewal of clinical nurse specialist's application for prescriptive authority.]

[(t) Inactive license or certificate.]

[(u) Retired license or certificate.]
[v) Nationwide criminal records check] establish and collect fees necessary to carry out the provisions of ORS 678.010 to 678.448.

(2) Fees are nonrefundable.

(3)(a) [Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges.] The board shall obtain approval from the Oregon Department of Administrative Services and submit a report to the Emergency Board prior to establishing fees under this section.

(b) [The fees and charges] A fee established and collected under this section [shall] may not exceed the cost of administering [the] a regulatory program [of the board pertaining to the purpose] for which the fee [or charge] is established and collected, as authorized by the Legislative Assembly within the [board’s] Oregon State Board of Nursing budget, [as the budget may be modified] subject to modification by the Emergency Board.

(c) If federal or other funds are available to offset costs of administering the program, fees shall be established based on net costs to the state but may not [to] exceed $75 per biennium for [the certification fee under subsection (1)(p) of this section] a nursing assistant certification.

SECTION 41. ORS 743A.012 is amended to read:

743A.012. (1) As used in this section:

(a) “Behavioral health assessment” means an evaluation by a behavioral health clinician, in person or using telemedicine, to determine a patient’s need for immediate crisis stabilization.

(b) “Behavioral health clinician” means:

(A) A licensed psychiatrist;

(B) A licensed psychologist;

(C) A [certified] licensed nurse practitioner with a specialty in psychiatric mental health;

(D) A licensed clinical social worker;

(E) A licensed professional counselor or licensed marriage and family therapist;
(F) A certified clinical social work associate;

(G) An intern or resident who is working under a board-approved supervisory contract in a clinical mental health field; or

(H) Any other clinician whose authorized scope of practice includes mental health diagnosis and treatment.

(c) “Behavioral health crisis” means a disruption in an individual’s mental or emotional stability or functioning resulting in an urgent need for immediate outpatient treatment in an emergency department or admission to a hospital to prevent a serious deterioration in the individual’s mental or physical health.

(d) “Emergency medical condition” means a medical condition:

(A) That manifests itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson possessing an average knowledge of health and medicine would reasonably expect that failure to receive immediate medical attention would:

(i) Place the health of a person, or an unborn child in the case of a pregnant woman, in serious jeopardy;

(ii) Result in serious impairment to bodily functions; or

(iii) Result in serious dysfunction of any bodily organ or part;

(B) With respect to a pregnant woman who is having contractions, for which there is inadequate time to effect a safe transfer to another hospital before delivery or for which a transfer may pose a threat to the health or safety of the woman or the unborn child; or

(C) That is a behavioral health crisis.

(e) “Emergency medical screening exam” means the medical history, examination, ancillary tests and medical determinations required to ascertain the nature and extent of an emergency medical condition.

(f) “Emergency services” means, with respect to an emergency medical condition:

(A) An emergency medical screening exam or behavioral health assessment that is within the capability of the emergency department of a hospital,
including ancillary services routinely available to the emergency department to evaluate such emergency medical condition; and

(B) Such further medical examination and treatment as are required under 42 U.S.C. 1395dd to stabilize a patient, to the extent the examination and treatment are within the capability of the staff and facilities available at a hospital.

(g) “Grandfathered health plan” has the meaning given that term in ORS 743B.005.

(h) “Health benefit plan” has the meaning given that term in ORS 743B.005.

(i) “Prior authorization” has the meaning given that term in ORS 743B.001.

(j) “Stabilize” means to provide medical treatment as necessary to:

(A) Ensure that, within reasonable medical probability, no material deterioration of an emergency medical condition is likely to occur during or to result from the transfer of the patient from a facility; and

(B) With respect to a pregnant woman who is in active labor, to perform the delivery, including the delivery of the placenta.

(2) All insurers offering a health benefit plan shall provide coverage without prior authorization for emergency services.

(3) A health benefit plan, other than a grandfathered health plan, must provide coverage required by subsection (2) of this section:

(a) For the services of participating providers, without regard to any term or condition of coverage other than:

(A) The coordination of benefits;

(B) An affiliation period or waiting period permitted under part 7 of the Employee Retirement Income Security Act, part A of Title XXVII of the Public Health Service Act or chapter 100 of the Internal Revenue Code;

(C) An exclusion other than an exclusion of emergency services; or

(D) Applicable cost-sharing; and

(b) For the services of a nonparticipating provider:
(A) Without imposing any administrative requirement or limitation on coverage that is more restrictive than requirements or limitations that apply to participating providers;
(B) Without imposing a copayment amount or coinsurance rate that exceeds the amount or rate for participating providers;
(C) Without imposing a deductible, unless the deductible applies generally to nonparticipating providers; and
(D) Subject only to an out-of-pocket maximum that applies to all services from nonparticipating providers.

(4) All insurers offering a health benefit plan shall provide information to enrollees in plain language regarding:
(a) What constitutes an emergency medical condition;
(b) The coverage provided for emergency services;
(c) How and where to obtain emergency services; and
(d) The appropriate use of 9-1-1.

(5) An insurer offering a health benefit plan may not discourage appropriate use of 9-1-1 and may not deny coverage for emergency services solely because 9-1-1 was used.

(6) This section is exempt from ORS 743A.001.

SECTION 42. ORS 743A.036 is amended to read:

743A.036. (1) Whenever any policy of health insurance provides for reimbursement for a primary care or mental health service provided by a licensed physician, the insured under the policy is entitled to reimbursement for such service if provided by a licensed physician assistant or a [certified] licensed nurse practitioner if the service is within the lawful scope of practice of the physician assistant or nurse practitioner.

(2)(a) The reimbursement of a service described in subsection (1) of this section that is provided by a licensed physician assistant or a [certified] licensed nurse practitioner who is in an independent practice shall be in the same amount as the reimbursement paid under the policy to a licensed physician performing the service in the area served.
(b) As used in this subsection, “independent practice” means the licensed physician assistant or the [certified] licensed nurse practitioner bills insurers for services provided by the physician assistant or nurse practitioner using the:

(A) Diagnosis and procedure codes applicable to the services;
(B) Physician assistant's or nurse practitioner's own name; and
(C) National provider identifier for:
   (i) The physician assistant or nurse practitioner; and
   (ii) If required by the insurer, the facility in which the physician assistant or nurse practitioner provides the services.

(3) This section does not apply to group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Health Maintenance Organization Act or other insurers that employ physicians, licensed physician assistants or [certified] licensed nurse practitioners to provide primary care or mental health services and do not compensate such practitioners on a fee-for-service basis.

(4) An insurer may not reduce the reimbursement paid to a licensed physician in order to comply with this section.

SECTION 43. ORS 807.240, as amended by sections 2 and 2a, chapter 76, Oregon Laws 2018, is amended to read:

807.240. The Department of Transportation shall provide for issuance of hardship driver permits in a manner consistent with this section. A hardship driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a hardship driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license. The following apply to a hardship driver permit:

(1) The department may only issue a permit to a person whose driving privileges under the vehicle code have been suspended, or revoked under ORS 809.600 as a habitual offender.

(2) Except as provided in this section and ORS 813.520, the department may reinstate the privilege to operate a motor vehicle of any person whose
license to operate a motor vehicle has been suspended, or revoked under ORS 809.600 as a habitual offender, by issuing the person a hardship permit.

(3) To qualify for a hardship permit, a person must do all of the following:

(a) The person must submit to the department an application for the permit that demonstrates the person’s need for the permit.

(b) The person must present satisfactory evidence, as determined by the department by rule:

(A) That the person must operate a motor vehicle as a requisite of the person’s occupation or employment;

(B) That the person must operate a motor vehicle to seek employment or to get to or from a place of employment;

(C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment or rehabilitation program;

(D) That the person or a member of the person’s immediate family requires medical treatment on a regular basis and that the person must operate a motor vehicle in order that the treatment may be obtained; or

(E) That the person must operate a motor vehicle to get to or from a gambling addiction treatment program.

(c) If the person is applying for a permit because the person or a member of the person’s immediate family requires medical treatment on a regular basis, the person must present, in addition to any evidence required by the department under paragraph (b) of this subsection, a statement signed by a licensed physician or [certified] licensed nurse practitioner that indicates that the person or a member of the person’s immediate family requires medical treatment on a regular basis.

(d) The person must show that the person is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person’s driving record in this or any other jurisdiction.

(e) The person must make a future responsibility filing.

(f) The person must submit any other information the department may require for purposes of determining whether the person qualifies under this
section and ORS 813.520.

(4) If the department finds that the person meets the requirements of this section and any applicable requirements under ORS 813.520, the department may issue the person a hardship permit, valid for the duration of the suspension or revocation or for a shorter period of time established by the department unless sooner suspended or revoked under this section. If the department issues the permit for a period shorter than the suspension or revocation period, renewal of the permit shall be on such terms and conditions as the department may require. The permit:

(a) Shall limit the holder to operation of a motor vehicle only during specified times.

(b) May bear other reasonable limitations relating to the hardship permit or the operation of a motor vehicle that the department deems proper or necessary. The limitations may include any limitation, condition or requirement. Violation of a limitation is punishable as provided by ORS 811.175 or 811.182.

(5) The department, upon receiving satisfactory evidence of any violation of the limitations of a permit issued under this section, may suspend or revoke the hardship permit.

(6) The fee charged for application or issuance of a hardship driver permit is the hardship driver permit application fee under ORS 807.370. The department may not refund the fee if the application is denied or if the driver permit is suspended or revoked. The fee upon renewal of the driver permit is the same fee as that charged for renewal of a license. The application fee charged under this subsection is in addition to any fee charged for reinstatement of driving privileges under ORS 807.370.

(7) The department may issue a permit granting the same driving privileges as those suspended or revoked or may issue a permit granting fewer driving privileges, as the department determines necessary to assure safe operation of motor vehicles by the permit holder.

(8) The department may not issue a hardship permit to a person:
(a) Whose driver license or driver permit is suspended pursuant to ORS 25.750 to 25.783;
(b) Whose driving privileges are suspended pursuant to ORS 809.280 (2);
(c) That authorizes the person to operate a commercial motor vehicle;
(d) Whose suspension of driving privileges is based on a second or subsequent conviction of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction and the suspension period is determined by ORS 809.428 (2)(b) or (c);
(e) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree if the person, within 10 years preceding application for the permit, has been convicted of:
   (A) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;
   (B) Reckless driving, as defined in ORS 811.140;
   (C) Driving while under the influence of intoxicants, as defined in ORS 813.010;
   (D) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705;
   (E) Criminal driving while suspended or revoked, as defined in ORS 811.182;
   (F) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;
   (G) Aggravated vehicular homicide, as defined in ORS 163.149; or
   (H) Aggravated driving while suspended or revoked, as defined in ORS 163.196; or
(f) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree:
   (A) For a period of four years from the date the department suspends driving privileges if the person’s driving privileges are suspended for conviction of assault in the second degree and the person was not incarcerated
for that conviction.

(B) For a period of four years from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the second degree and the person was incarcerated for that conviction.

(C) For a period of two years from the date the department suspends driving privileges if the person’s driving privileges are suspended for conviction of assault in the third degree and the person was not incarcerated for that conviction.

(D) For a period of two years from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the third degree and the person was incarcerated for that conviction.

(E) For a period of six months from the date the department suspends driving privileges if the person’s driving privileges are suspended for conviction of assault in the fourth degree and the person is not incarcerated for that conviction.

(F) For a period of six months from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the fourth degree and the person was incarcerated for that conviction.

(9) A conviction arising out of the same episode as the current suspension is not considered a conviction for purposes of subsection (8)(e) of this section.

(10) A person’s driving privileges under a hardship permit are subject to suspension or revocation if the person does not maintain a good driving record, as defined by the administrative rules of the department, during the term of the permit.

SECTION 44. ORS 811.604 is amended to read:

811.604. Application for issuance or renewal of a disabled person parking permit in the form of an individual placard or decal issued under ORS

[75]
811.602 shall include:

1. A certificate, signed and dated within six months preceding the date of application, by a licensed physician, a [certified] licensed nurse practitioner or a licensed physician assistant to the Department of Transportation that the applicant is a person with a disability or a certificate, signed and dated within six months preceding the date of application, by a licensed optometrist that the applicant is a person with a disability because of loss of vision or substantial loss of visual acuity or visual field beyond correction;

2. The state-issued licensing number of the licensed physician, certified nurse practitioner, licensed physician assistant or licensed optometrist who signed the certificate described in subsection (1) of this section; and

3. The number of a current, valid driver license, golf cart driver permit, identification card or parking identification card issued to the applicant by the department.

**SECTION 45.** ORS 811.611 is amended to read:

811.611. (1) The Department of Transportation may issue a disabled person parking permit in the form of a placard to a person who is visiting from a foreign country if the person presents to the department either a valid driver license or other grant of driving privileges from the foreign country or a passport or visa showing that the person is a visitor to the United States and presents one of the following:

   a. A valid disabled person parking permit issued by the country that issued the visitor's passport or visa;

   b. A certificate from an official of the agency that issues disabled person parking permits in the country that issued the visitor’s passport or visa certifying that the person holds a valid disabled person parking permit; or

   c. A certificate from a licensed physician, a [certified] licensed nurse practitioner or a licensed physician assistant addressed to the Department of Transportation certifying that the applicant is a person with a disability, or a certificate from a licensed optometrist certifying that the applicant is...
a person with a disability because of loss of vision or substantial loss of
visual acuity or visual field beyond correction.
(2) A disabled person parking permit issued under this section is valid for
30 days.

SECTION 46. Section 3, chapter 297, Oregon Laws 2013, is amended to
read:
Sec. 3. Nothing in [section 2 of this 2013 Act] 678.282 affects the authority
of a certified registered nurse anesthetist, as defined in ORS 678.245, to se-
lect, order and administer controlled substances in connection with the de-
delivery of anesthesia services. A certified registered nurse anesthetist may
obtain and renew [certification] licensure with the Oregon State Board of
Nursing without prescriptive authority.

SECTION 47. Section 1, chapter 694, Oregon Laws 2017, is amended to
read:
Sec. 1. (1) As used in this section:
(a) “Behavioral mental health provider” includes:
(A) A psychologist licensed under ORS 675.010 to 675.150;
(B) A clinical social worker licensed under ORS 675.530; and
(C) A professional counselor or marriage and family therapist licensed
under ORS 675.715.
(b) “Carrier” has the meaning given that term in ORS 743B.005.
(c) “Medical provider” means a physician licensed under ORS chapter 677.
(d) “Mental health provider with prescribing privileges” includes:
(A) A psychiatrist; and
(B) A [certified] licensed nurse practitioner with a specialty in psychi-
tric mental health.
(2) The Department of Consumer and Business Services shall examine all
of the following:
(a) The historical trends of each carrier's maximum allowable reimburse-
ment rates for time-based outpatient office visit procedural codes and
whether each carrier's in-network behavioral mental health providers have
been paid reimbursement that is equivalent to the reimbursement for the
carrier’s in-network medical providers and mental health providers with
prescribing privileges.

(b) Whether each carrier imposes utilization management procedures for
behavioral mental health providers that are more restrictive than the utili-
зation management procedures for medical providers as indicated by the
time-based outpatient office visit procedural codes applied to providers in
each category, including a review of whether a carrier restricts the use of
longer office visits for behavioral mental health providers more than for
medical providers.

(c) Whether each carrier pays equivalent reimbursement for time-based
procedural codes for both in-network behavioral mental health providers and
in-network medical providers, including the reimbursement of incremental
increases in the length of an office visit.

(d) Whether the methodologies used by each carrier to determine the
carrier’s reimbursement rate schedule are equivalent for in-network behav-
ioral health providers and in-network medical providers.

(3) The department shall adopt rules or take other actions based on the
results of the department’s examination under subsection (2) of this section
that ensure that carriers meet the requirements of ORS 743A.168 and
743B.505 in policies, certificates or contracts for health insurance that the
carriers offer to residents of this state.

SECTION 48. Section 1, chapter 63, Oregon Laws 2018, is amended to
read:

Sec. 1. (1) As used in this section:

(a) “Maternal mortality” means the pregnancy-related death of a person
within 365 days after the end of the pregnancy.

(b) “Severe maternal morbidity” includes pregnancy-related outcomes that
result in significant short-term or long-term consequences to a person’s
health.

(2) The Maternal Mortality and Morbidity Review Committee is estab-
lished in the Oregon Health Authority to conduct studies and reviews of the incidence of maternal mortality and severe maternal morbidity and to make policy and budget recommendations to reduce the incidence of maternal mortality and severe maternal morbidity in this state.

(3) The committee shall consist of at least 11 but not more than 15 members appointed by the Governor. The Governor shall consider for membership the following individuals:

(a) A physician licensed under ORS chapter 677 who specializes in family medicine and whose practice includes maternity care and delivery;

(b) A physician licensed under ORS chapter 677 who specializes in obstetrics and gynecology;

(c) A physician licensed under ORS chapter 677 who specializes in maternal fetal medicine;

(d) A licensed registered nurse who specializes in labor and delivery;

(e) A licensed registered nurse who is [certified] licensed by the Oregon State Board of Nursing as a nurse midwife nurse practitioner;

(f) A direct entry midwife licensed under ORS 687.405 to 687.495;

(g) An individual who meets criteria for a doula adopted by the authority in accordance with ORS 414.665;

(h) A traditional health worker;

(i) An individual who represents a community-based organization that represents communities of color and focuses on reducing racial and ethnic health disparities;

(j) An individual who represents a community-based organization that focuses on treatment of mental health;

(k) An individual who represents the authority with an expertise in the field of maternal and child health;

(L) An individual who is an expert in the field of public health; and

(m) A medical examiner.

(4) In appointing members under subsection (3) of this section, the Governor shall consider whether the composition of the committee is reasonably
representative of this state’s geographic, ethnic and economic diversity.

(5) Members of the committee shall serve for terms of four years each. The Governor shall fill a vacancy on the committee by making an appointment to become immediately effective for the unexpired term. The Governor shall assign the initial terms of office to members so that the terms expire at staggered intervals.

(6) The committee shall elect one of its members to serve as chairperson. A majority of the members of the committee constitutes a quorum.

(7) The committee shall meet at times and places specified by the call of the chairperson or of a majority of the members of the committee.

(8) The committee shall convene in closed, nonpublic meetings.

(9) A member of the committee is not entitled to compensation, but in the discretion of the authority may be reimbursed from funds available to the authority for actual and necessary travel and other expenses incurred by the member in the performance of the member’s official duties in the manner and amount provided in ORS 292.495.

(10) The authority may adopt rules necessary for the operation of the committee.

(11) The committee shall:

(a) Study and review information relating to the incidence of maternal mortality and severe maternal morbidity in this state.

(b) Examine whether social determinants of health are contributing factors to the incidence of maternal mortality and severe maternal morbidity including, but not limited to:

(A) Race and ethnicity;

(B) Socioeconomic status;

(C) Domestic abuse or violence;

(D) Access to affordable housing;

(E) Access to primary and preventive health care services, oral health care services and behavioral health services for a person who is of reproductive age; and
(F) Gaps in insurance coverage postpartum or following pregnancy.

(12)(a) Upon request by the division of the authority that is charged with public health functions, the following shall make available to the committee information relating to the incidence of maternal mortality and severe maternal morbidity in this state:

(A) Health care providers;
(B) Providers of social services;
(C) Health care facilities;
(D) The authority;
(E) The Department of Human Services;
(F) Law enforcement agencies;
(G) Medical examiners; and
(H) Any other state and local agency deemed relevant by the committee.

(b) Information made available to the committee may include, but need not be limited to, the following:

(A) Medical records;
(B) Autopsy reports;
(C) Birth records;
(D) Death records;
(E) Social services files;
(F) Information obtained during any family interviews; and
(G) Any other data or information the committee may deem relevant in connection with maternal mortality and severe maternal morbidity.

(c) A person may not charge or collect a fee for providing information to the committee pursuant to this subsection.

(13) Notwithstanding any other law relating to sharing confidential information, all agencies of state government, as defined in ORS 174.111, are directed to assist the committee in the performance of duties of the committee and shall furnish information and advice as deemed necessary by the members of the committee.

(14)(a) All meetings and activities of the committee are exempt from the
requirements of ORS 192.610 to 192.690.

(b) All information obtained, created or maintained by the committee is:

(A) Confidential and exempt from disclosure under ORS 192.311 to 192.478; and

(B) Not admissible in evidence in a judicial, administrative, arbitration or mediation proceeding.

(c) Committee members may not be:

(A) Examined as to any communications to or from the committee or as to any information obtained or maintained by the committee; or

(B) Subject to an action for civil damages for affirmative actions or statements made in good faith.

(d) This subsection does not limit the discoverability or admissibility of any information that is available from any source other than the committee in a judicial, administrative, arbitration or mediation proceeding.

(15) A person who acts in good faith in making information available to the committee under subsection (12) or (13) of this section:

(a) Has immunity:

(A) From any civil or criminal liability that might otherwise be incurred or imposed with respect to releasing the information;

(B) From disciplinary action taken by the person’s employer with respect to releasing the information; and

(C) With respect to participating in any judicial proceeding resulting from or involving the release of information; and

(b) May not be examined as to any communications to or from the committee or as to any information obtained, created or maintained by the committee.

(16) Nothing in subsection (14) or (15) of this section may be construed to limit or restrict the discoverability or admissibility of any information that is available from any person or any other source independent of the meetings or activities of the committee in a civil or criminal proceeding.

(17)(a) The committee shall submit a biennial report in the manner pro-
vided in ORS 192.245, and may include recommendations for legislation, to the interim committees of the Legislative Assembly related to health care. The report submitted under this subsection must include, but is not limited to, the following:

(A) A summary of the committee’s conclusions and findings relating to maternal mortality;

(B) Aggregated data related to the cases of maternal mortality in this state that is not individually identifiable;

(C) A description of actions that are necessary to implement any recommendations of the committee to prevent occurrences of maternal mortality in this state; and

(D) Recommendations for allocating state resources to decrease the rate of maternal mortality in this state.

(b) A biennial report submitted after January 2, 2021, in addition to providing the information described in paragraph (a) of this subsection, must describe how the information relates to severe maternal morbidity.

(18) The committee shall provide the report required under subsection (17) of this section to health care providers and facilities, relevant state agencies and any others as the committee deems necessary to reduce the incidence of maternal mortality and severe maternal morbidity.

SECTION 49. Section 3, chapter 121, Oregon Laws 2018, is amended to read:

Sec. 3. (1) As used in this section, “health care professional” includes a chiropractic physician, a naturopathic physician, a psychologist, a physical therapist, an occupational therapist, a physician assistant or a nurse practitioner who is licensed, certified or registered under the laws of this state.

(2) A health care professional meets the requirements of a qualified health care professional for the purposes of ORS 336.485 and 417.875 if the health care professional has a certificate as described in subsection (3) of this section.

(3)(a) A health care professional is eligible to receive a certificate for the...
purposes of ORS 336.485 and 417.875 if the health care professional successfully completes an online program that:

(A) Is established and maintained by Oregon Health and Science University;

(B) Establishes for health care professionals a foundation of knowledge related to the assessment, diagnosis and management of sports-related concussions; and

(C) Informs health care professionals of:

(i) The requirements imposed by ORS 336.485 and 417.875 and any other related legal requirements; and

(ii) Limitations of the training provided through the online program.

(b) For the online program, the university:

(A) Shall establish the program in consultation with health care professionals and other stakeholders who are appropriately qualified for consultations;

(B) Shall ensure that the program is reviewed at least once every four years by health care professionals and other stakeholders who are appropriately qualified to make the review;

(C) Shall include minimum standards or clinical criteria that are evidence based and that incorporate best practices in relation to the assessment, diagnosis and management of sports-related concussions; and

(D) May charge participants in the program a reasonable fee.

(4) Certificates issued by Oregon Health and Science University under this section are valid for a term of four years. A health care professional may continue to meet the requirements of a qualified health care professional for the purposes of ORS 336.485 and 417.875 by renewing a certificate. The university shall prescribe the requirements for renewal, including requirements for additional training.

(5)(a) Except as provided by paragraph (b) of this subsection, no civil or criminal action, suit or proceeding may be commenced against Oregon Health and Science University, or any board member, officer or employee of
the university, as a result of the death or injury of a member of a school athletic team or nonschool athletic team if:

(A) The death or injury is related to a head injury sustained during an athletic event or training; and

(B) The member received a medical release from a health care professional who held a certificate issued under this section.

(b) The civil and criminal immunities imposed by this subsection do not apply to an act or omission that:

(A) Amounts to gross negligence or willful or wanton misconduct; or

(B) Was performed by a board member, officer or employee of the university if the board member, officer or employee was providing health care services as a health care professional when the board member, officer or employee committed the act or omission.

SECTION 50. Section 4, chapter 121, Oregon Laws 2018, is amended to read:

Sec. 4. (1) Section 3, chapter 121, Oregon Laws 2018, [of this 2018 Act] and the amendments to ORS 336.485 and 417.875 [by sections 1 and 2 of this 2018 Act] by sections 3 and 10 of this 2019 Act, become operative on July 1, 2020.

(2) Oregon Health and Science University may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the university, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the university by section 3, chapter 121, Oregon Laws 2018 [of this 2018 Act].

(3) Notwithstanding the operative date specified in subsection (1) of this section, a psychologist, a physician assistant or a nurse practitioner licensed [or certified] under the laws of this state may provide a medical release for a person to participate in an athletic event or training as provided by ORS 336.485 or 417.875 without a certificate issued under section 3 of this 2018 Act if the medical release is provided prior to July 1, 2021.

(2) The Oregon State Board of Nursing may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 336.479, 336.485, 342.475, 343.146, 414.025, 414.625, 417.875, 426.005, 430.010, 438.010, 441.064, 441.098, 475.005, 496.018, 659A.150, 676.115, 676.340, 678.010, 678.023, 678.031, 678.040, 678.050, 678.101, 678.111, 678.113, 678.123, 678.150, 678.285, 678.340, 678.360, 678.370, 678.372, 678.375, 678.380, 678.390, 678.410, 743A.012, 743A.036, 807.240, 811.604 and 811.611 and section 3, chapter 297, Oregon Laws 2013, section 1, chapter 694, Oregon Laws 2017, section 1, chapter 63, Oregon Laws 2018, and sections 3 and 4, chapter 121, Oregon Laws 2018, by sections 1, 2, 4 to 9 and 11 to 50 of this 2019 Act.

SECTION 52. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Directs Oregon State Board of Nursing to issue license to practice as certified nurse midwife to qualified applicant. Requires board to adopt rules. Allows board to authorize licensed certified nurse midwife to write prescriptions and dispense prescription drugs. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to certified nurse midwife licensure; creating new provisions; amending ORS 678.010, 678.101, 678.390 and 678.410; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 and 3 of this 2019 Act are added to and made a part of ORS 678.010 to 678.410.

SECTION 2. (1) The Oregon State Board of Nursing shall issue a license to practice as a certified nurse midwife to a registered nurse who meets the requirements established by the board by rule pursuant to section 3 of this 2019 Act.

(2) An individual who does not hold a license issued under subsection (1) of this section may not:

(a) Act as a licensed certified nurse midwife;

(b) Use the name, title, designation, initial or abbreviation of a licensed certified nurse midwife; or

(c) Otherwise hold oneself out as a licensed certified nurse midwife.

(3) A licensed certified nurse midwife may complete and sign re-
ports of death. Reports of death signed by a licensed certified nurse midwife fulfill the requirements of all laws of this state related to reports of death. A licensed certified nurse midwife who completes a report of death shall comply with ORS 432.133.

(4)(a) The board shall adopt rules to include the authority to write prescriptions and dispense prescription drugs in the scope of practice of a licensed certified nurse midwife.

(b) A licensed certified nurse midwife is authorized to write prescriptions and dispense prescription drugs for the use of and administration to other persons if approved under ORS 678.390.

SECTION 3. The Oregon State Board of Nursing shall adopt rules to carry out section 2 of this 2019 Act. The rules adopted under this section must include, but are not limited to:

1. Procedures for the initial issuance and renewal of a license to act as a certified nurse midwife;
2. Requirements for the initial issuance and renewal of a license to practice as a certified nurse midwife, including requirements related to education and training;
3. The scope of practice for a licensed certified nurse midwife, including the authority to write prescriptions and dispense prescription drugs;
4. Any restrictions on practice;
5. Fees; and
6. Other rules necessary to carry out section 2 of this 2019 Act.

SECTION 4. ORS 678.010 is amended to read:

678.010. As used in ORS 678.010 to 678.410, unless the context requires otherwise:

1. “Board” means the Oregon State Board of Nursing.
2. “Clinical nurse specialist” means a licensed registered nurse who has been certified by the board as qualified to practice the expanded clinical specialty nursing role.
(3) “Diagnosing” in the context of the practice of nursing means identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing care.

(4) “Human responses” means signs, symptoms and processes that denote the person’s interaction with an actual or potential health problem.

(5) “Licensed certified nurse midwife” means a registered nurse who has been licensed by the board as qualified to practice in an expanded midwifery specialty nursing role.

[(5)] (6) “Long term care facility” means a licensed skilled nursing facility or intermediate care facility as those terms are used in ORS 442.015, an adult foster home as defined in ORS 443.705 that has residents over 60 years of age, or a residential care facility, including an assisted living facility, as defined in ORS 443.400.

[(6)] (7) “Nurse practitioner” means a registered nurse who has been certified by the board as qualified to practice in an expanded specialty role within the practice of nursing.

[(7)] (8) “Physician” means a person licensed to practice under ORS chapter 677.

[(8)(a)] (9)(a) “Practice of nursing” means diagnosing and treating human responses to actual or potential health problems through services such as identification thereof, health teaching, health counseling and providing care supportive to or restorative of life and well-being and including the performance of additional services requiring education and training that are recognized by the nursing profession as proper to be performed by nurses licensed under ORS 678.010 to 678.410 and that are recognized by rules of the board.

(b) “Practice of nursing” includes:

(A) Executing medical orders prescribed by a physician, dentist, clinical nurse specialist, nurse practitioner, certified registered nurse anesthetist or other licensed health care provider licensed or certified by this state and
authorized by the board by rule to issue orders for medical treatment; and

(B) Providing supervision of nursing assistants.

(c) “Practice of nursing” does not include the execution of medical orders described in this subsection by a member of the immediate family for another member or by a person designated by or on behalf of a person requiring care as provided by board rule if the person executing the order is not licensed under ORS 678.010 to 678.410.

[(9)] (10) “Practice of practical nursing” means the application of knowledge drawn from basic education in the social and physical sciences in planning and giving nursing care and in assisting persons toward achieving of health and well-being.

[(10)] (11) “Practice of registered nursing” means the application of knowledge drawn from broad in-depth education in the social and physical sciences in assessing, planning, ordering, giving, delegating, teaching and supervising care that promotes the person’s optimum health and independence.

[(11)] (12) “Treating” means selection and performance of therapeutic measures essential to the effective execution and management of the nursing care and execution of the prescribed medical orders.

SECTION 5. ORS 678.101 is amended to read:

678.101. (1) Every person licensed to practice nursing shall apply for renewal of the license other than a limited license in every second year before 12:01 a.m. on the anniversary of the birthdate of the person in the odd-numbered year for persons whose birth occurred in an odd-numbered year and in the even-numbered year for persons whose birth occurred in an even-numbered year. Persons whose birthdate anniversary falls on February 29 shall be treated as if the anniversary were March 1.

(2) Each application must be accompanied by a nonrefundable renewal fee payable to the Oregon State Board of Nursing.

(3) The board may not renew the license of a person licensed to practice nursing unless:
(a) The requirements of subsections (1) and (2) of this section are met; and
(b) Prior to payment of the renewal fee described in subsection (2) of this section the person completes, or provides documentation of previous completion of:
   (A) A pain management education program approved by the board and developed in conjunction with the Pain Management Commission established under ORS 413.570; or
   (B) An equivalent pain management education program, as determined by the board.

(4) The license of any person not renewed for failure to comply with subsections (1) to (3) of this section is expired and the person shall be considered delinquent and is subject to any delinquent fee specified in established under ORS 678.410.

(5) A registered nurse who has been issued a license or certificate as a nurse practitioner, clinical nurse specialist or certified registered nurse anesthetist shall apply as specified by the board by rule for renewal of the license or certificate and for renewal of the prescriptive privileges in every second year before 12:01 a.m. on the anniversary of the birthdate, as determined for the person’s license to practice nursing.

**SECTION 6.** ORS 678.390 is amended to read:

678.390. (1) The Oregon State Board of Nursing may authorize a certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife to write prescriptions, including prescriptions for controlled substances listed in schedules II, III, III N, IV and V.

(2) A certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife may submit an application to the Oregon State Board of Nursing to dispense prescription drugs. The Oregon State Board of Nursing shall provide immediate notice to the State Board of Pharmacy upon approving an application submitted by a certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife to dispense prescription drugs.
(3) An application for the authority to dispense prescription drugs under this section must include any information required by the Oregon State Board of Nursing by rule.

(4) Prescription drugs dispensed by a certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife must be personally dispensed by the certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife, except that nonjudgmental dispensing functions may be delegated to staff assistants when:

(a) The accuracy and completeness of the prescription is verified by the certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife; and

(b) The prescription drug is labeled with the name of the patient to whom it is being dispensed.

(5) The Oregon State Board of Nursing shall adopt rules requiring:

(a) Prescription drugs dispensed by certified nurse practitioners [and], certified clinical nurse specialists and licensed certified nurse midwives to be either prepackaged by a manufacturer registered with the State Board of Pharmacy or repackaged by a pharmacist licensed by the State Board of Pharmacy under ORS chapter 689;

(b) Labeling requirements for prescription drugs dispensed by certified nurse practitioners [and], certified clinical nurse specialists and licensed certified nurse midwives that are the same as labeling requirements required of pharmacies licensed under ORS chapter 689;

(c) Record keeping requirements for prescriptions and prescription drug dispensing by a certified nurse practitioner [and], a certified clinical nurse specialist and a licensed certified nurse midwife that are the same as the record keeping requirements required of pharmacies licensed under ORS chapter 689;

(d) A dispensing certified nurse practitioner [and], a dispensing certified clinical nurse specialist and a dispensing licensed certified nurse midwife
midwife to have available at the dispensing site a hard copy or electronic version of prescription drug reference works commonly used by professionals authorized to dispense prescription medications; and

(e) A dispensing certified nurse practitioner [and], a dispensing certified clinical nurse specialist and a dispensing licensed certified nurse midwife to allow representatives of the State Board of Pharmacy, upon receipt of a complaint, to inspect a dispensing site after prior notice to the Oregon State Board of Nursing.

(6) The Oregon State Board of Nursing has sole disciplinary authority regarding certified nurse practitioners [and], certified clinical nurse specialists and licensed certified nurse midwives who have prescription drug dispensing authority.

(7) The authority to write prescriptions or dispense prescription drugs may be denied, suspended or revoked by the Oregon State Board of Nursing upon proof that the authority has been abused. The procedure shall be a contested case under ORS chapter 183. Disciplinary action under this subsection is grounds for discipline of the certified nurse practitioner [or], certified clinical nurse specialist or licensed certified nurse midwife in the same manner as a licensee may be disciplined under ORS 678.111.

SECTION 7. ORS 678.410 is amended to read:

678.410. (1) The Oregon State Board of Nursing may [impose fees for the following:]  

[(a) License renewal.]  
[(b) Examination.]  
[(c) License by indorsement.]  
[(d) Limited license.]  
[(e) Examination proctor service.]  
[(f) Duplicate license.]  
[(g) Extension of limited license.]  
[(h) Nurse practitioner certificate.]  
[(i) Reexamination for licensure.]  

[7]
[(j) Delinquent fee.]  
[(k) Renewal fee nurse practitioner.]  
[(L) Verification of a license of a nurse applying for license by indorsement in another state.]  
[(m) Certified nurse practitioner’s initial application and registration for writing prescriptions.]  
[(n) Renewal of certified nurse practitioner’s application for writing prescriptions.]  
[(o) Approval of training program for nursing assistants.]  
[(p) Issuance, renewal and delinquency of a nursing assistant certificate.]  
[(q) Clinical nurse specialist certification established pursuant to ORS 678.370.]  
[(r) Clinical nurse specialist’s initial application for prescriptive authority.]  
[(s) Renewal of clinical nurse specialist’s application for prescriptive authority.]  
[(t) Inactive license or certificate.]  
[(u) Retired license or certificate.]  
[(v) Nationwide criminal records check] establish and collect fees necessary to carry out the provisions of ORS 678.010 to 678.448.

(2) Fees are nonrefundable.

(3)(a) [Subject to prior approval of the Oregon Department of Administrative Services and a report to the Emergency Board prior to adopting the fees and charges,] The board shall obtain approval from the Oregon Department of Administrative Services and submit a report to the Emergency Board prior to establishing fees under this section.

(b) The fees [and charges] established and collected under this section [shall] may not exceed the cost of administering the regulatory program [of the board pertaining to the purpose] for which the fee [or charge] is established and collected, as authorized by the Legislative Assembly within the [board’s] Oregon State Board of Nursing budget[, as the budget] that may
be modified by the Emergency Board.

(c) If federal or other funds are available to offset costs of administering the program, fees shall be established based on net costs to the state but may not [to] exceed $75 per biennium for [the certification fee under subsection (1)(p) of this section] a nursing assistant certification.

SECTION 8. (1) Sections 2 and 3 of this 2019 Act and the amendments to ORS 678.010, 678.101, 678.390 and 678.410 by sections 4, 5, 6 and 7 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon State Board of Nursing may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by sections 2 and 3 of this 2019 Act and the amendments to ORS 678.010, 678.101, 678.390 and 678.410 by sections 4, 5, 6 and 7 of this 2019 Act.

SECTION 9. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Authorizes Oregon State Board of Nursing to recognize military education or training programs as sufficient to meet requirements for licensure as licensed practical nurse.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to nursing licenses; creating new provisions; amending ORS 678.040; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 678.040 is amended to read:

Each applicant for a license under ORS 678.010 to 678.448 shall furnish evidence that the applicant’s physical and mental health is such that it is safe for the applicant to practice, and that:

(1) The applicant has graduated:

(a) From a registered nurse or licensed practical nurse nursing education program accredited by the Oregon State Board of Nursing;

[(2)] (b) [The applicant has graduated] From a nursing program in the United States [which program that:

(A) Is [either] accredited by the licensing board for nurses in a particular state or United States territory[,] and approved by the Oregon State Board of Nursing; or[,]

(B) If the licensing board is not the accrediting agency in that state or United States territory, [the program] is accredited by the appropriate ac-

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
crediting agency for that state or United States territory and approved by
the Oregon State Board of Nursing; [or]
[(3)] (c) [The applicant has graduated] In another country and has an ed-
ucation equivalent to that provided by accredited programs in this country;
or
(d) From a military training program that the board specifies by
rule to be qualified as a nursing education program for a licensed
practical nurse; or
(2) If the applicant is an applicant for licensure by indorsement, the
applicant has been licensed as a licensed practical nurse in another
state or territory of the United States based upon recognition of the
applicant’s military education.

SECTION 2. The amendments to ORS 678.040 by section 1 of this
2019 Act apply to applications for licensure received by the Oregon
State Board of Nursing on and after the operative date specified in
section 3 of this 2019 Act.

SECTION 3. (1) The amendments to ORS 678.040 by section 1 of this
(2) The Oregon State Board of Nursing may take any action before
the operative date specified in subsection (1) of this section that is
necessary to enable the board to exercise, on and after the operative
date specified in subsection (1) of this section, all of the duties, func-
tions and powers conferred on the board by the amendments to ORS
678.040 by section 1 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Defines “ambulatory surgical center” for purposes of duties of circulating nurses.

A BILL FOR AN ACT

Relating to ambulatory surgical centers; amending ORS 678.362.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 678.362 is amended to read:

678.362. (1) As used in this section:

(a) “Circulating nurse” means a registered nurse who is responsible for coordinating the nursing care and safety needs of the patient in the operating room and who also meets the needs of operating room team members during surgery.

(b) “[Type I] Ambulatory surgical center” [means a licensed health care facility for the performance of outpatient surgical procedures including, but not limited to, cholezystectomies, tonsillectomies or urological procedures, involving general anesthesia or a relatively high infection control consideration] has the meaning given that term in ORS 442.015.

(2)(a) The duties of a circulating nurse performed in an operating room of [a Type I] an ambulatory surgical center or a hospital shall be performed by a registered nurse licensed under ORS 678.010 to 678.410.

(b) In any case requiring general anesthesia [or conscious sedation], a circulating nurse shall be assigned to, and present in, an operating room for the duration of the surgical procedure unless it becomes necessary for the...
circulating nurse to leave the operating room as part of the surgical procedure. While assigned to a surgical procedure, a circulating nurse may not be assigned to any other patient or procedure.

(c) Nothing in this section precludes a circulating nurse from being relieved during a surgical procedure by another circulating nurse assigned to continue the surgical procedure.

(3) At the request of [a Type I] an ambulatory surgical center or a hospital, the Oregon Health Authority may grant a variance from the requirements of this section based on patient care needs or the nursing practices of the surgical center or hospital.
SUMMARY

Extends sunset for tax credit for contributions to Trust for Cultural Development Account.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the cultural development tax credit; amending section 19, chapter 954, Oregon Laws 2001; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 19, chapter 954, Oregon Laws 2001, as amended by section 35, chapter 913, Oregon Laws 2009, and section 8, chapter 750, Oregon Laws 2013, is amended to read:


SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Modifies provisions related to employment and employee compensation for Oregon Business Retention and Expansion Program, enterprise zones, long term incentives for rural enterprise zones and business development income tax exemption. Limits amount of business firm’s income eligible for small city business development income tax exemption.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 285A.010 is amended to read:

285A.010. As used in [ORS 284.101 to 284.148 and] ORS chapters 285A, 285B and 285C, unless the context requires otherwise:

(1) “Administrator” means the administrator of the Oregon Infrastructure Finance Authority.

(2) “Association” means a nonprofit, private, incorporated or unincorporated institution, foundation, organization, entity or group, whether local, state, regional or national, that is operating or doing business in Oregon.

(3) “Authority” means the Oregon Infrastructure Finance Authority.

(4) “Average wage” means the most recently available average annual wage for this state or for a county in this state, whichever is less, that has been determined as final by the Employment Department for
an entire calendar year.

[(4)] (5) “Board” means the Oregon Infrastructure Finance Authority Board.

[(5)] (6) “Commission” means the Oregon Business Development Commission.

[(6)] (7) “Community” means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may, be limited by political boundaries.

(8) “Compensation” means wages, salaries, commissions or any other form of remuneration, including, but not limited to, paid leave, overtime or bonuses, that is paid annually by a business to an employee for personal services and taxable income of the employee under ORS chapter 316.

[(7)] (9) “Department” means the Oregon Business Development Department.

[(8)] (10) “Director” means the Director of the Oregon Business Development Department.

[(9)] (11) “Distressed area” means a county, city, community or other geographic area that is designated as a distressed area by the department, based on indicators of economic distress or dislocation, including but not limited to unemployment, poverty and job loss.

[(10)] (12) “International trade” means the export and import of products and services and the movement of capital for the purpose of investment.

[(11)] (13) “Local government” has the meaning given that term in ORS 174.116.

[(12)] (14) “Municipality” means an Oregon city or county, the Port of Portland created by ORS 778.010, a county service district organized under ORS chapter 451, a district as defined in ORS 198.010, a tribal council of a federally recognized Indian tribe in this state or an airport district organized under ORS chapter 838.
“(13) (15) “Public body” has the meaning given that term in ORS 174.109.

“(14) (16) “Rural area” means an area located entirely outside of the acknowledged Portland Metropolitan Area Regional Urban Growth Boundary and the acknowledged urban growth boundaries of cities with populations of 30,000 or more.

“(15) (17) “Small business” means a business having 100 or fewer employees.

“(16) (18) “State agency” includes state officers, departments, boards and commissions.

“(17) (19) “Traded sector” means industries in which member firms sell their goods or services into markets for which national or international competition exists.

SECTION 2. ORS 284.101 is amended to read:

284.101. As used in ORS 284.101 to 284.148, unless the context requires otherwise:

(1) “Association” means a nonprofit, private, incorporated or unincorporated institution, foundation, organization, entity or group, whether local, state, regional or national, that is operating or doing business in Oregon.

(2) “Commission” means the Oregon Tourism Commission.

(3) “Community” means an area or locality in which the body of inhabitants has common economic or employment interests. The term is not limited to a city, county or other political subdivision and need not, but may, be limited by political boundaries.

(4) “Executive director” means the executive director of the Oregon Tourism Commission.

(5) “Local government” has the meaning given that term in ORS 174.116.

(6) “State agency” includes state officers, departments, boards and commissions.

SECTION 3. ORS 285A.020 is amended to read:
285A.020. (1) The Legislative Assembly finds that:
(a) Oregon possesses unique and sustaining virtues that will guide and assist in maintaining the state’s economic health, including but not limited to Oregon’s:
   (A) Special heritage;
   (B) Respect for and cultivation of the environment; and
   (C) Attention to quality of life issues that are important to the state’s economic development, including but not limited to access to quality, affordable child care for all children in Oregon.
(b) Oregon is strategically placed to compete and succeed in the global marketplace.
(c) All regions of the state should share in Oregon’s economic recovery.
(d) Creating and retaining quality jobs are vital to the state’s economic health.
(e) Oregon’s agriculture and natural resource industries provide opportunities for beneficial economic enterprise, including sustainable business development activities.
(f) A well educated and trained workforce is necessary to support business and industry needs throughout the state.
(g) The ability of existing businesses to grow is critical to Oregon’s prosperity.
(h) The state must utilize its competitive advantages to retain existing businesses and attract new companies and investment into the state.
(i) Continued development in Oregon depends on strengthening traded sector industries.
(j) International trade and development of international trade are essential for future business development opportunities.
(k) Small businesses remain a critical element of the state’s economy.
(L) Capacity building to support business development in rural and distressed areas is a key component of economic development and revitalization efforts.
(m) Oregon’s ports are important partners in the state’s economic development efforts and are key components of local and state economic development strategies.

(n) Improving and enhancing infrastructure is necessary to the state’s future economic development.

(o) Federal, state and local agencies working together will continue to enhance industrial site development and other economic development activities.

(2) It is the purpose of [ORS 284.101 to 284.148 and] ORS chapters 285A, 285B and 285C to enable the creation, retention, expansion and attraction of businesses that provide sustainable, living wage jobs for Oregonians through public-private partnerships and leveraged funding and to support economic opportunities for Oregon companies and entrepreneurs.

(3) The Legislative Assembly declares that it is the immediate economic strategy of the state to:

(a) Promote a favorable investment climate to strengthen businesses, create jobs and raise real wages;

(b) Improve the national and global competitiveness of Oregon companies; and

(c) Assist and further efforts to retain, expand and attract businesses.

(4) To promote the advancement of the Oregon economy and implement the immediate economic strategy of the state, the Oregon Business Development Department shall invest resources in accordance with the following principles:

(a) Processes for making public investments and working with local and regional issues must be designed for flexibility so that actions can adapt to the constantly changing conditions and demands under which communities and businesses operate.

(b) Partnerships among local, state and federal governments and public and private organizations and entities should be strengthened to further the economic strategy of the state.
(c) The expected impact of public investment and assistance shall be identified, in terms of measurable outcomes, whenever possible.

(d) State, federal and community goals, constraints and obligations should be identified at the beginning of the planning process, and the state should work actively with community partners, regions and state and local agencies to address and accomplish their mutual objectives.

(5) When the department provides funds or assistance for projects, programs, technical support or other authorized activities pursuant to [ORS 284.101 to 284.148 and] ORS chapters 285A, 285B and 285C, the department shall give priority to projects, programs and activities that:

(a) Retain and create jobs and raise real wages;

(b) Promote capacity building, emphasizing rural and distressed areas to further economic development initiatives;

(c) Assist small business creation and expansion;

(d) Invest and engage in training a skilled workforce;

(e) Retain and expand existing companies and recruit new investment to Oregon;

(f) Capitalize on Oregon’s competitive advantages and strategically invest resources to offset competitive disadvantages;

(g) Support innovation and research;

(h) Assist industry clusters to succeed;

(i) Market Oregon’s advantages;

(j) Promote international trade and attract foreign direct investment;

(k) Support the development of industrial and commercial lands;

(L) Advance the efforts of ports to promote economic development activities; and

(m) Build capacity in Oregon’s arts and cultural organizations, creative businesses and individual artists.

SECTION 4. ORS 285A.075 is amended to read:

285A.075. (1) The Oregon Business Development Department shall:

(a) Implement programs and adopt rules in accordance with applicable
provisions of ORS chapter 183 that are consistent and necessary to carry out the policies established by the Oregon Business Development Commission and the duties, functions and powers vested by law in the department.

(b) Act as the official state liaison agency for persons interested in locating industrial or business firms in the state and for state and local groups seeking new industry or business, and maintain the confidentiality of negotiations conducted pursuant to this paragraph, if requested.

(c) Coordinate state and federal economic and community development programs.

(d) Actively recruit domestic and international business firms to those communities desiring business recruitment.

(e) Work with existing Oregon companies to assist in their expansion or help them retain jobs in the state.

(f) Consult with local governments to establish regions for the purpose of job development to facilitate economic activities in the region. Regions established for this purpose need not be of the same size in geographic area or population.

(g) Establish and operate foreign trade offices in foreign countries in which the department considers a foreign trade office necessary. The department shall use department employees, contracts with public or private persons or a combination of employees and contractors to establish and operate foreign trade offices. Department employees, including managers, who are assigned to work in a foreign trade office shall be in the unclassified service, and the director shall set the salaries of such employees. ORS 276.428, 279A.120, 279A.140, 279A.155, 279A.275, 279B.025, 279B.235, 279B.270, 279B.280, 279C.370, 279C.500 to 279C.530, 279C.540, 279C.545, 279C.800 to 279C.870, 282.020, 282.050, 282.210, 282.220, 282.230, 283.140, 459A.475, 459A.490, 653.268 and 653.269 do not apply to the department’s operation of foreign trade offices outside the state.

(h) Consult with other state agencies and with local agencies and officials prior to defining or designating distressed areas for purposes of ORS
A.020.

(i) Budget moneys for travel and various other expenses of industrial or commercial site location agents, film or video production location agents, business journal writers, elected state officials or other state personnel to accomplish the purposes of [ORS 284.101 to 284.148 and] ORS chapters 285A, 285B and 285C. The department may expend moneys duly budgeted to pay the travel and other expenses of such persons if the director determines the expense may promote the purposes of this subsection.

(j) Promulgate rules to govern contracts.

(k) Develop strategies to address issues that are necessary and appropriate to Oregon’s future and adopt goals that include measurable indicators of success [(Oregon benchmarks)] that show the extent to which each goal is being achieved.

(L) Use practices and procedures that the department determines are the best practices for carrying out the duties of the department.

(2) The department shall have no regulatory power over the activities of private persons. Its functions shall be solely advisory, coordinative and promotional.

(3) Notwithstanding ORS 279A.140, the department may award grants or enter into contracts as necessary or appropriate to carry out the duties, functions and powers vested in the department by law.

SECTION 5. ORS 285B.600 is amended to read:

285B.600. As used in ORS 285B.600 to 285B.620:

(1) “Certified employer” means an eligible employer certified under ORS 285B.605.

[(2) “Compensation” has the meaning given that term in ORS 314.610.]

(2) “County or state average wage” means the average wage:

(a) For the county in which an employee works; and

(b) For all employment, unless the Oregon Business Development Department has adopted a rule limiting “county or state average wage” to mean the average wage for private sector employment only.
(3) “Eligible employee” means a new full-time equivalent employee who:
   (a) Is paid qualifying compensation; and
   (b) Works in operations of an industry in the traded sector; and
   (c) Is hired by a certified employer after the employer is certified under ORS 285B.605.

(4) “Eligible employer” means an employer that, in the month in which the employer submits an application under ORS 285B.608, as determined by the Oregon Business Development Department:
   (a) Has at least 150 employees in or outside this state; and
   (b) Plans to hire at least 50 eligible employees in this state. For purposes of this paragraph, each eligible employee to be hired in a county that is outside all metropolitan statistical areas, as defined pursuant to the most recent federal decennial census, shall be counted as two employees.
   (c) Operates in an industry in this state in the traded sector, as that term is defined in ORS 285A.010; and
   (d) Is not and does not plan to be a retailer, as that term is defined in ORS 72.8010.

(5) “Estimated incremental Oregon Business Retention and Expansion Program tax revenues” means the Oregon personal income tax revenues that are estimated pursuant to ORS 285B.618 to be substantially equivalent to the amount of tax that eligible employees of an eligible employer will be required to pay under ORS chapter 316 as a result of qualifying compensation paid to the eligible employees by the eligible employer in the two consecutive tax years beginning with the tax year following the tax year in which the employer receives certification under ORS 285B.605.

(6) “Qualifying compensation” means compensation that averages at least:
   (a) 150 percent of the lesser of the county or state average wage for eligible

ble employees hired in a county in a metropolitan statistical area as defined pursuant to the most recent federal decennial census; or

(b) [If the employees are to be hired in a county that is outside all metropolitan statistical areas, as defined by the most recent federal decennial census, compensation that averages at least 130 percent of the lesser] **130 percent** of the county or state average [annual per employee compensation] wage for eligible employees hired in a county that is outside all metropolitan statistical areas as defined pursuant to the most recent federal decennial census.

**SECTION 6.** ORS 285C.050 is amended to read:

285C.050. As used in ORS 285C.050 to 285C.250, unless the context requires otherwise, and in addition to the definitions under ORS 285A.010 applicable to ORS chapter 285C:

1. “Assessment date” and “assessment year” have the meanings given those terms in ORS 308.007.

2. “Authorized business firm” means an eligible business firm that has been authorized under ORS 285C.140.

3. “Business firm” means a person operating or conducting one or more trades or businesses, a people’s utility district organized under ORS chapter 261 or a joint operating agency formed under ORS chapter 262, but does not include any other governmental agency, municipal corporation or nonprofit corporation.

4. “County or state average [annual] wage” means:

   [(a) The most recently available average annual covered payroll for the county in which the enterprise zone] the average wage where the applicable qualified property that has been granted an enterprise zone tax benefit is located, as determined by the Employment Department; or].

   [(b) If the enterprise zone is located in more than one county, the highest county average annual wage as determined under paragraph (a) of this subsection.]

5. “Electronic commerce” means engaging in commercial or retail trans-
actions predominantly over the Internet or a computer network, utilizing the
Internet as a platform for transacting business, or facilitating the use of the
Internet by other persons for business transactions, and may be further de-

(6) “Eligible business firm” means a firm engaged in an activity described
under ORS 285C.135 that may file an application for authorization under
ORS 285C.140.

(7) “Employee” means a person who works more than 32 hours per week,
but does not include a person with a temporary or seasonal job or a person
hired solely to construct qualified property.

(8) “Enterprise zone” means one of the 30 areas designated or terminated
and redesignated by order of the Governor under ORS 284.160 (1987 Re-
placement Part) before October 3, 1989, one of the areas designated by the
Director of the Oregon Business Development Department under ORS
285C.080 before October 5, 2015, an area designated under ORS 285C.065, a
federal enterprise zone area designated under ORS 285C.085, an area desig-
nated under ORS 285C.250 or a reservation enterprise zone designated, or a
reservation partnership zone cosponsored, under ORS 285C.306.

(9) “Federal enterprise zone” means any discrete area wholly or partially
within this state that is designated as an empowerment zone, an [enterprise
community] opportunity zone, a renewal community or some similar desig-
nation for purposes of improving the economic and community development
of the area.

(10) “First-source hiring agreement” means an agreement between an au-
thorized business firm and a publicly funded job training provider whereby
the provider refers qualified candidates to the firm for new jobs and job
openings in the firm.

(11) “In service” means being used or occupied or fully ready for use or
occupancy for commercial purposes consistent with the intended operations
of the business firm as described in the application for authorization.

(12) “Modification” means modernization, renovation or remodeling of an
existing building, structure or real property machinery or equipment.

(13) “New employees hired by the firm”:
(a) Includes only those employees of an authorized business firm engaged
for a majority of their time in eligible operations.
(b) Does not include individuals employed in a job or position that:
(A) Is created and first filled after December 31 of the first tax year in
which qualified property of the firm is exempt under ORS 285C.175;
(B) Existed prior to the submission of the relevant application for au-
thorization; or
(C) Is performed primarily at a location outside of the enterprise zone.

(14) “Publicly funded job training provider” includes but is not limited to
a community college, a service provider under the federal Workforce Inno-
vation and Opportunity Act, or a similar program.

(15) “Qualified business firm” means a business firm described in ORS
285C.200, the qualified property of which is exempt from property tax under
ORS 285C.175.

(16) “Qualified property” means property described under ORS 285C.180.

[(17) “Qualified rural county” means a county:]
[(a) That is outside all metropolitan statistical areas, as defined by the most
recent federal decennial census; and]
[(b) In which, on the most recently certified property tax assessment roll,
the total property taxes imposed by all taxing districts within the county are
equal to or greater than 1.3 percent of the total assessed value of all taxable
property located in the county.]}

[(18) (17) “Rural enterprise zone” means:
(a) An enterprise zone located in an area of this state in which an urban
enterprise zone could not be located; or
(b) A reservation enterprise zone designated, or a reservation partnership
zone cosponsored, under ORS 285C.306.
[(19) (18) “Sparsely populated county” means a county with a density of
100 or fewer persons per square mile, based on the most recently available

[12]
population figure for the county from the Portland State University Population Research Center.

[(20)] (19) “Sponsor” means:

(a) The city, county or port, or any combination of cities, counties or ports, that received approval of an enterprise zone under ORS 284.150 and 284.160 (1987 Replacement Part), under ORS 285C.080 before October 5, 2015, or under ORS 285C.085 or 285C.250 or that designated an enterprise zone under ORS 285C.065 or 285C.250;

(b) The tribal government, in the case of a reservation enterprise zone;

(c) The tribal government and the cosponsoring city, county or port, in the case of a reservation partnership zone; or

(d) A city, county or port that joined the enterprise zone through a boundary change under ORS 285C.115 (6) or a port that joined the enterprise zone under ORS 285C.068.

[(21)] (20) “Tax year” has the meaning given that term in ORS 308.007.

[(22)] (21) “Urban enterprise zone” means an enterprise zone in a metropolitan statistical area, as defined by pursuant to the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

[(23)] (22) “Year” has the meaning given that term in ORS 308.007.

SECTION 7. ORS 285C.160 is amended to read:

ORS 285C.160. (1) An eligible business firm seeking authorization under ORS 285C.140 and the sponsor of the enterprise zone in which the firm intends to invest may enter into a written agreement to extend the period during which the qualified property is exempt from taxation under ORS 285C.175 if the firm complies with the terms of the agreement, provided that the written extension agreement is executed on or before the date on which the firm is authorized under ORS 285C.140.

(2) The period for which the qualified property is to continue to be exempt must be set forth in the agreement and may not exceed two additional tax years.
(3) In order for an agreement under this section to extend the period of exemption, the agreement must [be executed on or before the date on which the firm is authorized, and] require that:

(a) The new employees hired by the firm receive compensation that averages at least 110 percent of the county or state average wage in each year of the exemption; and

(b) The firm satisfy any requirement reasonably requested by the sponsor and stipulated in the agreement that is in addition to, and not in lieu of, conditions or requirements imposed under ORS 285C.050 to 285C.250.

(4) If the sponsor of an urban enterprise zone has adopted a policy for the imposition of other conditions under ORS 285C.150, the conditions and standards under that policy shall be substituted for subsection (3) of this section, provided that the policy:

(a) Applies the substitution consistently through a standardized agreement that eligible business firms enter into for purposes of this section;

(b) Does not waive or lessen any condition that the policy otherwise imposes; and

(c) Imposes additional conditions, consistent with standards adopted by the sponsor, that, notwithstanding ORS 653.017, effectively require satisfaction of criteria no less stringent than requiring that at least 85 percent of the new employees hired by the firm each receive compensation that is at least 135 percent of the applicable minimum wage under ORS 653.025 in each year of the exemption, unless the firm otherwise satisfies subsection (3)(a) of this section.

[(a) If the enterprise zone is a rural enterprise zone or an urban enterprise zone located inside a metropolitan statistical area of fewer than 400,000 residents, the agreement must require that the firm:]

[(A)(i) Annually compensate all new employees hired by the firm at an average rate of at least 150 percent of the county average annual wage for each]
assessed year during the tax exemption period, as determined at the time of authorization; or]

[(ii) If the enterprise zone is located in a qualified rural county, annually compensate all new employees hired by the firm at an average rate of at least 130 percent of the county average annual wage for each assessed year during the tax exemption period, as determined at the time of authorization; and]

[(B) Meet any additional requirement that the sponsor may reasonably request.]

[(b) Notwithstanding paragraph (a)(A) of this subsection, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.]

[(c) If the enterprise zone is an urban enterprise zone located inside a metropolitan statistical area of 400,000 residents or more, the agreement must require that the firm meet any additional requirement the sponsor may reasonably require.]

[(4) If a firm enters into an agreement under this section that includes a compensation requirement under subsection (3)(a)(A) of this section and the firm subsequently submits one or more statements of continued intent under ORS 285C.165, notwithstanding the terms of the agreement made under this section, for each statement of continued intent submitted, the county average annual wage under subsection (3)(a)(A) of this section shall be adjusted to a level that is current with the statement.]

SECTION 8. ORS 285C.165 is amended to read:

285C.165. (1) In the case of an authorized business firm that has not yet claimed the exemption under ORS 285C.175 on qualified property:

(a) After the January 1, but on or before the April 1, that first occurs more than two years after the application for authorization is approved, an authorized business firm shall submit a written statement to both the sponsor and the county assessor attesting to the firm’s continued intent to complete the proposed investment and seek the enterprise zone exemption. The statement may include significant changes to the descriptions and estimates
of anticipated qualified property or employment. [If the firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A), the statement shall acknowledge that the applicable county average annual wage in the agreement is updated to equal the level that is current with the statement.]

(b) Every two years after the submission of a statement described in paragraph (a) of this subsection, the firm shall submit another such statement. The statement must be submitted after January 1, but on or before April 1 of that year.

(2) If the firm fails to submit a statement required under subsection (1) of this section, the authorization of the firm shall be considered inactive. An inactive authorized business firm may claim the exemption under ORS 285C.175 only as provided under subsection (3) of this section.

(3)(a) An inactive authorized business firm may file an exemption claim under ORS 285C.220 only if the claim includes a filing fee equal to the greater of $200 or one-tenth of one percent of the total investment cost of the qualified property listed in the property schedule that is filed with the claim and is subject to the exemption.

(b) The filing fee required under this subsection is in addition to and not in lieu of any other required filing fee.

(c) An exemption under ORS 285C.175 may not be granted if the filing fee does not accompany the claim.

(d) Any filing fee collected under this subsection shall be deposited to the county general fund.

[(4) If an inactive authorized business firm is subject to a compensation requirement under ORS 285C.160 (3)(a)(A) and files a claim for exemption under ORS 285C.220 in the manner prescribed in subsection (3) of this section, notwithstanding the terms of the agreement executed under ORS 285C.160, the applicable county average annual wage shall be updated to equal the level that is current with the date of the filing of the claim.]

[(5)] (4) This section applies only until the enterprise zone is terminated. Following zone termination, ORS 285C.245 applies.
SECTION 9. ORS 285C.400 is amended to read:

285C.400. As used in ORS 285C.400 to 285C.420, and in addition to the definitions under ORS 285A.010 applicable to ORS chapter 285C:

(1) “Business firm” has the meaning given that term in ORS 285C.050.

(2) “Certified business firm” means a business firm that has been certified under ORS 285C.403.

(3) “County with chronically low income or chronic unemployment” means, based on the most recently revised annual average unemployment rate or annual per capita income levels available, a county in which:

(a) The median ratio of the per capita personal income of the county to the equivalent annual personal income figure of the entire United States for each year, as reported by the Bureau of Economic Analysis of the United States Department of Commerce, is equal to or less than 0.75 over the last 10 years;

(b) The median ratio of the unemployment rate of the county to the equivalent rate of the entire United States for each year is at least 1.3 over the last 20 years or over the last 10 years; or

(c) The population of the county has experienced a negative net migration, irrespective of natural population change, since the most recent federal decennial census occurring three or more years prior to the current estimated population figure for the county, based on available population statistics.

(4) “Facility” means the land, real property improvements and personal property that are used:

(a) At a location in a rural enterprise zone that is identified in the application for certification under ORS 285C.403; and

(b) In those business operations of the business firm that are the subject of the application for certification under ORS 285C.403.

(5) “In service” has the meaning given that term in ORS 285C.050.

(6) “Qualified rural county” means a county:

(a) That is outside all metropolitan statistical areas, as defined [by]
pursuant to the most recent federal decennial census; and
(b) In which, on the most recently certified property tax assessment roll, the total property taxes imposed by all taxing districts within the county are equal to or greater than 1.3 percent of the total assessed value of all taxable property located in the county.

[(6)] (7) “Rural enterprise zone” has the meaning given that term in ORS 285C.050.

SECTION 10. ORS 285C.412 is amended to read:

285C.412. In order for a facility of a business firm to continue to be exempt from ad valorem property taxation under ORS 285C.409 for a tax year following the first assessment date on which the facility is in service, all of the conditions of any one of the alternative subsections in this section must be met:

(1) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds the lesser of $25 million or one percent of the real market value of all nonexempt taxable property in the county in which the facility is located, as determined for the assessment year in which the business firm is certified (and rounded to the nearest $10 million of such value);

(b) [The business firm hires or will hire] At least 75 full-time employees are hired to work year-round at the facility by the end of the fifth calendar year following the year in which the facility is placed in service; and

(c) In a year following the year in which the facility is placed in service, but not later than the fifth such year, all full-time equivalent employees of the business firm at the facility receive compensation that on average equals or exceeds 115 percent of the average wage where the facility is located.

[(c) The annual average compensation for employees, based on payroll, at the business firm’s facility must be at least 150 percent of the average wage in
the county in which the facility is located, or, if the facility is located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation must be at least 130 percent of the average wage in the county in which the facility is located. This requirement may be initially met in any year during the first five years after the year in which the facility is placed in service, and thereafter is met if:

[(A) The annual average compensation at the facility for the year equals or exceeds 150 percent of the average wage in the county for the year in which the requirement is initially met or, for a facility located in a qualified rural county, determined as of the date on which the written agreement between the zone sponsor and the business firm was executed, the annual average compensation at the facility for the year equals or exceeds 130 percent of the average wage in the county for the year in which the requirement is initially met; and]

[(B) The average wage at the facility equals or exceeds 100 percent of the average wage in the county.]

[(2) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:]

[(a) The facility meets the total cost requirements set forth in subsection (1)(a) of this section;]

[(b) The business firm meets the annual average compensation requirements set forth in subsection (1)(c) of this section; and]

[(c)(A) The business firm hires or will hire at least 10 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is certified, the location of the facility is in a county with a population of 10,000 or fewer; or]

[(B) The business firm hires or will hire at least 35 full-time employees at the facility by the end of the third calendar year following the year in which the facility is placed in service, and at the time that the business firm is cer-
ified, the location of the facility is in a county with a population of 40,000 or fewer.

[(3)] (2) In order for the exemption under ORS 285C.409 (1)(c) to be allow-
allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in
service, the total cost of the facility exceeds the lesser of $12.5 million or
one-half of one percent of the real market value of all nonexempt taxable
property in the county in which the facility is located, as determined for the
assessment year in which the business firm is certified (and rounded to the
nearest $10 million of such value);

(b) At the time that the business firm is certified, the location of the fa-
cility is 10 or more miles from Interstate Highway 5, as measured between
the two closest points between the facility site and anywhere along the
median of that interstate highway;

[(c) The business firm meets the annual average compensation requirements
set forth in subsection (1)(c) of this section; and]

(c) In a year following the year in which the facility is placed in
service, but not later than the fifth such year, all full-time equivalent
employees of the business firm at the facility receive compensation
that on average equals or exceeds 110 percent of the average wage
where the facility is located; and

(d) By the end of the third calendar year following the year in
which the facility is placed in service, at least:

[(d)(A)] (A) [The business firm hires or will hire at least] 50 full-time
employees are hired to work year-round at the facility [by the end of the
third calendar year following the year in which the facility is placed in ser-
vice; or];

[(B) The business firm satisfies the requirements of subsection (2)(c)(A) or
(B) of this section.]

(B) 35 full-time employees are hired to work year-round at the fa-
cility and the facility is located in a county with a population of 40,000

[20]
or fewer when the business firm is certified; or

(C) 10 full-time employees are hired to work year-round at the facility and the facility is located in a county with a population of 10,000 or fewer when the business firm is certified.

[(4)] (3) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) Within three years either before or after the property tax year in which the facility is placed in service, the business firm places one or more other facilities in the same or another enterprise zone for which the business firm is certified and otherwise meets the requirements of ORS 285C.400 to 285C.420;

(b) The total cost of all facilities of the business firm exceeds $25 million by the end of the calendar year in which the last such facility is placed in service;

(c) The business firm meets the [annual average compensation requirements] employee compensation requirement set forth in subsection (1)(c) of this section independently for each facility of the firm; and

(d) [The business firm hires or will hire a total of] At least 100 full-time employees are hired to work year-round at all of the firm’s facilities by the end of the fifth calendar year following the year in which the first such facility is placed in service.

[(5)] (4) In order for the exemption under ORS 285C.409 (1)(c) to be allowable pursuant to this subsection:

(a) By the end of the calendar year in which the facility is placed in service, the total cost of the facility exceeds $200 million;

(b) At the time that the business firm is certified, the location of the facility meets the siting requirements of subsection [(3)(b)] (2)(b) of this section;

(c) [The business firm hires or will hire] At least 10 full-time employees are hired to work year-round at the facility by the end of the third calendar year following the year in which the facility is placed in service; and
(d) The business firm meets the *annual average compensation requirement* set forth in subsection (1)(c) of this section.

**SECTION 11.** ORS 285C.415 is amended to read:

285C.415. *Upon meeting the applicable requirements of* On or before the date on which an applicable requirement under ORS 285C.412 must be satisfied, the certified business firm shall notify the county assessor in writing *[that the applicable requirements have] of the extent to which the requirement has been met.

**SECTION 12.** ORS 285C.420 is amended to read:

285C.420. (1) If a certified business firm does not begin operations or is not reasonably expected to begin operations, as determined by the county assessor consistent with criteria established by rule of the Department of Revenue, or fails to meet the minimum requirements set forth in ORS 285C.412, while receiving an exemption under ORS 285C.409, the assessor shall, as of the next tax year, disqualify the property from the exemption.

(2)(a) If a certified business firm that has achieved the *minimum* applicable full-time hiring [*requirements and annual average wage*] and *employee compensation* requirements at a facility under ORS 285C.412 subsequently fails to maintain the applicable minimum *annual average* number of full-time employees or the minimum annual average compensation level at the facility in any remaining year of exemption under ORS 285C.409 (1)(c), the assessor shall disqualify the facility from exemption under ORS 285C.409.

(b) This subsection does not apply if the decrease in hiring or in annual average compensation is caused by circumstances beyond the control of the business firm, including force majeure.

(3) Upon disqualification, there shall be added to the tax extended against the property on the next general property tax roll, to be collected and distributed in the same manner as the remainder of ad valorem property taxes, an amount equal to the taxes that would otherwise have been assessed against the property and improvements for each of the tax years for which
the property was exempt under ORS 285C.409.

(4) The additional taxes described in this section shall be deemed assessed and imposed in the year to which the additional taxes relate.

SECTION 13. ORS 285C.503 is amended to read:

285C.503. (1) A business firm seeking the income and corporate excise tax exemption allowed under ORS 316.778 or 317.391 shall, before the commencement of construction, reconstruction, modification or installation of property or improvements at the location for which the exemption is sought and before the hiring of any employees at that location, apply to the Oregon Business Development Department for preliminary certification under this section.

(2) The application shall be on a form prescribed by the department and shall contain the following information:

(a) The proposed location of the facility;

(b) A description of the property to be constructed, reconstructed, modified, acquired, installed or leased and that is to comprise the facility when the business firm commences business operations at the facility;

(c) If any property described in paragraph (b) of this subsection is to be leased, the term of the lease;

(d) The number of full-time, year-round employees the business firm intends to hire;

(e) The minimum annual average compensation intended to be given to the employees described in paragraph (d) of this subsection;

(f) A description of any other business activities of the firm in this state at the time of application, sufficient for the department to be able to determine if the proposed facility will constitute a new business in this state; and

(g) Any other information that the department requires.

(3) An application filed under this section must be accompanied by a fee in an amount prescribed by the Oregon Business Development Department by rule. The fee required by the department may not exceed $500.

(4)(a) When an application is filed under this section, the department
shall send copies of the application to the governing bodies of [the city and county] any city, port or county in which the facility is proposed to be located. [If the facility is to be located within a port, the department shall also send a copy of the application to the governing body of the port.]

(b) The governing body of a city, port or county described in paragraph (a) of this subsection may object to the preliminary certification of a business firm if the firm would be:

(A) In competition with an existing business employing individuals within the city, port or county; or

(B) Incompatible with economic growth or development standards that the city, port or county had adopted prior to the date of application for preliminary certification.

(c) If the governing body of the city, port or county decides to object to preliminary certification of the firm, the governing body shall adopt a resolution stating its objection and the reason for its objection.

(d) The governing body of a city, port or county has 60 days from the date a copy of the application is sent to the city, port or county to object to preliminary certification. If the objection is not made within the 60-day period, the city, port or county shall be deemed to have agreed to preliminary certification.

(5) When an application is filed under this section, the department shall review the application and determine whether all of the following requirements are met:

(a) The proposed facility is to be located at a qualified location.

(b) The proposed facility is intended to operate as a facility for at least 10 years following the date the facility becomes operational.

(c) The business firm intends to hire at least five employees for full-time, year-round employment.

[(d)(A) The newly hired employees described in paragraph (c) of this subsection are to receive a minimum annual compensation of:]

[(i) 150 percent of the county per capita personal income of the county in]
which the facility is to be located determined as of the date of the application for preliminary certification;]

(ii) 100 percent of the county per capita personal income of the county in which the facility is to be located determined as of the date of the application for preliminary certification and the business firm will provide health insurance coverage to the employees at the facility who are described in paragraph (c) of this subsection that equals or exceeds the health insurance benefits provided to employees of the city, port or county in which the facility is to be located; or]

(iii) If the facility is to be located in a county that is outside all metropolitan statistical areas, as defined by the most recent federal decennial census, 130 percent of the county per capita personal income of the county in which the facility is to be located determined as of the date of the application for preliminary certification.]

(B) Notwithstanding subparagraph (A) of this paragraph, the average wage received by the newly hired employees must equal or exceed 100 percent of the average wage in the county.]

(d) No fewer than five of the newly hired full-time, year-round employees are to receive compensation that equals or exceeds 110 percent of the average wage where the facility is located.

(e) The business operations of the business firm that are to be conducted at the facility constitute a new business that the firm does not operate at another location in this state or, if the business firm has recently purchased the facility, the business operations are distinct from those conducted recently at the facility.

(f) The business operations of the business firm will not compete with existing businesses in the city, port or county in which the facility is to be located.

(6) If the department determines that the proposed facility, if completed as described in the application, meets the criteria set forth in subsection (5) of this section and the governing body of the city, port or county does not
object under subsection (4) of this section to preliminary certification of the firm, the department shall issue a preliminary certification to the firm.

(7) If the department determines that the proposed facility, as set forth in the application, does not meet the requirements for preliminary certification under this section, the department may not issue a preliminary certification. The applicant may appeal the decision to not issue a preliminary certification in the manner of a contested case under ORS chapter 183. No appeal may be made if the reason for not issuing a preliminary certification is the objection of the governing body of the city, port or county under subsection (4) of this section.

SECTION 14. ORS 317.391 is amended to read:

ORS 317.391. (1) As used in this section:

(a) “Business firm” has the meaning given that term in ORS 285C.500.

(b) “Certified facility” means a facility, as defined in ORS 285C.500, for which an annual certification under ORS 285C.506 has been issued.

[(1)] (2) For each tax year in which a business firm has received an annual certification for a facility under ORS 285C.506, the income of the business firm that is apportionable to the certified facility shall be exempt from tax under this chapter.

[(2)] (3) The income of a business firm that is exempt under this section shall be determined by multiplying the taxable income of the business firm (as determined before application of this section) by the sum of:

(a) 50 percent of the ratio of the payroll of the business firm from employment at the certified facility over total statewide payroll of the business firm, as determined under ORS 314.660; and

(b) 50 percent of the ratio of the average value of the property of the business firm at the certified facility over the average value of the property of the business firm statewide, as determined under ORS 314.655.

[(3)] (4) The sum computed under subsection [(2)] (3) of this section shall be the amount of the business firm’s income that is exempt from tax under
this chapter, **up to but not exceeding a maximum of $10 million for each tax year.**

[(4) As used in this section:]

[(a) “Business firm” has the meaning given that term in ORS 285C.500.]

[(b) “Certified facility” means a facility, as defined in ORS 285C.500, for which an annual certification under ORS 285C.506 has been issued.]

**SECTION 15.** ORS 285B.626 is amended to read:

285B.626. As used in ORS 285B.625 to 285B.632:

(1) “County or state wage” means the average wage:

(a) Where a regionally significant industrial site is located; and

(b) For all employment, unless the Oregon Business Development Department has adopted a rule limiting “county or state average wage” to mean the average wage for private sector employment only.

[(1) “Eligible employer” means an employer that:]

[(a) Is conducting a traded sector business on a regionally significant industrial site; and]

[(b)(A) With respect to a rural site, has hired at least 25 full-time employees whose wages average at least 150 percent of the county or state average wage, whichever is less; or]

[(B) With respect to an urban site, has hired at least 50 full-time employees whose wages average at least 150 percent of the county or state average wage, whichever is less.]

(2) “Eligible employer” means an employer that is conducting business in a traded sector industry on a regionally significant industrial site at which, following the site’s designation under ORS 285B.627, one or more eligible employers have cumulatively hired:

(a) At least 50 full-time equivalent employees whose compensation averages at least 150 percent of the county or state wage; or

(b) If the site is located in a rural area, at least 25 full-time equivalent employees whose compensation averages at least 130 percent of the county or state wage.
“Estimated incremental income tax revenues” means the Oregon personal income tax revenues that are equivalent to the amount of tax that employees of an eligible employer [who are hired by the eligible employer on a designated regionally significant industrial site] have paid under ORS chapter 316 in the tax years following the first tax year in which the eligible employer begins conducting a traded sector business on [the] a designated regionally significant industrial site.

“Industrial use” means employment activities, including but not limited to manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, importation, distribution, transshipment and research and development, that generate income from the production, handling or distribution of goods or services, including goods or services in the traded sector.

“Project sponsor” means:

(a) A public owner of a regionally significant industrial site that is investing in preparation of the site for industrial use by a third party; or

(b) A public entity that has entered into a development or other agreement with the private owner of a regionally significant industrial site to prepare the site for industrial use.

“Regionally significant industrial site” means a site planned and zoned for industrial use that:

(a)(A) Is suitable for the location of new industrial uses or the expansion of existing industrial uses and that can provide significant additional employment in the region;

(B) Has site characteristics that provide significant competitive advantages that are difficult or impossible to replicate in the region; and

(C) Has superior access to transportation and freight infrastructure, including but not limited to rail, port, airport, multimodal freight or transshipment facilities and other major transportation facilities or routes; or

(b) Is located in an area designated by Metro, as defined in ORS 197.015, as a regionally significant industrial area.

“Rural site” means a regionally significant industrial site located in
an area outside of a metropolitan statistical area, as defined by the most recent federal decennial census."

(7) “Traded sector” has the meaning given that term in ORS 285A.010.

(8) “Urban site” means a regionally significant industrial site located in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

(9) “Wage” has the meaning given that term pursuant to rules adopted by the Oregon Business Development Department.

SECTION 16. ORS 285C.090 is amended to read:

285C.090. (1) An enterprise zone must be located in a local area in which:

(a) Fifty percent or more of the households have incomes below 80 percent of the median income of this state, as defined pursuant to the most recent federal decennial census;

(b) The unemployment rate is at least 2.0 percentage points greater than the comparable unemployment rate for this entire state, as defined by the most recently available data published or officially provided and verified by the United States Government, the Employment Department, the Portland State University Population Research Center or special studies conducted under a contract with a regional academic institution; or

(c) The Oregon Business Development Department determines on a case-by-case basis using evidence provided by the cities, counties or ports designating the enterprise zone that there exists a level of economic hardship at least as severe as that described in paragraph (a) or (b) of this subsection. The evidence must be based on the most recently available data from official sources and may include a contemporary decline of the population in the enterprise zone, the percentage of persons in the enterprise zone below the poverty level relative to the percentage of the entire population of this state below the poverty level or the unemployment rate for the county or counties in which the enterprise zone is located.

(2)(a) An urban enterprise zone may consist of a total area of not more
than 12 square miles in size.

(b) A rural enterprise zone may consist of a total area of not more than 15 square miles in size.

(c) For purposes of this subsection, the area of the zone must be calculated by excluding that portion of the zone that lies below the ordinary high water mark of a navigable body of water.

(3) Except as provided in subsection (4) of this section:

(a) An urban enterprise zone must have 12 miles or less, and a rural enterprise zone must have 15 miles or less, as the greatest distance between any two points within the zone; and

(b) Unconnected areas of an enterprise zone may not be more than five miles apart.

(4) Unconnected areas of a rural enterprise zone may not be more than 15 miles apart when an unconnected area is entirely within a sparsely populated county, and the zone:

(a) Must have 20 miles or less as the greatest distance between any two points within the zone, if only a portion of the zone is contained within a sparsely populated county; or

(b) Must have 25 miles or less as the greatest distance between any two points within the zone, if the zone is entirely contained within a sparsely populated county.

(5) This section does not apply to the designation or redesignation of a reservation enterprise zone or a reservation partnership zone.

SECTION 17. ORS 285C.500 is amended to read:

285C.500. As used in ORS 285C.500 to 285C.506, and in addition to the definitions under ORS 285A.010 applicable to ORS chapter 285C:

(1) “Business firm” has the meaning given that term in ORS 285C.050.

(2) “County per capita personal income” means the most recently available per capita personal income level published by the Bureau of Economic Analysis of the United States Department of Commerce for a county.

(3) “County unemployment rate” means the most recently available un-
employment rate for the county, as determined by the Employment Depart-
ment.

(4) “Facility” means the land, real property improvements and personal
property that are used by a business firm to conduct business operations, and
that are the subject of an application for preliminary certification under
ORS 285C.503 or annual certification under ORS 285C.506.

(5) “Qualified location” means any area in this state that is:
(a) Zoned for industrial use or is within the urban growth
boundary of a city that has 15,000 or fewer residents; and
(b) Located in a county that, during either of the two years preceding in
the most recent year for which annual statistics are available, as of
the date an application for preliminary certification is filed under ORS
285C.503, or in one of the two immediately prior years, had both:
(A) A county unemployment rate that was in the top half of county un-
employment rates in this state; and
(B) A county per capita personal income that was in the bottom half of
county per capita personal incomes in this state.

(6) “Urban growth boundary” means an urban growth boundary contained
in a city or county comprehensive plan that has been acknowledged by the
Land Conservation and Development Commission pursuant to ORS 197.251
or an urban growth boundary that has been adopted by a metropolitan ser-
vice district under ORS 268.390 (3).

SECTION 18. ORS 317.124 is amended to read:
317.124. (1) As used in this section:
(a) “Facility” has the meaning given that term in ORS 285C.400.
(b) “Payroll costs” means the costs of paying employee salary, wages and
other remuneration in cash or property, and employee benefit costs, includ-
ing but not limited to workers’ compensation, health, life or other insurance
premium payments, payroll taxes and contributions to pension or other re-
tirement plans.
(2) A taxpayer that owns a facility that is exempt from property tax under
ORS 285C.409 may claim a tax credit under this section against the taxes that are otherwise due under this chapter.

(3) The credit may be claimed over a period of consecutive tax years elected by the taxpayer:

(a) That must commence on or after the tax year in which the facility is placed in service and no later than the tax year beginning in the third calendar year after the year in which the facility is placed in service;

(b) The duration of which must be at least five tax years and no more than 15 tax years; and

(c) The duration of which must be established in writing by the Governor (pursuant to a request made by the taxpayer) prior to the date on which a return claiming the credit is filed.

(4) The amount of the credit for a tax year shall equal 62.5 percent of the payroll costs of the taxpayer for that tax year that are attributable to employment at the facility.

(5) The credit computed under subsection (4) of this section may be offset only against the qualified tax liability of the taxpayer, as determined under this subsection. To compute the qualified tax liability of the taxpayer:

(a) Subtract the tax credit threshold amount determined under subsection (7) of this section from the tax liability of the taxpayer under this chapter; and

(b) Multiply the difference determined under paragraph (a) of this subsection by the apportionment factor determined under subsection (6) of this section.

(6)(a) The apportionment factor to be used in computing the qualified tax liability of the taxpayer under subsection (5) of this section shall be a fraction, the numerator of which is income of the facility for the fiscal year of the taxpayer that ends in the tax year for which the qualified tax liability of the taxpayer is being computed, and the denominator of which is the total Oregon income of the taxpayer for the fiscal year of the taxpayer that ends in the tax year for which the qualified tax liability of the taxpayer is being
computed. For purposes of this computation, income shall be determined in accordance with generally accepted accounting principles and shall be reviewed by an independent public accountant in a review that is conducted in accordance with the Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

(b)(A) If no data are prepared that meet the accounting and review standards set forth in paragraph (a) of this subsection, the apportionment factor shall be a fraction, the numerator of which is the sum of the intrastate payroll factor and the intrastate property factor, and the denominator of which is two.

(B) The intrastate payroll factor is a fraction, the numerator of which is the total amount paid for compensation at the qualifying facility during the tax year for which the qualified tax liability of the taxpayer is being computed, and the denominator of which is the total amount of compensation paid in this state during that tax year.

(C) The intrastate property factor is a fraction, the numerator of which is the average net book value of the facility for the tax year for which the qualified tax liability of the taxpayer is being computed, and the denominator of which is the average net book value of all real and tangible personal property owned or rented by the taxpayer in this state for that tax year.

(7) The tax credit threshold amount for the tax year for which the qualified tax liability of the taxpayer is being computed equals:

(a) $1 million; or

(b) If the facility is one described in ORS 285C.412 (2) [or (3)], the lesser of $1 million or:

(A) If the facility is one described in ORS 285C.412 [(2)(c)(A)] (2)(d)(C), $10,000 multiplied by the number of verified full-time employees at the facility;

(B) If the facility is one described in ORS 285C.412 [(2)(c)(B)] (2)(d)(B), $12,500 multiplied by the number of verified full-time employees at the facility; or
(C) If the facility is one described in ORS 285C.412 [(3)] (2) but not otherwise described under this paragraph, $15,000 multiplied by the number of verified full-time employees at the facility.

(8) A tax credit computed under this section for any one tax year may not exceed the qualified tax liability of the taxpayer for the tax year.

(9) Any tax credit otherwise allowable under this section that is not used by the taxpayer in a particular tax year may be carried forward and offset against the taxpayer’s qualified tax liability for the next succeeding tax year. Any credit remaining unused in the next succeeding tax year may be carried forward and used against the taxpayer’s qualified tax liability for the second succeeding tax year. Any credit remaining unused in the second succeeding tax year may be carried forward and used against the taxpayer’s qualified tax liability for the third succeeding tax year. Any credit remaining unused in the third succeeding tax year may be carried forward and used against the taxpayer’s qualified tax liability for the fourth succeeding tax year. Any credit remaining unused in the fourth succeeding tax year may be carried forward and used against the taxpayer’s qualified tax liability for the fifth succeeding tax year, but may not be used in any tax year thereafter.

(10) A tax credit allowed under this section is not in lieu of any deduction for depreciation, amortization, payroll costs or any other expense to which the taxpayer may be entitled.

SECTION 19. (1) The amendments to ORS 285B.600 by section 5 of this 2019 Act apply to applications approved under ORS 285B.605 on or after the effective date of this 2019 Act.

(2) The amendments to ORS 285C.050, 285C.160 and 285C.165 by sections 6 to 8 of this 2019 Act apply to written agreements:

(a) Executed under ORS 285C.160 on or after the effective date of this 2019 Act; or

(b) Previously executed on or after October 6, 2017, and amended on or after the effective date of this 2019 Act.

by sections 9 to 12 of this 2019 Act apply to written agreements:

(a) Executed under ORS 285C.403 (3)(c) on or after the effective date of this 2019 Act; or

(b) Amended on or after the effective date of this 2019 Act with respect to exemptions initially allowed on or after October 6, 2017.

(4) The amendments to ORS 285C.503 by section 13 of this 2019 Act apply to applications for preliminary certification filed under ORS 285C.503 on or after July 1, 2017.

(5) The amendments to ORS 317.391 by section 14 of this 2019 Act apply to applications for certification approved under ORS 285C.506 on or after the effective date of this 2019 Act.

(6) The amendments to ORS 285B.626 by section 15 of this 2019 Act apply to determinations of estimated incremental income tax revenues made under ORS 285B.630 on or after the effective date of this 2019 Act.

SECTION 20. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assemblyadjourns sine die.
SUMMARY

Amends industrial site readiness program to allow Oregon Business Development Department to enter into tax reimbursement arrangements for eligible site preparation costs with private owners. Limits reimbursement for private owners to 50 percent of eligible site preparation costs. Excludes certain acquisition and assembly costs from eligible site preparation costs of private owners.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to industrial site readiness; creating new provisions; amending ORS 285B.626 and 285B.627; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 285B.626 is amended to read:

285B.626. As used in ORS 285B.625 to 285B.632:

(a) [Is] Are conducting a traded sector business on a regionally significant industrial site; and

(b)(A) With respect to a rural site, [has] have hired at least 25 full-time employees whose wages average at least [150] 130 percent of the county or state average wage, whichever is less; or

(B) With respect to an urban site, [has] have hired at least 50 full-time employees whose wages average at least [150] 130 percent of the county or state average wage, whichever is less.

(2) “Estimated incremental income tax revenues” means the Oregon personal income tax revenues that are equivalent to the amount of tax that

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
employees of an eligible employer who are hired by the eligible employer on
a designated regionally significant industrial site have paid under ORS
chapter 316 in the tax years following the first tax year in which the eligible
employer begins conducting a traded sector business on the designated re-
gionally significant industrial site.

(3) “Industrial use” means employment activities, including but not lim-
ited to manufacturing, assembly, fabrication, processing, storage, logistics,
warehousing, importation, distribution, transshipment and research and de-
velopment, that generate income from the production, handling or distrib-
ution of goods or services, including goods or services in the traded sector.

(4) “Project sponsor” means:

(a) A public owner of a regionally significant industrial site that is in-
vesting in preparation of the site for industrial use by a third party; or

(b) A public entity that has entered into a development or other agree-
ment with the private owner of a regionally significant industrial site to
prepare the site for industrial use using public or private funds.

(5) “Regionally significant industrial site” means a site planned and zoned
for industrial use that:

(a)(A) Is suitable for the location of new industrial uses or the expansion
of existing industrial uses and that can provide significant additional em-
ployment in the region;

(B) Has site characteristics that provide significant competitive advan-
tages that are difficult or impossible to replicate in the region; and

(C) Has superior access to transportation and freight infrastructure, in-
cluding but not limited to rail, port, airport, multimodal freight or trans-
shipment facilities and other major transportation facilities or routes; or

(b) Is located in an area designated by Metro, as defined in ORS 197.015,
as a regionally significant industrial area.

(6) “Rural site” means a regionally significant industrial site located in
an area outside of a metropolitan statistical area, as defined by the most
recent federal decennial census.

[2]
(7) “Traded sector” has the meaning given that term in ORS 285A.010.

(8) “Urban site” means a regionally significant industrial site located in a metropolitan statistical area, as defined by the most recent federal decennial census, that is located inside a regional or metropolitan urban growth boundary.

(9) “Wage” has the meaning given that term pursuant to rules adopted by the Oregon Business Development Department.

SECTION 2. ORS 285B.627 is amended to read:

ORS 285B.627. (1) In consultation with the Department of Revenue, the Oregon Business Development Department shall establish and administer the Oregon Industrial Site Readiness Program. The purpose of the program is to:

(a) Enter into tax reimbursement arrangements with qualified project sponsors or private owners or both pursuant to subsection (5) of this section; or

(b) Provide loans, including forgivable loans, to qualified project sponsors pursuant to subsection (5) of this section.

(2)(a) Subject to standards and procedures that the Oregon Business Development Department shall establish by rule, the department shall designate regionally significant industrial sites for inclusion in the program.

(b) A regionally significant industrial site designated under this section must be an industrial site that is planned and zoned for industrial use.

(3) A project sponsor may apply to participate in the program by submitting an application and development plan in writing in a form prescribed by the department by rule.

(4) The department shall establish by rule criteria and standards for the qualification of project sponsors to participate in the program.

(5) Upon qualification of a project sponsor under this section, and before July 1, 2023, the department may take either of the following actions:

(a)(A) Subject to subparagraph (B) of this paragraph, enter into a tax reimbursement arrangement with the project sponsor or private owners or both pursuant to which the project sponsor or private owners or both
shall receive an amount equal to 50 percent of the estimated incremental income tax revenues generated by an eligible employer per tax year, beginning with the first tax year following the tax year in which a project sponsor is qualified under this section, until the total investment of the qualified project sponsor in the eligible site preparation costs, including interest, established under subsection (7) of this section has been recovered, at which time the tax reimbursement arrangement shall end.

(B) Private owners may be reimbursed under this paragraph in an amount that does not exceed 50 percent of the private owners’ eligible site preparation costs. Private owners’ eligible site preparation costs may not include acquisition and assembly costs described in subsection (7)(a) of this section.

(b) Enter into a loan agreement with the project sponsor under terms and conditions specified and required by the department. In making a determination to enter into a loan agreement with the project sponsor, the department shall consider the reasonableness of the project sponsor’s estimated costs to prepare the site for industrial use, including but not limited to eligible site preparation costs established by the department pursuant to subsection (7) of this section. The agreement may specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with an eligible employer to conduct a business in the traded sector industry on a regionally significant industrial site within seven years after the project sponsor was qualified under this section.

(6)(a) A loan agreement entered into under subsection (5)(b) of this section may specify that a portion of the loan may be forgiven if the project sponsor enters into a contract with an eligible employer to conduct a business in the traded sector industry on a regionally significant industrial site within seven years after the project sponsor was qualified under this section.

(b) The total amount of the loan that may be forgiven under this subsection [(5) of this section] is the lesser of:
(A) Fifty percent of the total cost of eligible site preparation costs; or
(B) Fifty percent of the amount of the estimated incremental income tax revenues for the eligible employer for the term of the loan.

[(b)] (c) Loan forgiveness may not be allowed under this subsection [(5) of this section] if any portion of the loan that would not be forgiven would be repaid by the project sponsor with state funds received from any source.

(7) The department shall establish, by rule, eligible site preparation costs including, but not limited to, some or all of the following:

(a) Acquisition and assembly costs associated with creating large development parcels.
(b) Transportation improvements such as access roads, intersections, turning lanes, signals, sidewalks, curbs, transit stops and storm drains.
(c) Water and sewer infrastructure.
(d) Natural resource mitigation.
(e) Site grading activities.
(f) Environmental remediation and mitigation activities to address brownfields issues in accordance with state and federally approved remediation plans.
(g) Planning, engineering and administrative costs associated with applying for necessary local, state and federal permits.
(h) Interest-carrying costs incurred by a project sponsor for amounts borrowed to develop a regionally significant industrial site, not to exceed 20 percent of the total amount forgiven, if any, under subsection [(5)] (6) of this section.

(8) The total amount of tax reimbursement arrangements and loan amounts authorized under this section may not exceed $10 million per year.

(9) Funds received pursuant to a tax reimbursement arrangement or a loan agreement under subsection (5) of this section may not be used for the payment of:

(a) A penalty or fine; or
(b) Environmental remediation activities conducted at a regionally sig-
significant industrial site that is listed or proposed to be listed as a national priority pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605) for which the project sponsor, eligible employer or any party to the tax reimbursement arrangement or loan agreement is liable under 42 U.S.C. 9607 at that regionally significant industrial site.

(10) The department shall adopt rules to administer and implement the provisions of this section.

SECTION 3. The amendments to ORS 285B.626 and 285B.627 by sections 1 and 2 of this 2019 Act apply to tax reimbursement arrangements and loan agreements entered into on or after the effective date of this 2019 Act.

SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

[6]
SUMMARY

Makes program changes to Oregon Innovation Council statutes.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to innovation-based economic development; creating new provisions;
amending ORS 276A.253, 284.701, 284.706, 284.711, 284.715, 284.720, 284.740,
284.742, 284.746, 284.747, 293.115 and 293.731; repealing ORS 284.725,
284.730 and 284.735; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 284.701 is amended to read:

284.701. As used in ORS 284.701 to 284.749:

[(1) “Clean energy” means a technology, product, process or innovation that
involves conservation of natural resources, solar energy, green building pro-
ducts and services, biofuels, biomass energy, bio-based products or other
renewable and sustainable energy.]  

[(2)] (1) “Innovation-based economic development” includes, but is not
limited to, a technology, product, process or innovation that:

(a) Derives from and supports innovation and research;

(b) Promotes Oregon’s market capacities and competitive advantages;

(c) Involves technology-based innovation;

(d) Facilitates the creation of new products, processes and services that
retain and create high-wage jobs;

(e) Involves the establishment of partnerships between and collaboration

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.
with research institutions, the private sector and public entities; and

(f) Endeavors to transfer innovative technologies to the private sector or
to commercialize innovative research and development[; and].

[(g) Includes, but is not limited to, clean energy and clean energy economic
development.]

[(3) (2) “Oregon growth business” means:

(a) An individual, group of individuals or private sector business entity,
including but not limited to a partnership, limited liability company, corpo-
ration, firm, association or other business entity, that engages in business
that furthers innovation-based economic development, that has the capacity,
upon obtaining appropriate capital, to generate significant high-skill, high-
wage employment in Oregon and that conducts business in Oregon; or

(b) An emerging growth business consisting of an individual or group of
individuals or a new or small company, including but not limited to any new
or small partnership, limited liability company, corporation, firm, association
or other business entity, that has the capacity, upon obtaining appropriate
capital, to generate significant high-skill, high-wage employment.

[(4) (3) “Public entity” means any agency of the federal or state govern-
ment, county, city, town, public corporation or political subdivision in this
state.

[(5) (4) “Research institution” means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University public corporation created
under ORS 353.020;

(d) An Oregon-based, generally accredited, not-for-profit private institu-
tion of higher education;

(e) A federal research laboratory conducting research in Oregon;

(f) A private not-for-profit research institution located in Oregon;

(g) An institution for higher education as defined in ORS 289.005; or

(h) A private institution of higher education located in Oregon.

[2]
“Traded sector” has the meaning given that term in ORS 285A.010.

SECTION 2. ORS 284.706 is amended to read:

284.706. (1) There is created the Oregon Innovation Council consisting of the following voting members:

(a) The Governor or the Governor’s designated representative, who shall be chairperson of the council.

(b) Seven members appointed by the Governor who are experienced entrepreneurs or investors or are engaged in the operations of Oregon traded sector industries or Oregon growth businesses.

(c) One member appointed by the Governor who is a representative of an Oregon-based, generally accredited, not-for-profit private institution of higher education.

(d) Two members appointed by the Governor who represent Oregon-based higher education. Members may include a representative of an Oregon-based, generally accredited community college or, a public university listed in ORS 352.002 or an Oregon-based, generally accredited, not-for-profit private institution of higher education.

(e) A member of the Oregon Growth Board, appointed by the board, who is experienced in making direct investments in new growth-based companies.

(f) A private sector member of the State Workforce and Talent Development Board.

(g) The Director of the Oregon Business Development Department or a designee of the director.

(h) The executive director of the Higher Education Coordinating Commission.

(i) The State Treasurer.

(2)(a) The Speaker of the House of Representatives shall appoint two members to the council who are members of the House of Representatives.

(b) The President of the Senate shall appoint two members to the council
who are members of the Senate.

c) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

(3) The presiding officer of the Oregon Business Development Commission shall serve as an ex officio, nonvoting member of the council.

(4) The term of office of each appointed voting member of the council is [two] three years, but an appointed member serves at the pleasure of the appointing authority. Before the expiration of the term of an appointed voting member, the appointing authority shall appoint a successor whose term begins on July 1 next following. An appointed member is eligible for reappointment for [one additional term] two additional terms. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective for the remainder of the unexpired term.

(5) A majority of the [voting members] actual membership of the council at the time of a meeting constitutes a quorum for the transaction of business.

(6) Official action by the council requires the approval of a majority of the [voting members] actual membership of the council at the time of the meeting.

(7) The council shall meet at least four times per fiscal year at a place, day and time determined by the chairperson. The council may also meet at other times and places specified by a call of the chairperson or by written request of a majority of the voting members of the council.

(8) The council may adopt rules necessary for the operation of the council.

(9) The council shall establish an audit [and accountability] committee that shall monitor performance of council contracts and [benchmark Oregon’s performance against nationally accepted innovation metrics] of any grant agreement for an amount in excess of $150,000.

(10) The council may establish other committees and delegate to the committees duties as the council considers desirable.
(11) The Oregon Business Development Department shall provide staff support to the council.

(12) Members of the council who are members of the Legislative Assembly are entitled to compensation and expense reimbursement as provided in ORS 171.072.

(13) Members of the council who are not members of the Legislative Assembly are entitled to compensation and expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495. Claims for compensation and expenses of members of the council who are public officers shall be paid out of funds appropriated to the public agency that employs the member. Claims for compensation and expenses of members of the council who are not public officers shall be paid out of funds appropriated to the Oregon Business Development Department for that purpose.

(14) All agencies of state government, as defined in ORS 174.111, are directed to assist the council in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the council consider necessary to perform their duties.

**SECTION 3.** ORS 284.711 is amended to read:

284.711. (1) The Oregon Innovation Council shall provide advice to the Governor, the Legislative Assembly, research institutions, public agencies that [provide] support economic development and the private sector on issues related to:

(a) Promoting the commercialization of research from the private sector, universities and colleges, including investments in signature research centers where Oregon has a distinct or emerging advantage;

(b) Stimulating seed and start-up capital investment and entrepreneurial capacity that will promote economic growth in Oregon traded sector industries or Oregon growth businesses; and

(c) Developing the entrepreneurial and management capacity critical to
the competitiveness of Oregon traded sector industries or Oregon growth
businesses in rapidly growing global markets.

(2) The council, the Oregon Business Development Commission, the
Higher Education Coordinating Commission and the office of the State
Treasurer shall coordinate policies and programs related to the duties of the
council.

(3) Based on the state plan developed under ORS 284.715, on grants,
loans and equity investments made under ORS 284.742 and on other
relevant data and information, and subject to the approval of the Oregon
Business Development Department, the council may distribute moneys in the
Oregon Innovation Fund by grant [or], loan or equity investment or pur-
suant to contracts with research institutions, the private sector and public
entities.

(4) The council may assess and charge fees for making grants, [or] loans
or equity investments under ORS 284.742.

SECTION 4. ORS 284.715 is amended to read:

ORS 284.715. (1) The Oregon Innovation Council shall develop a state plan for
innovation and economic competitiveness. The plan shall include policy and
program recommendations to:

(a) Identify and expand the state’s industry and core research strengths
related to Oregon traded sector industries, Oregon growth businesses and
higher education that have the highest potential for commercialization and
economic impact;

(b) Enhance the entrepreneurial ecosystem that promotes the development
and growth of new innovation-based businesses and assists existing busi-
nesses in developing new products;

(c) Stimulate seed and start-up capital investment and entrepreneurial
capacity that will promote innovation-based economic development in Oregon
traded sector industries or Oregon growth businesses; and

(d) Develop an innovation [and entrepreneurial] index that benchmarks
Oregon to national averages [and other states, and that tracks two-year and
five-year progress toward these performance metrics] on a variety of innovation metrics.

(2) The council shall complete the plan [by December 31, 2015, and update the plan] every biennium.

(3) Each [year] biennium, the council shall report to the Governor and the Legislative Assembly about the plan.

SECTION 5. ORS 284.720 is amended to read:

284.720. (1) There is created within the State Treasury, separate and distinct from the General Fund, the Oregon Innovation Fund. Interest earned by the Oregon Innovation Fund shall be credited to the fund.

(2) Moneys in the Oregon Innovation Fund shall consist of:

(a) Amounts donated to the fund;

(b) Amounts appropriated or otherwise transferred to the fund by the Legislative Assembly;

(c) Investment earnings received on moneys in the fund; and

(d) Other amounts deposited in the fund from any source.

(3) Moneys in the fund are continuously appropriated to the Oregon Innovation Council for the purposes of making grants [and], loans and equity investments under ORS 284.742 and, subject to the approval of the Oregon Business Development Department, entering into contracts and grant agreements to carry out the recommendations included in the state plan developed under ORS 284.715.

(4) The council may establish accounts and subaccounts within the fund when the council determines that accounts or subaccounts are necessary or desirable and may credit any interest or income derived from moneys in the fund to any account or subaccount in the fund.

(5) The council may use moneys in the fund to pay the administrative costs associated with the fund and with making grants, loans, equity investments and other distributions of moneys from the fund.

SECTION 6. ORS 284.740 is amended to read:

284.740. (1) The Oregon Innovation Council may establish one or more
signature research centers to maximize collaborative ventures among re-
search institutions, public entities and Oregon growth businesses that will
capitalize on opportunities to obtain private and federal funding for the re-
search and development of innovation-based economic development.

(2) The council may contract with [a nonprofit entity] **nonprofit or other**
entities for the administration of [the] **one or more** centers.

(3) Signature research centers, Oregon growth businesses and research
institutions contracting to engage in innovation-based economic develop-
ment, to conduct research within a signature research center or to engage
in other business endeavors, as defined by the Oregon Innovation Council
by rule, may receive grants and loans from moneys in the Oregon Innovation
Fund created under ORS 284.720 [or the Oregon Commercialized Research
Fund created under ORS 284.725].

**SECTION 7.** ORS 284.742 is amended to read:

284.742. (1) Subject to the approval of the Oregon Business Development
Department, the Oregon Innovation Council may make grants [and], loans
and **equity investments** from the Oregon Innovation Fund created under
ORS 284.720 to fund proposals that have as their principal objectives:

(a) The establishment of partnerships between, and collaborations with,
research institutions and Oregon growth businesses for innovation-based
economic development; or

(b) The transfer of innovation-based economic development technology to
the private sector or the commercialization of innovation-based economic
development research and [related] development in Oregon.

(2)(a) **The council may contract with one or more management**
companies to manage equity investments for purposes of this section
and the programs funded by the Oregon Innovation Fund created un-
der ORS 284.720.

(b) **A contract entered into under this subsection may be:**

(A) A partnership agreement under which the council is the limited
partner and the management company is the general partner; or

[8]
(B) Another form of payment or profit-sharing arrangement under which the council may receive payment or another form of return in exchange for the council’s investment.

(c) A contract entered into under this subsection shall require any management company managing investments pursuant to this subsection to:

(A) Manage the investments subject to the policies and procedures and investment directives and strategies of the council or, if requested by the council, the Oregon Growth Board, with the care, skill and diligence that a prudent investor acting in a similar capacity and familiar with such investments would use in managing the investments; and

(B) Invest in Oregon an amount that is at least equal to the amount of the principal transferred from the Oregon Innovation Fund to the management company for investment.

[(2)(a)] (3)(a) To qualify for a grant [or], loan or equity investment under subsection (1) of this section, a proposal must be submitted to the Oregon Innovation Council in the manner and with a fee as may be prescribed by rule.

(b) [All proposals for funding under subsection (1) of this section must establish return on investment criteria and performance measures as prescribed by rule.] All proposals funded under subsection (1) of this section must include performance metrics or reporting requirements or both, as prescribed by rule.

[(3)] (4) [The Oregon Innovation Council shall make recommendations to the department for rules to be adopted by the department to administer the provisions of this section.] The Oregon Business Development Department may adopt rules to implement programs recommended by the council to administer the provisions of this section or for other activities recommended by the council to promote innovation-based economic development.
SECTION 8. ORS 284.725, 284.730 and 284.735 are repealed.

SECTION 9. ORS 293.115 is amended to read:

293.115. The following moneys shall be separate and distinct from the General Fund:

(1) Moneys paid into the State Treasury for fiduciary purposes and moneys that are in trust funds, as defined in ORS 291.002.

(2) Moneys by law directed and required to be placed by the State Treasurer to the credit of:

   (a) The Agricultural College Fund principal and the interest accruing from the investment thereof.
   (b) The Burbank Trust Fund and the interest accruing from the investment thereof.
   (c) The Common School Fund and the interest accruing from the investment thereof.
   (d) The Industrial Accident Fund under ORS 656.632 and the interest accruing from the investment thereof.
   (e) The Consumer and Business Services Fund under ORS 705.145 and the interest accruing from the investment thereof.
   (f) The Workers’ Benefit Fund created in ORS 656.605 and the interest accruing from the investment thereof.
   (g) The University of Oregon Villard Endowment Interest Fund.

   [(h) The Oregon Commercialized Research Fund created by ORS 284.725 and the interest accruing from the investment thereof.]

   [(i)] (h) The Oregon Innovation Fund created by ORS 284.720 and the interest accruing from the investment thereof.

(3) All sums received by the state from the federal government from forest reserves, rentals, sales of timber and other sources from forest reserves, under ORS 293.560 and the interest accruing from the investment thereof.

(4) All sums received from the five percentum of sales of public lands and apportioned under ORS 272.085 and the interest accruing from the investment thereof.
(5) All sums received from the federal government under ORS 293.565 to 293.575 under the Mineral Leasing Act, the federal Flood Control Act and the Taylor Grazing Act and the interest accruing from the investment thereof.

(6) Any other funds or accounts created by law that are not specifically established in the law creating them as funds or accounts in the General Fund.

SECTION 10. ORS 293.731 is amended to read:

293.731. Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS 293.726, the Oregon Investment Council shall formulate policies for the investment and reinvestment of moneys in the investment funds and the acquisition, retention, management and disposition of investments of the investment funds. The council, from time to time, shall review those policies and make changes therein as it considers necessary or desirable. The council may formulate separate policies for any fund included in the investment funds. This section does not apply to the Oregon Growth Account, the Oregon Growth Fund, the Oregon Growth Board, [the Oregon Commercialized Research Fund,] the Oregon Innovation Fund or the Oregon Innovation Council.

SECTION 11. ORS 276A.253 is amended to read:

276A.253. (1)(a) The State Chief Information Officer shall maintain and make available an Oregon transparency website. The website must allow any person to view information that is a public record and is not exempt from disclosure under ORS 192.311 to 192.478, including but not limited to information described in subsection (3) of this section. The State Chief Information Officer shall provide on the home page of the website a method for users to offer suggestions regarding the form or content of the website.

(b) The Oregon Department of Administrative Services shall assist the State Chief Information Officer in performing duties under paragraph (a) of this subsection to the extent the State Chief Information Officer deems the assistance necessary.
(2) State agencies and education service districts, to the extent practicable and subject to laws relating to confidentiality, when at no additional cost, using existing data and existing resources of the state agency or education service district and without reallocation of resources, shall:

(a) Furnish information to the Oregon transparency website by posting reports and providing links to existing information system applications in accordance with standards that the State Chief Information Officer establishes; and

(b) Provide the information in the format and manner that the State Chief Information Officer requires.

(3) To the extent practicable and subject to laws relating to confidentiality, when at no additional cost, using existing data and existing resources of the state agency or education service district and without reallocation of resources, the Oregon transparency website must contain information about each state agency and education service district, including but not limited to:

(a) Annual revenues of state agencies and education service districts;

(b) Annual expenditures of state agencies and education service districts;

(c) Annual human resources expenses, including compensation, of state agencies and education service districts;

(d) Annual tax expenditures of state agencies, including, when possible, the identity of the recipients of each tax expenditure;

(e) For each state agency, a description of the percentage of expenditures made in this state and the percentage of expenditures made outside this state under all contracts for goods or services the state agency enters into during each biennium;

(f) A prominently placed graphic representation of the primary funding categories and approximate number of individuals that the state agency or the education service district serves;

(g) A description of the mission, function and program categories of the state agency or education service district;
(h) A copy of any audit report that the Secretary of State issues for the state agency or the education service district;

(i) The local service plans of the education service districts;

(j) A copy of each report required by statute for education service districts; and

(k) A copy of all notices of public meetings of the education service districts.

(4) In addition to the information described in subsection (3) of this section:

(a) The State Chief Information Officer shall post on the Oregon transparency website notices of public meetings the state agency must provide under ORS 192.640. If the state agency maintains a website where minutes or summaries of the public meetings are available, the state agency shall provide the State Chief Information Officer with the link to the state agency website for posting on the Oregon transparency website.

(b) The State Chief Information Officer shall post on the Oregon transparency website a link for the website that the Secretary of State maintains for rules that the state agency adopts. If the state agency maintains a website where the state agency posts the rules, or where any information relating to the rules of the agency is posted, the state agency shall provide the State Chief Information Officer with the link to the website for posting on the Oregon transparency website.

(c) The State Chief Information Officer shall provide links on the Oregon transparency website for information that the State Chief Information Officer receives concerning contracts and subcontracts that a state agency or education service district enters into, to the extent that disclosing the information is allowed by law and the information is already available on websites that the state agency or education service district maintains. To the extent available, the information to which the State Chief Information Officer links under this section must include:

(A) Information on professional, personal and material contracts;

[13]
(B) The date of each contract and the amount payable under the contract;
(C) The period during which the contract is or was in effect; and
(D) The names and addresses of vendors.

(d) The State Chief Information Officer shall provide an economic development section on the Oregon transparency website for posting of information submitted to the State Chief Information Officer by state agencies responsible for administering specific economic development programs. The section shall include, but not be limited to, the following information, if it is already collected or available within an existing database maintained by the state agency in the course of administering the economic development program:

(A) The names of filmmakers or companies that have received reimbursements from the Oregon Production Investment Fund under ORS 284.368 and the amount of each reimbursement;
(B) The amount of revenue bonds issued under ORS 285A.430 for the Beginning and Expanding Farmer Loan Program, the names of persons who received loans under the program and the amount of the loan;
(C) The names of persons who received grants, [or] loans or equity investments from the Oregon Innovation Council under ORS 284.735 or 284.742 and the purpose and amount of the grant, [or] loan or equity investment;
(D) Copies of, or links to, annual reports required to be filed under ORS 285C.615 under the strategic investment program;
(E) Copies of, or links to, annual certifications required to be filed under ORS 285C.506 for the business development income tax exemption; and
(F) Information required to be posted on the Oregon transparency website under ORS 276A.256.

(e) The information reported under paragraph (d) of this subsection:
(A) May not include proprietary information; and
(B) Shall be provided to the State Chief Information Officer by the state agency in the format and manner required by the State Chief Information
(f) The State Chief Information Officer shall post on the Oregon transparency website information describing the process for requesting copies of public records from a public body, including a link to the public records section of the Department of Justice webpage. At the request of a state agency or education service district, the State Chief Information Officer shall include a link to a location on the webpage of the agency or district that describes the process for requesting public records from the agency or district.

(5) In operating, refining and recommending enhancements to the Oregon transparency website, the State Chief Information Officer and the Transparency Oregon Advisory Commission created in ORS 276A.259 shall consider and, to the extent practicable, adhere to the following principles:
   (a) The website must be accessible without cost and be easy to use;
   (b) Information included on the Oregon transparency website must be presented using plain, easily understandable language; and
   (c) The website should teach users about how state government and education service districts work and provide users with the opportunity to learn something about how state government and education service districts raise and spend revenue.

(6) If a state agency or an education service district is not able to include information described in this section on the Oregon transparency website because of the lack of availability of information or cost in acquiring information, the Transparency Oregon Advisory Commission created in ORS 276A.259 shall list the information that is not included for the state agency or education service district in the commission’s report to the Legislative Assembly required under ORS 276A.259.

(7)(a) For the purpose of providing transparency in the revenues, expenditures and budgets of the following entities, the State Chief Information Officer shall include on the Oregon transparency website a page that provides links to websites established by:
(A) Local governments, as defined in ORS 174.116.
(B) Special government bodies, as defined in ORS 174.117.
(C) Semi-independent state agencies listed in ORS 182.454.
(D) Public universities listed in ORS 352.002.
(E) Public university statewide programs operated by a public university listed in ORS 352.002.
(F) The Oregon Health and Science University.
(G) The Oregon Tourism Commission.
(H) The Oregon Film and Video Office.
(I) The Travel Information Council.
(J) The Children’s Trust Fund of Oregon Foundation.
(K) Oregon Corrections Enterprises.
(L) The State Accident Insurance Fund Corporation.
(M) The Oregon Utility Notification Center.
(N) Any public corporation created under a statute of this state and specifically designated as a public corporation.

(b) The State Chief Information Officer shall include a link to an entity’s website after receiving a request from the entity and shall consider recommendations from the Transparency Oregon Advisory Commission for including other links to websites of the entities listed in paragraph (a) of this subsection.

(c) At the request of any local government, as defined in ORS 174.116, or special government body, as defined in ORS 174.117, the State Chief Information Officer shall include on the Oregon transparency website notices of public meetings required to be provided under ORS 192.640 by the local government or special government body. The local government or special government body must submit public meeting notice information in the format and manner required by the State Chief Information Officer.

(d) The office of the State Chief Information Officer shall include a prominent link on the home page of the Oregon transparency website for information posted to the page described in paragraph (a) of this subsection.
SECTION 12. ORS 284.746 is amended to read:

284.746. (1)(a) The Oregon Innovation Council, in consultation with the Oregon Business Development Department, shall determine eligibility for revenue bond financing of proposals for funding under ORS 284.742 pursuant to rules adopted by the council in consultation with the department.

(b) After determining that a proposal, grant, [or] loan or equity investment is eligible for revenue bond financing under paragraph (a) of this subsection, the department shall forward a request for the issuance of revenue bonds to the State Treasurer.

(2) The State Treasurer may issue revenue bonds subject to the budget authorization for bond issuance established under ORS 286A.035 for the department and the council for the purpose of financing or refinancing, in whole or part, grants, [and] loans and equity investments made under ORS 284.742, plus an additional amount to be estimated by the State Treasurer for payment of bond-related costs.

(3) Net proceeds of the revenue bonds issued pursuant to this section must be deposited in the Oregon Innovation Bond Fund established under ORS 284.747 for disbursement to the council to finance the making of grants, [and] loans and equity investments under ORS 284.742.

(4) Bond-related costs must be paid from the gross proceeds of the revenue bonds issued under this section and from moneys deposited in an account or subaccount of the Oregon Innovation Fund that has been established by the council specifically for this purpose.

(5) The department and the council, with the approval of the State Treasurer, may irrevocably pledge and assign all or a portion of the moneys deposited in an account or subaccount of the Oregon Innovation Fund that has been established by the council specifically for the purpose of securing revenue bonds issued under this section or credit enhancements obtained for the revenue bonds issued under this section.

(6) Revenue bonds issued under this section:

(a) Are payable from the moneys deposited in an account or subaccount
of the Oregon Innovation Fund that has been established by the council specifically for the purpose of making payments on revenue bonds issued under this section.

(b) Do not constitute a debt or general obligation of the state, the Legislative Assembly or a political subdivision of this state but are secured solely by:

(A) The moneys deposited in an account or subaccount of the Oregon Innovation Fund that has been established by the council specifically for the purpose of making payments on revenue bonds issued under this section;

(B) Amounts in a debt service reserve account established with respect to revenue bonds issued under this section; or

(C) A credit enhancement obtained for the revenue bonds issued under this section.

(7) The State Treasurer, the department and the council have no obligation to pay bond-related costs except as provided in this section. A holder of revenue bonds or other similar obligations issued under this section does not have the right to compel the exercise of the taxing power of the state to pay bond-related costs.

(8) The holders of revenue bonds issued under this section, upon the issuance of the revenue bonds, have a perfected lien on the moneys deposited in an account or subaccount of the Oregon Innovation Fund that has been established by the council specifically for the purpose of securing and making payments on revenue bonds issued under this section or credit enhancements obtained for the revenue bonds issued under this section. The lien and pledge are valid and binding from the date of issuance of the revenue bonds and are automatically perfected without physical delivery, filing or other act. The lien and pledge are superior to subsequent claims or liens on the moneys deposited in the Oregon Innovation Fund.

(9) As long as any revenue bonds issued under this section are outstanding, the provisions of this section and the provisions of a security document related to the revenue bonds are deemed to be contracts between the state
and holders of the revenue bonds. The state:

(a) May not create a lien, encumbrance or any other obligation that is superior to the liens authorized by subsection (8) of this section on the moneys in the Oregon Innovation Fund that are pledged and assigned to the payment of the revenue bonds; and

(b) May not give force or effect to a statute or initiative or referendum measure approved by the electors of this state if doing so would unconstitutionally impair existing covenants made with the holders of existing revenue bonds or would unconstitutionally impair other obligations or agreements regarding the security of revenue bonds to which the moneys deposited in the Oregon Innovation Fund are pledged and assigned.

(10) The council is authorized to establish separate accounts or subaccounts within the Oregon Innovation Fund for separate bond issues.

(11) The council may:

(a) Make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by this section, in the performance of its covenants or duties, or in order to secure the payment of revenue bonds issued under this section; and

(b) Enter into covenants for the benefit of bond holders regarding the use and expenditure of moneys in the Oregon Innovation Fund.

(12) The State Treasurer, the department or the council may appoint bond counsel as prescribed in ORS 286A.130.

SECTION 13. ORS 284.747 is amended to read:

284.747. (1) The Oregon Innovation Bond Fund is established in the State Treasury, separate and distinct from the General Fund. The net proceeds from the sale of revenue bonds issued under ORS 284.746 must be credited to the Oregon Innovation Bond Fund. Investment earnings received on moneys in the fund must be credited to the fund.

(2) Moneys in the fund are continuously appropriated to the Oregon Innovation Council for the purpose of making grants, [and] loans and equity investments under ORS 284.742.
SECTION 14. Notwithstanding the repeal of ORS 284.735 by section 8 of this 2019 Act, the State Chief Information Officer shall include in the economic development section on the Oregon transparency website required under ORS 276A.253 (4)(d) the names of persons who received grants or loans from the Oregon Innovation Council under ORS 284.735 as in effect immediately before the effective date of this 2019 Act, and the purpose and amount of the grant or loan, as long as any persons receive such grants or loans.

SECTION 15. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Prohibits employing person that employer knows, or with exercise of reasonable care should know, is not licensed or permitted to practice medical imaging modality. Prohibits making false statement on application for authorization to practice medical imaging modality if applicant knows, or with exercise of reasonable care should know, statement is false.

A BILL FOR AN ACT
Relating to medical imaging; creating new provisions; and amending ORS 688.415.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 688.415 is amended to read:

ORS 688.415. (1) A person may not:

(a) Practice a medical imaging modality or purport to be a medical imaging licensee unless the person is licensed in accordance with the provisions of ORS 688.405 to 688.605;

(b) Operate an X-ray machine as described in ORS 688.515 (1) and (2) or purport to be a limited X-ray machine operator unless the person holds a valid limited X-ray machine operator permit in accordance with the provisions of ORS 688.405 to 688.605;

(c) Practice any medical imaging modality or as a limited X-ray machine operator under a false or assumed name;

(d) [Knowingly] Employ a person for the purpose of practicing a medical imaging modality or as a limited X-ray machine operator if the employer knows, or with the exercise of reasonable care should know, that the

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
person is not licensed or does not hold a valid permit in accordance with the provisions of ORS 688.405 to 688.605;

(e) Obtain or attempt to obtain a license or permit or a renewal of a license or permit by bribery or fraudulent representation;

(f) [Knowingly] Make a false statement on an application for a license or permit or a renewal for a license or permit if the person knows, or with the exercise of reasonable care should know, that the statement is false; or

(g) Perform a medical imaging procedure on a person unless the procedure:

  (A) Serves a medical purpose;

  (B) Is ordered by a health care practitioner who is licensed to practice a profession in this state and who is acting within the scope of the licensee’s authority, as determined by the agency that licensed the licensee, to order the medical imaging procedure; and

  (C) Is interpreted by a health care practitioner who is licensed to practice a profession in this state and who is acting within the scope of the licensee’s authority, as determined by the agency that licensed the licensee, to interpret the medical imaging procedure.

(2) Subsection (1)(g) of this section does not apply to screening mammography. As used in this subsection, “screening mammography” means a radiologic procedure performed on a woman for the early detection of breast cancer.

SECTION 2. The amendments to ORS 688.415 by section 1 of this 2019 Act apply to persons employed and statements made on and after the effective date of this 2019 Act.
SUMMARY

Directs Board of Medical Imaging to adopt rules related to temporary permits for limited X-ray machine operators.
Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to medical imaging; creating new provisions; amending ORS 688.520; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 688.520 is amended to read:

688.520. (1) The Board of Medical Imaging may grant inactive status to a person who holds a license or a limited X-ray machine operator permit who notifies the board of the person’s:
    (a) Intent not to practice a medical imaging modality or subspecialty or as a limited X-ray machine operator; and
    (b) Desire to retain the right to reinstate the license or permit subject to board rules.

(2) Only medical imaging licensees who hold a credential issued by a credentialing organization or limited X-ray machine operators in good standing may retain the right to reinstate an inactive license.

(3) The board may, in certain disciplinary circumstances, issue a provisional license or provisional permit that identifies:
    (a) The specific provisions of the license and terms of converting the license from provisional status to active status;
    (b) The length of issuance; and

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(c) The specific issues that resulted in provisional status.

(4) The board may issue a restricted license for the purpose of performing hybrid imaging using a modality for which the medical imaging licensee does not hold either a primary or secondary credential if:

(a) The person holds a credential in one or more of the medical imaging modalities or subspecialties; and

(b) **The person** receives appropriate training in the limited aspects of the other modality as required by the board by rule.

(5) The board may issue an additional license to a person who:

(a) Holds a license issued by the board in one of the primary medical imaging modalities;

(b) Holds and continues to maintain a primary credential issued by a credentialing organization recognized by the board in one of the primary medical imaging modalities; and

(c) Holds and continues to maintain an additional credential issued by a credentialing organization recognized by the board in the secondary medical imaging modality for which a license is sought.

(6)(a) The board may issue a student license to a person enrolled in an approved school for the purpose of allowing the person to complete clinical training requirements.

(b) An applicant for a student license must meet the requirements of ORS 688.455 (1)(a) and (c) to (f).

(c) The board shall process student applications and shall issue student licenses at reduced fees as provided in rules adopted by the board.

(d) A student license is valid only while the student is enrolled in an approved school.

(7)(a) The board may issue a temporary license or permit upon satisfactory application and payment of a registration fee established by the board by rule.

(b) [Medical imaging license applicants, students and graduates may be issued temporary licenses] **The board may issue a temporary license** per-
taining to a specific modality or subspecialty to a medical imaging license applicant, student or graduate without examination for a limited time period as determined by the board by rule.

[(c) Limited X-ray machine operator permit applicants may be issued temporary permits for the purpose of completing clinical education requirements under the supervision of a licensed physician:]

[(A) Upon successful completion of the core module examination;]

[(B) For an initial period of six months; and]

[(C) For a single six-month renewal period, at the discretion of the board.]

(c) The board may issue a temporary limited X-ray machine operator permit to an applicant for the purpose of allowing the applicant to complete clinical education requirements. For permits issued under this paragraph, the board shall adopt rules related to:

(A) Requirements for the initial issuance of temporary permits;

(B) Supervision requirements for temporary permit holders;

(C) Completion of clinical education requirements;

(D) The duration of validity of temporary permits;

(E) Renewal of temporary permits; and

(F) The administration of temporary permits.

(8) The board may issue licenses and permits for periods other than 24 months. The fee for a license or permit issued for any period other than 24 months shall be prorated on a monthly basis.

SECTION 2. The amendments to ORS 688.520 by section 1 of this 2019 Act apply to temporary permits issued on or after the operative date specified in section 3 of this 2019 Act.

SECTION 3. (1) The amendments to ORS 688.520 by section 1 of this 2019 Act become operative on January 1, 2020.

(2) The Board of Medical Imaging may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date
specified in subsection (1) of this section, all of the duties, functions
and powers conferred on the board by the amendments to ORS 688.520
by section 1 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Abolishes Oregon Board of Naturopathic Medicine peer review committee.

A BILL FOR AN ACT

Relating to naturopathic medicine; repealing ORS 685.205.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 685.205 is repealed.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Eliminates one-day angling license. Reduces one-day angling and shellfish license fees under schedules taking effect in 2020 and 2027.

Deletes provision for temporary partial dedication of one-day angling license fee for fish restoration and enhancement programs.

Deletes provision for temporary partial dedication of one-day angling license fee to Oregon Hatchery Research Center Fund. Provides for temporary partial dedication of one-day angling and shellfish license fee.

Allows State Fish and Wildlife Commission to charge fees for certain licenses and tags that are less than amount established in fee schedule.

A BILL FOR AN ACT

Relating to licenses issued by the State Fish and Wildlife Commission;


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 497.061, as amended by section 59, chapter 779, Oregon Laws 2015, is amended to read:

497.061. (1) Except as otherwise provided for by law, the State Fish and Wildlife Commission shall charge the fees listed in the fee schedule under this section for the issuance of the specified licenses, tags and permits.

(2) Fee Schedule:

Prices shown include agent fees under ORS 497.022 and dedications of funds collected as otherwise

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
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</tr>
<tr>
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</tr>
<tr>
<td>11</td>
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<td>COMBINATION LICENSES</td>
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<td>14</td>
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<td>RESIDENT SPORTSPAC LICENSE</td>
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<td>-</td>
<td>497.132</td>
</tr>
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<td>16</td>
<td>RESIDENT SENIOR COMBINATION LICENSE</td>
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</tr>
<tr>
<td>17</td>
<td>RESIDENT PIONEER COMBINATION LICENSE</td>
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<td>YOUTH LICENSES/VALIDATIONS (ages 12-17)</td>
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<tr>
<td>23</td>
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<td>25</td>
<td>YOUTH TURKEY TAG</td>
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</tr>
<tr>
<td>26</td>
<td>YOUTH HUNT/TRAP FUR-BEARERS LICENSE</td>
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<td>31</td>
<td>GUIDE TAG — ELK</td>
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[3]
RESIDENT HUNT/TRAP FUR-BEARERS LICENSE $54.50 - 497.142

NONRESIDENT FUR-TAKERS HUNT/TRAP LICENSE $407.00 497.142

RESIDENT HUNT FUR-BEARERS LICENSE $26.00 - 497.142

PRIVATE HUNTING PRESERVE PERMIT $6.50 $14.00 497.102

OUTDOOR CLUB LICENSE $100.00 $100.00 498.418

LOP REGISTRATION $35.00 $35.00 496.146

LOP TAG REDISTRIBUTION $17.00 $17.00 496.146

OCCUPATIONAL LICENSES/PERMITS

FUR DEALER LICENSE $111.00 - 497.258

TAXIDERMIST LICENSE $111.00 - 497.258

WILDLIFE PROPAGATION LICENSE $58.00 - 497.258

FISH PROPAGATION LICENSE $151.50 - 497.258

PRIVATE HUNTING PRESERVE LICENSE $232.00 - 497.258

STURGEON PROPAGATION PERMIT $3,573.00 $3,573.00 497.325

SECTION 2. ORS 497.061, as amended by sections 59 and 61, chapter 779, Oregon Laws 2015, is amended to read:

497.061. (1) Except as otherwise provided for by law, the State Fish and Wildlife Commission shall charge the fees listed in the fee schedule under this section for the issuance of the specified licenses, tags and permits.

(2) Fee Schedule:

Prices shown include agent fees under ORS 497.022 and dedications of funds collected as otherwise prescribed by law.

<table>
<thead>
<tr>
<th>License</th>
<th>Resident Fee</th>
<th>Nonresident Fee</th>
<th>Statutory Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>ANNUAL HUNTING LICENSE</td>
<td>$34.50</td>
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[4]
<table>
<thead>
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<th></th>
<th>License Description</th>
<th>Fee</th>
<th>Validation Fee</th>
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<tbody>
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<td>1</td>
<td>Resident Senior Hunting License</td>
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<td>497.102</td>
</tr>
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<td>2</td>
<td>Resident Disabled Vet Hunter License</td>
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<td>3</td>
<td>Resident Uniformed Services</td>
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</tr>
<tr>
<td>4</td>
<td>Hunter License</td>
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<td>-</td>
<td>497.102</td>
</tr>
<tr>
<td>5</td>
<td>Nonresident Three-Day Bird License</td>
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<td>$32.50</td>
<td>497.102</td>
</tr>
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<td>6</td>
<td></td>
<td></td>
<td></td>
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<td>7</td>
<td>Hunting Tags/Validations</td>
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<td>Deer Tag</td>
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<td>Elk Tag</td>
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<td>Special Elk Tag (DV/Pioneer)</td>
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<td>Black Bear Tag</td>
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<td>12</td>
<td>Turkey Tag</td>
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<td>$90.00</td>
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<td>Antelope Tag</td>
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<td>Mountain Sheep Tag</td>
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<td>Mountain Goat Tag</td>
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<td>Fishing Licenses/Validations</td>
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<td>497.121</td>
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<td>One-Day Angling and Shellfish License</td>
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<td>Nonresident Seven-Day Angling License</td>
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<td>Annual Combined Angling Tag</td>
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<td>YOUTH LICENSE</td>
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<tr>
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<td>$5.00</td>
<td>497.121</td>
</tr>
<tr>
<td>19</td>
<td>YOUTH UPLAND BIRD STAMP</td>
<td>$4.00</td>
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<tr>
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<tr>
<td>21</td>
<td>YOUTH TURKEY TAG</td>
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</tr>
<tr>
<td>22</td>
<td>YOUTH HUNT/TRAP FUR-BEARERS LICENSE</td>
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<td>497.142</td>
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<td>24</td>
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<td>DUPLICATE CERTIFICATE FILING</td>
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<tr>
<td>26</td>
<td>GUIDE TAG — DEER</td>
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<td>$575.00</td>
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<tr>
<td>27</td>
<td>GUIDE TAG — ELK</td>
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<td>$848.00</td>
<td>497.112</td>
</tr>
<tr>
<td>28</td>
<td>RESIDENT HUNT/TRAP FUR-BEARERS LICENSE</td>
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<td>497.142</td>
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<td>31</td>
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</tr>
<tr>
<td>OUTDOOR CLUB LICENSE</td>
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<tr>
<td>LOP REGISTRATION</td>
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</tr>
<tr>
<td>LOP TAG REDISTRIBUTION</td>
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<td>496.146</td>
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</tr>
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**OCCUPATIONAL LICENSES/PERMITS**

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee 1</th>
<th>Fee 2</th>
<th>Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>FUR DEALER LICENSE</td>
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<tr>
<td>TAXIDERMIST LICENSE</td>
<td>$111.00</td>
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<td>497.258</td>
</tr>
<tr>
<td>WILDLIFE PROPAGATION LICENSE</td>
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</tr>
<tr>
<td>FISH PROPAGATION LICENSE</td>
<td>$151.50</td>
<td>-</td>
<td>497.258</td>
</tr>
<tr>
<td>PRIVATE HUNTING PRESERVE LICENSE</td>
<td>$232.00</td>
<td>-</td>
<td>497.258</td>
</tr>
<tr>
<td>STURGEON PROPAGATION PERMIT</td>
<td>$3,573.00</td>
<td>$3,573.00</td>
<td>497.325</td>
</tr>
</tbody>
</table>

**SECTION 3.** ORS 497.121 is amended to read:

ORS 497.121. (1) The State Fish and Wildlife Commission [*is authorized to]* may issue, upon application, to persons desiring to angle for fish or take shellfish the following licenses and tags and [*shall*, notwithstanding ORS 497.061, may] charge fees determined by the commission that are equal to or less than the applicable fees established for those licenses or tags under the fee schedule in ORS 497.061:

- (a) Resident annual angling license.
- (b) Nonresident annual angling license.
- (c) Nonresident angling license to angle for seven consecutive days.
- *(d) Angling license to angle for one day.*
- *(e) Angling and shellfish license to angle and take shellfish for one day.*
- *(f) Angling license to angle for two days.*
- *(g) Angling license to angle for three days.*
- *(h) Resident annual shellfish license.*
- *(i) Nonresident annual shellfish license.*
- *(j) Nonresident three-day shellfish license.*
- *(k) Two rod angling license for anglers who also hold a valid annual*
angling license.

[(L)] (k) Resident annual senior citizen angling license for persons 70 years of age or older who have resided in the state for not less than five years prior to the date of application.

[(m)] (L) Resident disabled veteran angling license for a person who files with the commission written proof that the last official certification of record by the United States Department of Veterans Affairs or by any branch of the Armed Forces of the United States shows the person to be at least 25 percent disabled.

[(n)] (m) Resident disabled veteran shellfish license for a person who files with the commission written proof that the last official certification of record by the United States Department of Veterans Affairs or by any branch of the Armed Forces of the United States shows the person to be at least 25 percent disabled.

[(o)] (m) Resident annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut.

[(p)] (o) Nonresident annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut.

[(q)] (p) Annual youth combined angling tag for persons under 18 years of age to angle for salmon, steelhead trout, sturgeon and halibut.

[(r)] (q) Renewable tag to angle for hatchery salmon and steelhead.

(2) Any person who holds a valid permanent angling license for persons who are blind or a permanent angling license for persons in a wheelchair issued by the commission before January 1, 2000, need not obtain a resident annual angling license under this section.

(3) The annual combined angling tags to angle for salmon, steelhead trout, sturgeon and halibut referred to in subsection [(1)(o), (p), (q) and (r)] of this section are in addition to and not in lieu of the angling licenses required by the wildlife laws. However, an annual combined angling tag to angle for salmon, steelhead trout, sturgeon and halibut is not required of a person who holds a valid angling license referred to in

[8]
subsection (1)(c) to [(g)] (f) of this section.

SECTION 4. ORS 497.124 is amended to read:

497.124. Notwithstanding any other provision of the wildlife laws, of the
moneys received from the sale of the following licenses, 75 cents from the
sale of each license shall be credited to the Fish Screening Subaccount under
ORS 496.303:

(1) Resident annual combination license issued under ORS 497.132.
(2) Resident annual angling license issued under ORS 497.121 (1)(a).
[(3) Angling license to angle for one day issued under ORS 497.121
(1)(d).]
[(4)] (3) Angling and shellfish license to angle and take shellfish for one
day issued under ORS 497.121 [(1)(e)] (1)(d).
[(5)] (4) Angling license to angle for two days issued under ORS 497.121
[(1)(f)] (1)(e).
[(6)] (5) Angling license to angle for three days issued under ORS 497.121
[(1)(g)] (1)(f).
[(7)] (6) Nonresident annual angling license issued under ORS 497.121
(1)(b).
[(8)] (7) Nonresident angling license to angle for seven consecutive days
issued under ORS 497.121 (1)(c).

SECTION 5. ORS 497.138 is amended to read:

497.138. Notwithstanding any other provision of the wildlife laws, of the
moneys received from the sale of the following licenses, 25 cents from the
sale of each license shall be credited to the Fish Passage Fund established
under ORS 497.139:

(1) Resident annual combination hunting and angling license issued under
ORS 497.132.
(2) Resident annual angling license issued under ORS 497.121 (1)(a).
[(3) Angling license to angle for one day issued under ORS 497.121
(1)(d).]
[(4)] (3) Angling and shellfish license to angle and take shellfish for one
day issued under ORS 497.121 [(1)(e)] (1)(d).

[(5)] (4) Angling license to angle for two days issued under ORS 497.121 [(1)(f)] (1)(e).

[(6)] (5) Angling license to angle for three days issued under ORS 497.121 [(1)(g)] (1)(f).

[(7)] (6) Nonresident annual angling license issued under ORS 497.121 (1)(b).

[(8)] (7) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c).


Sec. 4. Notwithstanding any other provision of the wildlife laws and during the period beginning January 1, 1998, and ending December 31, 2019, of the moneys received from the sale of the following licenses, the following amounts shall be deposited as provided for in ORS 496.283:

(1) Resident annual combination license issued under ORS 497.132, $4.

(2) Resident annual angling license issued under ORS 497.121 (1)(a), $4.

[(3) Angling license to angle for one day issued under ORS 497.121 (1)(d), $2.]

[(4)] (3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 [(1)(e)] (1)(d), $2.

[(5)] (4) Angling license to angle for two days issued under ORS 497.121 [(1)(f)] (1)(e), $2.

[(6)] (5) Angling license to angle for three days issued under ORS 497.121 [(1)(g)] (1)(f), $2.

[(7)] (6) Nonresident annual angling license issued under ORS 497.121 (1)(b), $10.
[8] (7) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c), $5.

SECTION 7. Section 3, chapter 734, Oregon Laws 2015, as amended by section 52, chapter 779, Oregon Laws 2015, is amended to read:

Sec. 3. Notwithstanding any other provision of the wildlife laws and during the period beginning January 1, 2016, and ending December 31, 2026, of the moneys received from the sale of the following licenses, the following amounts shall be deposited in the Oregon Hatchery Research Center Fund:

(1) Resident annual combination license issued under ORS 497.132, $1.
(2) Resident annual angling license issued under ORS 497.121 (1)(a), $1.
(3) Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(d), $0.50.
(4) Nonresident annual angling license issued under ORS 497.121 (1)(b), $1.50.
(5) Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c), $1.50.
SUMMARY

Removes sunset dates for Oregon Landowner Damage Program and access and habitat programs.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to State Department of Fish and Wildlife programs; amending section 19, chapter 659, Oregon Laws 1993, and section 5, chapter 363, Oregon Laws 2013; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 5, chapter 363, Oregon Laws 2013, is amended to read:

Sec. 5. [Sections 3 and 4 of this 2013 Act are] Section 4, chapter 363, Oregon Laws 2013, is repealed on January 2, 2020.

SECTION 2. Section 19, chapter 659, Oregon Laws 1993, as amended by section 1, chapter 246, Oregon Laws 1997, section 12, chapter 1006, Oregon Laws 1999, section 1, chapter 203, Oregon Laws 2003, section 1, chapter 291, Oregon Laws 2009, and section 17, chapter 779, Oregon Laws 2015, is amended to read:

Sec. 19. Notwithstanding any other provision of the wildlife laws [and during the period beginning January 1, 1994, and ending December 31, 2019], of the moneys received from the sale of the following licenses, the following amounts shall be deposited as provided for in ORS 496.242:

(1) Resident annual combination license issued under ORS 497.132, $4.
(2) Resident annual hunting license issued under ORS 497.102 (1)(a), $4.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(3) Nonresident annual hunting license issued under ORS 497.102 (1)(b), $4.

SECTION 3. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Increases percentage of nonresident tags issued for hunting of black bear, cougar and antelope within particular area that may be issued by drawing.

A BILL FOR AN ACT

Relating to nonresident hunting tags; amending ORS 497.112.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 497.112 is amended to read:

497.112. (1) The State Fish and Wildlife Commission [is authorized to] may issue, upon application, to persons desiring to hunt wildlife the following general tags and shall charge the applicable fees under the fee schedule in ORS 497.061:

(a) Resident annual elk tag to hunt elk.
(b) Nonresident annual elk tag to hunt elk.
(c) Special annual elk tag for holders of pioneer combination licenses or disabled veteran hunting licenses to hunt elk.
(d) Resident annual deer tag to hunt deer.
(e) Nonresident annual deer tag to hunt deer.
(f) Resident annual black bear tag to hunt black bear.
(g) Nonresident annual black bear tag to hunt black bear.
(h) Resident annual mountain sheep tag to hunt mountain sheep.
(i) Nonresident annual mountain sheep tag to hunt mountain sheep.
(j) Resident annual mountain goat tag to hunt mountain goat.
(k) Nonresident annual mountain goat tag to hunt mountain goat.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(L) Resident annual cougar tag to hunt cougar.
(m) Nonresident annual cougar tag to hunt cougar.
(n) Resident annual antelope tag to hunt antelope.
(o) Nonresident annual antelope tag to hunt antelope.
(p) Resident annual turkey tag to hunt turkey.
(q) Resident annual youth turkey tag to hunt turkey.
(r) Nonresident annual youth turkey tag to hunt turkey.
(s) Nonresident annual turkey tag to hunt turkey.
(t) Outfitter and guide annual deer tag for a nonresident to hunt deer.
(u) Outfitter and guide annual elk tag for a nonresident to hunt elk.

(2)(a) Notwithstanding ORS 496.146 (10), the commission [is authorized to] may issue each year one special tag that is auctioned to the highest bidder in a manner prescribed by the commission for each of the following:
   (A) Mountain sheep;
   (B) Antelope; and
   (C) Mountain goat.

(b) In addition to the tags referred to in paragraph (a) of this subsection, the commission [is authorized to] may issue each year one special tag that is raffled in a manner prescribed by the commission for each of the following:
   (A) Mountain sheep;
   (B) Antelope; and
   (C) Mountain goat.

(c) Moneys received under this subsection for:
   (A) Mountain sheep tags shall be placed in the Mountain Sheep Subaccount established in ORS 496.303;
   (B) Antelope tags shall be placed in the Antelope Subaccount established in ORS 496.303; and
   (C) Mountain goat tags shall be placed in the Mountain Goat Subaccount established in ORS 496.303.

(d) Notwithstanding ORS 496.146 (10), the commission, upon the recommendation of the Access and Habitat Board to fulfill the board’s charge of
providing incentives to increase public access and habitat improvements to private land, [is authorized to] **may** issue each year up to 10 elk and 10 deer tags to hunt deer or elk. The tags shall be auctioned or raffled to the highest bidder in a manner prescribed by the commission. The Access and Habitat Board, in recommending any tags, shall include a proposal as to the land on which each tag can be used and a percentage of funds received from the tags that may revert to the landowner if the tag is limited to private land. However, the percentage [cannot] **may not** be more than 50 percent and the programs must, by written agreement, provide for public access and habitat improvements.

(3) The tags referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by law.

(4) The commission may, at the time of issue only, indorse upon the tags referred to in subsection (1) of this section an appropriate designation indicating whether it is for a game animal to be taken with bow and arrow or with firearms, at the choice of the applicant. The commission may prescribe by rule that the holder of such a tag [is not authorized to] **may not** take the game animal by any other means than the tag so indorsed.

(5) Except as provided in subsection (6) of this section, a person is not eligible to obtain, in a lifetime, more than one controlled hunt tag issued by the commission to hunt mountain sheep and one controlled hunt tag issued by the commission to hunt mountain goat.

(6) A person is eligible to obtain mountain sheep tags, antelope tags or mountain goat tags described in subsection (2)(a) and (b) of this section, regardless of whether the person has previously taken a mountain sheep, antelope or mountain goat or previously obtained a mountain sheep tag, antelope tag or mountain goat tag issued pursuant to subsection (1) or (2)(a) or (b) of this section.

(7) The number of nonresident mountain goat tags and nonresident mountain sheep tags shall be decided by the commission, but:

(a) The number of nonresident mountain goat tags may not be less than
five percent nor more than 10 percent of all mountain goat tags issued.

(b) The number of nonresident mountain sheep tags may not be less than
five percent nor more than 10 percent of all mountain sheep tags issued.

[(8) The number of tags issued by drawing under subsection (1)(g), (m) and
(o) of this section shall be decided by the commission, but for each class of tag
so issued, the number may not be more than three percent of all tags of that
class issued for hunting in a particular area except one nonresident tag may
be issued for each hunt when the number of authorized tags is less than 35.]

[(9)] (8) The commission shall decide the number of tags in each class
described under subsection (1)(b), (e), (g), (m) and (o) of this section
to be issued by drawing [under subsection (1)(b) and (e) of this section shall
be decided by the commission, but for each class of tag so issued, the
number]. However, the number of tags issued by drawing in each class
may not be more than five percent of all tags of that class issued for hunting
in a particular area except one nonresident tag may be issued for each hunt
when the number of authorized tags is fewer than 35. The commission shall
set the percentage by rule each year after holding a public hearing.

[(10)] (9) If a controlled hunt for game mammals is undersubscribed dur-
ing the primary controlled hunt drawing, the commission may issue the un-
allocated tags to licensed hunters at up to four times the standard tag fee
on a first-come, first-served basis. This controlled hunt tag program shall be
in addition to and not replace any existing controlled hunt tag program.

[(11)] (10) The commission by rule may authorize the issuance of free tags
to hunt antelope, deer and elk to provide an incentive to increase compliance
with hunting reporting requirements.

[(12)] (11) The commission shall implement a program to encourage per-
sons to report violations of the wildlife laws. The program shall include, but
need not be limited to, provisions for offering a person either preference
points in a scaled system determined by the commission, or a cash reward,
for information leading to citations or arrest for unlawful take, possession
or waste of antelope, bear, cougar, deer, elk, moose, mountain goat, mountain
sheep or wolf.
Eliminates sunset for funding dedicated to State Department of Fish and Wildlife fish restoration and enhancement program. Eliminates sunset on dedicating portion of certain angling license fee moneys for expenditure under program. Eliminates sunset on fee surcharges for certain trolling and gillnet permits imposed for expenditure under program. Eliminates sunset on additional fee for landing of certain fish species imposed for expenditure under program.

Changes criteria for appointment of Restoration and Enhancement Board members. Changes meeting requirement for board.

Eliminates sunset on Columbia River Fisheries Enhancement Fund. Eliminates sunset on State Fish and Wildlife Commission authority to charge for endorsements to certain Columbia River Basin fishing licenses and deposit endorsement moneys to fund. Makes youth license and pioneer license exemptions from endorsement charges permanent.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to fish resource programs; creating new provisions; amending ORS 496.146, 496.283, 496.286 and 496.289 and sections 4, 6 and 8, chapter 512, Oregon Laws 1989, and section 22, chapter 779, Oregon Laws 2015; repealing sections 8 and 11, chapter 672, Oregon Laws 2013; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

FISH RESTORATION AND ENHANCEMENT

SECTION 1. ORS 496.283 is amended to read:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
496.283. (1) Notwithstanding ORS 506.306, all moneys received by the State Fish and Wildlife Commission pursuant to sections 4, 6 and 8, chapter 512, Oregon Laws 1989, shall be deposited in a separate subaccount in the State Wildlife Fund. Except as provided in subsection (2) of this section, moneys in the subaccount may be expended only for [the department’s] State Department of Fish and Wildlife fish restoration and enhancement programs for the benefit of the fish resources of this state.

(2) Fees collected from salmon ranching permits authorized under ORS 508.700 to 508.745 [will] may not be commingled with public fishery funds collected and deposited in the subaccount referred to in this section. Notwithstanding any other provision of law, [these funds will be used] the department shall use moneys from salmon ranching permits authorized under ORS 508.700 to 508.745 to monitor the effect and impact of private salmon ranching on the fishery resources of Oregon.

(3) The department:

(a) [shall] May not divert [present] budgeted funds to other projects as funds pursuant to sections 4, 6 and 8, chapter 512, Oregon Laws 1989, become available.

(b) [and shall not embark on new programs not] May use the subaccount moneys only for programs vital to the restoration of Oregon fisheries as required by Oregon Revised Statutes and administrative rules. [The department shall]

(c) May not assess [its] department personnel costs in the administration of [chapter 512, Oregon Laws 1989,] activities benefiting fish restoration and enhancement programs against the subaccount referred to in this section without the prior approval of the Restoration and Enhancement Board.

SECTION 2. ORS 496.286 is amended to read:

496.286. (1) There is established within the State Department of Fish and Wildlife the Restoration and Enhancement Board, consisting of seven members appointed by the State Fish and Wildlife Commission.
(2) Three members shall be appointed to represent the ocean and inland recreational fisheries. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director.

(3) Three members of the board shall be appointed to represent the commercial [troll and gillnet fisheries and the fish processing] salmon industry. In making appointments pursuant to this subsection, the commission shall consider recommendations from the State Fish and Wildlife Director.

(4) One member of the board shall be appointed to represent the public.

(5) A member of the board shall receive no compensation for services as a member. However, subject to any applicable law regulating travel and other expenses of state officers and employees, a member shall be reimbursed for actual and necessary travel and other expenses incurred in the performance of official duties from such moneys made available by sections 4, 6 and 8, chapter 512, Oregon Laws 1989.

(6) The term of office of a member of the board is four years. A member of the board is eligible for reappointment.

(7) An official action of the board may be taken only upon the affirmative vote of four members.

(8) The board shall select such officers for such terms and with such duties and powers as the board considers necessary for the performance of those offices.

(9) Subject to ORS 496.289 (2), the board shall meet at such times and at such places as may be determined by the chair or by the majority of the members of the board.

SECTION 3. ORS 496.289 is amended to read:

496.289. [(1) The Restoration and Enhancement Board shall meet, adopt and recommend to the State Fish and Wildlife Commission, within 120 days after July 1, 1989, and at not more than 120-day intervals thereafter, fish restoration and enhancement programs.]

(1) As used in this section:
(a) “Enhancement” includes, but is not limited to, the following activities:

(A) Angler access.
(B) New fishways and screens.
(C) Habitat.
(D) New hatchery equipment and technology.
(E) Public education.
(F) Aquatic inventories.

(b) “Restoration” includes, but is not limited to, the following activities:

(A) Modification of existing fishways and existing screens.
(B) Hatchery restoration.
(C) Liberation equipment.

(2) The Restoration and Enhancement Board shall meet at least four times each biennium.

(3) The board shall adopt recommendations regarding fish restoration and enhancement programs and present the recommendations to the State Fish and Wildlife Commission.

[(2)] (4) The commission shall review [such] fish restoration and enhancement programs and may approve or disapprove [any or all] program recommendations made by the board. Funds may be expended from the sub-account referred to in ORS 496.283 for projects that have been approved by the commission.

[(3)] (5) The State Department of Fish and Wildlife and the board jointly shall submit to each odd-numbered year regular session of the Legislative Assembly a report on expenditure of funds for the fish restoration and enhancement program and on the status of various projects.

[(4)] (6) In recommending fish restoration and enhancement programs, the board shall:

(a) Recommend a mix of projects that provide a balance between restoration and enhancement benefits.
(b) Recommend projects that are to be implemented by the salmon and trout enhancement program and nonprofit organizations engaged in approved restoration and enhancement activities.

(c) Encourage projects that result in obtaining matching funds from other sources.

[(5) (7) All moneys made available for the fish restoration and enhancement program from funds received under sections 4, 6 and 8, chapter 512, Oregon Laws 1989, and from gifts and grants made to carry out the fish restoration and enhancement program may be expended only if recommended by the board and approved by the commission. Such amounts may be expended:

(a) On programs benefiting the commercial fishing industry in the same proportion as revenues received from surcharges under sections 6 and 8, chapter 512, Oregon Laws 1989, bear to the total amount of surcharge revenues.

(b) On programs benefiting recreational angling in the same proportion as revenues received from the dedication under section 4, chapter 512, Oregon Laws 1989, bear to the total amount of dedicated revenues.

[(6) (8) The board may accept, from whatever source, gifts or grants for the purposes of fish restoration and enhancement. All moneys so accepted shall be deposited in the subaccount referred to in ORS 496.283. Unless otherwise required by the terms of a gift or grant, gifts or grants shall be expended as provided in subsection [(5) (7) of this section.

[(7) As used in this section:]

[(a) “Enhancement” includes, but is not limited to, the following activities:]

[(A) Angler access.]

[(B) New fishways and screens.]

[(C) Habitat.]

[(D) New hatchery equipment and technology.]

[(E) Public education.]
(F) Aquatic inventories.

(b) “Restoration” includes, but is not limited to, the following activities:

(A) Modification of existing fishways and existing screens.

(B) Hatchery restoration.

(C) Liberation equipment.


Sec. 4. Notwithstanding any other provision of the wildlife laws [and during the period beginning January 1, 1998, and ending December 31, 2019], of the moneys received from the sale of the following licenses, the following amounts shall be deposited as provided for in ORS 496.283:

1. Resident annual combination license issued under ORS 497.132, $4.

2. Resident annual angling license issued under ORS 497.121 (1)(a), $4.

3. Angling license to angle for one day issued under ORS 497.121 (1)(d), $2.

4. Angling and shellfish license to angle and take shellfish for one day issued under ORS 497.121 (1)(e), $2.

5. Angling license to angle for two days issued under ORS 497.121 (1)(f), $2.

6. Angling license to angle for three days issued under ORS 497.121 (1)(g), $2.

7. Nonresident annual angling license issued under ORS 497.121 (1)(b), $10.

8. Nonresident angling license to angle for seven consecutive days issued under ORS 497.121 (1)(c), $5.

SECTION 5. Section 6, chapter 512, Oregon Laws 1989, as amended by section 2, chapter 184, Oregon Laws 1991, section 10, chapter 8, Oregon Laws
1997, section 2, chapter 643, Oregon Laws 2003, and section 3, chapter 765, Oregon Laws 2009, is amended to read:

**Sec. 6.** In addition to the fees otherwise prescribed by law, the issuer of each of the following permits shall charge and collect the following surcharges each time the permit is issued, during the period beginning January 1, 1998, and ending December 31, 2019, the following surcharges:

1. Ocean Troll Salmon Fishery permit issued under ORS 508.816, $65.
2. Columbia River Gillnet Fishery permit issued under ORS 508.790, $74.

**SECTION 6.** Section 8, chapter 512, Oregon Laws 1989, as amended by section 3, chapter 184, Oregon Laws 1991, section 11, chapter 8, Oregon Laws 1997, section 3, chapter 643, Oregon Laws 2003, section 4, chapter 765, Oregon Laws 2009, and section 5, chapter 734, Oregon Laws 2015, is amended to read:

**Sec. 8.** In addition to the ad valorem fee prescribed by law, during the period beginning January 1, 1998, and ending December 31, 2019, there shall be paid for each fish species referred to in ORS 508.505 (1)(a), an additional fee of four cents per pound. The ad valorem fee referred to in this section is subject to ORS 508.505 to 508.540.

**COLUMBIA RIVER FISHERIES ENHANCEMENT FUND**

**SECTION 7.** Sections 8 and 11, chapter 672, Oregon Laws 2013, are repealed.

**SECTION 8.** ORS 496.146, as amended by section 10, chapter 672, Oregon Laws 2013, section 52, chapter 629, Oregon Laws 2015, section 8, chapter 779, Oregon Laws 2015, and section 4, chapter 100, Oregon Laws 2018, is amended to read:

496.146. In addition to any other duties or powers provided by law, the State Fish and Wildlife Commission:

1. May accept, from whatever source, appropriations, gifts or grants of money or other property for the purposes of wildlife management, and use such money or property for wildlife management purposes.
(2) May sell or exchange property owned by the state and used for wildlife management purposes when the commission determines that such sale or exchange would be advantageous to the state wildlife policy and management programs.

(3) May acquire, introduce, propagate and stock wildlife species in such manner as the commission determines will carry out the state wildlife policy and management programs.

(4) May by rule authorize the issuance of such licenses, tags and permits for angling, taking, hunting and trapping and may prescribe such tagging and sealing procedures as the commission determines necessary to carry out the provisions of the wildlife laws or to obtain information for use in wildlife management. Permits issued pursuant to this subsection may include special hunting permits for a person and immediate family members of the person to hunt on land owned by that person in areas where permits for deer or elk are limited by quota. As used in this subsection, “immediate family members” means spouses in a marriage, parents, brothers, brothers-in-law, sisters, sisters-in-law, sons, sons-in-law, daughters, daughters-in-law, stepchildren and grandchildren. A landowner who is qualified to receive landowner preference tags from the commission may request two additional tags for providing public access and two additional tags for wildlife habitat programs. This request shall be made to the Access and Habitat Board with supporting evidence that the access is significant and the habitat programs benefit wildlife. The board may recommend that the commission grant the request. When a landowner is qualified under landowner preference rules adopted by the commission and receives a controlled hunt tag for that unit or a landowner preference tag for the landowner’s property and does not use the tag during the regular season, the landowner may use that tag to take an antlerless animal, when approved by the State Department of Fish and Wildlife, to alleviate damage that is presently occurring to the landowner’s property.

(5) May by rule prescribe procedures requiring the holder of any license,
tag or permit issued pursuant to the wildlife laws to keep records and make
reports concerning the time, manner and place of taking wildlife, the quan-
tities taken and such other information as the commission determines nec-
essary for proper enforcement of the wildlife laws or to obtain information
for use in wildlife management.

(6) May establish special hunting and angling areas or seasons in which
only persons less than 18 years of age or over 65 years of age are permitted
to hunt or angle.

(7) May acquire by purchase, lease, agreement or gift real property and
all appropriate interests therein for wildlife management and wildlife-
oriented recreation purposes.

(8) May acquire by purchase, lease, agreement, gift, exercise of eminent
domain or otherwise real property and all interests therein and establish,
operate and maintain thereon public hunting areas.

(9) May establish and develop wildlife refuge and management areas and
prescribe rules governing the use of such areas and the use of wildlife refuge
and management areas established and developed pursuant to any other
provision of law.

(10) May by rule prescribe fees for licenses, tags, permits and applications
issued or required pursuant to the wildlife laws, and user charges for angl-
ing, hunting or other recreational uses of lands owned or managed by the
commission, unless such fees or user charges are otherwise prescribed by
law. No fee or user charge prescribed by the commission pursuant to this
subsection shall exceed $250.

(11) May enter into contracts with any person or governmental agency for
the development and encouragement of wildlife research and management
programs and projects.

(12) May perform such acts as may be necessary for the establishment and
implementation of cooperative wildlife management programs with agencies
of the federal government.

(13) May offer and pay rewards for the arrest and conviction of any per-
son who has violated any of the wildlife laws. No such reward shall exceed $1,000 for any one arrest and conviction.

(14) May by rule prescribe fees for falconry licenses issued pursuant to the wildlife laws, unless such fees are otherwise prescribed by law. Fees prescribed by the commission pursuant to this subsection shall be based on actual or projected costs of administering falconry regulations and shall not exceed $250.

(15) May establish special fishing and hunting seasons and bag limits applicable only to persons with disabilities.

(16) May adopt optimum populations for deer and elk consistent with ORS 496.012. These population levels shall be reviewed at least once every five years.

(17) Shall establish a preference system so that individuals who are unsuccessful in controlled hunt permit drawings for deer and elk hunting have reasonable assurance of success in those drawings in subsequent years. In establishing the preference system, the commission shall consider giving additional preference points to persons who have been issued a resident annual pioneer combination license pursuant to ORS 497.132.

(18) May sell advertising in State Department of Fish and Wildlife publications, including annual hunting and angling regulation publications.

(19) May, notwithstanding the fees required by ORS 497.112, provide free hunting tags to an organization that sponsors hunting trips for terminally ill children. Except as provided under section 2, chapter 100, Oregon Laws 2018, the State Department of Fish and Wildlife may not issue more than 15 tags annually under this subsection.

(20) Shall, after consultation with the State Department of Agriculture, adopt rules prohibiting the use of the World Wide Web, other Internet protocols or broadcast or closed circuit media to remotely control a weapon for the purpose of hunting any game bird, wildlife, game mammal or other mammal. The rules may exempt the State Department of Fish and Wildlife or agents of the department from the prohibition.
(21) May adopt rules establishing a schedule of civil penalties, not to exceed $6,500 per violation, for violations of provisions of the wildlife laws or rules adopted by the commission under the wildlife laws. Civil penalties established under this subsection must be imposed in the manner provided by ORS 183.745 and must be deposited in the State Wildlife Fund established under ORS 496.300.

(22) May by rule impose a surcharge not to exceed $25 for the renewal of a hunting license on any person who fails to comply with mandatory hunting reporting requirements. Amounts collected as surcharges under this subsection must be deposited in the State Wildlife Fund established under ORS 496.300.

(23) May by rule establish annual and daily Columbia Basin salmon, steelhead and sturgeon recreational fishing endorsements with a fee not to exceed $9.75 per annual license and $1 per day per daily license. An endorsement is required to fish for salmon, steelhead or sturgeon in portions of the Columbia Basin as designated by rule and is in addition to and not in lieu of angling licenses and tags required under the wildlife laws. Amounts collected as fees under this subsection must be deposited in the Columbia River Fisheries Enhancement Fund established under section 7, chapter 672, Oregon Laws 2013.

[(23)] (24) May by rule establish multiyear licenses and may prescribe fees for such licenses. Fees prescribed by the commission for multiyear licenses may provide for a discount from the annual license fees that would otherwise be payable for the period of time covered by the multiyear license.

[(24)] (25) May by rule establish a program to offer unique fishing opportunities through drawings, raffles or auctions and charge application and participation fees for the program.

SECTION 9. Section 22, chapter 779, Oregon Laws 2015, is amended to read:

Sec. 22. [For the period beginning January 1, 2016, and ending December 31, 2021,] The youth license under [section 21 of this 2015 Act] ORS 497.127
and the pioneer combination license under ORS 497.132 [shall] include au-

thorization for the purchaser to engage in angling activities for which an
endorsement to fish for salmon, steelhead or sturgeon in the Columbia Basin
under ORS 496.146 is required.

CAPTIONS

SECTION 10. The unit captions used in this 2019 Act are provided
only for the convenience of the reader and do not become part of the
statutory law of this state or express any legislative intent in the
enactment of this 2019 Act.

EFFECTIVE DATE

SECTION 11. This 2019 Act takes effect on the 91st day after the
date on which the 2019 regular session of the Eightieth Legislative
Assembly adjourns sine die.
SUMMARY

Removes requirement that State Fish and Wildlife Commission issue unallocated game mammal hunting tags in order requested.

A BILL FOR AN ACT

Relating to unallocated game mammal hunting tags; amending ORS 497.112.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 497.112 is amended to read:

497.112. (1) The State Fish and Wildlife Commission is authorized to issue, upon application, to persons desiring to hunt wildlife the following general tags and shall charge the applicable fees under the fee schedule in ORS 497.061:

(a) Resident annual elk tag to hunt elk.
(b) Nonresident annual elk tag to hunt elk.
(c) Special annual elk tag for holders of pioneer combination licenses or disabled veteran hunting licenses to hunt elk.
(d) Resident annual deer tag to hunt deer.
(e) Nonresident annual deer tag to hunt deer.
(f) Resident annual black bear tag to hunt black bear.
(g) Nonresident annual black bear tag to hunt black bear.
(h) Resident annual mountain sheep tag to hunt mountain sheep.
(i) Nonresident annual mountain sheep tag to hunt mountain sheep.
(j) Resident annual mountain goat tag to hunt mountain goat.
(k) Nonresident annual mountain goat tag to hunt mountain goat.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(L) Resident annual cougar tag to hunt cougar.
(m) Nonresident annual cougar tag to hunt cougar.
(n) Resident annual antelope tag to hunt antelope.
(o) Nonresident annual antelope tag to hunt antelope.
(p) Resident annual turkey tag to hunt turkey.
(q) Resident annual youth turkey tag to hunt turkey.
(r) Nonresident annual youth turkey tag to hunt turkey.
(t) Nonresident annual turkey tag to hunt turkey.
(u) Outfitter and guide annual deer tag for a nonresident to hunt deer.
(v) Outfitter and guide annual elk tag for a nonresident to hunt elk.
(2)(a) Notwithstanding ORS 496.146 (10), the commission is authorized to
issue each year one special tag that is auctioned to the highest bidder in a
manner prescribed by the commission for each of the following:
(A) Mountain sheep;
(B) Antelope; and
(C) Mountain goat.
(b) In addition to the tags referred to in paragraph (a) of this subsection,
the commission is authorized to issue each year one special tag that is
raffled in a manner prescribed by the commission for each of the following:
(A) Mountain sheep;
(B) Antelope; and
(C) Mountain goat.
(c) Moneys received under this subsection for:
(A) Mountain sheep tags shall be placed in the Mountain Sheep Subac-
count established in ORS 496.303;
(B) Antelope tags shall be placed in the Antelope Subaccount established
in ORS 496.303; and
(C) Mountain goat tags shall be placed in the Mountain Goat Subaccount
established in ORS 496.303.
(d) Notwithstanding ORS 496.146 (10), the commission, upon the recom-
mendation of the Access and Habitat Board to fulfill the board’s charge of
providing incentives to increase public access and habitat improvements to private land, is authorized to issue each year up to 10 elk and 10 deer tags to hunt deer or elk. The tags shall be auctioned or raffled to the highest bidder in a manner prescribed by the commission. The Access and Habitat Board, in recommending any tags, shall include a proposal as to the land on which each tag can be used and a percentage of funds received from the tags that may revert to the landowner if the tag is limited to private land. However, the percentage cannot be more than 50 percent and the programs must, by written agreement, provide for public access and habitat improvements.

(3) The tags referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by law.

(4) The commission may, at the time of issue only, indorse upon the tags referred to in subsection (1) of this section an appropriate designation indicating whether it is for a game animal to be taken with bow and arrow or with firearms, at the choice of the applicant. The commission may prescribe by rule that the holder of such a tag is not authorized to take the game animal by any other means than the tag so indorsed.

(5) Except as provided in subsection (6) of this section, a person is not eligible to obtain, in a lifetime, more than one controlled hunt tag issued by the commission to hunt mountain sheep and one controlled hunt tag issued by the commission to hunt mountain goat.

(6) A person is eligible to obtain mountain sheep tags, antelope tags or mountain goat tags described in subsection (2)(a) and (b) of this section, regardless of whether the person has previously taken a mountain sheep, antelope or mountain goat or previously obtained a mountain sheep tag, antelope tag or mountain goat tag issued pursuant to subsection (1) or (2)(a) or (b) of this section.

(7) The number of nonresident mountain goat tags and nonresident mountain sheep tags shall be decided by the commission, but:

(a) The number of nonresident mountain goat tags may not be less than five percent nor more than 10 percent of all mountain goat tags issued.
(b) The number of nonresident mountain sheep tags may not be less than five percent nor more than 10 percent of all mountain sheep tags issued.

(8) The number of tags issued by drawing under subsection (1)(g), (m) and (o) of this section shall be decided by the commission, but for each class of tag so issued, the number may not be more than three percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is less than 35.

(9) The number of tags issued by drawing under subsection (1)(b) and (e) of this section shall be decided by the commission, but for each class of tag so issued, the number may not be more than five percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. The commission shall set the percentage by rule each year after holding a public hearing.

(10) If a controlled hunt for game mammals is undersubscribed during the primary controlled hunt drawing, the commission may issue the unallocated tags to licensed hunters at up to four times the standard tag fee [on a first-come, first-served basis]. This controlled hunt tag program shall be in addition to and not replace any existing controlled hunt tag program.

(11) The commission by rule may authorize the issuance of free tags to hunt antelope, deer and elk to provide an incentive to increase compliance with hunting reporting requirements.

(12) The commission shall implement a program to encourage persons to report violations of the wildlife laws. The program shall include, but need not be limited to, provisions for offering a person either preference points in a scaled system determined by the commission, or a cash reward, for information leading to citations or arrest for unlawful take, possession or waste of antelope, bear, cougar, deer, elk, moose, mountain goat, mountain sheep or wolf.

[4]
SUMMARY

Authorizes State Department of Fish and Wildlife to accept payment for products and services by credit card. Allows department to collect additional fee for customer purchases made by credit card. Allows State Fish and Wildlife Commission agent that is not county clerk or department employee to retain fees for miscellaneous services authorized by contract between agent and department.

Replaces requirement that commission adopt system for renewal of certain licenses through mail and through World Wide Web with authorization to adopt system using mail or World Wide Web.

A BILL FOR AN ACT

Relating to administration of the wildlife laws; creating new provisions; and amending ORS 497.022 and 497.158.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The State Department of Fish and Wildlife may accept payments by credit card for any products or services offered by the department. The department may add a fee to the amount of any purchase made by credit card in an amount reasonably calculated to offset the impact to the department of financial institution fees related to credit card transactions. The State Fish and Wildlife Commission shall establish the fee amount by rule.

SECTION 2. ORS 497.022 is amended to read:

497.022. (1) The State Fish and Wildlife Commission may appoint agents to issue any of the licenses, tags or permits the commission is authorized by law to issue. The commission shall prescribe the procedure for the issuance

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
of [such] the licenses, tags and permits. Agents of the commission shall issue licenses, tags and permits in accordance with the prescribed procedure and shall charge and collect the fees prescribed by law [therefor] for the licenses, tags and permits.

(2)(a) As part of the fees prescribed in the fee schedule under ORS 497.061 and in addition to fees otherwise prescribed by law for the issuance of a license, tag or permit, the issuing agent shall charge and collect:

(A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a), $5.

(B) For each nonresident annual hunting license issued pursuant to ORS 497.102, $10.

(C) For each nonresident annual deer tag, nonresident annual elk tag, nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag issued pursuant to ORS 497.112 (1), $10.

(D) For any other license, tag or permit, $2 each.

(b) If the agent is a county clerk, the agent shall deposit the agent fees provided for in this section in the general fund of the county for which the agent is the clerk. If the agent is an employee of the State Department of Fish and Wildlife, the agent fees shall be deposited in the State Wildlife Fund. Agents other than county clerks or department employees who issue licenses without the use of a state computerized licensing system may retain the agent fees for their license tag or permit issuance services. Agents other than county clerks or department employees who issue licenses, tags or permits using a state computerized licensing system may retain a portion of the agent fees in not less than the following amounts:

(A) For each resident annual sportspac license issued pursuant to ORS 497.132 (3)(a) and (4)(a), $2.50.

(B) For each nonresident annual hunting license issued pursuant to ORS 497.102, $7.50.

(C) For each nonresident annual deer tag, nonresident annual elk tag,
nonresident annual black bear tag, nonresident annual mountain goat tag, nonresident annual mountain sheep tag and nonresident annual antelope tag issued pursuant to ORS 497.112 (1), $7.50.

(D) For any other license, tag or permit, or for other provided services, as may be specified by contract between the department and the agent for license, tag or permit issuance service or other services performed by the agent, $1 each.

(3) If the commission finds that an agent appointed pursuant to this section has violated any of the provisions of law or the procedures prescribed by the commission for the issuance of licenses, tags or permits or the collection and disposition of fees from licenses, tags or permits, the commission may revoke the authority of the agent to issue licenses, tags and permits, or may suspend the authority of the agent for such time as the commission considers appropriate.

SECTION 3. ORS 497.158 is amended to read:

497.158. The State Fish and Wildlife Commission may adopt a system for renewing licenses issued under ORS 497.102, 497.121, 497.127 and 497.132 through the mail or the World Wide Web.
Modifies eligibility for hunting tags for female mountain sheep.

A BILL FOR AN ACT
Relating to controlled hunt tags for female mountain sheep; amending ORS 497.112.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 497.112 is amended to read:

497.112. (1) The State Fish and Wildlife Commission [is authorized to issue, upon application, to persons] may issue to applicants desiring to hunt wildlife the following [general] tags and shall charge the applicable fees under the fee schedule in ORS 497.061:

(a) Resident annual elk tag to hunt elk.
(b) Nonresident annual elk tag to hunt elk.
(c) Special annual elk tag for holders of pioneer combination licenses or disabled veteran hunting licenses to hunt elk.
(d) Resident annual deer tag to hunt deer.
(e) Nonresident annual deer tag to hunt deer.
(f) Resident annual black bear tag to hunt black bear.
(g) Nonresident annual black bear tag to hunt black bear.
(h) Resident annual mountain sheep tag to hunt mountain sheep.
(i) Nonresident annual mountain sheep tag to hunt mountain sheep.
(j) Resident annual mountain goat tag to hunt mountain goat.
(k) Nonresident annual mountain goat tag to hunt mountain goat.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(L) Resident annual cougar tag to hunt cougar.
(m) Nonresident annual cougar tag to hunt cougar.
(n) Resident annual antelope tag to hunt antelope.
(o) Nonresident annual antelope tag to hunt antelope.
(p) Resident annual turkey tag to hunt turkey.
(q) Resident annual youth turkey tag to hunt turkey.
(r) Nonresident annual youth turkey tag to hunt turkey.
(s) Nonresident annual turkey tag to hunt turkey.
(t) Outfitter and guide annual deer tag for a nonresident to hunt deer.
(u) Outfitter and guide annual elk tag for a nonresident to hunt elk.

(2)(a) Notwithstanding ORS 496.146 (10), the commission is authorized to issue each year one special tag that is auctioned to the highest bidder in a manner prescribed by the commission for each of the following:
   (A) Mountain sheep;
   (B) Antelope; and
   (C) Mountain goat.

   (b) In addition to the tags referred to in paragraph (a) of this subsection, the commission is authorized to issue each year one special tag that is raffled in a manner prescribed by the commission for each of the following:
   (A) Mountain sheep;
   (B) Antelope; and
   (C) Mountain goat.

   (c) Moneys received under this subsection for:
   (A) Mountain sheep tags shall be placed in the Mountain Sheep Subaccount established in ORS 496.303;
   (B) Antelope tags shall be placed in the Antelope Subaccount established in ORS 496.303; and
   (C) Mountain goat tags shall be placed in the Mountain Goat Subaccount established in ORS 496.303.

   (d) Notwithstanding ORS 496.146 (10), the commission, upon the recommendation of the Access and Habitat Board to fulfill the board’s charge of

[2]
providing incentives to increase public access and habitat improvements to private land, is authorized to issue each year up to 10 elk and 10 deer tags to hunt deer or elk. The tags shall be auctioned or raffled to the highest bidder in a manner prescribed by the commission. The Access and Habitat Board, in recommending any tags, shall include a proposal as to the land on which each tag can be used and a percentage of funds received from the tags that may revert to the landowner if the tag is limited to private land. However, the percentage cannot be more than 50 percent and the programs must, by written agreement, provide for public access and habitat improvements.

(3) The tags referred to in subsection (1) of this section are in addition to and not in lieu of the hunting licenses required by law.

(4) The commission may, at the time of issue only, indorse upon the tags referred to in subsection (1) of this section an appropriate designation indicating whether it is for a game animal to be taken with bow and arrow or with firearms, at the choice of the applicant. The commission may prescribe by rule that the holder of such a tag is not authorized to take the game animal by any other means than the tag so indorsed.

(5) Except as provided in subsection (6) of this section, a person is not eligible to obtain, in a lifetime, more than one controlled hunt tag issued by the commission to hunt mountain sheep and one controlled hunt tag issued by the commission to hunt mountain goat.

(6)(a) A person is eligible to obtain mountain sheep tags, antelope tags or mountain goat tags described in subsection (2)(a) and (b) of this section, regardless of whether the person has previously taken a mountain sheep, antelope or mountain goat or previously obtained a mountain sheep tag, antelope tag or mountain goat tag issued pursuant to subsection (1) or (2)(a) or (b) of this section.

(b) A person is eligible to obtain a tag described in subsection (1) or (2)(a) or (b) of this section for a female mountain sheep regardless of whether the person has previously taken a mountain sheep or previously obtained a tag for a mountain sheep issued pursuant to sub-
section (1) or (2)(a) or (b) of this section.

7. The number of nonresident mountain goat tags and nonresident mountain sheep tags shall be decided by the commission, but:

(a) The number of nonresident mountain goat tags may not be less than five percent nor more than 10 percent of all mountain goat tags issued.

(b) The number of nonresident mountain sheep tags may not be less than five percent nor more than 10 percent of all mountain sheep tags issued.

8. The number of tags issued by drawing under subsection (1)(g), (m) and (o) of this section shall be decided by the commission, but for each class of tag so issued, the number may not be more than three percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is less than 35.

9. The number of tags issued by drawing under subsection (1)(b) and (e) of this section shall be decided by the commission, but for each class of tag so issued, the number may not be more than five percent of all tags of that class issued for hunting in a particular area except one nonresident tag may be issued for each hunt when the number of authorized tags is fewer than 35. The commission shall set the percentage by rule each year after holding a public hearing.

10. If a controlled hunt for game mammals is undersubscribed during the primary controlled hunt drawing, the commission may issue the unallocated tags to licensed hunters at up to four times the standard tag fee on a first-come, first-served basis. This controlled hunt tag program shall be in addition to and not replace any existing controlled hunt tag program.

11. The commission by rule may authorize the issuance of free tags to hunt antelope, deer and elk to provide an incentive to increase compliance with hunting reporting requirements.

12. The commission shall implement a program to encourage persons to report violations of the wildlife laws. The program shall include, but need not be limited to, provisions for offering a person either preference points
in a scaled system determined by the commission, or a cash reward, for in-
formation leading to citations or arrest for unlawful take, possession or
waste of antelope, bear, cougar, deer, elk, moose, mountain goat, mountain
sheep or wolf.
SUMMARY

Authorizes State Department of Fish and Wildlife to operate wildlife inspection stations for purposes of preventing spread of infections or infestations harmful to wildlife or of furthering wildlife management efforts. Requires operator of vehicle transporting taken wildlife or parts of taken wildlife to stop when arriving at wildlife inspection station. Makes failure to stop at wildlife inspection station when required Class A violation subject to maximum fine of $2,000.

A BILL FOR AN ACT

Relating to wildlife inspection stations.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section:

(a) “Enforcement officer” has the meaning given that term in ORS 153.005.

(b) “Food establishment” has the meaning given that term in ORS 616.695.

(c) “Taken” means killed or captured, whether inside or outside of this state.

(d) “Vehicle” has the meaning given that term in ORS 801.590.

(e) “Wildlife” has the meaning given that term in ORS 496.004.

(2) The State Department of Fish and Wildlife may operate wildlife inspection stations for the purposes of:

(a) Preventing the spread of chronic wasting disease or other infections or infestations harmful to wildlife; or

(b) Collecting information in furtherance of wildlife management

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efforts.

(3) The operator of a vehicle that is transporting taken wildlife or parts of taken wildlife shall stop for inspection of the wildlife or parts of wildlife when arriving at a wildlife inspection station described in this section. This subsection does not apply to the transporting of parts of taken wildlife that have been processed by a food establishment.

(4) A wildlife inspection station described in this section must be:

(a) Operated as provided under policies and guidelines adopted by the State Fish and Wildlife Director;

(b) Plainly marked by signs that conform to applicable state and federal laws; and

(c) Staffed by at least one uniformed employee of the State Department of Fish and Wildlife.

(5) The wildlife inspection station purposes described in subsection (2) of this section do not prohibit or restrict State Department of Fish and Wildlife employees from carrying out other lawful actions while operating a wildlife inspection station, including but not limited to requesting to see angling or hunting licenses.

(6) The operator of a vehicle that is transporting taken wildlife or parts of taken wildlife commits a Class A violation if the operator fails to stop for inspection of the wildlife when arriving at a wildlife inspection station.

(7) Notwithstanding ORS 153.042, an enforcement officer authorized to enforce wildlife laws in this state may issue a citation under subsection (6) of this section when the conduct alleged to constitute a violation did not take place in the presence of the enforcement officer, if the enforcement officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from a department employee who is staffing a wildlife inspection station and observes the violation.
SUMMARY

Eliminates motor carrier weight receipts. Directs Department of Transportation to issue electronic weight identifiers.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 825.450, as amended by section 58, chapter 750, Oregon Laws 2017, and section 28a, chapter 93, Oregon Laws 2018, is amended to read:

825.450. [(1) Except as otherwise permitted under ORS 825.470, the Department of Transportation shall issue a receipt stating the combined weight of each self-propelled or motor-driven vehicle and any train or combination of vehicles to be used with the self-propelled or motor-driven vehicle.]

(1) Upon application by a carrier, the Department of Transportation may issue a weight identifier for each vehicle the carrier enrolls with the department, which must state the combined weight of the vehicle or combination of vehicles. The department shall record each weight identifier electronically. This subsection does not apply to vehicles issued a temporary pass under ORS 825.470.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(2) A person may not load any motor vehicle in excess of its combined weight [permit] rating determined under subsection (1) of this section [except as variations may necessarily result in passenger loading. A fee of $8 shall be paid to the department for each weight receipt issued].

(3) [Receipts] **Weight identifiers** issued under this section are valid from the first day of any calendar quarter to the last day of the fourth consecutive calendar quarter. Each carrier may select the calendar quarter in which the period will begin except that, if necessary for administrative convenience, the department may require a carrier to adopt a starting date chosen by the department.

(4) All vehicles operating under the carrier’s authority shall have the same four-quarter period of [receipt] **weight identifier** validity. The department may allow a carrier to operate with expired [receipts] **weight identifiers** for up to one extra quarter if the renewal application has been submitted [and the required fees have been paid on or before the last day of the period of validity of the receipt]. The extension of time allowed by this subsection shall be granted only if the department determines that the extension is necessary for the administrative convenience of the department.

(5) The department may adopt rules necessary to administer the provisions of this section.

**SECTION 2.** Section 30a, chapter 93, Oregon Laws 2018, is amended to read:

**Sec. 30a.** The amendments to ORS 818.270 [and 825.450 by sections 28 and 28a] **by section 28, chapter 93, Oregon Laws 2018, [of this 2018 Act]** become operative on January 1, 2020.

**SECTION 3.** Section 30b, chapter 93, Oregon Laws 2018, is amended to read:

**Sec. 30b.** The amendments to ORS 818.270 [and 825.450 by sections 28 and 28a] **by section 28, chapter 93, Oregon Laws 2018, [of this 2018 Act]** apply to fees imposed on or after January 1, 2020.

**SECTION 4.** ORS 825.452 is amended to read:
825.452. In order to facilitate the registration issuance and registration renewal processes, when a carrier initially registers under ORS 826.009 or 826.037, the Department of Transportation may assign a registration period ranging from three to 12 months. [Initial fees shall be adjusted accordingly.]

SECTION 5. ORS 825.454 is amended to read:

825.454. (1) The Department of Transportation, in the discretion of the department, may require the use of identification devices, such as cab cards, stamps or carrier identification numbers, to identify and be carried with or placed upon each motor vehicle authorized to be operated in Oregon subject to the provisions of this chapter. The form of any identification device and the method for its use shall be determined by the department.

(2) Notwithstanding any other provision in this chapter, the department may require applications for identification devices to be made annually [and may require each carrier holding or obtaining a permit under this chapter to pay to the department a fee of not to exceed $8 for each device issued on an annual basis].

SECTION 6. Section 18, chapter 30, Oregon Laws 2010, as amended by section 71L, chapter 750, Oregon Laws 2017, and section 32, chapter 93, Oregon Laws 2018, is amended to read:

Sec. 18. (1) The Department of Transportation shall report semiannually to the legislative committees on revenue if the Legislative Assembly is in session or, if the Legislative Assembly is not in session, to the Legislative Revenue Officer. The department’s report shall include an estimate of the amounts received in the previous two quarters from the increased taxes and fees established in chapter 865, Oregon Laws 2009, and an estimate of the projected revenue in the current quarter from the increased taxes and fees established in chapter 865, Oregon Laws 2009.

(2) In addition to the report described in subsection (1) of this section, the Department of Transportation shall report semiannually to the legislative committees on revenue if the Legislative Assembly is in session or, if the
Legislative Assembly is not in session, to the Legislative Revenue Officer. The department’s report shall include:

(a) An estimate of the amounts received in the previous two quarters from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, [825.450,] 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, [57,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017, and an estimate of the projected revenue in the current quarter and the next quarter from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, [825.450,] 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, [57,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(b) An estimate of the amounts received in the previous biennium to date from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, [825.450,] 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, [57,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017, and an estimate of the projected revenue in the remaining current biennium from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, [825.450,] 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, [57,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(c) Information about the expenditures and distributions made under ORS 367.095, including but not limited to:

(A) Information about the department’s total funds as well as the funds raised separately by the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amend-
ments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, [825.450,]
825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54,
[57,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017, and expended as
described in ORS 367.095 (3)(c).

(B) Semiannual amounts that include all the actual and forecasted ex-
penditures and distributions made under ORS 367.095 for each quarter of the
current biennium and the forecasted expenditures and distributions for the
following biennium.

SECTION 7. ORS 319.665 is amended to read:
319.665. (1) The seller of fuel for use in a motor vehicle shall collect the
tax provided by ORS 319.530 at the time the fuel is sold, unless one of the
following situations applies:

(a) The Department of Transportation has issued a weight identifier
under ORS 825.450 for the vehicle into which the seller delivers or places
the fuel [bears a valid permit or user’s emblem issued by the Department of
Transportation].

(b) The fuel is dispensed at a nonretail facility, in which case the seller
shall collect any tax owed at the same time the seller collects the purchase
price from the person to whom the fuel was dispensed at the nonretail fa-
cility. A seller is not required to collect the tax under this paragraph from
a person who certifies to the seller that the use of the fuel is exempt from
the tax imposed under ORS 319.530.

(c) A cardlock card is used for purchase of the fuel at an attended portion
of a retail facility equipped with a cardlock card reader, in which case the
cardlock card issuer licensed in this state is responsible for collecting and
remitting the tax unless the person making the purchase certifies to the
seller that the use of the fuel is exempt from the tax imposed under ORS
319.530.

(2) If a cardlock card is used for purchase of fuel at an attended portion
of a retail facility equipped with a cardlock card reader, the seller at the
retail facility may deduct fuel purchases made with a cardlock card from the
seller's retail transactions if the seller provides the department with the following information:

(a) A monthly statement from a cardlock card issuer that details the cardlock card purchases at the retail facility; and

(b) A listing of cardlock card issuers and gallons of fuel purchased at the retail facility by the issuers' customers.

(3) The department shall supply each seller of fuel for use in a motor vehicle with a chart which sets forth the tax imposed on given quantities of fuel.

**SECTION 8.** ORS 319.671 is amended to read:

319.671. (1) The seller of fuel for any purpose shall make a duplicate invoice for every sale of fuel for any purpose and shall retain one copy and give the other copy to the user. The Department of Transportation may prescribe the form of the invoice. The invoice shall show:

(a) The seller's name and address;

(b) The date;

(c) The amount of the sale in gallons; and

(d) The name and address of the user.

(2) In addition to the invoice entries listed in subsection (1) of this section, the seller of fuel for use in a motor vehicle shall indicate on the invoice the amount of the tax collected, if any, and:

(a) The [identification] license plate number, if the vehicle bears [an identification] a license plate issued by the department or another jurisdiction;

(b) The emblem number, if the vehicle bears a user's emblem; or

(c) The temporary pass number [or the receipt number], if the vehicle bears no valid user's emblem or [identification] license plate issued by the department.

[(d) The license plate number if the vehicle bears no valid user's emblem or permit issued by the department.]

(3) Notwithstanding subsection (1) of this section, this section does not
require any invoice to be prepared for any sale where fuel is delivered into
the fuel tank of a vehicle described in this subsection unless the operator
of the vehicle requests an invoice. If an invoice is prepared under this sub-
section, the name and address of a user is not required to be shown on the
invoice for sales where the fuel is delivered into the fuel tanks of vehicles
described in this subsection. This subsection applies to vehicles:

(a) That have a combined weight of 26,000 pounds or less; and

(b)(A) For which the tax under ORS 319.530 must be paid at the time of
sale under ORS 319.665; or

(B) For which an emblem has been issued under ORS 319.535.

SECTION 9. ORS 366.747 is amended to read:

366.747. (1) The following moneys shall be allocated as described in sub-
section (2) of this section:

(a) The amount attributable to the increase in the inspection fee by the

(b) The amount attributable to any increase in registration plate fees by
the amendments to ORS 803.570 by section 48, chapter 618, Oregon Laws
2003.

(c) The amount attributable to the increases in fees for driver licenses,
permits and endorsements by the amendments to ORS 807.370 by section 49,

[(d) The amount attributable to the increase in the weight receipt fee by the
amendments to ORS 825.450 by section 50, chapter 618, Oregon Laws 2003.]

(2) The moneys described in subsection (1) of this section shall be allo-
cated 60 percent to counties and 40 percent to cities. Moneys allocated under
this section shall be distributed in the same manner as moneys allocated to
counties and cities under ORS 366.739 are distributed.

SECTION 10. Section 71c, chapter 750, Oregon Laws 2017, is re-
pealed.

SECTION 11. ORS 367.095, as amended by section 71b, chapter 750,
Oregon Laws 2017, and section 30d, chapter 93, Oregon Laws 2018, is
amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:
(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.
(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.
(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 818.270, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 54, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:
(a) For calendar years beginning on or after January 1, 2022, $30 million shall be used for the Interstate 5 Rose Quarter Project. This amount shall be used for the Interstate 5 Rose Quarter Project only until the later of the date on which the project is completed or on which all bonds issued to fund the project have been repaid.
(b) [$15] $10 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:
(a) 50 percent to the Department of Transportation.
(b) 30 percent to counties for distribution as provided in ORS 366.762.
(c) 20 percent to cities for distribution as provided in ORS 366.800.
(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall
be allocated as follows:

(a) $10 million for safety.

(b) Of the remaining balance:

(A) Forty percent for bridges.

(B) Thirty percent for seismic improvements related to highways and bridges.

(C) Twenty-four percent for state highway pavement preservation and culverts.

(D) Six percent for state highway maintenance and safety improvements.

SECTION 12. ORS 367.095, as amended by section 71b, chapter 750, Oregon Laws 2017, section 30d, chapter 93, Oregon Laws 2018, and section 11 of this 2019 Act, is amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, [818.270,] 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, [54,] 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

(a) [For calendar years beginning on or after January 1, 2022,] $30 million shall be used for the Interstate 5 Rose Quarter Project. This amount shall be used for the Interstate 5 Rose Quarter Project only until the later of the date on which the project is completed or on which all bonds issued to fund the project have been repaid.

(b) [$10] $15 million per year shall be deposited into the Safe Routes to [9]
Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.
(b) 30 percent to counties for distribution as provided in ORS 366.762.
(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:

(a) $10 million for safety.
(b) Of the remaining balance:
   (A) Forty percent for bridges.
   (B) Thirty percent for seismic improvements related to highways and bridges.
   (C) Twenty-four percent for state highway pavement preservation and culverts.
   (D) Six percent for state highway maintenance and safety improvements.


SECTION 14. ORS 823.012 is amended to read:

823.012. (1) If the Director of Transportation determines that an emergency, as defined in ORS 401.025, has occurred or is imminent, the director may suspend operation of one or more of the following statutes involving motor carriers for the purpose of expediting the movement of persons or property:

(a) ORS 818.400, compliance with commercial vehicle enforcement requirements related to commercial vehicle weight, size, load, conformation or equipment.
(b) ORS 825.100, certificate or permit requirement for commercial transportation of persons or property.

(c) ORS 825.104, registration requirement for for-hire or private carrier engaged in interstate operations.

(d) ORS 825.160, requirement for person operating as motor carrier to have policy of public liability and property damage insurance.

(e) ORS 825.162, requirement for person operating as for-hire carrier of freight or express to have cargo insurance.

(f) ORS 825.250, requirement to stop and submit to an inspection of the driver, the cargo or the vehicle or combination of vehicles.

(g) ORS 825.252, safety regulations for for-hire and private carriers.

(h) ORS 825.258, rules for transportation of hazardous waste, hazardous material and PCB.

(i) ORS 825.450, [weight receipts] weight identifiers issued by Department of Transportation [for motor vehicles subject to weight-mile tax].

(j) ORS 825.470, temporary pass for single trip or short-time operation of vehicle.

(k) ORS 825.474, assessment of tax for use of highways.

(L) ORS 826.031, registration of certain vehicles not already registered with state.

(2) A suspension under this section may occur prior to a declaration of a state of emergency under ORS 401.165, but may not exceed 72 hours unless a state of emergency is declared under ORS 401.165. If a state of emergency is declared under ORS 401.165, the suspension shall last until the state of emergency is terminated as provided under ORS 401.204.

(3) The director may designate by rule a line of succession of deputy directors or other employees of the department who may suspend operations of statutes under this section in the event the director is not available. Any suspension by a person designated by the director under this subsection has the same force and effect as if issued by the director, except that, if the director can be reached, the suspension must be affirmed by the director when

[11]
the director is reached. If the director does not set aside a suspension within
24 hours of being reached, the suspension shall be considered affirmed by the
director.

SECTION 15. ORS 825.141 is amended to read:

825.141. In addition to any other requirements of this chapter, a carrier
whose operating authority has been suspended shall pay a reinstatement fee
of $25 to the Department of Transportation before the operating authority
may be reinstated, plus $5 for each vehicle [receipt outstanding] issued a
weight identifier under ORS 825.450, and shall demonstrate operational
activity at the time of reinstatement. [the carrier’s authority at the time
of suspension, if the suspension has been in effect more than 30 days. However,
if the suspension has been in effect for 30 days or less, in addition to the
reinstatement fee of $25 the carrier only need pay $5 for each receipt it does
not surrender upon application for reinstatement of the authority.]
SUMMARY

Modifies laws related to transportation.
Repeals Habitual Traffic Offenders Act.

A BILL FOR AN ACT

Be It Enacted by the People of the State of Oregon:

MOTOR VEHICLE INSURANCE

SECTION 1. ORS 806.150 is amended to read:

806.150. The Department of Transportation shall [provide] establish by rule a program [of verification of compliance] to verify compliance with the financial responsibility requirements [under ORS 803.460 and 806.010] of operating a motor vehicle in this state. The program established [by the department] under this section shall comply with all of the following:

[(1) The verification shall be based on motor vehicles registered in this state.] [(2) The department may select vehicles registered in this state for]
verification when the department considers the selection necessary or ap-
propriate. The department may emphasize[, in accordance with rules adopted
by the department,] verification of vehicles registered to individuals who:
(a) Have been convicted of violating ORS 806.010;
(b) Have [submitted certifications] **provided proof** of compliance with fi-
nancial responsibility requirements that [have] **has** been previously found to
be [incorrect] **not correct**; or
(c) The department has reasonable grounds to believe are not in compli-
ance with financial responsibility requirements.

[(3) When a vehicle is selected for verification under this section, the de-
partment shall mail a letter and certification form described under ORS
806.180 to the registered owner of the vehicle notifying the owner that the ve-
hicle has been selected for verification and requiring the owner to respond
within 30 days and certify that the owner is in compliance with financial re-
sponsibility requirements as of the date of the letter. In addition, the depart-
ment may seek verification by communicating directly with an insurer or its
designee.]

[(4) Failure of an owner either to return the certification of compliance with
financial responsibility requirements to the department within 30 days after
mailing by the department or to certify compliance as of the date of the letter,
or a determination by the department that a certification is not accurate con-
stitutes reasonable grounds for the department to proceed with a demand for
verification under ORS 806.160.]

[(5) The department shall investigate all certifications returned to the de-
partment under this section as follows:]

(2) When a vehicle is selected for verification under this section, the
department shall provide a notice of verification to the registered
owner of the vehicle. The notice of verification must:
(a) Inform the owner that the vehicle has been selected for verifi-
cation; and
(b) Require the owner to provide proof of compliance with financial
responsibility requirements within the time specified by the depart-
ment by rule.

[(a)] (3) [If the owner certifies the existence of insurance described under
ORS 806.080,] After the department receives proof of compliance from
a registered owner as required under subsection (2) of this section, the
department shall forward the [certification] proof of compliance to the
listed insurer, or use other means, to determine whether the
[certification] proof of compliance is correct. An insurer shall notify the
department if the [certification] proof of compliance is not correct within
the time specified by the department by rule.

[(b) The department may also determine the correctness of certifications of
other means of satisfying financial responsibility requirements for the
vehicle.]

[(6)] (4) [No] Civil liability [shall] does not accrue to the insurer or any
of its employees for reports made to the department under this section when
the reports are made in good faith based on the most recent information
available to the insurer.

**SECTION 2.** ORS 806.050 is amended to read:

806.050. (1) A person commits the offense of falsification of financial re-
sponsibility if the person does any of the following:

(a) Forges or, without authority, signs any evidence of proof of compli-
ance with financial responsibility requirements.

(b) Files or offers for filing any evidence of proof of compliance with fi-
nancial responsibility requirements knowing or having reason to believe that
the proof of compliance is forged or signed without authority.

(c) Knowingly certifies falsely to the existence of motor vehicle liability
insurance meeting the requirements under ORS 806.080 or some other means
of satisfying the financial responsibility requirements or making a financial
responsibility filing.

(2) A denial of coverage, signed by an officer or agent of an insurer, re-
turned to the Department of Transportation after inquiry from the depart-

[3]
ment as to [the accuracy of a certification of] the existence of liability insurance under ORS 806.150 or 811.725 is prima facie evidence of false certification.

(3) Any person convicted of knowingly certifying falsely to the existence of motor vehicle liability insurance or to the existence of some other means of satisfying the financial responsibility requirements shall be imprisoned for no less than three consecutive days. In no case shall the execution of the punishment imposed by this section be suspended by the court, nor shall any person subject to such punishment be sentenced to probation by the court.

(4) A person who is convicted for violation of this section is subject to ORS 806.230 if the person does not make future responsibility filings as required by that section.

(5) The offense described in this section, falsification of financial responsibility, is a Class B misdemeanor except that violation of subsection (1)(c) of this section is a Class A misdemeanor.

SECTION 3. ORS 806.180 is amended to read:

806.180. A person who is required[,] under ORS 803.460 or 811.725[,] to certify provide proof of compliance with financial responsibility requirements shall [comply with the following:]

[(1) The person shall] certify proof of compliance in a manner prescribed by the Department of Transportation[.] by rule and

[(2) The applicant] shall provide any information that the department requires.

[(3) If the person certified the existence of a motor vehicle liability insurance policy described under ORS 806.080, the person shall report at least the following information:]

[(a) The name of the insurer issuing the policy; and]

[(b) The policy number, insurance producer’s binder number or any other number that identifies the policy.]

SECTION 4. ORS 806.220 is amended to read:

806.220. (1) A person commits the offense of failure to make future re-
sponsibility filing after failing verification if the person does not:
(a) [Is unable to] Provide satisfactory proof of compliance with financial
responsibility requirements [as of the date] within the time specified by
the Department of Transportation by rule under ORS 806.150 [of the
letter of verification from the Department of Transportation under ORS 806.150
upon the demand of the department under ORS 806.160 within the time re-
quired by that section]; and
(b) [Does not,] Within 60 days after the date [of the mailing of the demand
by the department under ORS 806.160] the department sent the notice of
verification under ORS 806.150, make a future responsibility filing.
(2) The offense described in this section, failure to make future responsi-
bility filing after failing verification, is a Class B traffic violation.
SECTION 5. ORS 806.240 is amended to read:
806.240. Future responsibility filings required by ORS 806.200, 806.220 or
806.230 or by any other law of this state are subject to all of the following:
(1) Except as provided in subsection (3) of this section, the person re-
quired to make the filing must file with the Department of Transportation,
or have filed with the department for the benefit of the person, proof of
compliance that meets the requirements of this section and must maintain
the proof of compliance as required under ORS 806.245. The filing is made
on the date it is received by the department if it is received during regular
business hours.
(2) The proof of compliance filed under subsection (1) of this section
must be:
(a) A certificate or certificates of insurance that meet the requirements
under ORS 806.270; or
(b) A valid certificate of self-insurance issued by the department under
ORS 806.130.
(3) The owner of a motor vehicle may make a future responsibility filing
under this section on behalf of the owner’s employee or a member of the
owner’s immediate family or household in lieu of the filing being made by

the person. Filing under this subsection permits the person on whose behalf
the filing is made to operate only a motor vehicle covered by the proof of
compliance given in the filing. The department shall endorse restrictions,
as appropriate, on any license or driver permit the person holds as the de-
partment determines necessary to limit the person’s ability to operate vehi-
cles consistent with this subsection.

(4) Whenever proof of compliance filed under this section no longer
meets the requirements of this section, the department shall require the
furnishing of other proof of compliance for the future responsibility filing.
If other proof of compliance is not furnished, the department shall suspend
the driving privileges of the person as provided under ORS 809.415 or, if ap-
plicable, any registration as provided under ORS 809.050.

SECTION 6. ORS 806.245 is amended to read:

806.245. A termination of the requirement to maintain a future responsi-
bility filing does not remove a person’s responsibility to comply with finan-
cial responsibility requirements. The Department of Transportation shall
terminate requirements for a future responsibility filing when any of the
following occurs:

(1) The person on whose behalf the filing was made dies.

(2) More than three years have passed from the date the filing was re-
quired.

(3) A person on whose behalf the filing was made requests termination
and either:

(a) The person was required to file because of an error committed by the
department; or

(b) The person was required to file because of an error committed by an
insurance company in notifying the department regarding the correctness of
[a certification] proof of compliance with financial responsibility re-
quirements provided under ORS 806.150.

(4) A person who was required to file under ORS 806.150 [because of
failure to respond to a department demand under ORS 806.160] requests ter-
mination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements as of the date [of the department's letter of verification] specified by the department by rule under ORS 806.150; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date [of the department's letter of verification] specified by the department by rule under ORS 806.150.

(5) A person who was required to file because of failure to prove under ORS 806.210 that the person was in compliance with financial responsibility requirements requests termination and the department determines either:

(a) That the person was in fact in compliance with financial responsibility requirements at the time of the accident; or

(b) That the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements at the time of the accident.

(6) A person's hardship permit expires and the filing was required only for issuance of the hardship permit under ORS 807.240.

SECTION 7. ORS 806.300 is amended to read:

806.300. (1) A person commits the offense of failure to surrender license and registration on cancellation of future responsibility filing if the person does not immediately return the person’s license or driver permit and registration to the Department of Transportation when any of the following occur:

(a) A policy of insurance required under ORS 806.240 is canceled or terminated.

(b) The person neglects to furnish other proof of compliance for a future responsibility filing upon request of the department.

(2) If any person fails to return to the department the license, driver permit or registration, the department may request any peace officer to secure possession thereof and return it to the department.
(3) The offense described in this section, failure to surrender license and registration on cancellation of future responsibility filing, is a Class C misdemeanor.

**SECTION 8.** ORS 802.010 is amended to read:

802.010. (1) The Department of Transportation shall perform all of the duties, functions and powers with respect to the following:
(a) The administration of the laws relating to the motor vehicle fuel license tax, aircraft fuel license tax and use fuel license tax including ORS chapter 319.
(b) The administration of the laws relating to motor vehicle registration and titling and the issuance of certificates to vehicle dealers and dismantlers including but not limited to the administration of the vehicle code.
(c) The administration of the laws relating to driving privileges granted under licenses and permits and under the vehicle code.
(d) The administration of the laws relating to operation of vehicles on highways and of vehicle size, weight and use limits under the vehicle code.
(e) The administration of ORS 820.130 and 820.140.
(f) The administration of the provisions relating to proof of compliance with financial responsibility requirements and future responsibility filings.

(2) The Director of Transportation shall act as a reciprocity officer for the purposes of ORS 802.500 and 802.520.

(3) The director shall have the authority to execute or make such arrangements, agreements or declarations to carry out the provisions of ORS 802.500 and 802.520. The director shall receive no additional compensation for service performed under this subsection but shall be allowed actual and necessary expenses incurred in the performance of the duties to be paid from the account of the department.

**SECTION 9.** ORS 803.460 is amended to read:

803.460. The Department of Transportation shall not renew the registration of a motor vehicle unless one of the following occurs:

(1) The owner of the vehicle certifies provides proof of compliance with
financial responsibility requirements for the vehicle and certifies that the
owner will remain in compliance with the requirements for the term of the
registration or until the vehicle is sold. This subsection does not apply if a
renewal of registration is accompanied by an application for transfer of title
arising from the sale of the vehicle. Exemptions from this subsection are
established in ORS 806.020. The form of [certification] proof of compliance
required for this subsection shall be as required under ORS 806.180.

(2) The department receives satisfactory proof of compliance with finan-
cial responsibility requirements by some means other than the [certification]
the means described in subsection (1) of this section. The department may
determine by rule what constitutes satisfactory proof of compliance with
financial responsibility requirements for purposes of this subsection.

SECTION 10. ORS 809.380, as amended by section 30, chapter 76, Oregon
Laws 2018, is amended to read:

809.380. All of the following apply to a person whose driving privileges
have been suspended:

(1) The period of suspension shall last as long as provided for that par-
ticular suspension by law.

(2) During the period of suspension, the person is not entitled to exercise
any driving privileges in this state except as provided under this subsection.
Unless otherwise specifically provided by law, a person whose driving privi-
leges are suspended may obtain, if the person qualifies, a hardship driver
permit under ORS 807.240, and exercise driving privileges under the driver
permit.

(3) Upon expiration of the suspension, the Department of Transportation
shall reissue, upon request of the person, the suspended driving privileges
and any license or driver permit that evidences the driving privileges. The
reissuance shall be without requalification by the person except that the
department may require the person to furnish evidence satisfactory to the
department that the person is qualified to continue to exercise driving priv-
ileges in this state before the department reissues the driving privileges.
(4) The department may not issue any driving privileges in contradiction to this section.

(5) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are suspended, the person is subject to the penalties under ORS 809.500.

(6) No reinstatement of suspended driving privileges will be made by the department until the fee for reinstatement of suspended driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee for any of the following reasons:

(a) The suspension occurred under ORS 809.419 for failure to take an examination upon request of the department under ORS 807.340.

(b) The suspension occurred under ORS 809.419 for failure to obtain required medical clearance upon request of the department under ORS 807.070 or 807.090.

(c) The suspension occurred under ORS 809.419 for incompetence to drive a motor vehicle or having a mental or physical condition or impairment that affects the person’s ability to safely operate a motor vehicle.

(d) The suspension occurred under ORS 809.419 upon notification by the superintendent of a hospital under ORS 807.700 that a person should not drive.

(e) The suspension occurred under ORS 809.419 upon notification by a court under ORS 810.375 that a person charged with a traffic offense has been found guilty except for insanity.

(f) The department committed an error in issuing the suspension.

(g) The suspension was the result of an error committed by an insurance company in issuing or failing to issue a certification of insurance or in canceling a certification of insurance filed with the department under ORS 806.270.

(h) The department issued the suspension without error because the person failed to respond as required under ORS 806.160 or to furnish proof of exemption under ORS 806.210 from the filing requirement of ORS 806.150.
806.200, but the department later determines that the person in fact was in
compliance with financial responsibility requirements as of the date specified by the department by rule [of the department’s letter of verification] under ORS 806.150 or at the time of an accident described in ORS 806.200.

(i) The department issued the suspension without error because the person was not in compliance with financial responsibility requirements as of the date specified by the department by rule [of the department’s letter of verification] under ORS 806.150 or at the time of an accident described in ORS 806.200, but the department later determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date specified by the department by rule under ORS 806.150 [of the department’s letter of verification] or at the time of the accident.

(j) The suspension was the result of an error committed by an insurance company in notifying the department regarding the correctness of [a certification] proof of compliance with financial responsibility requirements provided under ORS 806.150.

(k) The suspension occurred because the person failed to make future responsibility filings but the department later determines that the reason for the failure was that the person was a military reservist or a member of a national guard unit that was ordered to active military duty to a location outside of the United States. The effective date of the military orders must be prior to the effective date of a suspension issued by the department for failure to make a future responsibility filing.

(L) The department issued the suspension without error because the department received a notice to suspend from a court under ORS 809.210 or 809.220, but the department later determines that the person in fact was in compliance with the requirements of the court prior to the effective date of the suspension.

**SECTION 11.** ORS 809.415, as amended by section 33, chapter 76, Oregon Laws 2018, is amended to read:
809.415. (1)(a) The Department of Transportation shall suspend the driving privileges of a person who has a judgment of the type described under ORS 806.040 rendered against the person if the person does not settle the judgment in the manner described under ORS 809.470 within 60 days after its entry.

(b) A suspension under this subsection shall continue until the person does one of the following:

(A) Settles the judgment in the manner described in ORS 809.470.

(B) Has an insurer that has been found by the department to be obligated to pay the judgment, provided that there has been no final adjudication by a court that the insurer has no such obligation.

(C) Gives evidence to the department that a period of seven years has elapsed since the entry of the judgment.

(D) Receives from the court that rendered the judgment an order permitting the payment of the judgment in installments.

(c) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(2)(a) The department shall suspend the driving privileges of a person who falsely certifies the existence of a motor vehicle liability insurance policy or the existence of some other means of satisfying financial responsibility requirements or of a person who, after certifying the existence of a motor vehicle liability insurance policy or other means of satisfying the requirements, allows the policy to lapse or be canceled or otherwise fails to remain in compliance with financial responsibility requirements.

(b) Notwithstanding paragraph (a) of this subsection, the department may suspend under this subsection only if proof of compliance with financial responsibility requirements as of the date specified by the department by rule is not submitted within the time specified by the department by rule under this section.

(c) A suspension under this subsection shall continue until the person
complies with future responsibility filings.

(3)(a) The department shall suspend the driving privileges of a person who fails to comply with future responsibility filings whenever required under the vehicle code or fails to provide new proof of compliance for future responsibility filings when requested by the department.

(b) A suspension under this subsection shall continue until the person complies with future responsibility filings.

(c) A person whose initial obligation to make future responsibility filings is not based upon a conviction or other action by a court is entitled to a hearing under ORS 809.440 prior to a suspension under this subsection. A person whose obligation to make future responsibility filings is based upon a conviction or other action by a court is entitled to administrative review under ORS 809.440 of a suspension under this subsection. A person whose suspension under this subsection is based on lapses in filing after the initial filing has been made is entitled to administrative review under ORS 809.440.

(4)(a) The department shall suspend driving privileges when provided under ORS 809.416. The suspension shall continue until the earlier of the following:

(A) The person establishes to the satisfaction of the department that the person has performed all acts necessary under ORS 809.416 to make the person not subject to suspension.

(B) Ten years from the date the traffic offense or violation of ORS 471.430 occurred if the suspension is imposed for a reason described in ORS 809.416 (1) or 20 years from the date the traffic offense occurred if the suspension is imposed for a reason described in ORS 809.416 (2).

(b) A person is entitled to administrative review under ORS 809.440 of a suspension under this subsection.

(5) Upon determination by the department that a person has committed an act that constitutes an offense described in ORS 809.310, the department may suspend any driving privileges or any identification card of the person determined to have committed the act. A suspension under this subsection
shall continue for a period of one year.

(6) Upon determination by the department that a person has submitted false information to the department for the purpose of establishing or maintaining qualification to operate a commercial motor vehicle or hold commercial driving privileges, the department shall suspend the commercial driving privileges or the person’s right to apply for commercial driving privileges for a period of one year.

SECTION 12. ORS 809.450 is amended to read:

809.450. (1) If a person whose driving privileges have been suspended for one of the reasons specified in subsection (2) of this section requests that the suspension be rescinded and specifies the reason for the request, the Department of Transportation may provide a hearing to determine the validity of the suspension. The department may rescind a suspension only as provided in subsection (3) of this section.

(2) This section applies to suspensions under:
(a) ORS 809.415 for failure to make a future responsibility filing;
(b) ORS 809.415 for false certification of financial responsibility requirements; and
(c) ORS 809.417 for involvement in a motor vehicle accident when the department has determined that the person has been operating a vehicle in violation of ORS 806.010.

(3) The granting of a hearing under this section shall not stay the suspension. However, the department shall rescind the suspension if the department determines:
(a) That an error was committed by the department;
(b) That the person in fact was in compliance with financial responsibility requirements [as of] on the date [of the department’s letter of verification] specified by the department by rule under ORS 806.150;
(c) That an error was committed by an insurance company in notifying the department regarding the correctness of [a certification] proof of compliance with financial responsibility requirements provided under ORS
(d) That the person was not in compliance with financial responsibility requirements [as of] on the date [of the department’s letter of verification] specified by the department by rule under ORS 806.150 and the department also determines that the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements on the date [of the department’s letter of verification] the department sent the notice of verification and that the person currently is in compliance with financial responsibility requirements; or

(e) That at the time of the accident the person reasonably and in good faith believed that the person was in compliance with financial responsibility requirements and the person is currently in compliance with financial responsibility requirements.

(4) The hearing shall be held in the manner provided in ORS 809.440.

SECTION 13. ORS 811.725 is amended to read:

811.725. (1) The driver of a vehicle commits the offense of driver failure to report an accident if the driver does any of the following:

(a) Is driving any vehicle that is involved in an accident required to be reported under ORS 811.720 and does not, within 72 hours of the accident, complete a report of the accident in a form approved by the Department of Transportation and submit the report to the department.

(b) Is driving a vehicle that is involved in an accident and does not submit to the department any report required by the department that is other than or in addition to the reports required by this section. The department may request a supplemental report if in the opinion of the department the original report is insufficient.

(c) Is driving any vehicle that is involved in an accident required to be reported under ORS 811.720 and does not, within 72 hours of the accident, [certify] provide proof of compliance with financial responsibility requirements to the department, in a form furnished by the department, that at the time of the accident the person was in compliance with the financial

[15]
responsibility requirements.

(2) The [certification] proof of compliance with financial responsibility required under this section is subject to the prohibitions and penalties for false certification under ORS 806.050.

(3) The reports described under this section are subject to the provisions of ORS 802.220 and 802.240 relating to the use of such reports after submission. Exemptions from requirements to [certify] provide proof of compliance with financial responsibility are established under ORS 806.020.

(4) A driver may be required to file additional accident reports with a city as provided under ORS 801.040.

(5) The offense described in this section, driver failure to report an accident, is a Class B traffic violation.

SECTION 14. ORS 811.735 is amended to read:

811.735. (1) A person commits the offense of failure of a vehicle occupant to make an accident report if:

(a) The person is an occupant, other than the driver, of a vehicle at a time when the vehicle is involved in an accident required to be reported under ORS 811.720;

(b) The driver of the vehicle is physically incapable of making an accident report required under ORS 811.725; and

(c) The occupant does not make the accident report or cause the accident report to be made.

(2) This section does not require an occupant of a vehicle who is not a driver to [make any certification] provide proof of compliance with financial responsibility requirements.

(3) The offense described in this section, failure of a vehicle occupant to make an accident report, is a Class B traffic violation.

SECTION 15. ORS 826.031 is amended to read:

826.031. (1) The owner of a vehicle that is subject to the tax imposed under ORS 825.474 and that is not registered under the proportional registration provisions of this chapter and is not registered in any other jurisdiction
shall register the vehicle with the Department of Transportation if the ve-

cicle is to be operated in this state. Registration under this section is in lieu

of registration under ORS chapter 803.

(2) The department shall determine the form of application for registra-

tion and renewal of registration and may require any information that it
determines necessary to facilitate the registration process.

(3) A vehicle registered under this section is subject to the insurance re-

duirements of ORS 825.160 and not to the financial responsibility require-

ments of ORS chapter 806. [Certification] Proof of compliance with financial

responsibility requirements as specified in ORS 803.460 is not required for

renewal of registration of a vehicle under this section.

(4) A vehicle registered under this section shall be deemed to be fully

registered in this state for any type of movement or operation, except that

in those instances in which a grant of authority is required for intrastate

movement or operation, no such vehicle shall be operated in intrastate com-

merce in this state unless the owner thereof has been granted intrastate

authority or right by the department and unless the vehicle is being operated

in conformity with such authority and rights.

(5) A vehicle may be registered under this section prior to a certificate

of title being issued for the vehicle but nothing in this section affects any

requirement that a certificate of title be issued.

**CHANGE OF ADDRESS**

**SECTION 16.** ORS 807.160 is amended to read:

807.160. (1) The Department of Transportation shall establish by rule the
reasons for issuing a replacement driver license or driver permit to a person
who submits an application for the replacement. The reasons for replacement
shall include, but are not limited to, situations when the person:

(a) Furnishes proof satisfactory to the department of the loss, destruction

or mutilation of the person’s driver license or driver permit.
(b) Changes residence address from the address noted on the person’s driver license or driver permit or the department’s records.

(c) Is a corrections officer or an eligible employee who has requested, in accordance with ORS 802.250 or 802.253, that department records show the address of the person’s employer.

(d) Changes names from the name noted on the person’s driver license or driver permit.

(e) Is applying or is required to add or remove a restriction on the driver license or driver permit.

(f) Is applying or is required to add or remove an endorsement other than a motorcycle endorsement on the driver license or driver permit.

(g) Furnishes proof satisfactory to the department or the department determines that the department made an error when issuing a driver license or driver permit.

(h) Furnishes proof satisfactory to the department that, for a reason identified by the department by rule, the person needs a replacement driver license or driver permit that bears a different distinguishing number from the license or permit being replaced.

(i) Furnishes proof satisfactory to the department that the person is a veteran, as defined in ORS 408.225, and the person requests a replacement driver license that includes the fact that the person is a veteran.

[(2) Notwithstanding subsection (1)(b) of this section, in lieu of issuing a replacement driver license or driver permit upon a change in residence address of a person, the department may note the change of residence address on the person’s license or permit in a manner determined by the department.]

[(3)] (2) A replacement driver license or driver permit issued under this section:

(a) Shall bear the same distinguishing number as the driver license or driver permit replaced unless the person applying for the replacement furnishes proof as described in subsection (1)(h) of this section.

(b) Does not alter or extend the driving privileges granted to the person...
under the old license or permit unless the replacement license or permit was
issued for the purpose of changing a restriction or endorsement or for cor-
recting an error involving driving privileges.

[(4)] (3) Except for driver permits for which the department does not
charge an issuance fee, the department shall charge the fee under ORS
807.370 for a replacement license or driver permit issued under this section.
The replacement fee is in addition to any endorsement or test fee that may
apply. The department may waive the replacement fee as provided under ORS
807.390.

[(5)] (4) The driver license or driver permit replaced under this section
is invalid and shall be surrendered to the department.

[(6)] (5) The department may not issue a replacement driver license or
driver permit under this section if:
(a) The person making application is not qualified to hold a license or
permit at the time of application.
(b) The driving privileges of the person making application are suspended
or revoked and have not been partially or completely reinstated.

[(7)] (6) The department need not issue a replacement driver license or
driver permit to a person who has not complied with the requirements and
responsibilities created by citation for or conviction of a traffic offense in
another jurisdiction if an agreement under ORS 802.530 authorizes the de-
partment to withhold issuance of a replacement license or permit.

SECTION 17. ORS 807.560 is amended to read:

807.560. (1) A person to whom a license or driver permit is issued commits
the offense of failure to notify upon change of driver address or name if the
person does not notify the Department of Transportation in a manner au-
thorized by the department by rule upon any change of the person’s:
(a) Residence address from that noted on the person’s license or driver
permit as issued or on the department’s records;
(b) Name from that noted on the person’s license or driver permit as is-
sued, including a change of name by marriage; or
(c) Place of employment, if the person is a corrections officer, as provided in ORS 802.253, or an eligible employee, as defined in ORS 802.250, whose place of employment address is noted on department records in accordance with ORS 802.250 or 802.253.

(2) Notice required under this section:
   (a) Must be given within 30 days of change of driver address or name.
   (b) Must be given in person for a change of name.

(3) The department shall note on its records any change reported to the department under this section.

[(3)] (4) Failure to notify upon change of driver address or name is a Class D traffic violation.

REPEAL OF HABITUAL TRAFFIC OFFENDER PROGRAM

SECTION 18. ORS 161.710 is amended to read:

161.710. Notwithstanding ORS 161.525, the court has authority, at any time after a sentence of probation has been completed, to enter judgment of conviction for a Class A misdemeanor for a person convicted of criminal driving while suspended or revoked under ORS 811.182 committed before September 1, 1999, and constituting a felony if:

(1) The suspension or revocation resulted from habitual offender status [under ORS 809.640];

(2) The person successfully completed the sentence of probation; and

(3) The court finds that, considering the nature and circumstances of the crime and the history and character of the person, it would be unduly harsh for the person to continue to have a felony conviction.

SECTION 19. ORS 801.010 is amended to read:

801.010. (1) ORS chapters 801 to 826 may be cited as the Oregon Vehicle Code.

[(2) ORS 809.600 to 809.660 may be cited as the Habitual Traffic Offenders Act.]
ORS 813.095, 813.100, 813.131, 813.132, 813.140, 813.150, 813.310, 813.320 and 813.410 to 813.440 may be cited as the Motorist Implied Consent Law.

SECTION 20. ORS 801.020 is amended to read:
801.020. This section contains statements of purpose or intent that are applicable to portions of the vehicle code as described in the following:
(1) The provisions of the vehicle code and other statutory provisions described in this subsection are an exercise of the police powers of this state, and the purpose, object and intent of the sections is to provide a comprehensive system for the regulation of all motor and other vehicles in this state. This subsection is applicable to the following:
   (a) Those provisions of the vehicle code relating to the administration of the Department of Transportation.
   (b) Those provisions of the vehicle code relating to the registration and titling of vehicles.
   (c) Those provisions of the vehicle code relating to the regulation of the businesses of vehicle dealers, dismantlers, vehicle transporters, driver training schools and instructors and the towing and recovery of vehicles.
   (d) Those provisions relating to the transfer and alteration of vehicles.
(2) It is the policy of this state to promote and encourage the fullest possible use of its highway system by authorizing the making and execution of motor vehicle reciprocal or proportional registration agreements, arrangements and declarations with other states, provinces, territories and countries with respect to vehicles registered in this and such other states, provinces, territories and countries, thus contributing to the economic and social development and growth of this state.
(3) The provisions described in this subsection shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and on the ocean shore which has been or may hereafter be declared a state recreation area. This subsection applies to provisions of the vehicle code relating to abandoned vehicles, vehicle equipment, regulation
of vehicle size, weight and load, the manner of operation of vehicles and use
of roads by persons, animals and vehicles.

(4) The provisions of the vehicle code applicable to drivers of vehicles
upon the highways shall apply to the drivers of all vehicles owned or oper-
ated by the United States, this state or any county, city, district or any other
political subdivision of this state, subject to such specific exceptions as are
set forth in the vehicle code.

(5) Except as provided otherwise by federal law, the provisions of the
vehicle code shall be applicable and uniform on federal lands within this
state.

(6) Except as provided otherwise by federal law, traffic rules and regu-
lations [which] that are promulgated by a federal authority having jurisdic-
tion over federal lands within this state and [which] that vary from the
provisions of the vehicle code shall be the law of the local authority within
whose boundaries the federal land is located, and enforceable as such, if:

(a) Local authorities are authorized to vary in the same manner under the
provisions of the vehicle code; and

(b) Prior approval for the variance has been obtained by the federal au-
thority from the governing body of the local authority within whose bound-
aries the federal land is located.

(7) The vehicle code shall govern the construction of and punishment for
any vehicle code offense committed after June 27, 1975, the construction and
application of any defense to a prosecution for such an offense and any ad-
mministrative proceedings authorized or affected by the vehicle code.

(8) When all or part of a vehicle code statute is amended or repealed, the
statute or part thereof so amended or repealed remains in force for the pur-
pose of authorizing the accusation, prosecution, conviction and punishment
of a person who violated the statute or part thereof before the effective date
of the amending or repealing Act.

(9) The provisions of the vehicle code described in this subsection relating
to the operation of vehicles refer exclusively to operation of vehicles upon

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highways and the ocean shore which has been or may hereafter be declared
to be a state recreation area, except where the vehicle code specifically
provides otherwise. This subsection applies to the provisions of the vehicle
code relating to abandoned vehicles, vehicle equipment, regulation of vehicle
size, weight and load, the manner of operation of vehicles and use of roads
by persons, animals and vehicles.

(10) All reciprocity and proportional registration agreements, arrange-
ments and declarations relating to vehicles, in force and effect on August
22, 1969, shall continue in force and effect until specifically amended or re-
voked as provided by law or by such arrangements or agreements.

(11) It is hereby declared to be the policy of this state:

(a) To provide maximum safety for all persons who travel or otherwise
use the public highways of this state;

(b) To deny the privilege of operating motor vehicles on the public high-
ways to persons who by their conduct and record have demonstrated their
indifference for the safety and welfare of others and their disrespect for the
laws of the state, the orders of its courts and the statutorily required acts
of its administrative agencies; and

(c) To discourage repetition of criminal acts by individuals against the
peace and dignity of the state and its political subdivisions and to impose
increased and added deprivation of the privilege to operate motor vehicles
upon [habitual offenders] individuals who have been convicted repeatedly
of violations of traffic laws.

(12) If any of the provisions under ORS 818.200 relating to variance per-
mits are found to contravene section 127 of title 23, United States Code, it
shall not serve to render inoperative any remaining of such provisions that
may be held not to conflict with that federal law.

SECTION 21. ORS 807.060 is amended to read:

807.060. The Department of Transportation may not grant driving privi-
leges to a person under a license if the person is not eligible under this
section. The following are not eligible for a license:
(1) A person under 16 years of age.

(2)(a) A person under 18 years of age who is not an emancipated minor, unless the application of the person is signed by the person's mother, father or legal guardian. A person who signs an application under this paragraph may have the driving privileges canceled as provided under ORS 809.320.

(b) A person under 18 years of age who does not meet the requirements of ORS 807.065.

(3) Notwithstanding subsection (2) of this section, a person under 18 years of age is not eligible for a commercial driver license.

(4) A person the department determines has a problem condition involving alcohol, cannabis, controlled substances or inhalants as described under ORS 813.040.

(5) A person the department reasonably believes has a mental or physical condition or impairment that affects the person's ability to safely operate a motor vehicle upon the highways.

(6) A person the department reasonably believes is unable to understand highway signs that warn, regulate or direct traffic.

(7) A person who is required to make future responsibility filings but has not made filings as required.

(8) A person who cannot be issued a license under the Driver License Compact under ORS 802.540.

(9) A person who is not subject to the Driver License Compact under ORS 802.540 but whose driving privileges are currently under suspension or revocation in any other state upon grounds which, if committed in this state, would be grounds for the suspension or revocation of the driving privileges of the person.

[(10) A person who has been declared a habitual offender under ORS 809.640. A person declared not eligible to be licensed under this subsection may become eligible by having eligibility restored under ORS 809.640.]

[(11)] (10) A person whose driving privileges are canceled in this state under ORS 809.310 until the person is eligible under ORS 809.310.
A person while the person’s driving privileges are revoked in this state.

A person during a period when the person’s driving privileges are suspended in this state.

A person who holds a current out-of-state license or driver permit or a valid Oregon license or driver permit. A person who is not eligible under this subsection may become eligible by surrendering the license, driver permit or out-of-state license or driver permit to the department before issuance of the license. Nothing in this subsection authorizes a person to continue to operate a motor vehicle on the basis of an out-of-state license or permit if the person is required by ORS 807.062 to obtain an Oregon license or permit.

A person who has not complied with the requirements and responsibilities created by citation for or conviction of a traffic offense in another jurisdiction if an agreement under ORS 802.530 authorizes the department to withhold issuance of a license.

A person who has not complied with the requirement of ORS 813.022 (1).

SECTION 22. ORS 807.240, as amended by sections 2 and 2a, chapter 76, Oregon Laws 2018, is amended to read:

807.240. The Department of Transportation shall provide for issuance of hardship driver permits in a manner consistent with this section. A hardship driver permit grants the driving privileges provided in this section or under the permit. Except as otherwise provided in this section, a hardship driver permit is subject to the fees, provisions, conditions, prohibitions and penalties applicable to a license. The following apply to a hardship driver permit:

(1) The department may only issue a permit to a person whose driving privileges under the vehicle code have been suspended, revoked under ORS 809.600 as a habitual offender).

(2) Except as provided in this section and ORS 813.520, the department may reinstate the privilege to operate a motor vehicle of any person whose li-
ence to operate a motor vehicle has been suspended, or revoked under ORS 809.600 as a habitual offender, by issuing the person a hardship permit.]

[(3)] [(2) To qualify for a hardship permit, a person must do all of the following:

(a) The person must submit to the department an application for the permit that demonstrates the person’s need for the permit.

(b) The person must present satisfactory evidence, as determined by the department by rule:

(A) That the person must operate a motor vehicle as a requisite of the person’s occupation or employment;

(B) That the person must operate a motor vehicle to seek employment or to get to or from a place of employment;

(C) That the person must operate a motor vehicle to get to or from an alcohol or drug treatment or rehabilitation program;

(D) That the person or a member of the person’s immediate family requires medical treatment on a regular basis and that the person must operate a motor vehicle in order that the treatment may be obtained; or

(E) That the person must operate a motor vehicle to get to or from a gambling addiction treatment program.

(c) If the person is applying for a permit because the person or a member of the person’s immediate family requires medical treatment on a regular basis, the person must present, in addition to any evidence required by the department under paragraph (b) of this subsection, a statement signed by a licensed physician or certified nurse practitioner that indicates that the person or a member of the person’s immediate family requires medical treatment on a regular basis.

(d) The person must show that the person is not incompetent to drive nor a habitual incompetent, reckless or criminally negligent driver as established by the person’s driving record in this or any other jurisdiction.

(e) The person must make a future responsibility filing.

(f) The person must submit any other information the department may
require for purposes of determining whether the person qualifies under this
section and ORS 813.520.

[(4)] (3) If the department finds that the person meets the requirements
of this section and any applicable requirements under ORS 813.520, the de-
partment may issue the person a hardship permit, valid for the duration of
the suspension or revocation or for a shorter period of time established by
the department unless sooner suspended or revoked under this section. If the
department issues the permit for a period shorter than the suspension or
revocation period, renewal of the permit shall be on such terms and condi-
tions as the department may require. The permit:

(a) Shall limit the holder to operation of a motor vehicle only during
specified times.

(b) May bear other reasonable limitations relating to the hardship permit
or the operation of a motor vehicle that the department deems proper or
necessary. The limitations may include any limitation, condition or require-
ment. Violation of a limitation is punishable as provided by ORS 811.175 or
811.182.

[(5)] (4) The department, upon receiving satisfactory evidence of any vio-
lation of the limitations of a permit issued under this section, may suspend
or revoke the hardship permit.

[(6)] (5) The fee charged for application or issuance of a hardship driver
permit is the hardship driver permit application fee under ORS 807.370. The
department may not refund the fee if the application is denied or if the driver
permit is suspended or revoked. The fee upon renewal of the driver permit
is the same fee as that charged for renewal of a license. The application fee
charged under this subsection is in addition to any fee charged for rein-
statement of driving privileges under ORS 807.370.

[(7)] (6) The department may issue a permit granting the same driving
privileges as those suspended or revoked or may issue a permit granting
fewer driving privileges, as the department determines necessary to [assure]
ensure safe operation of motor vehicles by the permit holder.
The department may not issue a hardship permit to a person:

(a) Whose driver license or driver permit is suspended [pursuant to] under ORS 25.750 to 25.783;

(b) Whose driving privileges are suspended [pursuant to] under ORS 809.280 (2);

(c) That authorizes the person to operate a commercial motor vehicle;

(d) Whose suspension of driving privileges is based on a second or subsequent conviction of driving while under the influence of intoxicants in violation of ORS 813.010 or the statutory counterpart to ORS 813.010 in another jurisdiction and the suspension period is determined by ORS 809.428 (2)(b) or (c);

(e) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree if the person, within 10 years preceding application for the permit, has been convicted of:

(A) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;

(B) Reckless driving, as defined in ORS 811.140;

(C) Driving while under the influence of intoxicants, as defined in ORS 813.010;

(D) Failure to perform the duties of a driver involved in a collision, as described in ORS 811.700 or 811.705;

(E) Criminal driving while suspended or revoked, as defined in ORS 811.182;

(F) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;

(G) Aggravated vehicular homicide, as defined in ORS 163.149; or

(H) Aggravated driving while suspended or revoked, as defined in ORS 163.196; or

(f) Whose driving privileges are suspended for a conviction of assault in the second, third or fourth degree:

(A) For a period of four years from the date the department suspends
driving privileges if the person’s driving privileges are suspended for conviction of assault in the second degree and the person was not incarcerated for that conviction.

(B) For a period of four years from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the second degree and the person was incarcerated for that conviction.

(C) For a period of two years from the date the department suspends driving privileges if the person’s driving privileges are suspended for conviction of assault in the third degree and the person was not incarcerated for that conviction.

(D) For a period of two years from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the third degree and the person was incarcerated for that conviction.

(E) For a period of six months from the date the department suspends driving privileges if the person’s driving privileges are suspended for conviction of assault in the fourth degree and the person is not incarcerated for that conviction.

(F) For a period of six months from the date the person is released from incarceration for the conviction if the person’s driving privileges are suspended for conviction of assault in the fourth degree and the person was incarcerated for that conviction.

[(9)] (8) A conviction arising out of the same episode as the current suspension is not considered a conviction for purposes of subsection [(8)/(e)] (7)(e) of this section.

[(10)] (9) A person’s driving privileges under a hardship permit are subject to suspension or revocation if the person does not maintain a good driving record, as defined by the administrative rules of the department, during the term of the permit.

**SECTION 23.** ORS 809.390, as amended by section 10, chapter 76, Oregon
Laws 2018, is amended to read:

809.390. All of the following apply to a person whose driving privileges have been revoked:

(1) The period of revocation shall last as long as required for the revocation by law.

(2) During the period of revocation, the person is not entitled to exercise any driving privileges in this state or to apply for or receive any driving privileges in this state except when a person who has been determined to be a habitual offender is permitted to obtain driving privileges under ORS 807.240.

(3) Upon expiration of the revocation period, the person must reapply for driving privileges in the manner established by law and must reestablish the person’s eligibility for issuance of driving privileges.

(4) The Department of Transportation may issue new driving privileges to a person before the expiration of the revocation period if the person is otherwise entitled to be issued driving privileges and when, with reference to a conviction upon which the revocation was based, the Governor has pardoned the person of the crime.

(5) The department [shall] may not issue any driving privileges in contradiction to this section.

(6) If the person fails to surrender to the department any license or driver permit issued as evidence of driving privileges that are revoked, the person is subject to the penalty under ORS 809.500.

(7) No reinstatement of revoked driving privileges will be made by the department until the fee for reinstatement of revoked driving privileges established under ORS 807.370 is paid to or waived by the department. The department may waive the reinstatement fee if the department committed an error in issuing the revocation.

SECTION 24. ORS 811.182, as amended by section 13, chapter 76, Oregon Laws 2018, is amended to read:

811.182. (1) A person commits the offense of criminal driving while sus-
(2) Affirmative defenses to the offense described in this section are established under ORS 811.180.

(3) The offense described in this section, criminal driving while suspended or revoked, is a Class B felony if the suspension or revocation resulted from any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle, if the suspension or revocation resulted from aggravated vehicular homicide or aggravated driving while suspended or revoked or if the revocation resulted from a conviction for felony driving while under the influence of intoxicants.

(4) The offense described in this section, criminal driving while suspended or revoked, is a Class A misdemeanor if the suspension or revocation is any of the following:

(a) A suspension under ORS 809.411 (2) resulting from commission by the driver of any degree of recklessly endangering another person, menacing or criminal mischief, resulting from the operation of a motor vehicle.

(b) A suspension under ORS 813.410 resulting from refusal to take a test prescribed in ORS 813.100 or for taking a breath or blood test the result of which discloses a blood alcohol content of:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(c) A suspension of commercial driving privileges under ORS 809.510 resulting from failure to perform the duties of a driver under ORS 811.700.

(d) A suspension of commercial driving privileges under ORS 809.510 (6) where the person’s commercial driving privileges have been suspended or revoked if the person violates ORS 811.175 and the suspension or revocation is one described in this section, or if the hardship permit violated is based upon a suspension or revocation described in subsection (3) or (4) of this section.
revoked by the other jurisdiction for failure of or refusal to take a chemical
test to determine the alcoholic content of the person’s blood under a statute
that is substantially similar to ORS 813.100.

(e) A suspension of commercial driving privileges under ORS 809.520.

[(f) A revocation resulting from habitual offender status under ORS
809.640.]

[(g)] (f) A suspension resulting from any crime punishable as a felony
with proof of a material element involving the operation of a motor vehicle,
other than a crime described in subsection (3) of this section.

[(h)] (g) A suspension for failure to perform the duties of a driver under
ORS 811.705.

[(i)] (h) A suspension for reckless driving under ORS 811.140.

[(j)] (i) A suspension for fleeing or attempting to elude a police officer
under ORS 811.540.

[(k)] (j) A suspension or revocation resulting from misdemeanor driving
while under the influence of intoxicants under ORS 813.010.

[(L)] (k) A suspension for use of a motor vehicle in the commission of a
crime punishable as a felony.

(5) In addition to any other sentence that may be imposed, if a person is
convicted of the offense described in this section and the underlying sus-
pension resulted from driving while under the influence of intoxicants, the
court shall impose a minimum fine of at least $1,000 if it is the person’s first
conviction for criminal driving while suspended or revoked and a minimum
fine of at least $2,000 if it is the person’s second or subsequent conviction.

(6)(a) The Oregon Criminal Justice Commission shall classify a violation
of this section that is a felony as crime category 4 of the rules of the com-
mission.

(b) Notwithstanding paragraph (a) of this subsection, the commission
shall classify a violation of this section that is a felony as crime category
6 of the rules of the commission, if the suspension or revocation resulted
from:
(A) Any degree of murder, manslaughter or criminally negligent homicide or an assault that causes serious physical injury, resulting from the operation of a motor vehicle; or

(B) Aggravated vehicular homicide or aggravated driving while suspended or revoked.

OUT-OF-STATE DRIVING RECORDS

SECTION 25. ORS 802.200 is amended to read:

802.200. In addition to any other records the Department of Transportation may establish, the department is subject to the following provisions concerning records:

(1) The department shall maintain records concerning the titling of vehicles in this state. The records under this subsection shall include the following:

(a) For vehicles issued a title by this state, the records shall identify the vehicle and contain the following:

(A) The name of the vehicle owner and any security interest holders in order of priority, except that a security interest holder need not be identified if the debtor who granted the interest is in the business of selling vehicles and the vehicles constitute inventory held for sale;

(B) The name of any lessor of the vehicle;

(C) The vehicle description; and

(D) Whether a certificate of title was issued for the vehicle.

(b) If the vehicle is an antique vehicle that is reconstructed, the records shall indicate that the vehicle is reconstructed.

(c) If the vehicle is a replica, the records shall indicate that the vehicle is a replica.

(d) Any other information concerning the titling of vehicles that the department considers convenient or appropriate.

(e) All odometer disclosures and readings for a vehicle that are reported
to the department under provisions of the vehicle code. The department shall keep the most recent version of records required under this paragraph in electronic form.

(f) If the vehicle has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, the records shall indicate that the vehicle is a totaled vehicle unless the reason for the report was theft and the vehicle has been recovered.

(2) If a vehicle that has been registered or titled in another jurisdiction is registered or titled in this state, the department shall retain a record of any odometer readings shown on the title or registration documents submitted to the department at the time of registration or title.

(3) Except as otherwise provided in ORS 826.003, the department shall maintain records concerning the registration of vehicles required to be registered by the department. The records concerning the registration of vehicles may be stored along with records concerning the titling of vehicles. The records under this subsection shall include the following:

(a) For vehicles registered by the department, the records shall identify the vehicle and contain the following:

(A) The registration plate number assigned by the department to the vehicle;

(B) The name of the vehicle owner;

(C) The vehicle description and vehicle identification number; and

(D) An indication that the vehicle is a totaled vehicle if it has been reported to the department as a totaled vehicle under the provisions of ORS 819.012 or 819.014, unless the reason for the report was theft and the vehicle has been recovered.

(b) Any other information concerning the registration of vehicles that the department considers convenient or appropriate.

(4) The department shall maintain separate records for the regulation of vehicle dealers. The records required under this subsection shall include the following information about persons issued dealer certificates:

[34]
(a) The person’s application for a vehicle dealer certificate.
(b) An alphabetical index of the name of each person applying for a vehicle dealer certificate.
(c) A numerical index according to the distinctive number assigned to each vehicle dealer.

(5) The department shall maintain a file on vehicles for which the title record is canceled under ORS 819.030. The records required under this subsection shall disclose the last registered owner of each vehicle, any security interest holder or holders and lessors of each vehicle as shown by the canceled title record for each vehicle and the make and year model for each vehicle.

(6) The department shall maintain a record of each agreement or declaration under ORS 802.500 and 802.520.

(7) The department shall maintain separate and comprehensive records of all transactions affecting the Revolving Account for Emergency Cash Advances described under ORS 802.100.

(8) The department shall maintain suitable records of driver licenses, driver permits and identification cards. The records required under this subsection shall include all of the following:
(a) An index by name and number.
(b) Supporting documentation of all driver licenses, driver permits or identification cards issued.
(c) Every application for a driver license, driver permit or identification card.
(d) All driver licenses or driver permits that have been suspended, revoked or canceled.
(e) For each driver license, driver permit or identification card, the Social Security number of the person to whom the driver license, driver permit or identification card is issued or proof that the person is not eligible for a Social Security number.
(f) For each commercial driver license and commercial learner driver
permit, the Social Security number of the person to whom the license or permit is issued, or any other number or identifying information that the Secretary of the United States Department of Transportation determines appropriate to identify the person.

(9) The Department of Transportation shall maintain a two-part driving record consisting of an employment driving record and a nonemployment driving record for each person as required under this subsection. All of the following apply to the records required under this subsection:

(a) The department shall maintain driving records on each person the department determines requires an Oregon driving record to comply with federal regulations or provisions of the vehicle code. The department shall establish rules for maintaining driving records under this subsection.

[(A) Every person who is granted driving privileges under a driver license, driver permit or a statutory grant of driving privileges under ORS 807.020;]

[(B) Every person whose driving privileges have been suspended, revoked or canceled under this vehicle code;]

[(C) Every person who has filed an accident report under ORS 811.725 or 811.730; and]

[(D) Every person who is required to provide future responsibility filings under ORS 806.200, 806.220, 806.230 or 806.240.]

(b) In addition to other information required by this paragraph, the employment driving record shall include all reports of drug test results that are made to the department under ORS 825.410 or 825.415. Notwithstanding any other provision of law, release of the portion of the employment driving record that shows drug test results reported under ORS 825.410 or 825.415 is permitted only in accordance with ORS 802.202. The employment driving record shall also include all motor vehicle accidents that the person is required to report under ORS 811.720, all suspensions of driving privileges required to be placed on the record under ORS 809.280, all suspensions of the person’s commercial driving privileges that result from operation or use of a com-
merial motor vehicle and all convictions of the person for violation of motor vehicle laws except convictions for offenses requiring mandatory revocation or suspension of driving privileges under ORS 809.409, 809.411, 809.510 to 809.545 and 813.400, but shall include only such accidents, suspensions and convictions that occur while the person is driving a motor vehicle:

(A) In the course of the person's employment when the person is employed by another for the principal purpose of driving a motor vehicle;

(B) Carrying persons or property for compensation;

(C) In the course of the person's employment in the collection, transportation or delivery of mail if the vehicle is government owned or marked for the collection, transportation or delivery of mail in accordance with government rules;

(D) That is an authorized emergency vehicle;

(E) That is a commercial motor vehicle; or

(F) In the course of the person's employment with a federal, state or local government in a public works project involving repair or maintenance of water, sewer or road systems.

(c) The nonemployment driving record shall include the person's:

(A) Motor vehicle accidents that the person is required to report under ORS 811.720, other than the motor vehicle accidents that are included on the person's employment driving record;

(B) Suspensions, cancellations and revocations of licenses, permits and driving privileges;

(C) Convictions for violation of the motor vehicle laws other than those included in the employment driving record including, for each violation of ORS 811.100 or 811.111, the speed at which the person was convicted of traveling and the posted speed, the speed limit or the speed that constitutes prima facie evidence of violation of the basic speed rule, as appropriate; and

(D) Diversion agreements entered into under ORS 813.220 within the preceding 15 years.

(d) The department may record other entries to indicate correspondence,
interviews, participation in driver improvement programs or other matters concerning the status of the driving privileges of the person.

(e) When a person from another jurisdiction applies for a driver license or driver permit [issued by this state], the department [shall] may request a copy of the person’s driving [record] records that exist for the person in any [from the] other jurisdiction. [At the time the person is issued a license in Oregon, the record from the other jurisdiction shall become part of the driver’s record in this state with the same force and effect as though entered on the driver’s record in this state in the original instance.] The department [by rule may specify methods for converting] shall adopt rules specifying when the department may request driving records from other jurisdictions and may apply entries from out-of-state records for use in Oregon.

(f) When a suspension of a driver permit, driver license or other driving privilege is placed on the driving record under ORS 809.280 for failure to appear in court on a traffic crime, the department shall note on the record that the suspension was for failure to appear in court and shall also note the offense charged against the person on which the person failed to appear.

(g) The Department of Transportation, in consultation with the Department of State Police, shall devise and implement a method of noting suspensions and revocations of driving privileges on the record in such a way that police agencies can determine directly from the record what class of offense, as provided by law, is committed by a person who drives in violation of the suspension or revocation. If the Department of Transportation and the Department of State Police devise a mutually agreeable alternative method of informing police agencies of the nature of a suspension or revocation and the consequences of its violation, the implementation of that method shall satisfy the duty of the Department of Transportation under this paragraph.

(10) The Department of Transportation shall maintain records of judgments or convictions sent to the department under ORS 810.375.

(11) The department shall maintain accident reports filed with the department under ORS 810.460 and 811.725 to 811.735.

[38]
(12) The department shall maintain records of bank checks or money orders returned under ORS 802.110.

(13) The department shall maintain records of trip permits issued by the department under ORS 803.600, as provided under this subsection. The records required by this subsection shall include the following:

(a) A description of the vehicle sufficient to identify the vehicle.
(b) The person to whom the permit was issued.
(c) When the permit was issued.
(d) The type of permit issued.
(e) For registration weight trip permits, the maximum allowable registration weight permitted for operation under the permit.
(f) Any other information the department determines appropriate or convenient.

NOTICE OF EXPIRATION OF DRIVER LICENSES OR IDENTIFICATION CARDS

SECTION 26. ORS 807.140 is amended to read:

807.140. (1) Before the expiration of any license or a license with an endorsement under the vehicle code, the Department of Transportation shall notify the person to whom the license was issued of the approaching expiration. Within a reasonable time prior to the expiration date, [the notice shall be mailed to the person to whom the license was issued at the address shown in the files maintained by] the department shall notify the person to whom the license was issued in the manner determined by the department by rule.

(2) The department is not required to notify the person of an approaching expiration if the person's license has been suspended, canceled or revoked or if the person has failed to notify the department of a change of address as required under ORS 807.560.

(3) Notwithstanding subsection (1) of this section, the department is not
required to notify the person of an approaching expiration if the person re-
ceived a limited term driver license, limited term commercial driver license,
limited term driver permit, limited term commercial learner driver permit or
limited term identification card under ORS 807.730 for a period of less than
one year.

(4) Failure to receive a notice of expiration from the department is not
a defense to a charge of driving with an expired license. However, the court
may dismiss the charge if the person renews the license before the scheduled
court appearance.

(5) The department’s responsibility to maintain records concerning notice
under this section is as provided under ORS 802.210.

SECTION 27. ORS 802.210 is amended to read:
802.210. The Department of Transportation is not required to maintain
records on any of the following:

(1) The preparation and [sending of notices] notification required on ap-
proaching expiration of registration under ORS 803.450.

(2) The preparation and [mailing of notices] notification required on ap-
proaching expiration of driver license or driver permit under ORS 807.140.

REQUEST FOR IMPLIED CONSENT HEARINGS

SECTION 28. ORS 813.410 is amended to read:
813.410. (1) If the Department of Transportation receives from a police
officer a report that is in substantial compliance with ORS 813.120, the de-
partment shall suspend the driving privileges of the person in this state on
the 30th day after the date of arrest or, if the report indicates that the per-
son failed a blood test, on the 60th day after receipt of the report, unless,
at a hearing described under this section, the department determines that the
suspension would not be valid as described in this section. A suspension of
driving privileges imposed under this subsection shall be for a period of time
established under ORS 813.420.
(2) If the department receives from a police officer a report **pursuant to** under ORS 813.120 and the person holds commercial driving privileges and the person was driving a motor vehicle or commercial motor vehicle and refused to submit to a test under ORS 813.100 or the person was driving a commercial motor vehicle and submitted to a breath or blood test and the person's blood, as shown by the test, had 0.04 percent or more by weight of alcohol, the department shall suspend the person's commercial driving privileges on the 30th day after the date of arrest or, if the report indicates that the person failed a blood test, on the 60th day after receipt of the report, unless, at a hearing described under this section, the department determines that the suspension would not be valid as described in this section. A commercial driving privileges suspension imposed under this subsection shall be for a period of time established under ORS 809.510 or 809.520.

(3) If within 10 days from the date of arrest, or, if the person fails a blood test, within 10 days from the date the department sends notice of suspension, the department receives a **written** request for a hearing from a person whose driving privileges or commercial driving privileges the department proposes to suspend under this section, the department shall provide a hearing in accordance with this section. **The person shall request a hearing in the form and manner prescribed by the department by rule.** Except as otherwise provided under this section, a hearing held by the department under this section **shall be** subject to the provisions for contested cases, other than appeal provisions, under ORS chapter 183. The applicable appeal provisions are as provided under ORS 813.450 and section 24, chapter 672, Oregon Laws 1985. Notwithstanding ORS 809.430, the department is not required to give any notice of intent to suspend or suspension in addition to that provided under ORS 813.100.

(4) Except as provided in subsection (5) of this section, a hearing required by this section is subject to all of the following:
   (a) The hearing shall be conducted by an administrative law judge assigned from the Office of Administrative Hearings established under ORS
(b) The administrative law judge shall conduct the hearing by telephone or other two-way electronic communication device.

(c) The department may authorize the administrative law judge to issue a final order in any case.

(d) A person who requests a hearing under this section and who fails, without just cause, to appear personally or through an attorney waives the right to a hearing. If a person waives a right to a hearing under this paragraph, the department is not required to make any showing at hearing.

(e) Except as provided in ORS 813.440 or upon remand under ORS 813.450, the department shall hold the hearing and issue a final order within 30 days of the date of the arrest or, if the person fails a blood test, within 60 days from the date the department received the report of the failure.

(f) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the appearance of witnesses by telephone or other two-way electronic communication device at the hearing requested by the person or the department and the production of relevant documents.

(g) The hearing shall be recorded by whatever means may be determined by the department and shall include testimony and exhibits, if any. The record of the proceedings may not be transcribed unless requested by a party to the proceeding.

(5) (a) A person or a police officer may request that a hearing required by this section be conducted in person.

(b) The department, by rule, shall establish the manner and time limitation requirements by which a person or a police officer may request that a hearing be conducted in person.

(c) Unless there is an agreement between the person and the department that the hearing be conducted elsewhere, a hearing requested under this subsection shall be held either in the county where the alleged offense occurred or at any place within 100 miles of the place where the offense is
alleged to have occurred, as established by the department by rule.

(d) In connection with the hearing, the department or its authorized representative may administer oaths and shall issue subpoenas for the attendance of witnesses at the hearing requested under this subsection by the person and the production of relevant documents.

(6) This subsection shall be narrowly construed so as to effect the legislative purpose of limiting the scope of hearings under this section. The scope of a hearing under this section shall be limited to whether the suspension is valid as described in this subsection. A suspension under this section is valid if all of the following requirements have been met:

(a) The person, at the time the person was requested to submit to a test under ORS 813.100, was under arrest for driving while under the influence of intoxicants in violation of ORS 813.010 or a municipal ordinance.

(b) The police had reasonable grounds to believe, at the time the request was made, that the person arrested had been driving under the influence of intoxicants in violation of ORS 813.010 or of a municipal ordinance.

(c) The person refused a test under ORS 813.100, or took a breath or blood test and the test disclosed that the level of alcohol in the person’s blood at the time of the test was:

(A) 0.08 percent or more by weight if the person was not driving a commercial motor vehicle;

(B) 0.04 percent or more by weight if the person was driving a commercial motor vehicle; or

(C) Any amount if the person was under 21 years of age.

(d) If the report under ORS 813.120 indicates that the person was driving a commercial motor vehicle, the vehicle was in fact a commercial motor vehicle as defined in ORS 801.208.

(e) The person had been informed under ORS 813.100 of rights and consequences as described under ORS 813.130.

(f) The person was given written notice required under ORS 813.100.

(g) If the person arrested submitted to a test under ORS 813.100, the per-
son administering the test was qualified to administer the test under ORS 813.160.

(h) If the person arrested submitted to a test under ORS 813.100, the methods, procedures and equipment used in the test complied with requirements under ORS 813.160.

(7) A suspension imposed under this section shall remain in effect pending any appeal or remand of a final order issued under this section and there shall be no stay of the suspension pending appeal or remand.

(8) Unless a person fails, without just cause, to appear personally or through an attorney at a hearing requested under this section, a person shall have the right to appeal any final order by the department after a hearing under this section by filing a petition. The following apply to this subsection:

(a) The person shall file the petition in the circuit court for the county where the person resides or, if the person does not reside in Oregon, in the circuit court of the county in which the arrest took place within 30 days after issuance of the final order of the department.

(b) The court upon receipt of the petition shall set the matter for hearing upon 10 days' notice to the department and the petitioner unless hearing is waived by both the department and the petitioner.

DRIVING PRIVILEGE SUSPENSION NOTICES

SECTION 29. ORS 809.416, as amended by section 34, chapter 76, Oregon Laws 2018, is amended to read:

809.416. This section establishes circumstances that will make a person subject to suspension under ORS 809.415 (4) and what a person is required to do to make the person no longer subject to suspension. The following apply as described:

(1) A person is subject to suspension under ORS 809.415 (4) if the Department of Transportation receives notice from a court to [apply this section] commence suspension under ORS 809.220. A person who is subject
under this subsection remains subject until the person presents the department with notice issued by the court showing that the person is no longer subject to this section or until 10 years have elapsed from the date the traffic offense or violation of ORS 471.430 occurred, whichever is earlier. This subsection [shall] does not subject a person to ORS 809.415 (4) for any pedestrian offense, bicycling offense or parking offense. Upon receipt of notice from a court to commence suspension under ORS 809.220, the department shall notify the person, in a manner determined by the department by rule, that the suspension will commence 60 days from the date the department sent the notification unless the person presents the department with notice issued by the court showing that the person is no longer subject to this section.

(2) A person is subject to suspension under ORS 809.415 (4) if the department receives a notice of suspension from a court under ORS 809.210 indicating that the person has failed or refused to pay a fine or obey an order of the court. A person who is subject under this subsection remains subject until the earlier of the following:

(a) The person presents the department with a notice of reinstatement issued by the court showing that the person:

(A) Is making payments, has paid the fine or has obeyed the order of the court; or

(B) Has enrolled in a preapprenticeship program, as defined in ORS 660.010, or is a registered apprentice under ORS 660.020; or

(b) Twenty years have elapsed from the date the traffic offense occurred.

(3) [Subsection (2) of this section does not subject a person to] Notwithstanding subsection (2) of this section, a person is not subject to suspension under ORS 809.415 (4) for failure or refusal to pay a fine relating to any pedestrian offense, bicycling offense or parking offense.

(4) Upon receipt of a notice of suspension from a court, the department shall notify the person, in the
manner provided by the department by rule, that the suspension will commence 60 days from the date [of the letter] the department sent the notification unless the person presents the department with [the] a notice of reinstatement [required by this] as described in subsection (2)(a) of this section.

SECTION 30. ORS 809.430 is amended to read:

809.430. (1) When the Department of Transportation, as authorized or required, suspends, revokes or cancels driving privileges, commercial driving privileges or the right to apply for driving privileges or commercial driving privileges, the department shall give notice under this section of such action to the person whose driving privileges, commercial driving privileges or right to apply is affected.

(2) Notice under this section shall state the nature and reason for the action and, in the case of a suspension, whether it was ordered by a court.

[(3) If violation of a suspension or revocation would constitute the offense described in ORS 811.182, service of notice of the suspension or revocation under this section is accomplished by:]

[(a) Mailing the notice by certified mail, restricted delivery, return receipt requested, to the person’s address as shown by driver licensing records of the department; or]

[(b) Personal service in the same manner as a summons is served in an action at law.]

[(4) Service of notice under this section for all other actions is accomplished by:]

[(a) Mailing the notice by first class mail to the person’s address as shown by driver licensing records of the department; or]

[(b) Personal service in the same manner as a summons is served in an action at law.]

(3) The department shall serve the notice in a manner determined by the department by rule.

SECTION 31. ORS 811.180 is amended to read:
811.180. The following establishes affirmative defenses in prosecutions for
driving while suspended or revoked in violation of ORS 811.175 or 811.182
and describes when the affirmative defenses are not available:

(1) In addition to other defenses provided by law, including but not lim-
ited to ORS 161.200, it is an affirmative defense to the offenses described in
ORS 811.175 and 811.182 that:

(a) An injury or immediate threat of injury to a human being or animal,
and the urgency of the circumstances made it necessary for the defendant to
drive a motor vehicle at the time and place in question; or

(b) The defendant had not received notice of the defendant’s suspension
or revocation or been informed of the suspension or revocation by a trial
judge who ordered a suspension or revocation of the defendant’s driving
privileges or right to apply.

(2) The affirmative defenses described in subsection (1)(b) of this section
are not available to a defendant under the circumstances described in this
subsection. Any of the evidence specified in this subsection may be offered
in the prosecution’s case in chief. This subsection applies if any of the fol-
lowing circumstances exist:

(a) The defendant refused to accept a notification provided by the de-
partment, including refusing to sign a receipt for the certified mail con-
taining the notice of suspension or revocation.

(b) The notice of suspension or revocation could not be delivered to the
defendant because the defendant failed to comply with the requirements un-
der ORS 807.560 to notify the Department of Transportation of a change of
address or residence.

(c) At a previous court appearance, the defendant had been informed by
a trial judge that the judge was ordering a suspension or revocation of the
defendant’s driving privileges or right to apply.

(d) The defendant had actual knowledge of the suspension or revocation
by any means prior to the time the defendant was stopped on the current
charge.
(e) The defendant was provided with notice of intent to suspend under ORS 813.100.

IDENTIFICATION CARDS

SECTION 32. ORS 807.400 is amended to read:

807.400. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

(b) As required by ORS 807.021 and 807.730, provides the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person’s full legal name, age and identity as the department may require; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt
rules to identify what constitutes proof of address for purposes of this subsection. Verification of proof of address may include, but is not limited to, providing a utility bill, a tax return, a record from a financial institution, a proof of insurance card or a health benefits card, a selective service card, a mortgage document or a lease agreement. The applicant may provide the proof of address by submitting proof in the form of an original document or a copy of a document, use an electronic device to display proof of address, or provide proof through the use of a third party address verification system.

(4) Every identification card shall be issued upon the standard license form described under ORS 807.110 and shall bear a statement to the effect that the identification card is not a license or any other grant of driving privileges to operate a motor vehicle and is to be used for identification purposes only. The department shall use the same security procedures, processes, materials and features for an identification card as are required for a license under ORS 807.110. The identification card is not required to contain the residence address of persons listed in ORS 807.110 (1)(e).

(5) If the identification card is a limited term identification card issued under ORS 807.730, the limited term identification card shall indicate:

(a) That it is a limited term identification card; and

(b) The date on which the limited term identification card expires.

(6) Upon order of the juvenile court, the department shall include on the card the fact that the person issued the identification card is an emancipated minor.

(7) Upon request of the person to whom the identification card is issued and presentation of proof, as determined by the department by rule, that the person is a veteran, as defined in ORS 408.225, the department shall include on the card the fact that the person is a veteran.

(8) Each original identification card shall expire on a date consistent with the expiration dates of licenses as set forth in ORS 807.130.

(9) Identification cards shall be renewed under the terms for renewal of licenses as set forth in ORS 807.150.
(10) The fee for an original identification card or a renewal thereof shall be the fee established under ORS 807.410.

(11) An identification card becomes invalid if the holder of the card changes the holder’s residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(12) If a person to whom an identification card was issued and who changes the person’s residence address [appears in person at a department office that issues identification cards,] submits an application for a replacement identification card, the department may [do any of the following:]

[(a)] issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established [for issuing a replacement identification card with a changed address] under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.

[(b) Note the new address on the old identification card in a manner to be determined by the department by rule.]

(13) An identification card becomes invalid if the holder of the card changes the holder’s name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee [required] established under ORS 807.410.

(14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the [replacement] fee established under
ORS 807.410.

(15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person's identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.

(16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of this section. The fee for a replacement identification card is provided under ORS 807.410.

(17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person's driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:

(a) The person voluntarily surrenders the person's driver license or driver permit to the department based upon the person's recognition that the person is no longer competent to drive.

(b) The person's driving privileges are suspended under ORS 809.419 (1).

This paragraph only applies if the person voluntarily surrenders the person's
driver license or driver permit to the department as provided under ORS 809.500.

**SECTION 33.** ORS 807.400, as amended by section 18, chapter 568, Oregon Laws 2017, is amended to read:

807.400. (1) The Department of Transportation shall issue an identification card to any person who:

(a) Is domiciled in or is a resident of this state, as described in ORS 807.062;

(b) As required by ORS 807.021 and 807.730, provides the Social Security number assigned to the person by the United States Social Security Administration and proof of legal presence in the United States or, if the person is not eligible for a Social Security number, proof of legal presence in the United States and proof that the person is not eligible for a Social Security number;

(c) Does not have a current, valid driver license;

(d) Furnishes evidence of the person’s full legal name and date of birth; and

(e) Submits to collection of biometric data by the department that establish the identity of the person as provided in ORS 807.024.

(2) The department shall work with other agencies and organizations to attempt to improve the issuance system for identification cards.

(3) Every original application for an identification card must be signed by the applicant. The department shall require proof to verify the address of an applicant for issuance of an identification card in addition to other documents the department may require of the applicant. If the address of an applicant has changed since the last time an identification card was issued to or renewed for the applicant, the department shall require proof to verify the address of the applicant for renewal of an identification card, in addition to anything else the department may require. The department shall adopt rules to identify what constitutes proof of address for purposes of this subsection. Proof of address may include, but is not limited to, providing a [52]
utility bill, a tax return, a record from a financial institution, a proof of
insurance card or a health benefits card, a selective service card, a mortgage
document or a lease agreement. The applicant may provide the proof of ad-
dress by submitting proof in the form of an original document or a copy of
a document, use an electronic device to display proof of address, or provide
proof through the use of a third party address verification system.

(4) Every identification card shall be issued upon the standard driver li-
cense form described under ORS 807.110 and shall bear a statement to the
effect that the identification card is not a driver license or any other grant
of driving privileges to operate a motor vehicle and is to be used for ident-
tification purposes only. The department shall use the same security proce-
dures, processes, materials and features for an identification card as are
required for a driver license under ORS 807.110. The identification card is
not required to contain the residence address of persons listed in ORS 807.110
(1)(e).

(5) If the identification card is a limited term identification card issued
under ORS 807.730, the limited term identification card shall indicate:

(a) That it is a limited term identification card; and

(b) The date on which the limited term identification card expires.

(6) Upon order of the juvenile court, the department shall include on the
card the fact that the person issued the identification card is an emancipated
minor.

(7) Upon request of the person to whom the identification card is issued
and presentation of proof, as determined by the department by rule, that the
person is a veteran, as defined in ORS 408.225, the department shall include
on the card the fact that the person is a veteran.

(8) Each original identification card shall expire on a date consistent with
the expiration dates of licenses as set forth in ORS 807.130.

(9) Identification cards shall be renewed under the terms for renewal of
licenses as set forth in ORS 807.150.

(10) The fee for an original identification card or a renewal thereof shall
be the fee established under ORS 807.410.

(11) An identification card becomes invalid if the holder of the card changes the holder's residence address from that shown on the identification card and does not provide the department with notice of the change as required under ORS 807.420.

(12) If a person to whom an identification card was issued and who changes the person's residence address [appears in person at a department office that issues identification cards,] submits an application for a replacement identification card, the department may [do any of the following:]

[(a)] issue a replacement identification card containing the new address upon receipt of the old identification card and payment of the fee established [for issuing a replacement identification card with a changed address] under ORS 807.410. Except as otherwise provided in subsection (14) of this section, the replacement identification card shall bear the same distinguishing number as the card being replaced.

[(b) Note the new address on the old identification card in a manner to be determined by the department by rule.]

(13) An identification card becomes invalid if the holder of the card changes the holder's name from that shown on the card, including a change of name by marriage, without providing the department with notice of the change as required under ORS 807.420. Upon receiving such notice and the old identification card, the department shall issue a replacement identification card upon payment of the fee [required] established under ORS 807.410.

(14) In the event that, for a reason identified by the department by rule, a person needs a replacement identification card that bears a distinguishing number different from the number on the card being replaced, the person to whom the card was issued may obtain a replacement card from the department upon furnishing proof satisfactory to the department of the need for such replacement and payment of the [replacement] fee established under ORS 807.410.

[54]
(15) If a person furnishes proof that the person is a veteran, as defined in ORS 408.225, and the person’s identification card does not include the fact that the person is a veteran, the department shall issue a replacement identification card that includes the fact that the person is a veteran.

(16) The department may establish by rule reasons for issuing replacement identification cards that are in addition to the reasons identified in subsections (12) to (15) of this section. The fee for a replacement identification card is provided under ORS 807.410.

(17) Upon cancellation of an identification card, the card is terminated and must be surrendered to the department. An identification card may be canceled for any of the reasons that driving privileges or a driver license may be canceled under ORS 809.310. The department may reissue an identification card canceled under this subsection when the applicant has satisfied all requirements for the identification card.

(18) Notwithstanding any other provision of this section, the department may issue an identification card to a person under this subsection without charge when the person surrenders the person’s driver license or driver permit to the department for reasons described in this subsection. If the department issues an identification card under this subsection, the identification card shall expire at the same time as the surrendered driver license or driver permit would have expired. An identification card issued under this subsection is subject to the same requirements and fees for renewal or upon expiration as any other identification card issued under this section. The department may issue identification cards under this subsection for any of the following reasons:

(a) The person voluntarily surrenders the person’s driver license or driver permit to the department based upon the person’s recognition that the person is no longer competent to drive.

(b) The person’s driving privileges are suspended under ORS 809.419 (1). This paragraph only applies if the person voluntarily surrenders the person’s driver license or driver permit to the department as provided under ORS
(19) If a person is applying for an identification card that is a Real ID, the person must comply with the requirements under the vehicle code for issuance of Real IDs.

CANCELLATION NOTICES

SECTION 34. ORS 809.090 is amended to read:
809.090. (1) The Department of Transportation may cancel the registration or title or both of a vehicle if the department determines that:
   (a) A holder is not entitled [therein] to the registration or title or both; or
   (b) All fees applicable to a vehicle, payable to the department under any provision of law have not been paid.
(2) Before cancellation under this section, the department must give opportunity for a hearing upon 10 days’ notice. [The notice shall be served in person or by first class mail.] The department shall serve notice in a manner determined by the department by rule.

VEHICLE TRIP PERMITS

SECTION 35. ORS 803.600 is amended to read:
803.600. A trip permit grants authority to temporarily operate a vehicle on the highways of this state under circumstances where the operation would not otherwise be legal because the vehicle is not registered by this state or because provisions relating to the vehicle’s registration do not allow the operation. The Department of Transportation shall provide for the issuance of trip permits in a manner consistent with this section. All of the following apply to permits issued under this section:
(1) The department shall issue the following types of trip permits to authorize the described type of operation and, except as provided in subsection

[56]
(2) of this section, may not issue trip permits for any other purpose:

(a) A heavy motor vehicle trip permit may be issued for a motor vehicle with a combined weight or loaded weight of more than 8,000 pounds or that is a fixed load motor vehicle, and that is not registered in this state. A permit described in this paragraph is valid for 10 consecutive days.

(b) A heavy trailer trip permit may be issued for a trailer that will be operated on the highways at a loaded weight of more than 8,000 pounds or that is a fixed load vehicle, and that is not registered to allow operation of the vehicle in this state. A permit described in this paragraph is valid for 10 consecutive days. This paragraph does not apply to travel trailers.

(c) A light vehicle trip permit may be issued for a vehicle with a combined weight or loaded weight of less than 8,001 pounds that is not a fixed load vehicle and that is not registered to allow operation of the vehicle in this state. Permits described in this paragraph may be issued for a period of 21 consecutive days. The department may not issue more than two permits under this paragraph in a 12-month period for any one vehicle unless all registered owners of the vehicle are replaced by new owners. If there is a complete change in ownership of the vehicle, as shown by the registration records for the vehicle, a new owner may receive permits for the vehicle under this paragraph as if no permits had been issued for the vehicle. This paragraph does not apply to campers, travel trailers or motor homes, which are eligible for recreational vehicle trip permits under paragraph (d) of this subsection.

(d) A recreational vehicle trip permit may be issued for a period of up to 10 consecutive days for a camper, travel trailer or motor home that is not registered for operation in this state. A person buying a recreational vehicle trip permit must show proof satisfactory to the department [of Transportation] that the person is the owner of the camper, travel trailer or motor home for which the permit will be granted. A person may not receive recreational vehicle trip permits authorizing more than 10 days of operation in any 12-month period. [A person who applies for a recreational vehicle trip permit...
permit must certify that the person has not been granted permits that together,
and including the permit applied for, exceed the maximum number of days of
operation allowed by this paragraph.] The department may determine by
rule the method for ensuring a person has not exceeded the maximum
number of days of operation allowed by the permit.

(e) A registration weight trip permit may be issued for a vehicle that is
registered in this state, to allow the vehicle to be operated with a greater
combined weight or loaded weight than is permitted by the registration
weight established for the vehicle or at a greater combined weight or loaded
weight than is otherwise permitted under the registration for the vehicle if
the vehicle is not required to establish a registration weight. A permit issued
under this paragraph does not authorize movements or operations for which
a variance permit is required under ORS 818.200. A permit issued under this
paragraph shall show the maximum registration weight allowed for operation
under the permit. A permit issued under this paragraph is valid for 10 con-
secutive days.

(f) A registered vehicle trip permit may be issued for a vehicle that is
registered in this state to allow the vehicle to operate under conditions or
in ways not permitted by the terms of the vehicle registration. The depart-
ment shall determine by rule the kinds of operation for which permits may
be issued under this paragraph. A permit issued under this paragraph is valid
for 10 consecutive days.

(2) The department shall allow a person issued a vehicle dealer certificate
under ORS 822.020 or a towing business certificate under ORS 822.205 to is-
sue a 10-day trip permit to a person who buys a motor vehicle from the
person with the certificate if the registration stickers are removed in ac-
cordance with ORS 803.565. The following apply to trip permits issued under
this subsection:

(a) A permit issued under this subsection allows operation of the motor
vehicle in this state for the purpose of registering the vehicle.

(b) A permit issued under this subsection is valid for a period of 10 con-
(c) A person with a vehicle dealer certificate or a towing business certificate may not issue more than two permits under this subsection for the same motor vehicle.

(3) The following requirements for records are established concerning permits issued under this section:
(a) Any carrier regulated by the department shall maintain records of heavy motor vehicle and heavy trailer trip permits and registration weight trip permits issued to the carrier as required by the department by rule.
(b) Requirements for the department to maintain records concerning trip permits are established under ORS 802.200.

(4) An owner or operator of a vehicle may obtain a trip permit. The fees for issuance of trip permits are as provided under ORS 803.645.

(5) The department shall make the trip permits available to all field offices and agents maintained by the department and may make arrangements for the issuance of the permits by designated individuals, firms or associations for the convenience of the motoring public. This subsection does not require the department to make trip permits described in subsection (2) of this section available to anyone other than persons with vehicle dealer certificates or towing business certificates.

(6) The department may also sell heavy motor vehicle, heavy trailer and registration weight trip permits in advance of issuance to contractors, transportation companies and other users for issuance to their own vehicles or vehicles under their control.

(7) The department shall adopt rules for the issuance, sale and control of trip permits.

(8) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted as follows:
(a) By vehicle dealers as permitted under ORS 822.040.
(b) By vehicle transporters as permitted under ORS 822.310.
(c) By towing businesses as permitted under ORS 822.210.
(9) Trip permits are not required for the operation of unregistered vehicles where such operation is permitted under ORS 803.305.

(10) Unregistered vehicles that are operated without a trip permit are subject to the prohibitions and penalties for operation of unregistered vehicles under ORS 803.300 or 803.315, as appropriate.

(11) A trip permit may be issued to a school vehicle registered under ORS 805.050 for use of the vehicle for purposes not permitted under ORS 805.050.

SECTION 36. ORS 803.602 is amended to read:

803.602. An applicant for a light vehicle trip permit, a recreational vehicle trip permit for a motor vehicle or a trip permit issued under ORS 803.600 (2) must submit, at the time of application, [a statement] proof indicating that the vehicle that will be operated under the permit is covered by an insurance policy that meets the requirements of ORS 806.080 and will continue to be covered by the policy for as long as the permit is valid. The [statement shall] proof must include the name of the insurer and the policy number. The Department of Transportation or, if the permit is issued under ORS 803.600 (2), the person with the vehicle dealer certificate or towing business certificate shall refuse to issue a permit to a person who does not [submit the statement] present the proof required by this section.

REPEALS

SECTION 37. ORS 806.160, 809.600, 809.605, 809.610 and 809.640 are repealed.

APPLICABILITY

SECTION 38. The amendments to ORS 161.710, 801.010, 801.020, 807.060, 807.240, 809.390 and 811.182 by sections 18 to 24 of this 2019 Act and the repeal of ORS 809.600, 809.605, 809.610 and 809.640 by section 37 of this 2019 Act do not apply to habitual offenders whose driving priv-
ileges are revoked under ORS 809.640 before the effective date of this 2019 Act. Habitual offenders whose driving privileges are revoked under ORS 809.640 before the effective date of this 2019 Act shall continue to be governed by the law applicable to habitual offenders in effect immediately before the effective date of this 2019 Act.

CAPTIONS

SECTION 39. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.
SUMMARY

Modifies and adds laws related to transportation.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to transportation; creating new provisions; amending ORS 184.612, 184.665, 319.885, 320.400, 320.470, 367.095, 803.203 and 818.340 and section 18, chapter 30, Oregon Laws 2010, and sections 45 and 71f, chapter 750, Oregon Laws 2017; repealing ORS 824.237 and section 118b, chapter 750, Oregon Laws 2017; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 45, chapter 750, Oregon Laws 2017, as amended by section 43, chapter 93, Oregon Laws 2018, is amended to read:

Sec. 45. (1)(a) For calendar years beginning on or after January 1, 2020, the rates determined under ORS 319.020 (1)(b) and 319.530 (1) shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2019, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(B) The set of uniform standards required under ORS 184.657 (1) has been developed and the standards are being followed;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(C) The reports [required] received from cities and counties under ORS 184.657 (2) have been [submitted and] posted by the commission as required under ORS 184.657 (3);

(D) The Department of Transportation is implementing the registration fees and title fees described in ORS 803.091 and 803.422; and

(E) The Interstate 205 Active Traffic Management Project and the Interstate 205 Corridor Bottleneck Project have been completed.

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also submit with the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2020;

(C) The construction and financial status of uncompleted in-progress projects exceeding $20 million identified in chapter 750, Oregon Laws 2017;

(D) The status of the Treasure Valley Intermodal Facility Project and the Value Pricing Set-Up Project;

(E) Design, cost analysis and construction option packages for the Interstate 5 Rose Quarter Project for consideration by the Legislative Assembly; and

(F) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

(2)(a) For calendar years beginning on or after January 1, 2022, the rates determined under ORS 319.020 (1)(b) and 319.530 (1) and subsection (1) of this
section shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2021, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The Continuous Improvement Advisory Committee appointed under ORS 184.665 has reviewed and reported to the commission on all transportation projects costing $50 million or more and completed not less than six months prior to the date of the report required under this paragraph;

(B) The recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph have been implemented;

(B) Based on recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph, the commission has developed implementation plans and has taken actions to implement approved recommendations;

(C) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(D) The set of uniform standards required under ORS 184.657 (1) has been developed and are being followed;

(E) The reports [required] received from cities and counties under ORS 184.657 (2) have been [submitted and] posted by the commission as required under ORS 184.657 (3);

(F) Under ORS 184.657 (4), payments from the State Highway Fund have been withheld from cities and counties that failed to submit reports as required under ORS 184.657 (2);

(G)(i) [To the best knowledge of the commission, all bodies] The commission has requested confirmation from the Bureau of Labor and Industries that all contracting agencies, as defined in ORS 279A.010,
scheduled to receive fuel tax revenue pursuant to chapter 750, Oregon Laws 2017, after the operative date of the increase are in compliance with ORS 279C.305 [or under review by the Bureau of Labor and Industries for compliance with ORS 279C.305, or the commission has requested from the bureau confirmation of such compliance]; and

(ii) All contracting agencies that, to the best of the bureau's knowledge, are not in compliance with ORS 279C.305 are under review by the bureau; and

(H) The Department of Transportation is implementing the registration fees and title fees described in ORS 803.091 and 803.422.

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also identify in the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2022;

(C) The construction and financial status of uncompleted in-progress projects exceeding $50 million identified in chapter 750, Oregon Laws 2017; and

(D) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 5 Rose Quarter Project, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project, the Newberg-Dundee Bypass Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

(3)(a) For calendar years beginning on or after January 1, 2024, the rates
determined under ORS 319.020 (1)(b) and 319.530 (1) and subsections (1) and (2) of this section shall each be increased by two cents only if the Oregon Transportation Commission submits a report in the manner provided by ORS 192.245 on or before December 1, 2023, to the Joint Committee on Transportation established under ORS 171.858 stating that:

(A) The Continuous Improvement Advisory Committee appointed under ORS 184.665 has reviewed and reported to the commission on all transportation projects costing $50 million or more and completed not less than six months prior to the date of the report required under this paragraph;

[(B) The recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph have been implemented;]

(B) Based on recommendations for improvement reported by the Continuous Improvement Advisory Committee to the commission at least six months prior to the date of the report required under this paragraph, the commission has developed implementation plans and has taken actions to implement approved recommendations;

(C) The commission has identified sufficient shovel-ready highway projects and highway maintenance or operational uses of the increased fuel tax revenue to justify the increase;

(D) The set of uniform standards required under ORS 184.657 (1) has been developed and are being followed;

(E) The reports [required] received from cities and counties under ORS 184.657 (2) have been [submitted and] posted by the commission as required under ORS 184.657 (3);

(F) Under ORS 184.657 (4), payments from the State Highway Fund have been withheld from cities and counties that failed to submit reports as required under ORS 184.657 (2); and

(G)(i) [To the best knowledge of the commission, all bodies] The commission has requested confirmation from the Bureau of Labor and
Industries that all contracting agencies, as defined in ORS 279A.010, scheduled to receive fuel tax revenue pursuant to chapter 750, Oregon Laws 2017, after the operative date of the increase are in compliance with ORS 279C.305 [or under review by the Bureau of Labor and Industries for compliance with ORS 279C.305, or the commission has requested from the bureau confirmation of such compliance]; and

(ii) All contracting agencies that, to the best of the bureau’s knowledge, are not in compliance with ORS 279C.305 are under review by the bureau; and

(b) In addition to the facts stated in the report required under paragraph (a) of this subsection, the Oregon Transportation Commission shall also submit with the report:

(A) A list of the shovel-ready highway projects the commission expects to undertake with the revenue that will become available as a result of the increase;

(B) The amount of bonds the commission considers necessary to be issued to complete shovel-ready highway projects scheduled to be commenced after January 1, 2024; and

(C) The design, construction, financial status and progress of projects costing more than $20 million that are identified in chapter 750, Oregon Laws 2017, including, but not limited to, the Interstate 5 Rose Quarter Project, the Interstate 205 Abernethy Bridge Project, the Interstate 205 Freeway Widening Project, the State Highway 217 Northbound Project, the Newberg-Dundee Bypass Project and the State Highway 217 Southbound Project, and any other state transportation projects implemented after October 6, 2017.

SECTION 2. ORS 184.612 is amended to read:

184.612. (1) There is established the Oregon Transportation Commission consisting of five members appointed by the Governor, subject to confirmation by the Senate pursuant to section 4, Article III, Oregon Constitution. A member serves at the pleasure of the Governor.
(2) The Governor shall appoint members of the commission in compliance with all of the following:

(a) Members shall be appointed with consideration of the different geographic regions of the state with one member being a resident of the area east of the Cascade Range.

(b) Not more than three members who belong to one political party. Party affiliation shall be determined by the appropriate entry on official election registration cards.

[(3) At the time of appointment, a member may not have any direct or indirect financial or fiduciary interest related to the commission’s duties. If a conflict arises after a member’s appointment, the member shall declare the conflict and abstain from deliberations and voting on the matter under consideration by the commission.]

(3) At the time of appointment, a member or a relative of a member, as defined in ORS 244.020, may not have an actual conflict of interest, as defined in ORS 244.020.

(4) Notwithstanding ORS 244.120 (2), when met with a potential or actual conflict of interest, as those terms are defined in ORS 244.020, a member shall announce publicly the nature of the potential or actual conflict and:

(a) Except as provided in paragraph (b) of this subsection, refrain from participating as a public official in any discussion or debate on the issue out of which the potential or actual conflict arises or from voting on the issue.

(b) If the member's vote is necessary to meet a requirement of a minimum number of votes to take official action, be eligible to vote, but not to participate as a public official in any discussion or debate on the issue out of which the potential or actual conflict arises.

[(4)] (5) The term of office of each member is four years. Before the expiration of the term of a member, the Governor shall appoint a successor whose term begins on July 1 next following. A member is eligible for reap-
pointment. In case of a vacancy for any cause, the Governor shall appoint a person to fill the office for the unexpired term.

[(5)] (6) The Governor shall appoint one of the members as chairperson. The chairperson shall appoint one of the other members as vice chairperson. The chairperson and vice chairperson shall have such terms, duties and powers as the Oregon Transportation Commission determines are necessary for the performance of such offices.

[(6)] (7) A majority of the members of the commission constitutes a quorum. If a quorum is present at a meeting, the commission may take action by an affirmative vote by a majority of the members who are present. An individual member may not exercise individually any administrative authority with respect to the Department of Transportation.

[(7)] (8) The commission shall meet at least quarterly, at a time and place determined by the commission. The commission shall also meet at such other times and places as are specified by the call of the chairperson or of a majority of the commission.

[(8)] (9) A vacancy does not impair the right of the remaining members to exercise all the powers of the commission, except that three members of the commission must agree in the selection, vacation or abandonment of state highways, and in case the members are unable to agree the Governor shall have the right to vote as a member of the commission.

[(9)] (10) The commission shall keep complete and accurate records of all the meetings, transactions and business of the commission at the office of the department.

[(10)] (11) The commission may provide an official seal.

[(11)] (12) The commission may hire staff the commission deems necessary to assist the commission in carrying out its duties. The staff shall be considered employees of the department for purposes of the State Personnel Relations Law under ORS chapter 240.

[(12)] (13) A member of the commission is entitled to compensation and expenses as provided by ORS 292.495.
SECTION 3. ORS 184.665 is amended to read:

184.665. (1) The Oregon Transportation Commission shall appoint a Continuous Improvement Advisory Committee composed of members of the commission, employees of the Department of Transportation and transportation stakeholders. The committee shall be of such size and representation as the commission determines appropriate.

(2) The committee shall:

(a) Advise the commission on ways to maximize the efficiency of the department to allow increased investment in the transportation system over the short, medium and long term.

(b) Develop key performance measures, based on desired outcomes, for each division of the department. The committee shall submit key performance measures to the commission for its approval. The committee shall report to the commission at least once per year on the status of key performance measures and what steps are being taken by the department to achieve the goals of the key performance measures.

(3) The committee shall periodically report to the commission. The reports must include recommendations on ways the commission and the department may execute their duties more efficiently.

(4) Each odd-numbered year, the commission shall submit a report, in the manner provided by ORS 192.245, to the Joint Committee on Transportation established under ORS 171.858. The report must include information on the activities and recommendations of the committee and information on any actions taken by the commission or the department to implement recommendations of the committee.

(5) The committee shall meet regularly, at times and places fixed by the chairperson of the committee or a majority of members of the committee. The department shall provide office space and personnel to assist the committee as requested by the chairperson, within the limits of available funds.

(6) Members of the committee are entitled to compensation and expenses as provided under ORS 292.495.
SECTION 4. Section 71f, chapter 750, Oregon Laws 2017, is amended to read:

Sec. 71f. (1) Notwithstanding ORS 367.080 to 367.089 and subject to subsection (3) of this section and the availability of funds, the Department of Transportation shall first distribute the moneys in the Connect Oregon Fund, other than moneys dedicated for purposes described in Article XV, section 4a, of the Oregon Constitution, for the projects listed in subsection (2) of this section.

(2) The department shall distribute the following amounts for the projects listed below:

__________________________________________________________________________

(a) Mid-Willamette Valley


Intermodal Facility........ $ 25 million

(b) Treasure Valley


Intermodal Facility........ $ 26 million

(c) Rail expansion in


East Beach Industrial Park at the


Port of Morrow................. $ 6.55 million

(d) Extend Brooks North

Willamette Valley rail siding............................... $ 2.6 million

__________________________________________________________________________

(3) No later than January 1, 2020, to receive a distribution under this section, a potential recipient of moneys shall prepare and submit a plan to the Oregon Transportation Commission. At a minimum, the plan submitted must certify when and how the potential recipient plans to spend the moneys for the project with no more than five percent of the allocated funds to be available to recipients for development of the plan. The commission shall promptly review any submitted plans and if the commission approves the plan, the Department of Transportation shall distribute the moneys after
adopting an agreement with the recipient. The agreement shall follow rules
adopted by the commission for projects that receive grants from the Connect
Oregon Fund.

(4) After the distributions, if any, are made under this section, the re-
mainder of the moneys in the Connect Oregon Fund shall be distributed as
described in ORS 367.080 to 367.089.

SECTION 5. Section 18, chapter 30, Oregon Laws 2010, as amended by
section 71L, chapter 750, Oregon Laws 2017, and section 32, chapter 93,
Oregon Laws 2018, is amended to read:

Sec. 18. (1) The Department of Transportation shall report semiannually
to the legislative committees on revenue if the Legislative Assembly is in
session or, if the Legislative Assembly is not in session, to the Legislative
Revenue Officer. The department’s report shall include an estimate of the
amounts received in the previous two quarters from the increased taxes and
fees established in chapter 865, Oregon Laws 2009, and an estimate of the
projected revenue in the current quarter from the increased taxes and fees
established in chapter 865, Oregon Laws 2009.

(2) In addition to the report described in subsection (1) of this section, the
Department of Transportation shall report semiannually to the legislative
committees on revenue if the Legislative Assembly is in session or, if the
Legislative Assembly is not in session, to the Legislative Revenue Officer.
The department’s report shall include:

(a) An estimate of the amounts received in the previous two quarters from
the increased taxes and fees established in ORS 803.091 and 803.422 and sec-
tion 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020,
319.530, 803.420, 803.645, 818.225, 818.270, 825.450, 825.476, 825.480 and 826.023
by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, 57, 63, 64, 66, 67 and 70, chapter
750, Oregon Laws 2017, and an estimate of the projected revenue in the cur-
rent quarter and the next quarter from the increased taxes and fees estab-
lished in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws
2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225,

(b) An estimate of the amounts received in the previous biennium to date from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, 825.450, 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, 57, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017, and an estimate of the projected revenue in the remaining current biennium from the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, 825.450, 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, 57, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(c) Information about the expenditures and distributions made under ORS 367.095, including but not limited to:

(A) Information about the department’s total funds as well as the funds raised separately by the increased taxes and fees established in ORS 803.091 and 803.422 and section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020, 319.530, 803.420, 803.645, 818.225, 818.270, 825.450, 825.476, 825.480 and 826.023 by sections 34, 35, 40 to 43, 48, 49, 51, 52, 54, 57, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017, and expended as described in ORS 367.095 (3)(c).

(B) Semiannual amounts that include all the actual and forecasted expenditures and distributions made under ORS 367.095 for each quarter of the current biennium and the forecasted expenditures and distributions for the following biennium.

SECTION 6. ORS 367.095, as amended by section 30c, chapter 93, Oregon Laws 2018, is amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) The amount attributable to the increase in tax rates by section 45,

(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 818.270, 825.450, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 54, 57, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

(a) For calendar years beginning on or after January 1, 2022, $30 million per year shall be used for the Interstate 5 Rose Quarter Project. This amount shall be used to pay for the Interstate 5 Rose Quarter Project, including paying for debt service on bonds issued to finance the project, only until the later of the date on which the project is completed or on which all bonds issued to fund the project have been repaid. Any remaining moneys shall be distributed as described in subsection (3) of this section.

(b) $10 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:

(a) 50 percent to the Department of Transportation.

(b) 30 percent to counties for distribution as provided in ORS 366.762.

(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:
(a) $10 million for safety.

(b) Of the remaining balance:

(A) Forty percent for bridges.

(B) Thirty percent for seismic improvements related to highways and bridges.

(C) Twenty-four percent for state highway pavement preservation and culverts.

(D) Six percent for state highway maintenance and safety improvements.

SECTION 7. ORS 367.095, as amended by section 71b, chapter 750, Oregon Laws 2017, and section 30d, chapter 93, Oregon Laws 2018, is amended to read:

367.095. (1) The following amounts shall be distributed in the manner prescribed in this section:

(a) The amount attributable to the increase in tax rates by section 45, chapter 750, Oregon Laws 2017, and the amendments to ORS 319.020 and 319.530 by sections 40 to 43, chapter 750, Oregon Laws 2017.

(b) The amount attributable to the vehicle registration and title fees imposed under ORS 803.091 and 803.422.

(c) The amount attributable to the increase in taxes and fees by the amendments to ORS 803.420, 803.645, 818.225, 825.476, 825.480 and 826.023 by sections 34, 35, 48, 49, 51, 52, 63, 64, 66, 67 and 70, chapter 750, Oregon Laws 2017.

(2) The amounts described in subsection (1) of this section shall be distributed in the following order and for the following purposes:

(a) $30 million per year shall be used for the Interstate 5 Rose Quarter Project. This amount shall be used to pay for the Interstate 5 Rose Quarter Project, including paying for debt service on bonds issued to finance the project, only until the later of the date on which the project is completed or on which all bonds issued to fund the project have been repaid. Any remaining moneys shall be distributed as described in subsection (3) of this section.
(b) $15 million per year shall be deposited into the Safe Routes to Schools Fund for the purpose of providing Safe Routes to Schools matching grants under ORS 184.742. The remainder of the moneys shall be distributed as described in subsection (3) of this section.

(3) The moneys described in subsection (1) of this section that remain after the allocation of moneys described in subsection (2) of this section shall be allocated as follows:
(a) 50 percent to the Department of Transportation.
(b) 30 percent to counties for distribution as provided in ORS 366.762.
(c) 20 percent to cities for distribution as provided in ORS 366.800.

(4) The moneys described in subsection (3)(a) of this section or equivalent amounts that become available to the Department of Transportation shall be allocated as follows:
(a) $10 million for safety.
(b) Of the remaining balance:
   (A) Forty percent for bridges.
   (B) Thirty percent for seismic improvements related to highways and bridges.
   (C) Twenty-four percent for state highway pavement preservation and culverts.
   (D) Six percent for state highway maintenance and safety improvements.

SECTION 8. ORS 803.203 is amended to read:
803.203. (1) Except as provided in subsection (2) of this section, a person that purchases a taxable motor vehicle from a seller that is not subject to the privilege tax imposed under ORS 320.405 may not register or title the taxable motor vehicle in Oregon unless the person provides proof that the person:
(a) Paid the use tax imposed under ORS 320.410; or
(b) Is not required to pay the use tax for the reasons provided in ORS 320.410 (4).

(2) The person shall provide the proof described in subsection (1) of this
section to the Department of Transportation in the manner established by the department by rule. The rules may include different requirements for providing the proof described in subsection (1) of this section for high-volume purchasers. The department shall define “high-volume purchasers” by rule.

SECTION 9. ORS 818.340 is amended to read:

818.340. (1) A person commits the offense of operating in violation of a variance permit if the person has been issued a variance permit under ORS 818.200 that authorized the movement of anything and the person does any of the following:

(a) Drives, moves or operates anything in violation of the terms of the permit.

(b) Owns anything and causes or permits it to be driven, moved or operated in violation of the permit. Operation in violation of this section is prima facie evidence that the owner caused or permitted the operation and the owner shall be liable for any penalties imposed under subsection (5) of this section as a result of the operation.

(2) A person is in violation of the terms of a permit for purposes of this section if the person misrepresents any size or weight required to be specified when applying for the permit.

(3) It shall be a defense to any charge of violation of this section if the person so charged produces a variance permit issued under ORS 818.200 that authorized the operation and that was issued prior to and valid at the time of operation.

(4) A person does not commit the offense described in this section if the person is driving, moving or operating anything under a variance permit issued under ORS 818.200 and:

(a) The permit authorizes the person to exceed the maximum weight limitations;

(b) The person is operating a vehicle with a fully functional idle reduction system designed to reduce fuel use and emissions from engine idling; and
(c) The total weight of the vehicle is not more than \([400] 550\) pounds greater than the weight authorized by the variance permit.

(5) Violation of the offense described in this section is subject to civil liability under ORS 818.410.

(6) The offense described in this section, operating in violation of a variance permit, is punishable according to the following:

(a) Violation of any provision of the permit, other than the violations described in paragraph (b), (c) or (d) of this subsection, is a Class D violation.

(b) Violation of any weight provision by a vehicle that is authorized by permit to exceed axle or tandem axle weights specified in ORS 818.010 (1) or (2) is subject to penalty under Schedule II of the penalties in ORS 818.430.

(c) Violation of any weight provision by a vehicle listed in ORS 818.210 is subject to penalty under Schedule I of the penalties in ORS 818.430.

(d) Violation related to the required number of pilot vehicles or routing in accordance with the terms, limits or conditions established on a permit under ORS 818.220 (1)(c) is a Class A traffic violation.

SECTION 10. ORS 320.400, as amended by section 10, chapter 93, Oregon Laws 2018, is amended to read:

320.400. As used in ORS 320.400 to 320.490 and 803.203:

(1)(a) “Bicycle” means:

(A) A vehicle that is designed to be operated on the ground on wheels and is propelled exclusively by human power[.]; or

[(b)] (B) “[Bicycle” includes] An electric assisted bicycle as defined in ORS 801.258.

[(c)] (B) “Bicycle” does not include durable medical equipment.

(2)(a) “Retail sales price” means the total price paid at retail for a taxable vehicle, exclusive of the amount of any excise, privilege or use tax, to a seller by a purchaser of the taxable vehicle.

(b) “Retail sales price” does not include the retail value of:

(A) Modifications to a taxable vehicle that are necessary for a person
with a disability to enter or drive or to otherwise operate or use the vehicle.

(B) Customized industrial modifications to the chassis of a truck that has
a gross vehicle weight rating of at least 10,000 pounds and not more than
26,000 pounds.

(3) “Seller” means:

(a) With respect to the privilege tax imposed under ORS 320.405 and the
use tax imposed under ORS 320.410, a vehicle dealer.

(b) With respect to the excise tax imposed under ORS 320.415, a person
engaged in whole or in part in the business of selling bicycles.

(4) “Taxable bicycle” means a new bicycle that has a retail sales price
of $200 or more.

(5) “Taxable motor vehicle” means a vehicle that:

(a) Has a gross vehicle weight rating of 26,000 pounds or less;

(b)(A) If equipped with an odometer, has 7,500 miles or less on the
odometer; or

(B) If not equipped with an odometer, has a manufacturer’s certificate of
origin or a manufacturer’s statement of origin; and

(c) Is:

(A) A vehicle as defined in ORS 744.850, other than an all-terrain vehicle
or a trailer;

(B) A camper as defined in ORS 801.180;

(C) A commercial bus as defined in ORS 801.200;

(D) A commercial motor vehicle as defined in ORS 801.208;

(E) A commercial vehicle as defined in ORS 801.210;

(F) A fixed load vehicle as defined in ORS 801.285;

(G) A moped as defined in ORS 801.345;

(H) A motor home as defined in ORS 801.350;

(I) A motor truck as defined in ORS 801.355;

(J) A tank vehicle as defined in ORS 801.522;

(K) A trailer as defined in ORS 801.560 that is required to be registered
in this state;
(L) A truck tractor as defined in ORS 801.575; or

(M) A worker transport bus as defined in ORS 801.610.

(6) “Taxable vehicle” means a taxable bicycle or a taxable motor vehicle.

(7) “Transportation project taxes” means the privilege tax imposed under ORS 320.405, the use tax imposed under ORS 320.410 and the excise tax imposed under ORS 320.415.

(8)(a) “Vehicle dealer” means:

(A) A person engaged in business in this state that is required to obtain a vehicle dealer certificate under ORS 822.005; and

(B) A person engaged in business in another state that would be subject to ORS 822.005 if the person engaged in business in this state.

(b) Notwithstanding paragraph (a) of this subsection, a person is not a vehicle dealer for purposes of ORS 320.400 to 320.490 and 803.203 to the extent the person:

(A) Conducts an event that lasts less than seven consecutive days, for which the public is charged admission and at which otherwise taxable motor vehicles are sold at auction; or

(B) Sells an otherwise taxable motor vehicle at auction at an event described in this paragraph.

SECTION 11. ORS 320.470 is amended to read:

ORS 320.470. (1) Notwithstanding the confidentiality provisions of ORS 320.475, the Department of Revenue may disclose information received under ORS 320.400 to 320.490 and 803.203 to the Department of Transportation for the purposes of carrying out the provisions of ORS 320.410 and 803.203.

(2) The Department of Transportation may disclose information obtained under ORS 320.410 and 803.203 to the Department of Revenue for the purposes of carrying out the provisions of ORS 320.400 to 320.490 and 803.203.

(3) ORS 314.840 (3)(a) does not apply to disclosures made pursuant to this section.

[(3)] (4) Except as otherwise provided in ORS 320.400 to 320.490 and 803.203, a person aggrieved by an act or determination of the Department of
Revenue or its authorized agent under ORS 320.400 to 320.490 and 803.203 may appeal, within 90 days after the act or determination, to the Oregon Tax Court in the manner provided in ORS 305.404 to 305.560. These appeal rights are the exclusive remedy available to determine the person’s liability for the transportation project taxes.

SECTION 12. ORS 319.885 is amended to read:

319.885. (1)(a) Except as provided in paragraph (b) of this subsection, the registered owner of a subject vehicle shall pay a per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(b) During the term of a lease, the lessee of a subject vehicle shall pay the per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(2) The rate of the per-mile road usage charge is [2.1 cents per mile] five percent of the rate of the per-gallon license tax provided in ORS 319.020 (1)(b) in effect at the time the charge becomes due.

[(a) For the calendar year beginning on January 1, 2018, 1.7 cents per mile.]

[(b) For the calendar year beginning on January 1, 2020, 1.8 cents per mile.]

[(c) For the calendar year beginning on January 1, 2022, 1.9 cents per mile.]

SECTION 13. ORS 319.885, as amended by section 118a, chapter 750, Oregon Laws 2017, is amended to read:

319.885. (1)(a) Except as provided in paragraph (b) of this subsection, the registered owner of a subject vehicle shall pay a per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(b) During the term of a lease, the lessee of a subject vehicle shall pay the per-mile road usage charge for metered use by the subject vehicle of the highways in Oregon.

(2) The rate of the per-mile road usage charge is [2.1 cents per mile] five percent of the rate of the per-gallon license tax provided in ORS 319.020
(1)(b) in effect at the time the charge becomes due.

SECTION 14. The amendments to ORS 184.612 by section 2 of this 2019 Act apply to members appointed to the Oregon Transportation Commission on or after the effective date of this 2019 Act.

SECTION 15. The amendments to ORS 320.470 by section 11 of this 2019 Act apply to disclosures made before, on or after the effective date of this 2019 Act.

SECTION 16. The amendments to ORS 319.885 by sections 12 and 13 of this 2019 Act apply to metered use by subject vehicles of the highways in Oregon on or after the effective date of this 2019 Act.

SECTION 17. ORS 824.237 is repealed.

SECTION 18. Section 118b, chapter 750, Oregon Laws 2017, is repealed.

SECTION 19. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Authorizes issuance of lottery bonds for Connect Oregon.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to funding Connect Oregon transportation projects; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) For the biennium beginning July 1, 2019, at the request of the Oregon Department of Administrative Services, in consultation with the Department of Transportation, the State Treasurer is authorized to issue lottery bonds pursuant to ORS 286A.560 to 286A.585 in an amount that produces $______ million in net proceeds and interest earnings for the purpose described in subsection (2) of this section, plus an additional amount estimated by the State Treasurer to be necessary to pay bond-related costs.

(2) Net proceeds of lottery bonds issued pursuant to this section and interest earnings must be transferred to the Department of Transportation for deposit in the Connect Oregon Fund established under ORS 367.080 in an amount sufficient to provide $______ million for the department to finance grants for transportation projects as provided in ORS 367.080 to 367.089.

(3) Bond-related costs for the lottery bonds authorized by this section must be paid from the gross proceeds of the lottery bonds and

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
from allocations for the purposes of ORS 286A.576 (1)(c).

(4) The Legislative Assembly finds that issuing lottery bonds to finance transportation projects pursuant to this section is essential to promoting the state’s economic development, and the use of lottery bond proceeds is authorized based on the following findings:

(a) There is an urgent need to improve and expand publicly owned and privately owned transportation infrastructure to support economic development in this state.

(b) A safe, efficient and reliable transportation network supports the long-term economic development and livability of this state.

(c) A multimodal network of transportation options moves people and goods efficiently.

(d) Local governments and private sector businesses often lack capital and the technical capacity to undertake multimodal transportation projects.

(e) Public financial assistance can stimulate industrial growth and commercial enterprise and promote employment opportunities in this state.

(f) Public investment in transportation infrastructure will create jobs and further economic development in this state.

(g) The use of lottery bond proceeds as provided in this section will create jobs, further economic development, finance public education or restore and protect parks, beaches, watersheds and native fish and wildlife within Oregon, and issuance of lottery bonds for the purpose described in this section is therefore an appropriate use of state lottery funds under Article XV, section 4, of the Oregon Constitution, and ORS 461.510.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Exempts Department of Veterans’ Affairs from requirement to include vouchers for disbursements with conservator’s accounting to court.
Makes permanent campus veteran resources grant programs.

A BILL FOR AN ACT
Relating to veterans; amending ORS 125.475 and sections 1 and 5, chapter 731, Oregon Laws 2017.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 125.475 is amended to read:

125.475. (1) Unless the court by order provides otherwise, a conservator shall account to the court for the administration of the protected estate within 60 days after each anniversary of appointment. In addition, a conservator shall account to the court for the administration of the protected estate:

(a) Within 60 days after the death of the protected person, a minor protected person attains majority or an adult protected person becomes able to manage the protected person’s financial resources; and

(b) Within 30 days after the removal of the conservator, the resignation of the conservator or the termination of the conservator’s authority under ORS 125.410 (7).

(2) Each accounting must include the following information:

(a) The period of time covered by the accounting.

(b) The total value of the property with which the conservator is chargeable according to the inventory, or, if there was a prior accounting,

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
the amount of the balance of the prior accounting.

(c) All money and property received during the period covered by the accounting.

(d) All disbursements made during the period covered by the accounting.

(e) The amount of bond posted by the conservator during the period covered by the accounting.

(f) With respect to conservators who are professional fiduciaries, the total amount of compensation that investment advisers or brokers other than the professional fiduciary charged or received in charges for investments managed or transacted by the investment advisers or brokers.

(g) Such other information as the conservator considers necessary, or that the court might require, for the purpose of disclosing the condition of the estate.

(3) Vouchers for disbursements must accompany the accounting unless otherwise provided by order or rule of the court or unless the conservator is a trust company that has complied with ORS 709.030 or is the Department of Veterans’ Affairs. If vouchers are not required, the conservator shall:

(a) Maintain the vouchers for a period of not less than one year following the date on which the order approving the final accounting is entered;

(b) Permit interested persons to inspect the vouchers and receive copies of the vouchers at their own expense at the place of business of the conservator during the conservator’s normal business hours at any time before the end of one year following the date on which the order approving the final accounting is entered; and

(c) Include in each annual accounting and the final accounting a statement that the vouchers are not filed with the accounting but are maintained by the conservator and may be inspected and copied as provided in this subsection.

(4) The court may waive a final accounting if:

(a) The conservator was appointed because the protected person was a
minor, and the protected person has attained the age of majority, or the
conservator was appointed because the protected person was financially in-
capable, and the protected person is no longer financially incapable;
(b) The protected person gives a receipt to the conservator for the prop-
erty delivered to the protected person; and
(c) The conservator files with the court a copy of the receipt issued by
the protected person to the conservator.
(5) Copies of accountings must be served on all persons listed in ORS
125.060 (3). The court may waive service on the protected person if service
of the copy would not assist the protected person in understanding the pro-
ceedings.
(6) The court may require a conservator to submit to a physical check of
the estate in the control of the conservator at any time and in any manner
the court may specify.
(7) The Chief Justice of the Supreme Court may by rule specify the form
and contents of accounts that must be filed by a conservator.
SECTION 2. Section 1, chapter 731, Oregon Laws 2017, is amended to
read:
Sec. 1. (1) As used in this section:
(a) “Community college” has the meaning given that term in ORS 341.005.
(b) “Public university” means a public university listed in ORS 352.002.
(c) “Veteran” has the meaning given that term in ORS 408.225.
(2) The Department of Veterans’ Affairs shall develop and implement one
or more conditional grant programs statewide to expand campus veteran re-
source centers on the campuses of Oregon community colleges and public
universities. The purpose of the grant programs is to augment existing cam-
pus programs that help veterans successfully transition from military service
to college life, succeed in college, complete educational goals and transition
from college to the workforce and the community.
(3)(a) The department shall award multiple one-time grants under this
section [during the biennium beginning July 1, 2017,] on a competitive basis
to community colleges and public universities based on proposals submitted by the colleges and universities under subsection (5) of this section that:

(A) Expand and enhance existing campus veteran resource centers on campus premises;

(B) Recruit and employ campus veteran resource coordinators who can serve as liaisons to provide advocacy, understanding and resource connections for veterans;

(C) Attract veterans to enroll in and attend educational programs at community colleges and public universities;

(D) Provide assistance, guidance and support to veterans in completing educational goals and objectives;

(E) Provide resources to college administrations, faculty and staff to facilitate an understanding and appreciation of the strengths, unique challenges and needs of veterans and their families;

(F) Refer campus veterans to local county veterans’ service officers appointed under ORS 408.410 who assist veterans in obtaining federal and state veteran benefits;

(G) Assist veterans in successfully transitioning to work and community life by connecting veterans with workforce and employment resources; and

(H) Provide resources and matching funds in an amount to be determined by the department.

(b) Grant recipients may use grant funds awarded under this section for the expansion and enhancement of existing campus veteran resource center programs, including training campus veteran coordinators, purchasing computer and other equipment and supplies, hiring additional staff, hosting veteran events, facilitating access to workforce and community resources that were not previously available and meeting other identified needs for the successful and continued operation of the existing centers and coordinators.

(c) A grant recipient may use up to $25,000 of grant funds awarded under this section to pay a campus veteran resource coordinator’s salary if the grant recipient commits to matching at least 50 percent of grant funds used.
for that purpose.

(d) Grant recipients may not use grant funds awarded under this section to duplicate services provided by county veterans’ service officers appointed under ORS 408.410, as described in ORS 406.450. However, grant recipients may use grant funds awarded under this section to provide additional information and aid that is not available through county veterans’ service officers.

(4) A community college or public university may submit a grant proposal under subsection (5) of this section if the community college or public university:

(a) Is located in Oregon;

(b) Has an existing campus veteran resource center or has, or intends to hire prior to the distribution of grant funds, a campus veteran resource coordinator;

(c) Meets, or intends to meet prior to the distribution of grant funds, a majority of the criteria under subsection (3)(a) of this section; and

(d) Demonstrates its capacity to administer any funds awarded under this section in compliance with the requirements of this section and all applicable federal and state laws.

(5) A community college or public university that meets the requirements of subsection (4) of this section may apply for grant funds under this section by submitting a grant proposal to the department in the form determined by the department.

(6) When determining which grant proposals to fund, the department shall make funds available statewide and may:

(a) Give priority to those proposals that the department determines are best designed to help veterans successfully transition from military service to college life, succeed in college, complete educational goals and transition from college to the workforce and the community; or

(b) Concentrate funds and resources in those areas of the state with the greatest need for veteran assistance programs, as determined by the depart-
ment.

(7)(a) The department shall award grant funds to a successful applicant in an amount equal to the least of:

(A) The amount supported by the applicant’s application;

(B) $100,000; or

(C) Any other amount determined by the department to further the purpose of the grant program.

(b) The department shall issue a grant award letter to the applicant setting forth a grant recipient’s reporting requirements under subsection (8) of this section and describing the restrictions on the use of grant funds under subsection (3) of this section and as may be determined by the department.

(c) The grant recipient may not use grant funds for purposes other than those designated by the department in the recipient’s award letter.

(8) Within 30 days after the end of each calendar quarter, each grant recipient shall provide a program report to the department. The quarterly report must include a narrative of the following:

(a) Summary of program activities;

(b) Description of program successes;

(c) Discussion of challenges the grant recipient has encountered implementing the program;

(d) Accounting of how grant funds have been used; and

(e) Any other information the department requires.

(9) The department may collaborate with the Higher Education Coordinating Commission in developing and implementing the programs established under this section.

(10) The department may solicit and accept gifts, grants and donations from public and private sources to further the purposes of this section.

(11) The department shall adopt rules that prescribe:

(a) The procedures for the grant application process, including grant review and approval;

(b) Grant recipient reporting requirements;
(c) Measurable goals and outcome requirements;
(d) Allowable uses of grant funds;
(e) Procedures for disbursement of grant funds;
(f) Recordkeeping requirements; and
(g) Any additional procedures the department determines necessary to implement the provisions of this section.

SECTION 3. Section 5, chapter 731, Oregon Laws 2017, is amended to read:

Sec. 5. [Sections 1 to 4 of this 2017 Act] Sections 3 and 4, chapter 731, Oregon Laws 2017, are repealed on January 2, 2020.
SUMMARY

Modifies laws relating to home and farm loans for veterans.
Defines certain terms for purposes of home and farm loans for veterans.
Removes improvements from permissible uses of home and farm loans for veterans.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 407.075 is amended to read:

407.075. (1) The provisions of this chapter are intended to carry out the purposes of Article XI-A of the Oregon Constitution. The Legislative Assembly recognizes that its authority to define the scope and purpose of this chapter is limited by the purposes expressed in Article XI-A.

(2) The primary purpose of this chapter is to provide loan funds to qualifying Oregon veterans for the acquisition [or improvement] of farms and homes. The Legislative Assembly does not intend, by any past or present enactment, to establish as a principal purpose of this chapter the providing of subsidized energy financing.

SECTION 2. ORS 407.085 is amended to read:

407.085. [(1)] As used in [Article XI-A, Oregon Constitution, and this chapter, for the purposes of administration] this chapter:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(a) (1) “Acquisition” means:

(A) the purchase [and improvement] of a home or farm.

(B) Payment of the balance of the purchase price and interest on a purchase contract, and the improvement of property thereby acquired.

(C) Refinance of an existing purchase-money mortgage or mortgage in the nature thereof, and the improvement of property thereby purchased.

(D) Improvement of a home or farm.

(b) (2) “Bonds” includes, but is not limited to, serial bonds, term bonds, notes, obligations, lines of credit, revolving credit agreements, loans, financing agreements or other evidence of indebtedness determined by the Department of Veterans’ Affairs, with the approval of the State Treasurer, to be necessary or desirable to provide funds for the purposes expressed in Article XI-A of the Oregon Constitution.

(2) As used in this chapter:

(a) “Committee” means the Advisory Committee provided for by ORS 406.210.

(b) (4)(a) “Home” means any residential-type structure, including outbuildings and the real property in connection with it, if any, including long-term leaseholds, a residential structure, including a manufactured home or a condominium unit, which is established, maintained and used primarily as a principal residence by the a veteran.

(b) “Home” includes real property connected to a residential structure, including any long-term leasehold and any outbuildings.

(c) “Improvement” means new construction or any necessary or beneficial additions, alterations or changes appurtenant to the home or farm which protect or improve the basic livability or energy efficiency of the premises.

(d) (5) [“Mobile home”] “Manufactured home” means a structure, transportable in one or more sections, which is 10 feet or more in width, and contains more than 500 square feet of living space figured on exterior dimen-
sions of the structure, exclusive of any hitch and is designed to be used as a dwelling by one family, and which remains as personal property under the laws of this state.] that is:

(a) At least 20 feet in width;
(b) Constructed for movement on the public highways and that has sleeping, cooking and plumbing facilities;
(c) Intended for human occupancy;
(d) Being used for residential purposes;
(e) Classified and taxed as real property in the county where the structure is located; and
(f) Constructed in accordance with federal manufactured housing construction and safety standards adopted under ORS 446.155 or the National Manufactured Housing Construction and Safety Standards Act of 1974 (P.L. 93-383).

(6) “Trust deed” has the meaning given that term in ORS 86.705.

(7) “Variable interest rate” means an interest rate on a home or farm loan that may change periodically during the term of the loan.

SECTION 3. ORS 407.087 is added to and made a part of ORS chapter 407.

SECTION 4. ORS 407.087 is amended to read:

407.087. (1) As used in Article XI-A[, section 3,] of the Oregon Constitution and this chapter, “veteran” means a person who:
(a) Served on active duty with the Armed Forces of the United States:
(A) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and was discharged or released from active duty under honorable conditions;
(B) For a period of more than 178 consecutive days beginning after January 31, 1955, and was discharged or released from active duty under honorable conditions;
(C) For 178 days or less and was discharged or released from active duty under honorable conditions because of a service-connected disability;
(D) For 178 days or less and was discharged or released from active duty under honorable conditions and has a disability rating from the United States Department of Veterans Affairs; or
(E) For at least one day in a combat zone and was discharged or released from active duty under honorable conditions;
(b) Received a combat[, expeditionary] or campaign ribbon or an expeditionary medal for service in the Armed Forces of the United States and was discharged or released from active duty under honorable conditions; or
(c) Is receiving a nonservice-connected pension from the United States Department of Veterans Affairs.
(2) As used in subsection (1) of this section:
(a) “Active duty” does not include attendance at a school under military orders, except schooling incident to an active enlistment or a regular tour of duty, or normal military training as a reserve officer or member of an organized reserve or National Guard unit.
(b) “Honorable conditions” has the meaning given that term in rules adopted by the Department of Veterans’ Affairs.
SECTION 5. ORS 407.125 is amended to read:
407.125. All moneys in the Oregon War Veterans’ Fund created by ORS 407.495 may be advanced by the Department of Veterans’ Affairs as loans to any person qualified for loans under the provisions of [section 3,] Article XI-A, section 3, Oregon Constitution, for the acquisition of farms and homes, as provided in [ORS 407.115, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515 to 407.565 and not otherwise] this chapter.
SECTION 6. ORS 407.135 is amended to read:
407.135. The Department of Veterans’ Affairs is authorized and empowered, in the name and in behalf of the state, to make or participate in the making of residential loans under this chapter; to undertake commitments to make residential loans; to purchase and sell residential loans; to commence and prosecute to judgment all suits, actions and
[4]
proceedings necessary to protect the interest of the state; to bid [in] on property offered for sale under such proceedings and to acquire title to property for and in behalf of the state as a result of such proceedings; to accept deeds from borrowers in lieu of foreclosure; to sell, transfer, convey, lease or assign any property acquired by the department for and in behalf of the state; to make repairs and improvements or alterations; to pay taxes, liens and charges of every kind superior to the lien of the state; to pay the principal and interest on any obligations incurred in connection with such property; to dispose of such property; and otherwise to administer such property in such manner as the department deems to the best interest of the state. All money received by the department from the sale, leasing or other disposition of any property shall be paid over to the State Treasurer and deposited in the Oregon War Veterans’ Bond Sinking Account.

**SECTION 7.** ORS 407.165 is amended to read:

407.165. The Department of Veterans’ Affairs may receive and hold for future disposition conditional payments from borrowers who have executed mortgages [and security instruments] or trust deeds under authority of ORS 407.225, indemnities for fire losses on secured property, and such other sums as must be held by the department in suspense pending further or final disposition thereof. Said funds shall be deposited in the State Treasury in the revolving account authorized by ORS 407.565 until they can be properly applied to the purposes for which they were paid to and received by the department.

**SECTION 8.** ORS 407.169 is amended to read:

407.169. (1) The Department of Veterans’ Affairs shall make escrow accounts available to current and future borrowers and contract purchasers in connection with loan agreements and purchase contracts made under this chapter.

(2) Escrow accounts established under this section shall be consistent with general lending and servicing standards for real estate loan agreements in this state and with the standards used by the United States Department
of Veterans Affairs and the Federal Housing Administration.

(3) Notwithstanding ORS 86.245 (5) and (7), the Department of Veterans’ Affairs shall pay interest to a borrower or contract purchaser on funds deposited in the escrow account for the borrower or contract purchaser in the manner and at the rate of interest described in ORS 86.245 (1) to (4).

(4) The department shall adopt such rules as the department considers necessary to establish criteria for implementation of this section.

(5) As used in this section, “escrow account” means any account which is part of a real estate loan agreement or purchase contract, whether incorporated into the agreement or contract or as part of a separately executed document, whereby the borrower makes periodic prepayment to the department of estimated property taxes and hazard insurance premiums, and the department pays the charges out of the account at the due dates.

SECTION 9. ORS 407.201 is amended to read:

407.201. (1) When making a loan or otherwise extending credit under this chapter with moneys from the Oregon War Veterans’ Fund, the Department of Veterans’ Affairs shall comply with Title I (Truth in Lending Act) of the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.) in the same manner required for a bank or national bank, as defined in ORS 706.008, when the bank extends credit in a transaction in which a security interest in real property is or will be acquired.

(2) In addition to the requirements of subsection (1) of this section, the department shall notify each person seeking to acquire a home or farm under this chapter, prior to the signing of a loan agreement or contract, of the variable interest rate provisions of ORS 407.275, 407.315, 407.325 and 407.335. Information required to be disclosed under this subsection includes a history of the interest rate increases on loans during the preceding 10 years and an estimate of the financial effect that an increase of one percent in the interest rate will have on the borrower’s obligation under the mortgage, contract or other security loan agreement.

SECTION 10. ORS 407.205 is amended to read:
407.205. [(1) Applications for loans for acquisition of a home or farm under this chapter shall be made to the Department of Veterans’ Affairs.]

(1) A person qualified under Article XI-A, section 3, of the Oregon Constitution, to apply for a loan for the acquisition of a home or farm must submit the application to the Department of Veterans’ Affairs pursuant to the provisions of this chapter.

(2) An applicant may not borrow more than the maximum amount allowed for a loan under this section.

(3) The maximum amount allowed for a loan made under this section [section, exclusive of funds disbursed under ORS 407.145 (2) and 407.275 (4),] may not exceed the least of:

(a) The maximum original principal balance permitted on a single-family first mortgage loan published by the Federal National Mortgage Association, as published in its announcements and subsequently included in its Selling Guide Federal Housing Finance Agency, at a rate of interest provided by ORS 407.325;

(b) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans Affairs for its Home Loan Guaranty Program (38 U.S.C. 3701 et seq.; 38 C.F.R. part 36); or

(c) If the property to be acquired with the funds from the loan is a farm, 90 percent of the net appraised real property value.

(4) [An eligible individual may not receive or, under ORS 407.305, assume more than four loans under this chapter. An applicant may not borrow more than the maximum amount allowed for a loan under this section, except that when a loan is made on property that] When calculating the maximum amount allowed for a loan under this section, the Department of Veterans’ Affairs shall exclude:

(a) Funds disbursed under ORS 407.145 (2) and 407.275 (4); and

(b) The amount of a loan that has been repaid, or for which the property securing the loan has transferred by deed or otherwise, if the
property:

(A) Is destroyed by fire or other natural hazard[.]; or

(B) Is taken through condemnation or lost or disposed of for a compelling reason devoid of fault on the part of the applicant. \[and when the loan is repaid or the property is transferred by deed or otherwise, the loan may be excluded from consideration in computing the maximum loan amount allowable. However, the loan right provided in this section may be restored not more than once while an unrepaid balance remains on a previous loan granted to the applicant.\]

(5) An eligible person may not receive or, under ORS 407.305, assume more than four loans under this chapter.

(6) For the purposes of this section, an applicant owns a home when the applicant has fee simple title to the home or is the purchaser of the home under a contract of sale or other instrument of sale. Earnest money or preliminary sales agreements, options or rights of first refusal are not contracts or instruments of sale under this subsection.

(3) As used in this section, “home” includes mobile homes and houseboats.]

SECTION 11. ORS 407.215 is amended to read:

407.215. No applicant is entitled to borrow more than the maximum amount allowed under ORS 407.205 other than for reasons specified in ORS 407.205 except that when the property on which the loan was made becomes the property of the applicant’s spouse as a result of a judgment declaring a marriage void or dissolved and the loan is repaid, or remains unrepaid and there is an assumption of primary liability on the loan by a party other than the applicant, \[such\] the loan may be excluded from consideration in computing the maximum loan allowable under ORS 407.205.

SECTION 12. ORS 407.225 is amended to read:

407.225. (1) When the Department of Veterans’ Affairs receives an application pursuant to ORS 407.205, the department shall immediately \[investigate and process it as provided by law\] process the application.
(2) The security for the loan [shall] **must** consist of the property to be acquired by the [veteran as a home or a farm. The security shall] **applicant** and **must** be secured by a mortgage or [security agreement] **trust deed** in the full amount of the loan [which].

(3) **The** mortgage or [security agreement shall] **trust deed must:**

(a) Be either a first lien **on the property** or a lien insured by mortgagee’s title insurance against loss from any prior encumbrance[.]; and

(b) [The department may make subsequent loans for improvements to the security if there are no intervening liens between the first lien of the department created under this section and the recorded liens upon the security securing repayment of such subsequent improvement loans. Such consecutive liens, for the purposes of this chapter, shall be deemed collectively as a first lien upon the security. The mortgage or security agreement shall] Provide that the borrower, or any subsequent owner of the secured property, may pay all or any part of the loan at any time without penalty.

[(2) A mobile home shall be secured by a security agreement in the full amount of the loan and the department shall perfect a security interest in favor of the State of Oregon. The security agreement shall provide that the borrower or any subsequent owner of the mobile home, may pay all or any part of the loan at any time without penalty. The security agreement shall provide for immediate acceleration of the unpaid balance of the loan if the mobile home is moved from the original site listed in the security agreement without first obtaining the written consent of the department. The security agreement shall also provide that removal of the mobile home to a site outside of this state shall constitute an act of default and result in immediate acceleration of the unpaid balance of the loan.]

[(3) Loans may not exceed:]

[(a) The maximum loan-to-value ratio or combined loan-to-value ratio permitted by the United States Department of Veterans Affairs for its Home Loan Guaranty Program (38 U.S.C. 3701 et seq.; 38 C.F.R. part 36);]

[(b) 85 percent of the net appraised value on homes that are not real prop-]
 SECTION 13. ORS 407.275 is amended to read:

407.275. (1) [Loans] A loan may be made bearing interest at the rate per annum prescribed as provided by ORS 407.325. [Loans] A loan may be amortized over a period of not more than 40 years for [homes] a home other than [mobile homes] a manufactured home. [Loans] A loan for [mobile homes] a manufactured home may be amortized over a period not exceeding the expected life of the [mobile] manufactured home, as determined by the Department of Veterans’ Affairs. The limitations contained in this subsection do not preclude the department from later extending the amortization period.

(2) If the ownership of the secured property is transferred by deed or otherwise to anyone other than a veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution, the veteran’s surviving spouse or unremarried former spouse, the veteran’s surviving child or stepchild, another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305 or a governmental entity when the secured property is transferred for public use, the interest from the date of transfer shall be at the rate per annum then fixed as provided by ORS 407.335. However, the department, during the term of the loan, may periodically prescribe the interest rates to be paid by the transferee.

(3) Ownership of property that constitutes security for a loan made to a veteran under this chapter and Article XI-A of the Oregon Constitution may not be transferred by deed or otherwise to anyone other than the veteran’s surviving spouse, unremarried former spouse, surviving child or stepchild or another veteran eligible for a loan under this chapter and Article XI-A of the Oregon Constitution who assumes the previous loan for the property as described in ORS 407.305, unless the property is used primarily as the principal residence of the transferee for at least two years after the transfer or such
shorter period of time as the department for good cause may allow.

(4) [Mortgages, trust deeds or security agreements] A mortgage or trust deed on property given to secure any loan made under ORS 407.125 or statutes supplementary thereof may provide that the taxes and insurance premiums may be paid by the department from the Oregon War Veterans’ Bond Sinking Account. The amount so paid may be added to and become part of the principal of the loan and be repaid as prescribed by the department. The department may prescribe any method or period for repayment of the amount so paid that is not in conflict with the mortgage, the trust deed or a separate agreement. The department may prescribe any method or period for repayment of interest on the amount so paid that is not in conflict with the mortgage, the trust deed, security agreement or a separate agreement with the borrower.

SECTION 14. ORS 407.325 is amended to read:

407.325. (1) The Department of Veterans’ Affairs, with the advice of the Advisory Committee, will periodically, during the term of the loan, prescribe the interest rate to be paid by an applicant for a home or farm acquisition loan with a fixed interest rate, taking into consideration the current value of the money, the solvency of the loan program, and the effect of the rate on veteran applicants. [If the department, after considering the factors specified in this section, determines that there is an economic need for a higher rate of interest on loans made for the acquisition of mobile homes and houseboats, the department shall prescribe the rate of interest for the acquisition of a mobile home or houseboat at not higher than two percent more per annum than the basic rate established by this section.]

(2) The department shall periodically, during the term of a home or farm loan with a variable interest rate, prescribe the interest rate to be paid by an applicant, taking into consideration the current value of the money, the solvency of the loan program and the effect of the rate on veteran applicants.
[(2)] (3) Except as provided in subsection [(3)] (4) of this section:

(a) The rate of interest on [loans] a loan granted on or after May 27, 1971, and originally set at five and nine-tenths percent per annum may not be increased to more than seven and nine-tenths percent per annum.

(b) The rate of interest on [loans] a loan granted on or after January 1, 1981, and originally set at seven and two-tenths percent per annum may not be increased to more than nine and two-tenths percent per annum.

[(c) The rate of interest on a loan granted on or after May 27, 1971, for the acquisition of a mobile home or houseboat originally set at seven and nine-tenths percent per annum may not be increased to more than nine and nine-tenths percent per annum.]

[(3)] (4) The department may prescribe the interest [rates] rate to be paid by [the] an applicant at a rate greater than the rates described in subsection [(2)] (3) of this section, but only if the department determines, at the sole discretion of the department, that such action [reduces the probability that] is necessary to avoid invoking the provisions of Article XI-A, section 4, [Article XI-A] of the Oregon Constitution [will become necessary].

[(4)] (5) When, during two consecutive fiscal years, the cash flow projection and the review of the projection performed under ORS 407.185 indicate that the Oregon War Veterans’ Bond Sinking Account will maintain a balance throughout the term of the projections that exceeds the succeeding years’ debt service and operating expenses for the loan program, the department shall prepare a program for reducing the interest rates charged under this section in such a manner as to [insure] ensure the future solvency and self-supporting nature of the loan program. However, no reduction in interest rates shall occur if the variable rate debt, if converted to a fixed rate, requires retention of the amounts in order to meet projections.

[(5)] (6) Notwithstanding the rate prescribed for acquisition of a home as provided in subsections (1) to [(4)] (5) of this section, the department may periodically establish separate and distinct interest rates for home improvement loans granted before the effective date of this 2019 Act.
SECTION 15. ORS 407.495 is amended to read:

407.495. (1) The money arising from the sale of each issue of bonds authorized under [section 2,] Article XI-A, section 2, of the Oregon Constitution, shall be deposited in the State Treasury and be credited to a special fund separate and distinct from the General Fund, to be known as the Oregon War Veterans’ Fund[; which fund hereby is appropriated for the purpose of carrying out the provisions of this section and ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415 and 407.515 to 407.565 and to purchase bonds issued for the purposes of such provisions. With the approval of the Department of Veterans’ Affairs, the moneys in the fund not immediately required for loaning may be invested as provided in ORS 293.701 to 293.857. The earnings from such investments shall inure to the Oregon War Veterans’ Fund].

(2) In addition to the money arising from the sale of such bonds, the Oregon War Veterans’ Fund shall also consist of:

(a) All moneys received as payments on principal and interest of loans made under ORS 407.125;

(b) All moneys received as accrued interest upon bonds sold;

(c) All moneys derived from tax levies provided for in ORS 291.445;

(d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;

(e) All moneys received as interest earned on the investment of moneys in the Oregon War Veterans’ Fund;

(f) All moneys received as proceeds from the sale of refunding bonds; and


(3) All moneys in the Oregon War Veterans’ Fund are continuously appropriated to the Department of Veterans’ Affairs for the following purposes:

(b) To purchase bonds issued for the purposes of such provisions; and

(4) With the approval of the department, the moneys in the Oregon War Veterans’ Fund not immediately required to provide loans for the acquisition of farms and homes may be invested as provided in ORS 293.701 to 293.857. The earnings from such investments shall be credited to the Oregon War Veterans’ Fund.

SECTION 16. ORS 407.515 is amended to read:

407.515. (1) The Oregon War Veterans’ Bond Sinking Account is created as a restricted account within the Oregon War Veterans’ Fund. The sinking account shall consist of:
(a) All moneys received as payments on principal and interest of loans made under ORS 407.125;
(b) All moneys received as accrued interest upon bonds sold;
(c) All moneys derived from tax levies provided for in ORS 291.445;
(d) All moneys derived from the sale, rental or administration of property acquired by foreclosure or other proceeding, or deed;
(e) All moneys received as interest upon investments of the account and the Oregon War Veterans’ Fund;
(f) All moneys received as proceeds from the sale of refunding bonds; and
(g) All other moneys accruing under [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and 407.515] this chapter not required to be credited to the Oregon War Veterans’ Fund.

(2) Disbursements from the sinking account shall be made upon submission of duly verified claims that are approved by the Director of Veterans’ Affairs. The Secretary of State may audit the claims in the manner that other claims against the state are audited. The moneys in the sinking account, other than those derived from tax levies and from sales of refunding

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bonds, are continuously appropriated for payment of expenses of admin-
istration of [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495 and
407.515 to 407.565] this chapter. The moneys in the sinking account may
be invested as provided in ORS 293.701 to 293.857.

(3) Amounts in the sinking account shall be held and set aside separately
from the amounts in the Oregon War Veterans’ Fund and any other funds
or assets of this state, but such account may be accounted for as part of the
Oregon War Veterans’ Fund.

(4) The debt service reserve account within the sinking account shall be
maintained as a subaccount within the sinking account dedicated to provide
funds for the payment of bonds issued under authority of Article XI-A of the
Oregon Constitution.

(5) Nothing in this section shall be construed so as to impair any
covenant or agreement with the holders of such bonds heretofore entered
into by the director on behalf of this state with respect to the maintenance
of the sinking account as heretofore constituted and any such covenant and
agreement shall remain in full force and effect.

(6) The director may create subaccounts in the sinking account necessary
for appropriate administration of the director’s duties including, but not
limited to, providing for the issuance, security, payment or administration
of bonds or to preserve the federally tax exempt status of bonds issued on a
federally tax exempt basis. The director may segregate such subaccounts
from other subaccounts used for other purposes including, but not limited to,
the issuance, security, payment or administration of bonds or other obli-
gations, whether previously or subsequently issued.

SECTION 17. ORS 407.555 is amended to read:

407.555. Except as provided in ORS 407.415, all claims duly approved by
the Department of Veterans’ Affairs, incurred in pursuance of [ORS 407.115,
chapter, shall be paid by warrants drawn upon the State Treasurer by the
Oregon Department of Administrative Services upon the appropriate funds
for the payment of such claims.

SECTION 18. ORS 88.740 is amended to read:

88.740. (1) The Department of Veterans’ Affairs is authorized, in whatever manner the department considers advisable and to the extent necessary to carry out the provisions of ORS 88.710 to 88.740, to use the surplus moneys in the Oregon War Veterans’ Bond Sinking Account, other than the moneys therein which are derived from tax levies and sales of refunding bonds, that are earnings in excess of the amount required to amortize the bonded indebtedness incurred under the authority of Article XI-A, section 1, [Article XI-A] of the Oregon Constitution, and [ORS 407.115, 407.125, 407.165, 407.205, 407.275, 407.415, 407.495, 407.515, 407.555 and 407.565] ORS chapter 407.

(2) The property acquired under ORS 88.710 to 88.740 shall represent an investment of the Oregon War Veterans’ Bond Sinking Account and all moneys received by the department from the sale, lease or other disposition of any property shall be deposited in the Oregon War Veterans’ Bond Sinking Account.

(3) The department may pay to the State Treasurer, to be deposited in the General Fund available for general governmental expenses:

(a) An amount equal to the balance owing on any existing real estate contract arising out of the sale of property by the department which was an investment of the General Fund pursuant to ORS 88.710 to 88.740, and upon such payment the interest represented by the real estate contract shall represent an investment of the Oregon War Veterans’ Bond Sinking Account.

(b) An amount equal to the General Fund moneys expended for the acquisition of presently unsold properties pursuant to ORS 88.710 to 88.740, and upon such payment the properties shall represent an investment of the Oregon War Veterans’ Bond Sinking Account.

SECTION 19. ORS 407.177 is amended to read:

407.177. (1) When the Department of Veterans’ Affairs considers such contracts necessary to improve the financial condition of the loan program
conducted under this chapter, the department is authorized to enter into contracts with lending institutions under which the lending institutions may provide any of the following services:

(a) Processing of new loans and purchase contracts; and

(b) Management and servicing of new loans and purchase contracts.

(2) Contracts entered into by the department under this section may provide that the lending institution:

(a) Receive applications for loans for the acquisition of homes or farms under this chapter;

(b) Immediately investigate and process an application for a loan as provided by law; and

(c) For approved loans or contracts, if requested by the department, service the loan or purchase contract for a period of time specified by the department.

(3) When a lending institution, pursuant to a contract authorized by this section, receives an application for a loan for the acquisition of a manufactured home[, as defined in ORS 197.295], the lending institution shall investigate and process the application in the manner prescribed in the contract between the lending institution and the department.

(4) When a lending institution, pursuant to a contract authorized by this section, investigates and processes a loan application that it considers eligible for approval under this chapter, the lending institution shall notify the department and state the reasons why the loan may be approved under this chapter. The department shall retain final authority to approve or disapprove the loan. If the department disapproves the loan, the department shall notify the lending institution and the applicant of the disapproval and shall indicate the reasons for the disapproval. When the department is satisfied that all requirements for approval of a loan have been met by the applicant and the lending institution and that the property offered as security for the loan protects the interests of the state, the department shall transfer to the lending institution an amount [of money] from the Oregon War Veterans’
Fund equal to the loan amount approved by the department. The lending institution shall disburse the amount in the manner prescribed by the department. The lending institution shall record the mortgage, trust deed, contract or other security agreement relating to the loan] and then shall forward all the original loan documents to the department.

(5) All moneys received by a lending institution as payments on principal and interest for loans made under this chapter shall be paid to the department in accordance with the terms of the contract between the department and the lending institution.

(6) The department and lending institution shall mutually agree upon the compensation to be paid to the lending institution for services performed under a contract authorized by this section. Such compensation may be a fixed annual payment or a percentage of the amount of each loan or purchase contract processed or serviced by the lending institution under the contract.

(7) Contracts entered into under this section are exempt from the requirements of the provisions of ORS 279.835 to 279.855 and ORS chapters 279A, 279B and 279C regarding personal services contracts.

(8) As used in this section, “lending institution” means an entity that is licensed to conduct business in the State of Oregon exclusively or in part as a mortgage lender or a conduit for mortgage loans and that, in the judgment of the department, is capable of meeting the needs of the department in carrying out this chapter.

SECTION 20. ORS 407.145 is amended to read:

407.145. (1) The Department of Veterans’ Affairs may acquire property by purchase when the acquisition of such property is necessary to protect the interest of the state because of default in repayment of loans made in accordance with ORS 407.125 or statutes supplementary thereof. The department shall exercise control of all the property while the title remains vested in the state.

(2) The department may take any action and make disbursements as may be necessary to protect the securities for loans acquired under this chapter.
Any disbursement so made shall be added to the amount due from the bor-
rower and shall bear interest [at the rate then fixed for home improvement
loans under ORS 407.325 or] at the rate on the existing loan[, whichever is
higher]. Any such disbursement shall be made only upon order of the de-
partment.

(3) Funds for the protection of security may be disbursed from the Oregon
War Veterans’ Fund including the Oregon War Veterans’ Bond Sinking Ac-
count as the department shall determine.

SECTION 21. ORS 407.305 is amended to read:

407.305. When a veteran who is eligible for a loan under this chapter and
Article XI-A of the Oregon Constitution seeks to acquire a home or farm that
is serving as security for a previous loan made under this chapter, the vet-
eran may choose either to receive a new loan for the property or to assume
the previous loan. If the loan balance for the loan being assumed does not
exceed the amount of the veteran’s entitlement under ORS 407.205, the in-
terest rate to be paid on the assumed loan balance shall be the rate per an-
num prescribed under ORS 407.315. In addition to the amount assumed, the
veteran may apply for and receive additional funds to be applied to the
purchase price. The interest rate to be paid on the additional funds shall be
the rate per annum currently prescribed under ORS 407.325. The sum of the
assumed loan balance and the additional funds shall not exceed the amount
of the veteran’s entitlement under ORS 407.205 or the maximum loan amount
prescribed by [ORS 407.225 (3)] ORS 407.205 (3)(b) or (c). An assumption
or an assumption with additional funds under this section shall be deemed
to be one loan and the veteran making the assumption or the assumption
with additional funds shall be deemed to be a borrower for the purposes of

SECTION 22. ORS 407.315 is amended to read:

407.315. (1) When a veteran assumes a previous loan under ORS 407.305,
the interest rate to be paid by the veteran from the date of assumption shall
be the rate per annum prescribed periodically by the Department of Veterans’
Affairs, taking into consideration the solvency of the loan program and the
interest rates currently prevailing in this state for loans secured by owner-
occupied residential property.

(2) The department shall make a cash flow projection to determine if as-
sumptions at the interest rate established under subsection (1) of this section
are among the causes of a negative cash flow projection for the loan pro-
gram. The cash flow projection required by this section shall be an estimate
of the revenue received from the repayment of [mortgages] loans, interest
earnings, administrative expenses of the loan program, payment of interest
and principal on outstanding debt and other relevant factors during the pe-
riod in which current outstanding bonds are required to be retired.

(3) If the cash flow projection required under subsection (2) of this section
indicates that assumptions of loans at the interest rate established under
subsection (1) of this section are a cause of a negative cash flow projection
for the loan program, the department, by rule and notwithstanding ORS
407.325 [(2)] (3), shall increase the interest rate to be paid for loans assumed
under ORS 407.305 to the lowest rate per annum that assures a positive cash
flow projection, but not exceeding the rate then prescribed under ORS
407.325.

SECTION 23. ORS 407.375 is amended to read:

407.375. (1) When the Department of Veterans’ Affairs offers for sale a
home or farm obtained for and in behalf of the state under ORS 407.135 and
407.145 (1), the department shall provide notice of the proposed sale to pro-
spective purchasers. The notice shall state the minimum bid that will be
accepted.

(2) Subject to subsection (3) of this section, the department shall accept
the highest such bid or offer received during the 15-day period after a home
or farm acquired under ORS 407.135 or 407.145 (1) is first offered for sale
unless the person making the highest bid or offer is disqualified from such
purchase based on prior credit history, inadequate income or other grounds
for refusal established in rules adopted by the department. Prior to such re-
fusal, the person making the highest bid or offer shall be given the opportunity to purchase the property for cash.

(3) When the highest bid under subsection (2) of this section is made by a person who is not eligible for a loan under Article XI-A of the Oregon Constitution, the person who submits the highest bid or offer received from those persons eligible for a loan under Article XI-A of the Oregon Constitution shall be given the opportunity to purchase the property for the amount bid by the highest bidder. The property must be purchased by matching the highest bid within a period of time and at a place specified by rule of the department.

(4) When the department sells a home or farm obtained under ORS 407.135 or 407.145 (1) to a person, the department may accept improvement of the property by such purchaser in lieu of other means of satisfying the requirements of [ORS 407.225 (3)] ORS 407.205 (3)(b) or (c). For the purpose of this section, all purchasers are subject to the provisions of [ORS 407.225 (3)] ORS 407.205 (3)(b) or (c). The department shall require the purchaser to provide an improvement plan containing a description of the proposed improvements to be made and the cost of the necessary work and materials. An appraiser employed by the department must certify that the ratio of the purchase price and the net appraised value of the home and farm after the proposed improvement is completed will satisfy the requirements of [ORS 407.225 (3)] ORS 407.205 (3)(b) or (c). The department may then approve the sale subject to the condition that the improvement of the home or farm be completed within 180 days after purchase. Failure by the applicant to complete the improvement within the time allowed shall be considered a breach of the purchase agreement and grounds for foreclosure by the department. Upon timely application and a showing that the improvement cannot be completed within the time allowed because of circumstances beyond the applicant’s control, the department may grant the applicant an additional period not to exceed 180 days in which to complete the improvement.

(5) The rate of interest for a contract made for the acquisition of a home
or farm obtained by the department under ORS 407.135 or 407.145 (1) shall be the rate per annum prescribed by the department.

(6) Notwithstanding subsection (5) of this section, if the provisions of subsections (1) to (3) of this section have been complied with and no satisfactory bid has been received, the department, after considering the time value of money, may sell the home or farm at a private negotiated sale at any price or at any rate of interest, either fixed or variable, that the department considers to be necessary and prudent to sell the property and that provides an economic benefit to the home and farm loan program that is equivalent to the property being marketed at the current appraised value of the property and the rate prescribed under subsection (5) of this section.

(7) Except as provided in this subsection, redemption of a home or farm obtained and sold by the department under ORS 407.135 or 407.145 (1) shall be made as provided in ORS 18.960 to 18.985. When the department accepts improvement of property by a purchaser in lieu of purchase money or cash down payment under subsection (4) of this section, redemption shall be made by paying an amount equal to the fair market value of those improvements actually made to the property under the improvement plan described in subsection (4) of this section, with interest thereon at the rate of nine percent per annum from the date of sale. The department shall determine the fair market value of the improvements and such amount shall be paid in addition to the amount of purchase money and interest thereon required under ORS 18.966 and 18.967.

SECTION 24. ORS 407.115 and 407.265 are repealed.
A BILL FOR AN ACT
Relating to Oregon veterans’ homes; creating new provisions; amending ORS 291.055, 305.727, 315.624, 408.365, 408.375, 408.380, 408.385 and 805.105; and repealing ORS 408.360 and 408.370.

Be It Enacted by the People of the State of Oregon:

SECTION 1. As used in ORS 408.365 to 408.385 and this section:

(1) “Edward C. Allworth Veterans’ Home” means the veterans’ home located in Lebanon.

(2) “Fourth Oregon Veterans’ Home” means the veterans’ home authorized under ORS 408.385 (3).

(3) “Oregon Veterans’ Home” means the Edward C. Allworth Veterans’ Home, the The Dalles Oregon Veterans’ Home, the Roseburg Oregon Veterans’ Home or the Fourth Oregon Veterans’ Home.

(4) “Roseburg Oregon Veterans’ Home” means the veterans’ home authorized under ORS 408.385 (1).

(5) “The Dalles Oregon Veterans’ Home” means the veterans’ home located in The Dalles.

(6) “Veteran” has the meaning given that term in ORS 408.225.

SECTION 2. ORS 408.365 is amended to read:

408.365. Moneys to pay for the expenses of operating [the] an Oregon

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Veterans’ Home may be appropriated from:

(1) The General Fund;

(2) The Oregon War Veterans’ Fund pursuant to [section 1 (1)(e) of] Article XI-A, section 1 (1)(e), of the Oregon Constitution; and

(3) Moneys donated to the trust fund established under ORS 406.050 for the purpose of paying for the expenses of operating [the] an Oregon Veterans’ Home, or moneys in the trust fund that the Department of Veterans’ Affairs determines may be expended for those purposes.

SECTION 3. ORS 408.375 is amended to read:

ORS 408.375. (1) The Director of Veterans’ Affairs shall enter into a contract with a nongovernmental entity for the operation and management of [the second Oregon Veterans’ Home authorized by section 1, chapter 591, Oregon Laws 1995. The entity with whom the director contracts under this section shall be a person] each Oregon Veterans’ Home. The director shall contract with an entity that is experienced in the operation and staffing of long term care facilities, as defined in ORS 442.015.

(2) The contract executed under this section [shall be] is subject to the requirements of ORS chapters 279A and 279B, except ORS 279A.140 and 279B.235, and [shall] must provide that:

[(1)] (a) The party who contracts to manage and operate the [second] Oregon Veterans’ Home [shall be] is responsible for hiring and maintaining the necessary staff for the facility.

[(2)] (b) The Director of Veterans’ Affairs [shall] assign [a sufficient number of] one or more state employees, in the discretion of the director, to provide oversight of the management of the facility.

[(3)] (c) The [second] Oregon Veterans’ Home may only admit [only patients who are veterans, as defined in ORS 408.225, the spouses of veterans and other patients who are eligible for admittance under federal law.] residents who are any of the following:

(A) A veteran.

(B) The spouse or surviving spouse of a veteran.
(C) The parent of a child who died while serving in the Armed Forces of the United States.

(D) Any other person who is eligible for admittance according to criteria adopted by the Department of Veterans’ Affairs by rule and consistent with federal law.

SECTION 4. ORS 408.380 is amended to read:

408.380. (1) As used in this section, “long term care facility” has the meaning given that term in ORS 442.015.

(2) [The] Except as provided in subsection (3) of this section, an Oregon Veterans’ Home [authorized by section 1, chapter 591, Oregon Laws 1995,] is subject to all state laws and administrative rules and all federal laws and administrative regulations to which a long term care [facilities] facility operated by a nongovernmental [entities are] entity is subject[, except for the requirement to obtain a certificate of need under ORS 442.315 from the Oregon Health Authority].

(2) As used in this section, “long term care facility” has the meaning given that term in ORS 442.015.]

(3) Notwithstanding ORS 442.315 and 442.325, an Oregon Veterans’ Home is not subject to any certificate of need requirement.

(4) In addition to the other uses for the Oregon Housing Fund set forth in ORS 458.600 to 458.665, financial support for an Oregon Veterans’ Home is a permitted use of moneys from the Oregon Housing Fund.

SECTION 5. ORS 408.385 is amended to read:

408.385. (1) The Director of Veterans’ Affairs shall establish [a third Oregon Veterans’ Home in Roseburg, in addition to the two facilities authorized by law on July 17, 1995] the Roseburg Oregon Veterans’ Home.

(2) The director may seek federal grant funds from the United States Department of Veterans Affairs for the purpose of establishing the [third] Roseburg Oregon Veterans’ Home [in Roseburg].

(3) If the director determines that [three] the The Dalles Oregon
Veterans' Home, the Edward C. Allworth Veterans' Home and the Roseburg Oregon Veterans' Home facilities will not be sufficient to provide for the needs of the veterans of Oregon, the director may begin planning for and developing [one additional] the Fourth Oregon Veterans’ Home.

SECTION 6. ORS 291.055 is amended to read:

291.055. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by a public university listed in ORS 352.002.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers’ compensation coverage required by ORS 656.506.
(c) Fees or payments required for:
(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans’ Homes pursuant to ORS 408.365 to 408.385 and section 1 of this 2019 Act and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.
(B) Copayments and premiums paid to the Oregon medical assistance program.
(C) Assessments paid to the Department of Consumer and Business Services under sections 3 and 5, chapter 538, Oregon Laws 2017.
(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.
(e) State agency charges on employees for benefits and services.
(f) Any intergovernmental charges.
(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.
(h) State Department of Energy assessments required by ORS 456.595 and 469.421 (8).
(i) Assessments on premiums charged by the Director of the Department of Consumer and Business Services pursuant to ORS 731.804 or fees charged by the director to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.
(j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.
(k) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.
(L) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget or the legislatively approved
budget for the agency.

(m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(n) Portal provider fees as defined in ORS 276A.270 and established by the State Chief Information Officer under ORS 276A.276 (3) and recommended by the Electronic Government Portal Advisory Board.

(o) Fees set by the State Parks and Recreation Director and approved by the State Parks and Recreation Commission under ORS 390.124 (2)(b).

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

SECTION 7. ORS 305.727 is amended to read:

305.727. (1) In addition to the opportunity to be listed on the Oregon individual tax return forms under ORS 305.725, an entity on the eligibility roster may apply to the commission for listing in the Department of Revenue instructions for tax return checkoff contribution as provided in this section.

(2) In order to qualify for instruction listing, the entity must apply to the commission in the manner in which an entity applies for listing on the individual tax forms under ORS 305.725.

(3) In order to qualify for instruction listing, the entity must meet the qualifications described in ORS 305.720, collect 10,000 or more signatures from electors of this state attesting that the electors support the entity qualifying for instruction listing and be:
(a) [The] An Oregon Veterans’ Home, as defined in section 1 of this 2019 Act, the Nongame Wildlife Fund, the Alzheimer’s Disease Research Fund, the Oregon Military Emergency Financial Assistance Fund, the Oregon Department of Veterans’ Affairs Veterans Suicide Prevention and Outreach Program Fund, the Oregon Volunteer Firefighters Association, but only if contributions are dedicated to the direct costs of firefighter training or to the assistance of a firefighter, or a firefighter’s immediate family, who has experienced hardship resulting from the death, injury or illness of the firefighter, or the subaccount described in ORS 316.493 for contributions dedicated to the prevention of child abuse and neglect;

(b) A nonprofit organization described in section 501(c)(3) of the Internal Revenue Code with a gross income of at least $1 million for the year prior to application; or

(c) The central office for a group of affiliated nonprofit organizations with a collective gross income of at least $1 million in the year prior to the year of application.

(4) The commission shall review applications and approve those that meet the qualifications of ORS 305.720 and this section. An entity that is approved by the commission shall thereafter qualify for instruction listing for six years and thereafter must reapply under this section for continued listing in additional six-year periods, except that an entity that reapplies does not need to collect 10,000 or more signatures.

(5) The commission shall certify those entities that are on the eligibility roster and that the commission has approved in the interim since the last preceding certification to the Department of Revenue for listing in the instructions to the forms described in ORS 305.710.

(6) The department shall include in the instructions to the forms described in ORS 305.710 a list of entities that have been certified by the commission under this section as of the date the instructions for the forms must be prepared.

(7) The department shall cause two lines to be included on the Oregon
individual tax return forms following the listing of the entities described in ORS 305.715 (2). These lines may be used by a taxpayer to designate one entity or two entities that have qualified for instruction listing under this section as the recipients of checkoff contributions by the taxpayer.

(8) Amounts contributed by charitable checkoff to an instruction-listed entity shall be subject to and distributed as provided in ORS 305.747.

SECTION 8. ORS 315.624 is amended to read:

315.624. (1) A resident or nonresident individual physician licensed under ORS chapter 677 who is engaged in the practice of medicine qualifies for an annual credit against the taxes that are otherwise due under ORS chapter 316 if the physician provides medical care to residents of an Oregon Veterans’ Home, as defined in section 1 of this 2019 Act.

(2) The amount of the credit allowed under this section shall be equal to the lesser of:

(a) $1,000 for every eight residents to whom the physician provides care at an Oregon Veterans’ Home; or

(b) $5,000.

(3) The credit allowed under this section may not exceed the tax liability of the taxpayer for the tax year, and a credit allowed under this section that is unused may not be carried forward to a succeeding tax year.

(4) A nonresident shall be allowed the credit described in this section in the proportion provided in ORS 316.117. If a change in the status of a taxpayer from resident to nonresident or from nonresident to resident occurs, the credit allowed by this section shall be determined in a manner consistent with ORS 316.117.

(5) In order to qualify for the tax credit allowed under this section, the physician claiming the credit must submit with the physician’s tax return a letter from the Oregon Veterans’ Home at which the physician provided care to residents, confirming that the physician missed no more than five percent of the physician’s scheduled visits with residents of the home during the tax year.
(6) In the case of a shareholder of a corporation or a member of a partnership, only the care provided by the individual shareholder or partner shall be considered, and the full amount of the credit shall be allowed to each shareholder or partner who qualifies in an individual capacity.

(7) The Director of Veterans’ Affairs shall assist the Department of Revenue in determining if a taxpayer claiming a credit under this section qualifies for the credit.

**SECTION 9.** ORS 805.105 is amended to read:

805.105. (1) The Department of Transportation shall establish a veterans’ recognition registration plate program to issue registration plates called “veterans’ recognition registration plates” upon request to an owner of any motor vehicle registered under ORS 803.420 (6)(a) if the owner of the motor vehicle qualifies for the plates. Rules adopted under this section shall include, but need not be limited to, rules that:

(a) Describe general qualifications to be met by any veterans’ group in order to be eligible for a veterans’ recognition registration plate issued under this section.

(b) Specify circumstances under which the department may cease to issue veterans’ recognition registration plates.

(c) Specify what constitutes proof of veteran status for issuance of a veterans’ recognition registration plate, if such proof is required by a veterans’ group or by the Director of Veterans’ Affairs.

(d) Specify what constitutes proof that a person is a surviving family member of a person who was killed in action during an armed conflict while serving in the Armed Forces of the United States. The department may only issue a veteran’s recognition registration plate displaying a gold star decal and the words “Gold Star Family” to a person who is a parent, sibling, spouse or dependent of a person who was killed in action during an armed conflict while serving in the Armed Forces of the United States.

(2)(a) In addition to any other fee authorized by law, upon issuance of a veterans’ recognition registration plate under this section and upon renewal
of registration for a vehicle that has plates issued under this section, the
department shall collect a surcharge of $2.50 per plate for each year of the
registration period for the vehicle as described under ORS 803.415.

(b) Except as otherwise provided in paragraph (c) of this subsection, net
proceeds of the surcharge collected by the department for the veterans’ re-
cognition registration plate shall be deposited in the trust fund established
under ORS 406.050 for paying the expenses of operating the Oregon Veterans’
[Home] Homes identified in section 1 of this 2019 Act.

(c) If the department issues a veterans’ recognition registration plate that
names, describes or represents a veterans’ group, that veterans’ group may
designate an account into which the net proceeds of the surcharge collected
by the department under this section are to be deposited. The department
shall keep accurate records of the number of plates issued under this para-
graph for each veterans’ group and, after payment of administrative expenses
of the department, shall deposit moneys collected under this subsection into
the specified account.

(d) Deposits under this subsection shall be made quarterly.

(3)(a) In consultation with the Department of Transportation, the Director
of Veterans’ Affairs shall design the veterans’ recognition registration plate.

(b) If the department issues a veterans’ recognition registration plate to
recognize a veterans’ group, the department shall, in consultation with the
requesting veterans’ group, add words or a military-related decal to the
veterans’ recognition registration plate that names, describes or represents
the veterans’ group.

(c) The department shall add a gold star decal and the words “Gold Star
Family” to a veterans’ recognition registration plate background to recognize
surviving family members of persons killed in action during an armed con-

(d) Except as otherwise required by the design, veterans’ recognition
registration plates must comply with the requirements of ORS 803.535.

(4) The department shall determine how many sets of veterans’ recogni-
tion registration plates will be manufactured. If the department does not sell or issue renewal for 500 sets of veterans’ recognition registration plates in any one year, the department shall cease production of veterans’ recognition registration plates. For the purposes of this section, veterans’ recognition registration plates that name, describe or represent a veterans’ group are included in the total number of veterans’ recognition registration plates issued.

(5) For the purposes of this section, “sibling” includes siblings of the whole or half blood and siblings by adoption, marriage or domestic partnership.

SECTION 10. ORS 408.360 and 408.370 are repealed.
SUMMARY

Requires Oregon Health Authority to establish standards for identifying behavioral health homes.

A BILL FOR AN ACT

Relating to behavioral health homes; amending ORS 413.223, 413.225, 413.259 and 413.260.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 413.259 is amended to read:

413.259. (1) There is established in the Oregon Health Authority the patient centered primary care home program and the behavioral health home program. Through [this program] these programs, the authority shall:

(a) Define core attributes of a patient centered primary care home and a behavioral health home to promote a reasonable level of consistency of services provided by patient centered primary care homes and behavioral health homes in this state. In defining core attributes related to ensuring that care is coordinated, the authority shall focus on determining whether these patient centered primary care homes and behavioral health homes offer comprehensive primary and preventive care, integrated health care and disease management services;

(b) Establish a simple and uniform process to identify patient centered primary care homes and behavioral health homes that meet the core attributes defined by the authority under paragraph (a) of this subsection;

(c) Develop uniform quality measures that build from nationally accepted

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
measures and allow for standard measurement of patient centered primary
care home and behavioral health home performance;
(d) Develop uniform quality measures for acute care hospital and
ambulatory services that align with the patient centered primary care home
and behavioral health home quality measures developed under paragraph (c)
of this subsection; and
(e) Develop policies that encourage the retention of, and the growth in
the numbers of, primary care providers.
(2)(a) The Director of the Oregon Health Authority shall appoint an ad-
visory committee to advise the authority in carrying out subsection (1) of
this section.
(b) The director shall appoint to the advisory committee 15 individuals
who represent a diverse constituency and are knowledgeable about patient
centered primary care home delivery systems, behavioral health home deliv-
ery systems, integrated health care or health care quality.
(c) Members of the advisory committee are not entitled to compensation,
but may be reimbursed for actual and necessary travel and other expenses
incurred by them in the performance of their official duties in the manner
and amounts provided for in ORS 292.495. Claims for expenses shall be paid
out of funds appropriated to the authority for the purposes of the advisory
committee.
(d) The advisory committee shall use public input to guide policy devel-
opment.
(3) The authority will also establish, as part of the patient centered pri-
mary care home program, learning collaboratives in which state agencies,
private health insurance carriers, third party administrators, patient cen-
tered primary care homes and behavioral health homes can:
(a) Share information about quality improvement;
(b) Share best practices that increase access to culturally competent and
linguistically appropriate care;
(c) Share best practices that increase the adoption and use of the latest
techniques in effective and cost-effective patient centered care;
(d) Coordinate efforts to develop and test methods to align financial incentives to support patient centered primary care homes and behavioral health homes;
(e) Share best practices for maximizing the utilization of patient centered primary care homes and behavioral health homes by individuals enrolled in medical assistance programs, including culturally specific and targeted outreach and direct assistance with applications to adults and children of racial, ethnic and language minority communities and other underserved populations;
(f) Coordinate efforts to conduct research on patient centered primary care homes and behavioral health homes and evaluate strategies to implement patient centered primary care homes and behavioral health homes that include integrated health care to improve health status and quality and reduce overall health care costs; and
(g) Share best practices for maximizing integration to ensure that patients have access to comprehensive primary and preventive care, integrated health care and disease management services.

(4) The Legislative Assembly declares that collaboration among public payers, private health carriers, third party purchasers and providers to identify appropriate reimbursement methods to align incentives in support of patient centered primary care homes and behavioral health homes is in the best interest of the public. The Legislative Assembly therefore declares its intent to exempt from state antitrust laws, and to provide immunity from federal antitrust laws, the collaborative and associated payment reforms designed and implemented under subsection (3) of this section that might otherwise be constrained by such laws. The Legislative Assembly does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state or federal antitrust laws including, but not limited to, agreements among competing health care providers or health carriers as to the prices of specific levels of
reimbursement for health care services.

(5) The authority may contract with a public or private entity to facilitate the work of the learning collaborative described in subsection (3) of this section and may apply for, receive and accept grants, gifts, payments and other funds and advances, appropriations, properties and services from the United States, the State of Oregon or any governmental body or agency or from any other public or private corporation or person for the purpose of establishing and maintaining the collaborative.

SECTION 2. ORS 413.223 is amended to read:

413.223. The division of the Oregon Health Authority that is charged with public health functions:

(1) Shall develop and continuously refine a system of care that:

(a) Meets the developmental needs of adolescents;

(b) Promotes evidence-based practices for children; and

(c) Prioritizes public health through activities such as:

(A) Establishing certification and performance standards;

(B) Collecting and analyzing clinical data;

(C) Conducting ongoing assessments and special studies; and

(D) Defining a statewide planning and development process.

(2) Shall adopt by rule the procedures and criteria for the certification, suspension and decertification of school-based health centers. The procedures must allow certified school-based health centers a reasonable period of time to cure any defects in compliance prior to the suspension or decertification of the school-based health center.

(3) Shall convene work groups to recommend best practices for school-based health centers with respect to electronic health records, billing, joint purchasing, business models and patient centered primary care home [certification or accreditation] identification.

(4)(a) May, in addition to the duties described in subsection (1) of this section, enter into a contract with an entity that coordinates the efforts of school-based health centers for the purpose of providing assistance to
school-based health centers that receive grant moneys under ORS 413.225.

(b) A contract entered into under this subsection must require the entity to:

(A) Provide technical assistance and community-specific ongoing training to school-based health centers, school districts and education service districts;

(B) Assist school-based health centers in improving business practices, including practices related to billing and efficiencies;

(C) Assist school-based health centers in expanding their relationships with coordinated care organizations, sponsors of medical care for school-age children and other community-based providers of school-based health and mental health services; and

(D) Facilitate the integration of health and education policies and programs at the local level so that school-based health centers operate in an optimal environment.

SECTION 3. ORS 413.225 is amended to read:

413.225. (1) As used in this section:

(a) “Community health center or safety net clinic” means a nonprofit medical clinic or school-based health center that provides primary physical health, vision, dental or mental health services to low-income patients without charge or using a sliding scale based on the income of the patient.

(b) “School-based health center” means a health clinic that:

(A) Is located on the grounds of a school in a school district or on the grounds of a school operated by a federally recognized Indian tribe or tribal organization;

(B) Is organized through collaboration among schools, communities and health providers, including public health authorities;

(C) Is administered by a county, state, federal or private organization that ensures that certification requirements are met and provides project funding through grants, contracts, billing or other sources of funds;

(D) Is operated exclusively for the purpose of providing health services
such as:

(i) Primary care;
(ii) Preventive health care;
(iii) Management and monitoring of chronic health conditions;
(iv) Behavioral health care;
(v) Oral health care;
(vi) Health education services; and
(vii) The administration of vaccines recommended by the Centers for Disease Control and Prevention;

(E) Provides health services to children and adolescents by licensed or certified health professionals; and
(F) May provide one or more health services to children and adolescents by:
   (i) A student enrolled in a professional medical, nursing or dental program at an accredited university if the health service is within the student’s field of study and training; or
   (ii) An expanded practice dental hygienist holding a permit issued under ORS 680.200 for oral health care.

(2) The Oregon Health Authority shall award grants to community health centers or safety net clinics, including school-based health centers, to ensure the capacity of each grantee to provide health care services to underserved or vulnerable populations, within the limits of funds provided by the Legislative Assembly for this purpose.

(3) The authority shall provide outreach for the Health Care for All Oregon Children program, including development and administration of an application assistance program, and including grants to provide funding to organizations and local groups for outreach and enrollment activities for the program, within the limits of funds provided by the Legislative Assembly for this purpose.

(4) The authority shall, using funds allocated by the Legislative Assembly:
   (a) Provide funds for the expansion and continuation of school-based
health centers that are operating on July 29, 2013, and that become certified under ORS 413.223;

(b) Direct funds to communities with certified school-based health centers and to communities planning for certified school-based health centers; and

(c) Create a pool of funds available to provide financial incentives to:

(A) Increase the number of school-based health centers [certified] identified as patient centered primary care homes without requiring school-based health centers to be [certified] identified as patient centered primary care homes;

(B) Improve the coordination of the care of patients served by coordinated care organizations and school-based health centers; and

(C) Improve the effectiveness of the delivery of health services through school-based health centers to children who qualify for medical assistance.

(5) The authority shall by rule adopt criteria for awarding grants and providing funds in accordance with this section.

(6) The authority shall analyze and evaluate the implementation of the Health Care for All Oregon Children program.

SECTION 4. ORS 413.260 is amended to read:

413.260. (1) The Oregon Health Authority, in collaboration with health insurers and purchasers of health plans including the Public Employees’ Benefit Board, the Oregon Educators Benefit Board and other members of the patient centered primary care home learning collaborative and the patient centered primary care home program advisory committee, shall:

(a) Develop, test and evaluate strategies that reward enrollees in publicly funded health plans for:

(A) Receiving care through patient centered primary care homes and behavioral health homes that meet the core attributes established in ORS 413.259;

(B) Seeking preventative and wellness services;

(C) Practicing healthy behaviors; and

(D) Effectively managing chronic diseases.
(b) Develop, test and evaluate community-based strategies that utilize community health workers to enhance the culturally competent and linguistically appropriate health services provided by patient centered primary care homes and behavioral health homes in underserved communities.

(2) The authority shall focus on patients with chronic health conditions in developing strategies under this section.

(3) The authority, in collaboration with the Public Employees’ Benefit Board and the Oregon Educators Benefit Board, shall establish uniform standards for contracts with health benefit plans providing coverage to public employees to promote the provision of patient centered primary care homes, especially for enrollees with chronic medical conditions, and behavioral health homes that are consistent with the uniform quality measures established under ORS 413.259 (1)(c).

(4) The standards established under subsection (3) of this section may direct health benefit plans to provide incentives to primary care providers who serve vulnerable populations to partner with health-focused community-based organizations to provide culturally specific health promotion and disease management services.
SUMMARY

Adds optometrists to list of health care practitioners who must complete pain management education program.

Replaces Governor with Oregon Health Policy Board as appointing authority for Health Plan Quality Metrics Committee.

Permits Oregon Health Authority to provide to agencies and Legislative Assembly data from other relevant sources in addition to data from health care workforce database.

A BILL FOR AN ACT

Relating to health care practitioners; amending ORS 413.017, 413.590 and 676.410.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 413.017 is amended to read:

413.017. (1) The Oregon Health Policy Board shall establish the committees described in subsections (2) to (4) of this section.

(2)(a) The Public Health Benefit Purchasers Committee shall include individuals who purchase health care for the following:

(A) The Public Employees’ Benefit Board.
(B) The Oregon Educators Benefit Board.
(C) Trustees of the Public Employees Retirement System.
(D) A city government.
(E) A county government.
(F) A special district.
(G) Any private nonprofit organization that receives the majority of its funding from the state and requests to participate on the committee.
(b) The Public Health Benefit Purchasers Committee shall:

(A) Identify and make specific recommendations to achieve uniformity across all public health benefit plan designs based on the best available clinical evidence, recognized best practices for health promotion and disease management, demonstrated cost-effectiveness and shared demographics among the enrollees within the pools covered by the benefit plans.

(B) Develop an action plan for ongoing collaboration to implement the benefit design alignment described in subparagraph (A) of this paragraph and shall leverage purchasing to achieve benefit uniformity if practicable.

(C) Continuously review and report to the Oregon Health Policy Board on the committee’s progress in aligning benefits while minimizing the cost shift to individual purchasers of insurance without shifting costs to the private sector or the health insurance exchange.

(c) The Oregon Health Policy Board shall work with the Public Health Benefit Purchasers Committee to identify uniform provisions for state and local public contracts for health benefit plans that achieve maximum quality and cost outcomes. The board shall collaborate with the committee to develop steps to implement joint contract provisions. The committee shall identify a schedule for the implementation of contract changes. The process for implementation of joint contract provisions must include a review process to protect against unintended cost shifts to enrollees or agencies.

(3)(a) The Health Care Workforce Committee shall include individuals who have the collective expertise, knowledge and experience in a broad range of health professions, health care education and health care workforce development initiatives.

(b) The Health Care Workforce Committee shall coordinate efforts to recruit and educate health care professionals and retain a quality workforce to meet the demand that will be created by the expansion in health care coverage, system transformations and an increasingly diverse population.

(c) The Health Care Workforce Committee shall conduct an inventory of all grants and other state resources available for addressing the need to ex-
pand the health care workforce to meet the needs of Oregonians for health care.

(4)(a) The Health Plan Quality Metrics Committee shall include the following members appointed by the [Governor] **Oregon Health Policy Board:**

(A) An individual representing the Oregon Health Authority;
(B) An individual representing the Oregon Educators Benefit Board;
(C) An individual representing the Public Employees’ Benefit Board;
(D) An individual representing the Department of Consumer and Business Services;
(E) Two health care providers;
(F) One individual representing hospitals;
(G) One individual representing insurers, large employers or multiple employer welfare arrangements;
(H) Two individuals representing health care consumers;
(I) Two individuals representing coordinated care organizations;
(J) One individual with expertise in health care research;
(K) One individual with expertise in health care quality measures; and
(L) One individual with expertise in mental health and addiction services.

(b) The committee shall work collaboratively with the Oregon Educators Benefit Board, the Public Employees’ Benefit Board, the [Oregon Health] authority and the department [of Consumer and Business Services] to adopt health outcome and quality measures that are focused on specific goals and provide value to the state, employers, insurers, health care providers and consumers. The committee shall be the single body to align health outcome and quality measures used in this state with the requirements of health care data reporting to ensure that the measures and requirements are coordinated, evidence-based and focused on a long term statewide vision.

(c) The committee shall use a public process that includes an opportunity for public comment to identify health outcome and quality measures that may be applied to services provided by coordinated care organizations or paid for by health benefit plans sold through the health insurance exchange
or offered by the Oregon Educators Benefit Board or the Public Employees’ Benefit Board. The [Oregon Health] authority, the department [of Consumer and Business Services], the Oregon Educators Benefit Board and the Public Employees’ Benefit Board are not required to adopt all of the health outcome and quality measures identified by the committee but may not adopt any health outcome and quality measures that are different from the measures identified by the committee. The measures must take into account the recommendations of the metrics and scoring subcommittee created in ORS 414.638 and the differences in the populations served by coordinated care organizations and by commercial insurers.

(d) In identifying health outcome and quality measures, the committee shall prioritize measures that:

(A) Utilize existing state and national health outcome and quality measures, including measures adopted by the Centers for Medicare and Medicaid Services, that have been adopted or endorsed by other state or national organizations and have a relevant state or national benchmark;

(B) Given the context in which each measure is applied, are not prone to random variations based on the size of the denominator;

(C) Utilize existing data systems, to the extent practicable, for reporting the measures to minimize redundant reporting and undue burden on the state, health benefit plans and health care providers;

(D) Can be meaningfully adopted for a minimum of three years;

(E) Use a common format in the collection of the data and facilitate the public reporting of the data; and

(F) Can be reported in a timely manner and without significant delay so that the most current and actionable data is available.

(e) The committee shall evaluate on a regular and ongoing basis the health outcome and quality measures adopted under this section.

(f) The committee may convene subcommittees to focus on gaining expertise in particular areas such as data collection, health care research and mental health and substance use disorders in order to aid the committee in
the development of health outcome and quality measures. A subcommittee may include stakeholders and staff from the [Oregon Health] authority, the Department of Human Services, the Department of Consumer and Business Services, the Early Learning Council or any other agency staff with the appropriate expertise in the issues addressed by the subcommittee.

(g) This subsection does not prevent the [Oregon Health] authority, the Department of Consumer and Business Services, commercial insurers, the Public Employees’ Benefit Board or the Oregon Educators Benefit Board from establishing programs that provide financial incentives to providers for meeting specific health outcome and quality measures adopted by the committee.

(5) Members of the committees described in subsections (2) to (4) of this section who are not members of the Oregon Health Policy Board are not entitled to compensation but shall be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by them by their attendance at committee meetings, in the manner and amount provided in ORS 292.495.

SECTION 2. ORS 413.590 is amended to read:

413.590. (1) An approved pain management education program described in ORS 413.572 (1)(c) or an equivalent pain management education program as described in ORS 675.110, 677.228, 677.510, 678.101, 684.092, 685.102 or 689.285 must be completed by:

(a) A physician assistant licensed under ORS chapter 677[.];
(b) A nurse licensed under ORS chapter 678[.];
(c) A psychologist licensed under ORS 675.010 to 675.150[.];
(d) A chiropractic physician licensed under ORS chapter 684[.];
(e) A naturopath licensed under ORS chapter 685[.];
(f) An acupuncturist licensed under ORS 677.759[.];
(g) A pharmacist licensed under ORS chapter 689[.];
(h) A dentist licensed under ORS chapter 679[.];
(i) An occupational therapist licensed under ORS 675.210 to 675.340;
(j) A physical therapist licensed under ORS 688.010 to 688.201 must complete one pain management education program described under ORS 413.572; and

(k) An optometrist licensed under ORS chapter 683.

(2) The Oregon Medical Board, in consultation with the Pain Management Commission, shall identify by rule physicians licensed under ORS chapter 677 who, on an ongoing basis, treat patients in chronic or terminal pain and who must complete one pain management education program established under ORS 413.572. The board may identify by rule circumstances under which a requirement under this section may be waived.

SECTION 3. ORS 676.410 is amended to read:

676.410. (1) As used in this section, “health care workforce regulatory board” means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;

(b) State Board of Chiropractic Examiners;

(c) State Board of Licensed Social Workers;

(d) Oregon Board of Licensed Professional Counselors and Therapists;

(e) Oregon Board of Dentistry;

(f) Board of Licensed Dietitians;

(g) State Board of Massage Therapists;

(h) Oregon Board of Naturopathic Medicine;

(i) Oregon State Board of Nursing;

(j) Respiratory Therapist and Polysomnographic Technologist Licensing Board;

(k) Oregon Board of Optometry;

(L) State Board of Pharmacy;

(m) Oregon Medical Board;

(n) Occupational Therapy Licensing Board;

(o) Physical Therapist Licensing Board;
(p) Oregon Board of Psychology; and

(q) Board of Medical Imaging.

An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board. Except as provided in subsection (4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:
   (A) Demographics, including race and ethnicity.
   (B) Education and training information.
   (C) License information.
   (D) Employment information.
   (E) Primary and secondary practice information.
   (F) Anticipated changes in the practice.
   (G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regulatory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a
law enforcement agency for investigative purposes or to the authority for
state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform
the board’s duties under this section.

(6) In addition to renewal fees that may be imposed by a health care
workforce regulatory board, the authority shall establish fees to be paid by
individuals applying to renew a license with a health care workforce regu-
latory board. The amount of fees established under this subsection must be
reasonably calculated to reimburse the actual cost of obtaining or reporting
information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the
authority shall create and maintain a health care workforce database. [that
will] The authority shall provide data from the health care workforce
database and may provide data from other relevant sources, including
data related to the diversity of this state’s health care workforce, upon re-
quest to state agencies and to the Legislative Assembly. The authority may
contract with a private or public entity to establish and maintain the data-
base and to perform data analysis.
SUMMARY


A BILL FOR AN ACT

Relating to prescription drug coverage in publicly financed programs; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 414.

SECTION 2. (1) The Mental Health Clinical Advisory Group is established in the Oregon Health Authority. The Mental Health Clinical Advisory Group shall develop evidence-based algorithms for mental health treatments with mental health drugs based on:

(a) The efficacy of the drug;
(b) The cost of the drug;
(c) Potential side effects of the drug;
(d) A patient's profile; and
(e) A patient's history with the drug.

(2) The Mental Health Clinical Advisory Group consists of eleven members appointed by the authority as follows:

(a) One psychiatrist with an active community practice;
(b) One child and adolescent psychiatrist;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(c) One licensed clinical psychologist;
(d) One psychiatric nurse practitioner with prescribing privileges;
(e) One primary care provider;
(f) One pharmacist who has experience dispensing to long term care facilities and patients with special needs;
(g) One individual who represents a statewide mental health advocacy organization for children and adults with mental illness and has experience as a consumer of mental health services or as a family member of a consumer of mental health services;
(h) One individual who represents a coordinated care organization;
(i) One consumer of mental health services or one family member of a consumer of mental health services
(j) One member appointed from individuals nominated by the Indian tribes in Oregon; and
(k) One individual representing an entity that offers a psychiatric advice hotline.

(3) To the greatest extent practicable, at least two of the members appointed by the authority under subsection (2) of this section must identify as persons of color.

(4) The Mental Health Clinical Advisory Group shall, in developing treatment algorithms, consider all of the following:
(a) Peer-reviewed medical literature;
(b) Observational studies;
(c) Studies of health economics;
(d) Input from patients and physicians; and
(e) Any other information that the group deems appropriate.

(5) The Mental Health Clinical Advisory Group shall make recommendations to the authority and the Pharmacy and Therapeutics Committee including, but not limited to, recommendations concerning:
(a) Implementation of evidence-based algorithms.
(b) Any changes needed to any preferred drug list used by the authority.

(c) Practice guidelines for the treatment of mental health disorders with mental health drugs.

(d) Coordinating the work of the Mental Health Clinical Advisory Group with an entity that offers a psychiatric advice hotline.

(6) Recommendations of the Mental Health Clinical Advisory Group shall be posted to the website of the authority no later than 30 days after the group approves the recommendations.

(7) No later than December 31 of each year, the Mental Health Clinical Advisory Group shall report to the interim committees of the Legislative Assembly related to health on its progress in developing evidence-based algorithms for mental health drugs.

(8) A member of the Mental Health Clinical Advisory Group is not entitled to compensation but may be reimbursed for necessary travel expenses incurred in the performance of the member's official duties.

(9) The Mental Health Clinical Advisory Group shall select one of its members as chairperson and another as vice chairperson, for terms and with duties and powers necessary for the performance of the functions of the group.

(10) A majority of the members of the Mental Health Clinical Advisory Group constitutes a quorum for the transaction of business.

(11) The Mental Health Clinical Advisory Group shall meet at least once every two months at a time and place determined by the chairperson. The group also may meet at other times and places specified by the call of the chairperson or of a majority of the members of the group. The group may meet in executive session when discussing factors listed in subsection (1) of this section.

(12) The Director of the Oregon Health Authority shall appoint a full-time coordinator for the group, designated as an Operations and Policy Analyst 3, who:
(a) Has demonstrated experience in the field of mental health;
(b) Has a relevant educational background; and
(c) Maintains a professional license in the field of health or behavioral science.

(13) The authority may appoint one or more subcommittees of the Mental Health Clinical Advisory Group as the authority deems necessary to assist the group in carrying out the group’s duties.

(14) In accordance with applicable provisions of ORS chapter 183, the Mental Health Clinical Advisory Group may adopt rules necessary for the administration of this section.

(15) All agencies of state government, as defined in ORS 174.111, are directed to assist the Mental Health Clinical Advisory Group in the performance of duties of the group and, to the extent permitted by laws relating to confidentiality, to furnish information and advice the members of the group consider necessary to perform their duties.

SECTION 3. In addition to and not in lieu of any other appropriation, there is appropriated to the Oregon Health Authority, for the biennium beginning July 1, 2019, out of the General Fund, the amount of $500,000, which may be expended for carrying out section 2 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Requires hospitals to submit emergency department discharge abstract records to Oregon Health Authority or to entity contracting with authority to compile records. Requires authority to notify hospitals and ambulatory surgical centers of changes to data sets of discharge records that must be submitted, no later than July 1 of calendar year preceding effective date of changes.

A BILL FOR AN ACT

Relating to data submitted to the Oregon Health Authority by health care facilities; creating new provisions; and amending ORS 442.120.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 442.120, as amended by section 7, chapter 50, Oregon Laws 2018, is amended to read:

442.120. (1) In order to provide data essential for health planning programs[.], each hospital and ambulatory surgical center licensed to operate in this state shall submit to the Oregon Health Authority the records prescribed by the authority under subsection (2) of this section.

[(1) The Oregon Health Authority may request, by July 1 of each year, each general hospital to file with the authority ambulatory surgery and inpatient discharge abstract records covering all patients discharged during the preceding calendar year. The ambulatory surgery and inpatient discharge abstract record for each patient must include the following information, and may include other information deemed necessary by the authority for developing or evaluating statewide health policy:]
[(a) Date of birth;]
[(b) Sex;]
[(c) Race and ethnicity;]
[(d) Primary language;]
[(e) Disability;]
[(f) Zip code;]
[(g) Inpatient admission date or outpatient service date;]
[(h) Inpatient discharge date;]
[(i) Type of discharge;]
[(j) Diagnostic related group or diagnosis;]
[(k) Type of procedure performed;]
[(L) Expected source of payment, if available;]
[(m) Hospital identification number; and]
[(n) Total hospital charges.]

(2) By July 1 of each year, the authority may request from ambulatory surgical centers licensed under ORS 441.015 ambulatory surgery discharge abstract records covering all patients admitted during the preceding year. Ambulatory surgery discharge abstract records must include information similar to that requested from general hospitals under subsection (1) of this section.

(3) By July 1 of each year, the authority may request from extended stay centers licensed under section 2, chapter 50, Oregon Laws 2018, extended stay center discharge abstract records covering all patients admitted during the preceding year. Extended stay center discharge abstract records must include information prescribed by the authority by rule.

(4) In lieu of abstracting and compiling the records itself, the authority may solicit the voluntary submission of the data described in subsections (1) to (3) of this section to enable the authority to carry out its responsibilities under this section. If such data are not available to the authority on an annual and timely basis,

(2)(a) A hospital shall submit the following to the authority, as
prescribed by the authority by rule:

(A) Ambulatory surgery discharge abstract records;

(B) Inpatient discharge abstract records; and

(C) Emergency department discharge abstract records.

(b) An ambulatory surgical center shall submit the following to the authority, as prescribed by the authority by rule:

(A) Ambulatory surgery discharge abstract records; and

(B) Discharge abstract records of patients discharged from extended stay centers licensed under section 2, chapter 50, Oregon Laws 2018, that are affiliated with the ambulatory surgical center.

(3) The authority may establish by rule a fee to be charged to each hospital, or ambulatory surgical center, or extended stay center.

(4) The fee established under subsection (3) of this section may not exceed the cost of abstracting and compiling the records.

(5) The authority may specify by rule the form in which records are to be submitted. If the form adopted by rule requires conversion from the form regularly used by a hospital, ambulatory surgical center or extended stay center, reasonable costs of such conversion shall be paid by the authority.

(6) Abstract records must include a patient identifier that allows for the statistical matching of records over time to permit public studies of issues related to clinical practices, health service utilization and health outcomes. Provision of such a patient identifier must not allow for identification of the individual patient.

(7) In addition to the records required in subsection (1) of this section, the authority may obtain abstract records for each patient that identify specific services, classified by International Classification of Disease Code, for special studies on the incidence of specific health problems or diagnostic practices. However, nothing in this subsection shall authorize the publication of specific data in a form that allows identification of individual patients or licensed health care professionals.
The authority may provide by rule for the submission of ambulatory surgery, inpatient and emergency department discharge abstract records for enrollees in a health maintenance organization [from a hospital, ambulatory surgical center or extended stay center associated with such an organization] in a form the authority determines appropriate to the authority's needs for such the data and the organization's record keeping and reporting systems for charges and services.

(7) The authority shall notify any entity submitting data under this section of any changes to the data sets that must be submitted, no later than July 1 of the calendar year preceding the effective date of the changes.

(8) The authority may contract with a third party to receive and process the records submitted under this section.

SECTION 2. ORS 442.120 is added to and made a part of ORS chapter 442.
Requires Oregon Health Policy Board to study changes in health care coverage in Oregon since implementation of Patient Protection and Affordable Care Act and report results of study to interim committees of Legislative Assembly related to health.

A BILL FOR AN ACT

Relating to health care.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Oregon Health Policy Board shall collect data regarding changes in health care coverage in Oregon since the passage and implementation of the Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act (P.L. 111-152), on March 23, 2010.

(2) The board shall study the data collected and, no later than January 1, 2021, report to the interim committees of the Legislative Assembly related to health the findings of the study and recommendations, if any, for improving health care coverage for all Oregonians.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Requires Oregon Health Authority to report to interim committees of Legislative Assembly related to health, no later than September 20, 2020, on implementation of provisions requiring coordinated care organization governing boards to be more transparent.

A BILL FOR AN ACT

Relating to coordinated care organizations.

Be It Enacted by the People of the State of Oregon:

SECTION 1. No later than September 20, 2020, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to health on the implementation of section 2, chapter 49, Oregon Laws 2018. The report shall be submitted in the manner provided by ORS 192.245.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Requires Oregon Health Authority, in coordination with Department of Consumer and Business Services, to report to interim committees of Legislative Assembly related to health, no later than September 20, 2020, recommendations for aligning financial regulation of coordinated care organizations and health insurers.

A BILL FOR AN ACT

Relating to financial regulation of entities that provide access to health care.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) The Oregon Health Authority, in collaboration with the Department of Consumer and Business Services, shall report to the interim committees of the Legislative Assembly related to health recommendations for:

(a) Aligning the financial regulation of coordinated care organizations and health insurers; and

(b) Any legislative changes necessary to carry out the recommendations made under paragraph (a) of this subsection.

(2) The authority shall submit the report in the manner provided by ORS 192.245 no later than September 20, 2020.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Requires Oregon Health Authority, in consultation with stakeholders, to propose to interim committees of Legislative Assembly related to health, by January 1, 2020, long term solutions to financing health care in Oregon. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care financing; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) In collaboration with providers, consumers and other stakeholders, the Oregon Health Authority shall develop recommendations for long term solutions to the financing of health care in this state.

(2) The authority shall report the recommendations developed under subsection (1) of this section, in the manner provided in ORS 192.245, to the interim committees of the Legislative Assembly related to health no later than January 1, 2020.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
LC 377
2019 Regular Session
44300-014
7/24/18 (RMH/ps)

SUMMARY

Removes members of collective bargaining unit that represents police officers or firefighters from list of individuals who are ineligible to participate in benefit plans offered by Public Employees’ Benefit Board.

A BILL FOR AN ACT

Relating to certain employees’ eligibility to participate in public employee benefit plans; amending ORS 243.105.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 243.105 is amended to read:

243.105. As used in ORS 243.105 to 243.285, unless the context requires otherwise:

(1) “Benefit plan” includes, but is not limited to:

(a) Contracts for insurance or other benefits, including medical, dental, vision, life, disability and other health care recognized by state law, and related services and supplies;

(b) Comparable benefits for employees who rely on spiritual means of healing; and

(c) Self-insurance programs managed by the Public Employees’ Benefit Board.

(2) “Board” means the Public Employees’ Benefit Board.

(3) “Carrier” means an insurance company or health care service contractor holding a valid certificate of authority from the Director of the Department of Consumer and Business Services, or two or more companies or contractors acting together pursuant to a joint venture, partnership or other

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
joint means of operation, or a board-approved guarantor of benefit plan
coverage and compensation.

(4)(a) “Eligible employee” means an officer or employee of a state agency
or local government who elects to participate in one of the group benefit
plans described in ORS 243.135. The term includes, but is not limited to, state
officers and employees in the exempt, unclassified and classified service, and
state officers and employees, whether or not retired, who:

(A) Are receiving a service retirement allowance, a disability retirement
allowance or a pension under the Public Employees Retirement System or
are receiving a service retirement allowance, a disability retirement allow-
ance or a pension under any other retirement or disability benefit plan or
system offered by the State of Oregon for its officers and employees;

(B) Are eligible to receive a service retirement allowance under the Pub-
lic Employees Retirement System and have reached earliest retirement age
under ORS chapter 238;

(C) Are eligible to receive a pension under ORS 238A.100 to 238A.250, and
have reached earliest retirement age as described in ORS 238A.165; or

(D) Are eligible to receive a service retirement allowance or pension un-
der another retirement benefit plan or system offered by the State of Oregon
and have attained earliest retirement age under the plan or system.

(b) “Eligible employee” does not include individuals:

(A) Engaged as independent contractors;

(B) Whose periods of employment in emergency work are on an intermit-
tent or irregular basis;

(C) Who are employed on less than half-time basis unless the individuals
are employed in positions classified as job-sharing positions, unless the in-
dividuals are defined as eligible under rules of the board;

(D) Appointed under ORS 240.309;

(E) Provided sheltered employment or make-work by the state in an em-
ployment or industries program maintained for the benefit of such individ-
uals; or
(F) Provided student health care services in conjunction with their enrollment as students at a public university listed in ORS 352.002[; or].

[(G) Who are members of a collective bargaining unit that represents police officers or firefighters.]

(5) “Family member” means an eligible employee’s spouse and any unmarried child or stepchild within age limits and other conditions imposed by the board with regard to unmarried children or stepchildren.

(6) “Local government” means any city, county or special district in this state or any intergovernmental entity created under ORS chapter 190.

(7) “Payroll disbursing officer” means the officer or official authorized to disburse moneys in payment of salaries and wages of employees of a state agency or local government.

(8) “Premium” means the monthly or other periodic charge for a benefit plan.

(9) “Primary care” means family medicine, general internal medicine, naturopathic medicine, obstetrics and gynecology, pediatrics or general psychiatry.

(10) “State agency” means every state officer, board, commission, department or other activity of state government.

(11) “Total medical expenditures” means payments to reimburse the cost of physical and mental health care provided to eligible employees or their family members, excluding prescription drugs, vision care and dental care, whether paid on a fee-for-service basis or as part of a capitated rate or other type of payment mechanism.
SUMMARY

Allows Public Employees' Benefit Board and Oregon Educators Benefit Board to make available long term care insurance plans at boards' discretion rather than as statutory requirement.

A BILL FOR AN ACT
Relating to state benefit boards' provision of long term care insurance plans;

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 243.291 is amended to read:

243.291. (1) The Public Employees' Benefit Board [shall] may make available one or more fully insured long term care insurance plans. The plans [shall] may be made available to eligible employees, retired employees and family members. Notwithstanding ORS 243.105, for purposes of this subsection, “family members” includes family members as defined by the board and also includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree.

(2) Employees of local governments and employees of political subdivisions may participate in the plans under terms and conditions established by the board, if it does not jeopardize the financial viability of the board’s long term care insurance plans. However, unless the local government or political subdivision provides otherwise, the employee’s participation is a personal action of the employee and does not obligate the local government or political subdivision to pay for the provision of benefits under this subsection.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(3) Participation of eligible employees or retired employees in any long
term care insurance plan made available by the board is voluntary and is
subject to reasonable underwriting guidelines and eligibility rules estab-
lished by the board.

(4) The employee or retired employee is solely responsible for the payment
of the long term care premium rates developed by the board. The board is
authorized to charge a reasonable administrative fee, in addition to the pre-
mium charged by the long term care insurer, to cover the cost of adminis-
tration and consumer education materials.

SECTION 2. ORS 243.296 is amended to read:

243.296. [(1) The Public Employees' Benefit Board shall develop effective
and cost-effective ways to make the long term care insurance plans described
under ORS 243.291 available.]

[(2) The board, in consultation with the Public Employees Retirement Sys-
tem, shall develop long term care insurance plan design, eligibility rules,
underwriting principles and educational materials in order to:]

[(a) Allow eligible employees to continue to participate in the plans after
retirement; and]

[(b) Allow former eligible employees to enroll in the plans after
retirement.]

[(3) The board's education program for the eligible employees and retired
employees shall provide information on the potential need for long term care,
methods of financing long term care and the availability of long term care
insurance plans offered by the board.]

(1) If the Public Employees' Benefit Board offers a long term care
insurance plan under ORS 243.291, the board shall:

(a) Develop effective and cost-effective ways to make the plan
available;

(b) In consultation with the Public Employees Retirement System,
develop plan specifications, eligibility rules, underwriting guidelines
and consumer educational materials; and
(c) Ensure that eligible employees may continue to participate in
the plan after retirement and former eligible employees may enroll in
the plan after retirement.

(2) The educational materials that the board develops for eligible
employees and retired employees under subsection (1) of this section
shall provide information on the potential need for long term care,
methods of financing long term care and the availability of long term
care insurance plans offered by the board.

SECTION 3. ORS 243.870 is amended to read:

243.870. (1) The Oregon Educators Benefit Board [shall] may make
available to eligible employees and family members one or more fully insured
long term care benefit plans. Notwithstanding ORS 243.860, for purposes of
this subsection, “family member” includes family members, as defined by the
board, the parents of the eligible employee and the parents of the spouse or
domestic partner of the eligible employee.

(2) Participation of eligible employees in any long term care benefit plan
made available by the board is voluntary and is subject to reasonable
underwriting guidelines and eligibility rules established by the board.

(3) Unless otherwise agreed to by the employer, the eligible employee is
responsible for the payment of the long term care benefit plan premium de-
veloped by the board.

SECTION 4. ORS 243.872 is amended to read:

243.872. [(1) The Oregon Educators Benefit Board shall develop effective
and cost-effective ways to make available the long term care benefit plans de-
scribed in ORS 243.870.]

[(2) The board, in consultation with the Public Employees Retirement Sys-
tem, shall develop long term care benefit plan specifications, eligibility rules,
underwriting guidelines and consumer educational materials.]

[(3) The board’s educational materials for eligible employees shall provide
information on the potential need for long term care, methods of financing long
term care and the availability of long term care benefit plans offered by the]
board.]

(1) If the Oregon Educators Benefit Board offers a long term care benefit plan under ORS 243.870, the board shall:

(a) Develop effective and cost-effective ways to make the plan available; and

(b) In consultation with the Public Employees Retirement System, develop plan specifications, eligibility rules, underwriting guidelines and consumer educational materials.

(2) The educational materials that the board develops for eligible employees under subsection (1) of this section shall provide information on the potential need for long term care, methods of financing long term care and the availability of long term care benefit plans offered by the board.
Permits Public Employees’ Benefit Board and Oregon Educators Benefit Board to receive proposals from prospective contractors and open proposals without publicly disclosing contents of proposals. Requires each board to record and make available identities of proposers in public record.

Permits board to choose not to disclose contents of proposal until after board issues notice of intent to award contract. Requires board to disclose contents of proposal after issuing notice of intent to award contract.

Permits board to withhold from disclosure contents of proposal that are exempt or conditionally exempt from disclosure.

Becomes operative 91 days after effective date of Act.
Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to disclosure of contents of proposals for public contracts received by state benefit boards; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1)(a) The Public Employees’ Benefit Board and the Oregon Educators Benefit Board, in conducting a procurement for a public contract, may receive proposals from prospective contractors and, notwithstanding ORS 192.311 to 192.478, may open the proposals in a manner that avoids publicly disclosing the contents of the proposals. After opening the proposals, the Public Employees’ Benefit Board and the Oregon Educators Benefit Board shall record and make available as part of each board’s public records the names of prospective contractors that submitted proposals.

(b) Notwithstanding ORS 192.311 to 192.478, the Public Employees’
Benefit Board and the Oregon Educators Benefit Board need not make proposals available for public inspection until after the board issues a notice of intent to award a contract. After a board issues a notice of intent to award a contract, the contents of the proposals that the board received are subject to disclosure as provided in ORS 192.311 to 192.478.

(c) The contents of a proposal that the Public Employees’ Benefit Board or the Oregon Educators Benefit Board receives are not subject to disclosure because of the fact that the board opened a proposal at a meeting, as defined in ORS 192.610, even if the board fails to give notice of, or provide for, an executive session for the purpose of opening proposals.

(2) Notwithstanding the requirement under subsection (1)(b) of this section to make proposals available for public inspection after issuing a notice of intent to award a contract, the Public Employees’ Benefit Board and the Oregon Educators Benefit Board may withhold from disclosure to the public the contents of a proposal that are exempt or conditionally exempt from disclosure under ORS 192.345 or 192.355.

SECTION 2. Section 1 of this 2019 Act applies to procurements that the Public Employees’ Benefit Board or the Oregon Educators Benefit Board advertises or otherwise solicits or, if the Public Employees’ Benefit Board or the Oregon Educators Benefit Board does not advertise or solicit the procurement, to public contracts into which the Public Employees’ Benefit Board or the Oregon Educators Benefit Board enters on or after the operative date of section 1 of this 2019 Act.

SECTION 3. (1) Section 1 of this 2019 Act becomes operative 91 days after the effective date of this 2019 Act.

(2) The Public Employees’ Benefit Board and the Oregon Educators Benefit Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the boards

[2]
to exercise, on or after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the boards by section 1 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
Transfers to Public Employees’ Benefit Board and Oregon Educators Benefit Board duty to conduct audit to determine health benefit plan enrollees’ continued eligibility for coverage as spouses or dependents. Directs benefit boards to conduct audit at least once every five years.

A BILL FOR AN ACT

Relating to dependent eligibility review for public employee benefit plans;

amending ORS 243.135 and 243.866.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 243.135, as amended by section 27, chapter 746, Oregon Laws 2017, is amended to read:

243.135. (1) Notwithstanding any other benefit plan contracted for and offered by the Public Employees’ Benefit Board, the board shall contract for a health benefit plan or plans best designed to meet the needs and provide for the welfare of eligible employees, the state and the local governments. In considering whether to enter into a contract for a plan, the board shall place emphasis on:

(a) Employee choice among high quality plans;
(b) A competitive marketplace;
(c) Plan performance and information;
(d) Employer flexibility in plan design and contracting;
(e) Quality customer service;
(f) Creativity and innovation;
(g) Plan benefits as part of total employee compensation;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
(h) The improvement of employee health; and

(i) Health outcome and quality measures, described in ORS 413.017 (4),
that are reported by the plan.

(2) The board may approve more than one carrier for each type of plan
contracted for and offered but the number of carriers shall be held to a
number consistent with adequate service to eligible employees and their
family members.

(3) Where appropriate for a contracted and offered health benefit plan, the
board shall provide options under which an eligible employee may arrange
coverage for family members who are not enrolled in another health benefit
plan offered by the board or the Oregon Educators Benefit Board. An eligible
employee who declines coverage in a health benefit plan offered by the
Public Employees’ Benefit Board or the Oregon Educators Benefit Board and
who is enrolled as a spouse or family member in another health benefit plan
offered by the Public Employees’ Benefit Board or the Oregon Educators
Benefit Board may not be paid the employer contribution for the plan that
was declined.

(4) Payroll deductions for costs that are not payable by the state or a
local government may be made upon receipt of a signed authorization from
the employee indicating an election to participate in the plan or plans se-
lected and the deduction of a certain sum from the employee’s pay.

(5) In developing any health benefit plan, the board may provide an option
of additional coverage for eligible employees and their family members at an
additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all
eligible employees and their family members under rules adopted by the
board. Because of the special problems that may arise in individual instances
under comprehensive group practice plan coverage involving acceptable
provider-patient relations between a particular panel of providers and par-
ticular eligible employees and their family members, the board shall provide
a procedure under which any eligible employee may apply at any time to
substitute a health service benefit plan for participation in a comprehensive
group practice benefit plan.

(7) The board shall evaluate a benefit plan that serves a limited geo-
graphic region of this state according to the criteria described in subsection
(1) of this section.

(8)(a) The board shall use payment methodologies in self-insured health
benefit plans offered by the board that are designed to limit the growth in
per-member expenditures for health services to no more than 3.4 percent per
year.

(b) The board shall adopt policies and practices designed to limit the an-
nual increase in premium amounts paid for contracted health benefit plans
to 3.4 percent.

(9) [A carrier or third party administrator that contracts with the board to
provide or administer a health benefit plan shall, at least once each plan
year,] At least once every five years, the board shall conduct an audit
of the health benefit plan enrollees’ continued eligibility for coverage as
spouses or dependents or any other basis that would affect the cost of the
premium for the plan.

(10) By January 1, 2023, the board shall spend at least 12 percent of its
total medical expenditures in self-insured health benefit plans on payments
for primary care.

(11) No later than February 1 of each year, the board shall report to the
Legislative Assembly on the board’s progress toward achieving the target of
spending at least 12 percent of total medical expenditures in self-insured
health benefit plans on payments for primary care.

SECTION 2. ORS 243.135, as amended by section 16, chapter 489, Oregon
Laws 2017, and section 27, chapter 746, Oregon Laws 2017, is amended to
read:

243.135. (1) Notwithstanding any other benefit plan contracted for and
offered by the Public Employees' Benefit Board, the board shall contract for
a health benefit plan or plans best designed to meet the needs and provide
for the welfare of eligible employees, the state and the local governments.
In considering whether to enter into a contract for a plan, the board shall
place emphasis on:
(a) Employee choice among high quality plans;
(b) A competitive marketplace;
(c) Plan performance and information;
(d) Employer flexibility in plan design and contracting;
(e) Quality customer service;
(f) Creativity and innovation;
(g) Plan benefits as part of total employee compensation;
(h) The improvement of employee health; and
(i) Health outcome and quality measures, described in ORS 413.017 (4),
that are reported by the plan.

(2) The board may approve more than one carrier for each type of plan
contracted for and offered but the number of carriers shall be held to a
number consistent with adequate service to eligible employees and their
family members.

(3) Where appropriate for a contracted and offered health benefit plan, the
board shall provide options under which an eligible employee may arrange
coverage for family members who are not enrolled in another health benefit
plan offered by the board or the Oregon Educators Benefit Board. An eligible
employee who declines coverage in a health benefit plan offered by the
Public Employees’ Benefit Board or the Oregon Educators Benefit Board and
who is enrolled as a spouse or family member in another health benefit plan
offered by the Public Employees’ Benefit Board or the Oregon Educators
Benefit Board may not be paid the employer contribution for the plan that
was declined.

(4) Payroll deductions for costs that are not payable by the state or a
local government may be made upon receipt of a signed authorization from
the employee indicating an election to participate in the plan or plans se-
lected and the deduction of a certain sum from the employee’s pay.
(5) In developing any health benefit plan, the board may provide an option of additional coverage for eligible employees and their family members at an additional cost or premium.

(6) Transfer of enrollment from one plan to another shall be open to all eligible employees and their family members under rules adopted by the board. Because of the special problems that may arise in individual instances under comprehensive group practice plan coverage involving acceptable provider-patient relations between a particular panel of providers and particular eligible employees and their family members, the board shall provide a procedure under which any eligible employee may apply at any time to substitute a health service benefit plan for participation in a comprehensive group practice benefit plan.

(7) The board shall evaluate a benefit plan that serves a limited geographic region of this state according to the criteria described in subsection (1) of this section.

(8)(a) The board shall use payment methodologies in self-insured health benefit plans offered by the board that are designed to limit the growth in per-member expenditures for health services to no more than 3.4 percent per year.

(b) The board shall adopt policies and practices designed to limit the annual increase in premium amounts paid for contracted health benefit plans to 3.4 percent.

(9) [A carrier or third party administrator that contracts with the board to provide or administer a health benefit plan shall, at least once each plan year,] At least once every five years, the board shall conduct an audit of the health benefit plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that would affect the cost of the premium for the plan.

(10) If the board spends less than 12 percent of its total medical expenditures in self-insured health benefit plans on payments for primary care, the board shall implement a plan for increasing the percentage of total medical
expenses spent on payments for primary care by at least one percent each year.

(11) No later than February 1 of each year, the board shall report to the Legislative Assembly on any plan implemented under subsection (10) of this section and on the board’s progress toward achieving the target of spending at least 12 percent of total medical expenditures in self-insured health benefit plans on payments for primary care.

SECTION 3. ORS 243.866, as amended by section 28, chapter 746, Oregon Laws 2017, is amended to read:

243.866. (1) The Oregon Educators Benefit Board shall contract for benefit plans best designed to meet the needs and provide for the welfare of eligible employees, the districts and local governments. In considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:

(a) Employee choice among high-quality plans;
(b) Encouragement of a competitive marketplace;
(c) Plan performance and information;
(d) District and local government flexibility in plan design and contracting;
(e) Quality customer service;
(f) Creativity and innovation;
(g) Plan benefits as part of total employee compensation;
(h) Improvement of employee health; and
(i) Health outcome and quality measures, described in ORS 413.017 (4), that are reported by the plan.

(2) The board may approve more than one carrier for each type of benefit plan offered, but the board shall limit the number of carriers to a number consistent with adequate service to eligible employees and family members who are not enrolled in another health benefit plan offered by the board or the Public Employees’ Benefit Board. An eligible employee who declines coverage in a health benefit plan offered by the Oregon Educators Benefit Board or the Public Employees’ Benefit Board and who is enrolled as a
spouse or family member in another health benefit plan offered by the Oregon Educators Benefit Board or the Public Employees’ Benefit Board may not be paid the employer contribution for the plan that was declined.

(3) When appropriate, the board shall provide options under which an eligible employee may arrange coverage for family members under a benefit plan.

(4) A district or a local government shall provide that payroll deductions for benefit plan costs that are not payable by the district or local government may be made upon receipt of a signed authorization from the employee indicating an election to participate in the benefit plan or plans selected and allowing the deduction of those costs from the employee’s pay.

(5) In developing any benefit plan, the board may provide an option of additional coverage for eligible employees and family members at an additional premium.

(6) The board shall adopt rules providing that transfer of enrollment from one benefit plan to another is open to all eligible employees and family members. Because of the special problems that may arise involving acceptable provider-patient relations between a particular panel of providers and a particular eligible employee or family member under a comprehensive group practice benefit plan, the board shall provide a procedure under which any eligible employee may apply at any time to substitute another benefit plan for participation in a comprehensive group practice benefit plan.

(7) An eligible employee who is retired is not required to participate in a health benefit plan offered under this section in order to obtain dental benefit plan coverage. The board shall establish by rule standards of eligibility for retired employees to participate in a dental benefit plan.

(8) The board shall evaluate a benefit plan that serves a limited geographic region of this state according to the criteria described in subsection (1) of this section.

(9)(a) The board shall use payment methodologies in self-insured health benefit plans offered by the board that are designed to limit the growth in
per-member expenditures for health services to no more than 3.4 percent per year.

(b) The board shall adopt policies and practices designed to limit the annual increase in premium amounts paid for contracted health benefit plans to 3.4 percent.

(10) [A carrier or third party administrator that contracts with the board to provide or administer a health benefit plan shall, at least once each plan year,] At least once every five years, the board shall conduct an audit of the health benefit plan enrollees' continued eligibility for coverage as spouses or dependents or any other basis that would affect the cost of the premium for the plan.

(11) By January 1, 2023, the board shall spend at least 12 percent of its total medical expenditures in self-insured health benefit plans on payments for primary care.

(12) No later than February 1 of each year, the board shall report to the Legislative Assembly on the board's progress toward achieving the target of spending at least 12 percent of total medical expenditures on payments for primary care.

SECTION 4. ORS 243.866, as amended by section 17, chapter 489, Oregon Laws 2017, and section 28, chapter 746, Oregon Laws 2017, is amended to read:

243.866. (1) The Oregon Educators Benefit Board shall contract for benefit plans best designed to meet the needs and provide for the welfare of eligible employees, the districts and local governments. In considering whether to enter into a contract for a benefit plan, the board shall place emphasis on:

(a) Employee choice among high-quality plans;
(b) Encouragement of a competitive marketplace;
(c) Plan performance and information;
(d) District and local government flexibility in plan design and contracting;
(e) Quality customer service;
(f) Creativity and innovation;
(g) Plan benefits as part of total employee compensation;
(h) Improvement of employee health; and
(i) Health outcome and quality measures, described in ORS 413.017 (4),
that are reported by the plan.

(2) The board may approve more than one carrier for each type of benefit
plan offered, but the board shall limit the number of carriers to a number
consistent with adequate service to eligible employees and family members
who are not enrolled in another health benefit plan offered by the board or
the Public Employees’ Benefit Board. An eligible employee who declines
coverage in a health benefit plan offered by the Oregon Educators Benefit
Board or the Public Employees’ Benefit Board and who is enrolled as a
spouse or family member in another health benefit plan offered by the
Oregon Educators Benefit Board or the Public Employees’ Benefit Board may
not be paid the employer contribution for the plan that was declined.

(3) When appropriate, the board shall provide options under which an el-
igible employee may arrange coverage for family members under a benefit
plan.

(4) A district or a local government shall provide that payroll deductions
for benefit plan costs that are not payable by the district or local govern-
ment may be made upon receipt of a signed authorization from the employee
indicating an election to participate in the benefit plan or plans selected and
allowing the deduction of those costs from the employee’s pay.

(5) In developing any benefit plan, the board may provide an option of
additional coverage for eligible employees and family members at an addi-
tional premium.

(6) The board shall adopt rules providing that transfer of enrollment from
one benefit plan to another is open to all eligible employees and family
members. Because of the special problems that may arise involving accepta-
ble provider-patient relations between a particular panel of providers and a
particular eligible employee or family member under a comprehensive group
practice benefit plan, the board shall provide a procedure under which any
eligible employee may apply at any time to substitute another benefit plan
for participation in a comprehensive group practice benefit plan.

(7) An eligible employee who is retired is not required to participate in
a health benefit plan offered under this section in order to obtain dental
benefit plan coverage. The board shall establish by rule standards of eligi-
bility for retired employees to participate in a dental benefit plan.

(8) The board shall evaluate a benefit plan that serves a limited geo-
graphic region of this state according to the criteria described in subsection
(1) of this section.

(9)(a) The board shall use payment methodologies in self-insured health
benefit plans offered by the board that are designed to limit the growth in
per-member expenditures for health services to no more than 3.4 percent per
year.

(b) The board shall adopt policies and practices designed to limit the an-
nual increase in premium amounts paid for contracted health benefit plans
to 3.4 percent.

(10) [A carrier or third party administrator that contracts with the board
to provide or administer a health benefit plan shall, at least once each plan
year,] At least once every five years, the board shall conduct an audit
of the health benefit plan enrollees’ continued eligibility for coverage as
spouses or dependents or any other basis that would affect the cost of the
premium for the plan.

(11) If the board spends less than 12 percent of its total medical expendi-
tures in self-insured health benefit plans on payments for primary care, the
board shall implement a plan for increasing the percentage of total medical
expenditures spent on payments for primary care by at least one percent each
year.

(12) No later than February 1 of each year, the board shall report to the
Legislative Assembly on any plan implemented under subsection (11) of this
section and on the board’s progress toward achieving the target of spending
at least 12 percent of total medical expenditures on payments for primary care.
SUMMARY

Adds two members to Traditional Health Workers Commission.

A BILL FOR AN ACT

Relating to the Traditional Health Workers Commission; amending ORS 413.600.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 413.600 is amended to read:

413.600. (1) There is established within the Oregon Health Authority the Traditional Health Workers Commission.

(2) The Director of the Oregon Health Authority shall appoint the following members to serve on the commission:

(a) [Ten] Eleven members, at least six of whom must be appointed from nominees provided by the Oregon Community Health Workers Association, who represent traditional health workers, including at least one member to represent each of the following:

(A) Community health workers, as defined in ORS 414.025;

(B) Personal health navigators, as defined in ORS 414.025;

(C) Peer wellness specialists, [including family support specialists and youth support specialists, all] as defined in ORS 414.025;

(D) Peer support specialists, [including family support specialists and youth support specialists, all] as defined in ORS 414.025; [and]

(E) Doulas; and

(F) Family support specialists and youth support specialists, as de-

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
fined in ORS 414.025;
(b) One member who represents the Office of Community Colleges and
Workforce Development;
(c) One member who is a community health nurse who represents the
Oregon Nurses Association;
(d) One member who is a physician who represents the Oregon Medical
Association;
(e) One member selected from nominees provided by the Home Care
Commission;
(f) One member who represents coordinated care organizations;
(g) One member who represents a labor organization;
(h) One member who supervises traditional health workers at a
community-based organization, local health department, as defined in ORS
433.235, or agency, as defined in ORS 183.310;
(i) One member who represents community-based organizations or agen-
cies, as defined in ORS 183.310, that provide for the training of traditional
health workers; [and]
(j) One member who represents a consumer of services provided by health
workers who are not licensed by this state[.]; and
(k) One member who represents providers of Indian health services
that work with traditional health workers qualified under ORS 414.665,
a federally recognized tribe or a tribal organization.
(3) In appointing members under subsection (2) of this section, the direc-
tor shall consider whether the composition of the Traditional Health Work-
ers Commission represents the geographic, ethnic, gender, racial, disability
status, gender identity, sexual orientation and economic diversity of tradi-
tional health workers.
(4) The term of office of each member of the commission is three years,
but a member serves at the pleasure of the director. Before the expiration
of the term of a member, the director shall appoint a successor whose term
begins on January 1 next following. A member is eligible for reappointment.
If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(5) A majority of the members of the commission constitutes a quorum for the transaction of business.

(6) Official action by the commission requires the approval of a majority of the members of the commission.

(7) The commission shall elect one of its members to serve as chairperson.

(8) The commission shall meet at times and places specified by the call of the chairperson or of a majority of the members of the commission.

(9) The commission may adopt rules necessary for the operation of the commission.

(10) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.
SUMMARY

Modifies procedures related to criminal defendants lacking fitness to proceed. Provides that court-ordered consultation with community mental health program director or director’s designee occur after examination and before court’s determination of defendant’s fitness to proceed.

Provides that defendant committed to state mental hospital or other facility for examination on issue of fitness to proceed or mental defense be transported to hospital or facility for examination, after which superintendent of hospital or director of facility may order defendant transported back or kept for treatment. Extends time period of commitment for mental defense examination from 30 days to 60 days.

Authorizes Oregon Health Authority to provide copy of evaluation or progress report concerning defendant’s fitness to proceed to community mental health program director of county in which defendant is charged.

Restricts circumstances in which court may commit defendant lacking fitness to proceed to state mental hospital or other facility.

Provides that defendant committed for treatment to restore fitness to proceed receive credit for time served in jail both before and after commitment.

Directs authority to assign to each county maximum number of beds in state mental hospital or other facility to which defendants from county may be committed for purposes relating to fitness to proceed. Authorizes counties to enter into agreements with other counties for use of unoccupied beds and payment to authority of per diem fee.

A BILL FOR AN ACT

Relating to forensic evaluations; creating new provisions; and amending ORS 161.315, 161.365 and 161.370.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 161.365 is amended to read:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
161.365. (1) When the court has reason to doubt the defendant’s fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to its assistance in reaching its decision [and shall order that a community mental health program director or the director’s designee consult with the defendant to determine whether services and supervision necessary to safely restore the defendant’s fitness to proceed are available in the community. After the consultation, the program director or the director’s designee shall provide to the court a copy of the findings resulting from the consultation]. If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

(a) Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator as defined in ORS 161.309 and a report of the examination be prepared; or

(b) Order the defendant to be committed for the purpose of an examination and treatment for a period not exceeding 30 days to a state mental hospital or other facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age.

(2) A defendant committed under subsection (1)(b) of this section shall be transported to the state mental hospital or other facility for the examination. At the conclusion of the examination, the superintendent of the state mental hospital or the superintendent’s designee or the director of the facility may:

(a) Order the defendant returned to the facility from which the defendant was transported; or

(b) Order that the defendant remain at the hospital or facility for treatment.

[(2)] (3) The report of an examination described in this section must include, but is not necessarily limited to, the following:

(a) A description of the nature of the examination;
(b) A statement of the mental condition of the defendant;
(c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and
(d) If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to restore capacity.

Except when the defendant and the court both request to the contrary, the report may not contain any findings or conclusions as to whether the defendant as a result of a qualifying mental disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

If the examination by the psychiatrist or psychologist cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must so state and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of a qualifying mental disorder affecting capacity to proceed.

The report must be filed with the clerk of the court, who shall cause copies to be delivered to the district attorney and to counsel for defendant.

When upon motion of the court or a financially eligible defendant, the court has ordered a psychiatric or psychological examination of the defendant, a county or justice court shall order the county to pay, and a circuit court shall order the public defense services executive director to pay from funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by a psychiatrist or psychologist in private practice; and
(B) All costs including transportation of the defendant if the examination is conducted by a psychiatrist or psychologist in the employ of the Oregon Health Authority or a community mental health program established under ORS 430.610 to 430.670.
(b) When an examination is ordered at the request or with the acquiescence of a defendant who is determined not to be financially eligible, the examination shall be performed at the defendant’s expense. When an examination is ordered at the request of the prosecution, the county shall pay for the expense of the examination.

[(7) The Oregon Health Authority shall establish by rule standards for the consultation described in subsection (1) of this section.]

(8) The Oregon Health Authority may provide a copy of a report resulting from an examination of a defendant under this section to the community mental health program director in the county in which the defendant is charged.

SECTION 2. ORS 161.370 is amended to read:

161.370. (1)(a) When the defendant’s fitness to proceed is drawn in question, the issue shall be determined by the court. Prior to the determination, the court shall order that a community mental health program director or the director’s designee consult with the defendant to determine whether services and supervision necessary to safely restore the defendant’s fitness to proceed are available in the community. After the consultation, the program director or the director’s designee shall provide to the court a copy of the findings resulting from the consultation.

(b) If neither the prosecuting attorney nor counsel for the defendant contests the finding of the report filed under ORS 161.365, the court may make the determination on the basis of the report. If the finding is contested, the court shall hold a hearing on the issue. If the report is received in evidence in the hearing, the party who contests the finding has the right to summon and to cross-examine any psychiatrist or psychologist who submitted the report and to offer evidence upon the issue. Other evidence regarding the defendant’s fitness to proceed may be introduced by either party.

(2) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended and:
(a) **Except as provided in subsection (3) of this section**, if the court finds that the defendant is dangerous to self or others as a result of a qualifying mental disorder, or that, based on the findings resulting from the consultation described in [ORS 161.365 (1)] subsection (1) of this section and from any information provided by community-based mental health providers, the services and supervision necessary to restore the defendant's fitness to proceed are not available in the community, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility[.] designated by the Oregon Health Authority[,] if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age; or

(b) If the court does not make a finding described in paragraph (a) of this subsection, **if the circumstances in subsection (3) of this section apply or if the court determines that care other than commitment for incapacity to stand trial would better serve the defendant and the community, the court shall release the defendant on supervision for as long as the unfitness endures.**

(3)(a) **If the most serious offense in the charging instrument is a misdemeanor, the court may not commit the defendant under subsection (2)(a) of this section without a determination by a certified evaluator as defined in ORS 161.309 that the defendant requires a hospital level of care.**

(b) The court may not commit a defendant under paragraph (a) of this subsection if the defendant is charged only with one or more violations of a municipal ordinance.

[(3)] (4) When a defendant is released on supervision under subsection (2)(b) of this section, the court may place conditions that the court deems appropriate on the release, including the requirement that the defendant regularly report to the authority or a community mental health program for examination to determine if the defendant has gained or regained capacity
(4) (5) When the court, on its own motion or upon the application of the superintendent of the hospital or director of the facility in which the defendant is committed, a person examining the defendant as a condition of release on supervision, or either party, determines, after a hearing, if a hearing is requested, that the defendant has gained or regained fitness to proceed, the criminal proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment or release of the defendant on supervision that it would be unjust to resume the criminal proceeding, the court on motion of either party may dismiss the charge and may order the defendant to be discharged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170 or 427.235 to 427.290.

(5) (6) The superintendent of a state hospital or director of a facility to which the defendant is committed shall cause the defendant to be evaluated within 60 days from the defendant’s delivery into the superintendent’s or director’s custody, for the purpose of determining whether there is a substantial probability that, in the foreseeable future, the defendant will have the capacity to stand trial. In addition, the superintendent or director shall:

(a) Immediately notify the committing court if the defendant, at any time, gains or regains the capacity to stand trial or will never have the capacity to stand trial.

(b) Within 90 days of the defendant’s delivery into the superintendent’s or director’s custody, notify the committing court that:

(A) The defendant has the present capacity to stand trial;

(B) There is no substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial; or

(C) There is a substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial. If the probability exists, the superintendent or director shall give the court an estimate of the time in which the defendant, with appropriate treatment, is expected to gain or regain capacity.
(6)(a) If the superintendent or director determines that there is a substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial, unless the court otherwise orders, the defendant shall remain in the superintendent’s or director’s custody where the defendant shall receive treatment designed for the purpose of enabling the defendant to gain or regain capacity. In keeping with the notice requirement under subsection [(5)(b)] (6)(b) of this section, the superintendent or director shall, for the duration of the defendant’s period of commitment, submit a progress report to the committing court, concerning the defendant’s capacity or incapacity, at least once every 180 days as measured from the date of the defendant’s delivery into the superintendent’s or director’s custody.

(b) Notwithstanding paragraph (a) of this subsection, if the superintendent or director determines that a defendant committed under this section is no longer dangerous to self or others as a result of a qualifying mental disorder, or that the services and supervision necessary to restore the defendant’s fitness to proceed are available in the community, the superintendent or director shall file notice of that determination with the court. Upon receipt of the notice, the court shall order the person released on supervision as described in subsection [(3)] (4) of this section.

(c) A progress report described in paragraph (a) of this subsection may consist of an update to:

(A) The original examination report conducted under ORS 161.365; or

(B) An evaluation conducted under subsection [(5)] (6) of this section, if the defendant did not receive an examination under ORS 161.365.

(7)(a) A defendant who remains committed under subsection [(6)] (7) of this section shall be discharged within a period of time that is reasonable for making a determination concerning whether or not, and when, the defendant may gain or regain capacity. However, regardless of the number of charges with which the defendant is accused, in no event shall the defendant be committed for longer than whichever of the following, measured
from the defendant’s initial custody date, is shorter:

(A) Three years; or

(B) A period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted.

(b) For purposes of calculating the maximum period of commitment described in paragraph (a) of this subsection:

(A) The initial custody date is the date on which the defendant is first committed under this section on any charge alleged in the accusatory instrument; and

(B) The defendant shall be given credit against each charge alleged in the accusatory instrument:

(i) For each day the defendant is committed under this section, whether the days are consecutive or are interrupted by a period of time during which the defendant has gained or regained fitness to proceed; and

(ii) Unless the defendant is charged with aggravated murder or a crime listed in ORS 137.700 (2), for each day the defendant is held in jail before and after the date the defendant is first committed, whether the days are consecutive or are interrupted by a period of time during which the defendant lacks fitness to proceed.

[(8)] (9) The superintendent or director shall notify the committing court of the defendant’s impending discharge 30 days before the date on which the superintendent or director is required to discharge the defendant under subsection [(7)] (8) of this section.

[(9)] (10) When the committing court receives a notice from the superintendent or director under subsection [(5)] (6) or [(8)] (9) of this section concerning the defendant’s progress or lack thereof, the committing court shall determine, after a hearing, if a hearing is requested, whether the defendant presently has the capacity to stand trial.

[(10)] (11) If at any time the court determines that the defendant lacks the capacity to stand trial, the court shall further determine whether there is a substantial probability that the defendant, in the foreseeable future, will
gain or regain the capacity to stand trial and whether the defendant is entitled to discharge under subsection [(7)] (8) of this section. If the court determines that there is no substantial probability that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial or that the defendant is entitled to discharge under subsection [(7)] (8) of this section, the court shall dismiss, without prejudice, all charges against the defendant and:

(a) Order that the defendant be discharged; or
(b) Initiate commitment proceedings under ORS 426.070 or 427.235 to 427.290.

[(11)] (12) All notices required under this section shall be filed with the clerk of the court and delivered to both the district attorney and the counsel for the defendant.

[(12)] (13) If the defendant gains or regains fitness to proceed, the term of any sentence received by the defendant for conviction of the crime charged shall be reduced by the amount of time the defendant was committed under this section to the custody of a state mental hospital, or to the custody of a secure intensive community inpatient facility[,] designated by the Oregon Health Authority.

[(13)] (14) Notwithstanding the suspension of the criminal proceeding under subsection (2) of this section, the fact that the defendant is unfit to proceed does not preclude any objection through counsel and without the personal participation of the defendant on the grounds that the indictment is insufficient, that the statute of limitations has run, that double jeopardy principles apply or upon any other ground at the discretion of the court which the court deems susceptible of fair determination prior to trial.

[(14)] (15) At the time that the court determines that the defendant lacks fitness to proceed under subsection (2) of this section, the court shall notify the defendant that federal law prohibits the defendant from purchasing or possessing a firearm unless the person obtains relief from the prohibition under federal law. The court shall again notify the defendant of the prohi-
bition if the court finds that the defendant has gained or regained fitness to proceed under subsection [(4)] (5) of this section.

(16) The Oregon Health Authority may provide a copy of a defendant’s progress report or evaluation described in this section to the community mental health program director, or the director’s designee, in the county in which the defendant is charged.

(17) The Oregon Health Authority shall establish by rule standards for the consultation described in subsection (1) of this section.

SECTION 3. ORS 161.315 is amended to read:

161.315. (1) Upon filing of notice or the introduction of evidence by the defendant as provided in ORS 161.309, the state shall have the right to have at least one psychiatrist or licensed psychologist of its selection examine the defendant. The state shall file notice with the court of its intention to have the defendant examined.

(2)(a) Upon filing of the notice, the court, in its discretion, may order the defendant committed to a state institution or any other suitable facility, if the defendant is 18 years of age or older, for observation, and examination and treatment as the court may designate for a period not to exceed 30 days.

(b) If the defendant is under 18 years of age, upon filing of the notice, the court, in its discretion, may order the defendant committed to a secure intensive community inpatient facility designated by the Oregon Health Authority for observation, and examination and treatment as the court may designate for a period not to exceed 30 days.

(3) A defendant committed under subsection (2) of this section shall be transported to the state institution or other facility for the examination. At the conclusion of the examination, the superintendent of the state institution or the superintendent’s designee or the director of the facility may:

(a) Order the defendant returned to the facility from which the defendant was transported; or
(b) Order that the defendant remain at the institution or facility for treatment.

[(3)] (4) If the defendant objects to the examiner chosen by the state, the court for good cause shown may direct the state to select a different examiner.

[(4)] (5) An examiner performing an examination on the issue of insanity of a defendant under this section is not obligated to examine the defendant for fitness to proceed unless, during the examination, the examiner determines that the defendant’s fitness to proceed is drawn in question.

SECTION 4. (1) The Oregon Health Authority shall assign to each county, based on census population figures, the maximum number of beds in a state mental hospital and other facilities designated by the authority that may, at any one time, be occupied by defendants committed from the county to the hospital or other facility under ORS 161.365 and 161.370.

(2)(a) A county may enter into an agreement with another county of this state under ORS 190.010 for the use of the other county’s unoccupied beds in a state mental hospital or other facility under subsection (1) of this section.

(b) An agreement entered into under this subsection shall include a provision that the county using another county’s unoccupied beds reimburse the authority on a per diem basis at a rate determined by the authority by rule.

(3) The authority may adopt rules to carry out the provisions of this section.
SUMMARY

Directs public bodies, and private entities in possession of relevant records, to comply, within specified time period, with court order for release of records to state mental hospital or other facility for purposes of forensic evaluation.

Requires report resulting from forensic evaluation on issue of mental defense to be filed with court electronically. Allows forensic evaluation on issue of fitness to proceed to be filed with court electronically.

Extends time period of commitment for mental defense examination from 30 days to 60 days.

Requires that court provide, by end of next business day, copies of orders relating to fitness to proceed to state mental hospital or other facility, and, if defendant is found to lack fitness, to any entity ordered to provide services and supervision to restore fitness.

A BILL FOR AN ACT

Relating to forensic evaluations; creating new provisions; and amending ORS 161.315, 161.365 and 161.370.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 161.290 to 161.370.

SECTION 2. All public bodies, as defined in ORS 174.109, and any private entity in possession of mental health records concerning the defendant, shall, within five days of the order, comply with a court order for the release of records or other documents to the state mental hospital or other facility designated by the Oregon Health Authority for the purpose of conducting an examination or evaluation under ORS 161.365 or 161.370.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SECTION 3. ORS 161.315 is amended to read:

161.315. (1) Upon filing of notice or the introduction of evidence by the defendant as provided in ORS 161.309, the state shall have the right to have at least one psychiatrist or licensed psychologist of its selection examine the defendant. The state shall file notice with the court of its intention to have the defendant examined.

(2)(a) Upon filing of the notice, the court, in its discretion, may order the defendant committed to a state institution or any other suitable facility, if the defendant is 18 years of age or older, for observation and examination as the court may designate for a period not to exceed 60 days.

(b) If the defendant is under 18 years of age, upon filing of the notice, the court, in its discretion, may order the defendant committed to a secure intensive community inpatient facility designated by the Oregon Health Authority for observation and examination as the court may designate for a period not to exceed 60 days.

(3) If the defendant objects to the examiner chosen by the state, the court for good cause shown may direct the state to select a different examiner.

(4) An examiner performing an examination on the issue of insanity of a defendant under this section is not obligated to examine the defendant for fitness to proceed unless, during the examination, the examiner determines that the defendant’s fitness to proceed is drawn in question.

(5) A report resulting from an examination under this section shall be filed with the court electronically.

SECTION 4. ORS 161.365 is amended to read:

161.365. (1)(a) When the court has reason to doubt the defendant’s fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to its assistance in reaching its decision and shall order that a community mental health program director or the director’s designee consult with the defendant to determine whether services and supervision necessary to safely restore the defendant’s fitness to proceed are available in the community. After the consultation, the program director or the
director’s designee shall provide to the court a copy of the findings resulting from the consultation. If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

[(a)] (A) Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator as defined in ORS 161.309 and a report of the examination be prepared; or

[(b)] (B) Order the defendant to be committed for the purpose of an examination for a period not exceeding 30 days to a state mental hospital or other facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age.

(b) The court shall ensure that any order entered under this subsection is provided to the state mental hospital or other facility by the end of the next business day.

(2) The report of an examination described in this section must include, but is not necessarily limited to, the following:

(a) A description of the nature of the examination;

(b) A statement of the mental condition of the defendant;

(c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and

(d) If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to restore capacity.

(3) Except when the defendant and the court both request to the contrary, the report may not contain any findings or conclusions as to whether the defendant as a result of a qualifying mental disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

(4) If the examination by the psychiatrist or psychologist cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must so state and must include, if possible, an
opinion as to whether the unwillingness of the defendant was the result of
a qualifying mental disorder affecting capacity to proceed.

(5) The report must be filed with the [clerk of the court[,] and may be
filed electronically. The clerk of the court [who] shall cause copies to be
delivered to the district attorney and to counsel for defendant.

(6)(a) When upon motion of the court or a financially eligible defendant,
the court has ordered a psychiatric or psychological examination of the de-
fendant, a county or justice court shall order the county to pay, and a circuit
court shall order the public defense services executive director to pay from
funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by
a psychiatrist or psychologist in private practice; and

(B) All costs including transportation of the defendant if the examination
is conducted by a psychiatrist or psychologist in the employ of the Oregon
Health Authority or a community mental health program established under
ORS 430.610 to 430.670.

(b) When an examination is ordered at the request or with the
acquiescence of a defendant who is determined not to be financially eligible,
the examination shall be performed at the defendant’s expense. When an ex-
amination is ordered at the request of the prosecution, the county shall pay
for the expense of the examination.

(7) The Oregon Health Authority shall establish by rule standards for the
consultation described in subsection (1) of this section.

SECTION 5. ORS 161.370 is amended to read:

161.370. (1) When the defendant’s fitness to proceed is drawn in question,
the issue shall be determined by the court. If neither the prosecuting attor-
ney nor counsel for the defendant contests the finding of the report filed
under ORS 161.365, the court may make the determination on the basis of the
report. If the finding is contested, the court shall hold a hearing on the issue.
If the report is received in evidence in the hearing, the party who contests
the finding has the right to summon and to cross-examine any psychiatrist
or psychologist who submitted the report and to offer evidence upon the issue. Other evidence regarding the defendant’s fitness to proceed may be introduced by either party.

(2)(a) If the court determines that the defendant lacks fitness to proceed, the criminal proceeding against the defendant shall be suspended and:

[(a)] (A) If the court finds that the defendant is dangerous to self or others as a result of a qualifying mental disorder, or that, based on the findings resulting from the consultation described in ORS 161.365 (1), the services and supervision necessary to restore the defendant’s fitness to proceed are not available in the community, the court shall commit the defendant to the custody of the superintendent of a state mental hospital or director of a facility, designated by the Oregon Health Authority, if the defendant is at least 18 years of age, or to the custody of the director of a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age; or

[(b)] (B) If the court does not make a finding described in [paragraph (a)] subparagraph (A) of this [subsection] paragraph, or if the court determines that care other than commitment for incapacity to stand trial would better serve the defendant and the community, the court shall release the defendant on supervision for as long as the unfitness endures.

(b) The court shall ensure that an order entered under this subsection is provided, by the end of the next business day, to any entity ordered to provide services and supervision necessary to restore the defendant’s fitness to proceed.

(3) When a defendant is released on supervision under subsection [(2)(b)] (2)(a)(B) of this section, the court may place conditions that the court deems appropriate on the release, including the requirement that the defendant regularly report to the authority or a community mental health program for examination to determine if the defendant has gained or regained capacity to stand trial.

(4) When the court, on its own motion or upon the application of the su-
perintendent of the hospital or director of the facility in which the defendant is committed, a person examining the defendant as a condition of release on supervision, or either party, determines, after a hearing, if a hearing is requested, that the defendant has gained or regained fitness to proceed, the criminal proceeding shall be resumed. If, however, the court is of the view that so much time has elapsed since the commitment or release of the defendant on supervision that it would be unjust to resume the criminal proceeding, the court on motion of either party may dismiss the charge and may order the defendant to be discharged or cause a proceeding to be commenced forthwith under ORS 426.070 to 426.170 or 427.235 to 427.290.

(5) The superintendent of a state hospital or director of a facility to which the defendant is committed shall cause the defendant to be evaluated within 60 days from the defendant’s delivery into the superintendent’s or director’s custody, for the purpose of determining whether there is a substantial probability that, in the foreseeable future, the defendant will have the capacity to stand trial. In addition, the superintendent or director shall:

(a) Immediately notify the committing court if the defendant, at any time, gains or regains the capacity to stand trial or will never have the capacity to stand trial.

(b) Within 90 days of the defendant’s delivery into the superintendent’s or director’s custody, notify the committing court that:

(A) The defendant has the present capacity to stand trial;

(B) There is no substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial; or

(C) There is a substantial probability that, in the foreseeable future, the defendant will gain or regain the capacity to stand trial. If the probability exists, the superintendent or director shall give the court an estimate of the time in which the defendant, with appropriate treatment, is expected to gain or regain capacity.

(6)(a) If the superintendent or director determines that there is a substantial probability that, in the foreseeable future, the defendant will gain
or regain the capacity to stand trial, unless the court otherwise orders, the
defendant shall remain in the superintendent’s or director’s custody where
the defendant shall receive treatment designed for the purpose of enabling
the defendant to gain or regain capacity. In keeping with the notice re-
requirement under subsection (5)(b) of this section, the superintendent or di-
rector shall, for the duration of the defendant’s period of commitment, submit
a progress report to the committing court, concerning the defendant’s ca-
pacity or incapacity, at least once every 180 days as measured from the date
of the defendant’s delivery into the superintendent’s or director’s custody.

(b) Notwithstanding paragraph (a) of this subsection, if the superinten-
dent or director determines that a defendant committed under this section
is no longer dangerous to self or others as a result of a qualifying mental
disorder, or that the services and supervision necessary to restore the
defendant’s fitness to proceed are available in the community, the super-
intendent or director shall file notice of that determination with the court.
Upon receipt of the notice, the court shall order the person released on
supervision as described in subsection (3) of this section.

(c) A progress report described in paragraph (a) of this subsection may
consist of an update to:

(A) The original examination report conducted under ORS 161.365; or
(B) An evaluation conducted under subsection (5) of this section, if the
defendant did not receive an examination under ORS 161.365.

(7)(a) A defendant who remains committed under subsection (6) of this
section shall be discharged within a period of time that is reasonable for
making a determination concerning whether or not, and when, the defendant
may gain or regain capacity. However, regardless of the number of charges
with which the defendant is accused, in no event shall the defendant be
committed for longer than whichever of the following, measured from the
defendant’s initial custody date, is shorter:

(A) Three years; or
(B) A period of time equal to the maximum sentence the court could have
imposed if the defendant had been convicted.

(b) For purposes of calculating the maximum period of commitment described in paragraph (a) of this subsection:

(A) The initial custody date is the date on which the defendant is first committed under this section on any charge alleged in the accusatory instrument; and

(B) The defendant shall be given credit against each charge alleged in the accusatory instrument:

(i) For each day the defendant is committed under this section, whether the days are consecutive or are interrupted by a period of time during which the defendant has gained or regained fitness to proceed; and

(ii) Unless the defendant is charged with aggravated murder or a crime listed in ORS 137.700 (2), for each day the defendant is held in jail, whether the days are consecutive or are interrupted by a period of time during which the defendant lacks fitness to proceed.

(8) The superintendent or director shall notify the committing court of the defendant’s impending discharge 30 days before the date on which the superintendent or director is required to discharge the defendant under subsection (7) of this section.

(9) When the committing court receives a notice from the superintendent or director under subsection (5) or (8) of this section concerning the defendant’s progress or lack thereof, the committing court shall determine, after a hearing, if a hearing is requested, whether the defendant presently has the capacity to stand trial.

(10) If at any time the court determines that the defendant lacks the capacity to stand trial, the court shall further determine whether there is a substantial probability that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial and whether the defendant is entitled to discharge under subsection (7) of this section. If the court determines that there is no substantial probability that the defendant, in the foreseeable future, will gain or regain the capacity to stand trial or that the
defendant is entitled to discharge under subsection (7) of this section, the
court shall dismiss, without prejudice, all charges against the defendant and:
(a) Order that the defendant be discharged; or
(b) Initiate commitment proceedings under ORS 426.070 or 427.235 to
427.290.

(11) All notices required under this section shall be filed with the [clerk
of the] court and may be filed electronically. The clerk of the court shall
cause copies of the notices to be delivered to both the district attorney
and the counsel for the defendant.

(12) If the defendant gains or regains fitness to proceed, the term of any
sentence received by the defendant for conviction of the crime charged shall
be reduced by the amount of time the defendant was committed under this
section to the custody of a state mental hospital, or to the custody of a se-
cure intensive community inpatient facility, designated by the Oregon Health
Authority.

(13) Notwithstanding the suspension of the criminal proceeding under
subsection (2) of this section, the fact that the defendant is unfit to proceed
does not preclude any objection through counsel and without the personal
participation of the defendant on the grounds that the indictment is insuffi-
cient, that the statute of limitations has run, that double jeopardy principles
apply or upon any other ground at the discretion of the court which the
court deems susceptible of fair determination prior to trial.

(14) At the time that the court determines that the defendant lacks fitness
to proceed under subsection (2) of this section, the court shall notify the
defendant that federal law prohibits the defendant from purchasing or pos-
sessing a firearm unless the person obtains relief from the prohibition under
federal law. The court shall again notify the defendant of the prohibition if
the court finds that the defendant has gained or regained fitness to proceed
under subsection (4) of this section.
SUMMARY

Directs Director of the Oregon Health Authority or director’s designee to discharge employee at facility under jurisdiction of authority if it has been substantiated that employee physically or sexually abused patient or client.

 Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to employees at facilities under the jurisdiction of the Oregon Health Authority; creating new provisions; amending ORS 179.390; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 179.390 is amended to read:

179.390. (1) The superintendent of an institution within the jurisdiction of the Department of Corrections shall, subject to the approval of the Director of the Department of Corrections, appoint in the manner provided by law all assistants, officers and other employees at the institution under the jurisdiction of the superintendent. The superintendent may suspend or remove an assistant, officer or other employee in the manner provided by law, reporting all acts of suspension or removal to the Director of the Department of Corrections for approval or disapproval.

(2) The Director of the Oregon Health Authority or a designee at a facility under the jurisdiction of the Oregon Health Authority shall, as provided by law, appoint, suspend or discharge an employee of the authority. The director or a designee shall discharge an employee at

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
a facility under the jurisdiction of the authority if it has been substantiated that the employee physically or sexually abused a patient or client.

[(2)] (3) The Director of the Department of Corrections and the Director of the Oregon Health Authority shall:

(a) Fix the salaries of assistants, officers and employees where their salary is not fixed by law.

(b) Suspend or discharge any subordinate of a superintendent when public service requires such action, except when suspending or discharging the subordinate violates the State Personnel Relations Law under ORS chapter 240.

[(3)] (4) [The Director of the Oregon Health Authority or a designee at a facility under jurisdiction of the Oregon Health Authority shall, as provided by law, appoint, suspend or discharge an employee of the authority.] The Director of the Oregon Health Authority may designate up to three employees at each facility under the jurisdiction of the Oregon Health Authority to act in the name of the director in accordance with ORS 240.400.

[(4)] (5) In addition to or in lieu of employing physicians, the Director of the Department of Corrections or the designee of the director may contract for the personal services of physicians licensed to practice medicine by the Oregon Medical Board or naturopathic physicians licensed under ORS chapter 685 to serve as medical advisors for the Oregon Health Authority. Advisors under contracts entered into under this subsection shall be directly responsible for administration of medical treatment programs at penal and correctional institutions, as defined in ORS 421.005.

SECTION 2. The amendments to ORS 179.390 by section 1 of this 2019 Act apply only to incidents of physical and sexual abuse occurring on or after the effective date of this 2019 Act.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Authorizes Oregon Health Authority to adopt by rule schedule for fees assessed on water suppliers to partially defray costs of authority related to performance of duties under Oregon Drinking Water Quality Act.

A BILL FOR AN ACT

Relating to Oregon Drinking Water Quality Act fees; amending ORS 448.150.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 448.150 is amended to read:

448.150. (1) The Oregon Health Authority shall:

(a) Conduct periodic sanitary surveys of drinking water systems and sources, take water samples and inspect records to ensure that the systems are not creating an unreasonable risk to health. The authority shall provide written reports of the examinations to water suppliers and to local public health administrators, as defined in ORS 431.003. [The authority may impose a fee on water suppliers to recover the costs of conducting the periodic sanitary surveys.]

(b) Require regular water sampling by water suppliers to determine compliance with water quality standards established by the authority. These samples shall be analyzed in a laboratory approved by the authority. The results of the laboratory analysis of a sample shall be reported to the authority by the water supplier, unless direct laboratory reporting is authorized by the water supplier. The laboratory performing the analysis shall report the validated results of the analysis directly to the authority and to the water supplier if the analysis shows that a sample contains contaminant

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
levels in excess of any maximum contaminant level specified in the water quality standards.

(c) Investigate any water system that fails to meet the water quality standards established by the authority.

(d) Require every water supplier that provides drinking water that is from a surface water source to conduct sanitary surveys of the watershed as may be considered necessary by the authority for the protection of public health.

The water supplier shall make written reports of such sanitary surveys of watersheds promptly to the authority and to the local health department.

(e) Investigate reports of waterborne disease pursuant to ORS 431.001 to 431.550 and 431.990 and take necessary actions as provided for in ORS 446.310, 448.030, 448.115 to 448.285, 454.235, 454.255 and 455.680 to protect the public health and safety.

(f) Notify the Department of Environmental Quality of a potential ground water management area if, as a result of its water sampling under paragraphs (a) to (e) of this subsection, the authority detects the presence in ground water of:

(A) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to ORS 468B.165; or

(B) Any other contaminants at levels greater than 50 percent of the levels established pursuant to ORS 468B.165.

(2) The notification required under subsection (1)(f) of this section shall identify the substances detected in the ground water and all ground water aquifers that may be affected.

(3)(a) The authority by rule may adopt a schedule of fees to be assessed on water suppliers to partially defray the costs of the authority related to performance of the duties prescribed by ORS 448.119 to 448.285, 454.235 and 454.255. The fee schedule shall be graduated based on the size and type of the water system owned or operated by a water supplier.

(b) Not more than once each calendar year, the authority may in-
crease the fees established by rule under this subsection. The amount of the annual increase may not exceed the anticipated increase in the costs of the authority related to performance of the duties prescribed by ORS 448.119 to 448.285, 454.235 and 454.255 or three percent, whichever is lower, unless a larger increase in fees is provided for in the authority’s legislatively approved budget.
SUMMARY

Increases fees related to tourist facilities, public spas, pools and bathhouses, bed and breakfasts, restaurants and vending machines and for plan review for restaurant construction or remodeling.

A BILL FOR AN ACT

Relating to Oregon Health Authority fee amounts; amending ORS 446.321, 448.035, 448.037, 624.490 and 624.630.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 446.321 is amended to read:

446.321. (1) Every applicant for licensing of a tourist facility as defined in ORS 446.310 and required by a license under ORS 446.320 shall pay to the Oregon Health Authority a fee established by the authority by rule. The fee may not exceed $60, except that recreation parks shall pay an additional fee not to exceed $2 for each space.

(2) Rules adopted pursuant to subsection (1) of this section shall be adopted in accordance with ORS chapter 183.

SECTION 2. ORS 448.035 is amended to read:

448.035. (1) [No person shall] A person may not operate or maintain a public swimming pool, public spa pool, public wading pool or bathhouse without a license to do so from the Oregon Health Authority.

(2) An annual fee of $100 shall be paid for a license to operate a public swimming pool, public spa pool, public wading pool or bathhouse. The annual fee for a second or each additional public swimming pool, public spa pool, public wading pool or bathhouse, or

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any combination [thereof] of those facilities, on the same site [shall be an amount equal to] is 60 percent of the fee for the first license.

(3) Licenses issued under this section expire annually on a date set by rule.

SECTION 3. ORS 448.037 is amended to read:
448.037. (1) A person applying for a variance shall submit a variance application accompanied by a fee of [[$150] $480] to the Oregon Health Authority. If the authority approves the application, the authority shall grant a variance [shall be granted], stating the terms and conditions [thereof] of the variance.

(2) The authority may waive the fee for variance [requests] applications precipitated by change in the authority’s rules.

(3) The authority may not delegate the responsibility under subsection (1) of this section under the provision of ORS 448.100.

SECTION 4. ORS 624.490 is amended to read:
624.490. (1) The Oregon Health Authority may charge the following fees for the issuance or renewal of licenses:
(a) [[$157.50] $200] for a bed and breakfast facility.

(b) [[$210] $335] for a limited service restaurant.

(c) For a restaurant in accordance with seating capacity, as follows:
(A) [[$367.50] $530] for 0 to 15 seats;

(B) [[$414.75] $600] for 16 to 50 seats;

(C) [[$472.50] $700] for 51 to 150 seats; and

(D) [[$525] $770] for more than 150 seats.

(d) For an intermittent temporary restaurant, [[$52.50] $75].

(e) For a seasonal temporary restaurant, [[$52.50] $75].

(f) For a single-event temporary restaurant, except as provided in ORS 624.106:
(A) [[$36.75] $50] for an event lasting one day; and

(B) [[$52.50] $75] for an event lasting two days or longer.

(g) [[$262.50] $350] for a commissary.
(h) [$105] $180 for each warehouse.

(i) [$131.50] $255 for each mobile unit.

(j) For vending machines in accordance with the number of machines covered by the license as follows:

(A) [$26.25] $90 for 1 to 10 machines;

(B) [$52.50] $140 for 11 to 20 machines;

(C) [$78.75] $200 for 21 to 30 machines;

(D) [$105] $300 for 31 to 40 machines;

(E) [$131.25] $320 for 41 to 50 machines;

(F) [$157.50] $330 for 51 to 75 machines;

(G) [$210] $390 for 76 to 100 machines;

(H) [$367.50] $510 for 101 to 250 machines;

(I) [$577.50] $800 for 251 to 500 machines;

(J) [$787.50] $1,000 for 501 to 750 machines;

(K) [$966] $1,500 for 751 to 1,000 machines;

(L) [$1,260] $1,600 for 1,001 to 1,500 machines; and

(M) [$1,575] $1,700 for more than 1,500 machines.

(2) Except as provided in this subsection, to reinstate an expired license the operator must pay a reinstatement fee of $100 in addition to the license fee required under subsection (1) of this section. The reinstatement fee does not apply to the reinstatement of an expired intermittent temporary restaurant, seasonal temporary restaurant or single-event temporary restaurant license. If the operator reinstates the license more than 30 days after the expiration date, the reinstatement fee shall increase by $100 on the 31st day following the expiration date and on that day of the month in each succeeding month until the license is reinstated.

(3) Notwithstanding subsection (1) of this section, the Oregon Health Authority or a local public health authority as provided under ORS 624.510 may exempt or reduce the license fee for restaurants operated by benevolent organizations that provide food or beverages primarily to children, the elderly, the indigent or other needy populations if the persons receiving the

[3]
food or beverages are not required to pay the full cost of the food or beverages. As used in this subsection, “benevolent organization” has the meaning given that term in ORS 624.101.

SECTION 5. ORS 624.630 is amended to read:

624.630. A person may not construct or extensively remodel a facility subject to licensure under this chapter without first submitting construction or remodeling plans to the Oregon Health Authority and paying a fee to the authority for review of the plans. The fee shall be assessed in the following amounts:

(1) For initial construction:
   (a) Of a full service restaurant, [$250] $400.
   (b) Of a bed and breakfast facility, [$75] $190.
   (c) Of a commissary, [$125] $240.
   (d) Of a warehouse, [$50] $150.
   (e) Of a limited service restaurant, [$75] $220.
   (f) Of a mobile unit, [$75] $400.

(2) For remodeling:
   (a) Of a full service restaurant, [$100] $225.
   (b) Of any facility other than a full service restaurant, [$50] $100.

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[4]
SUMMARY

Increases tax on distribution of cigarettes. Applies to cigarettes tax reporting periods beginning on or after January 1, 2020, and to existing inventories of cigarettes not yet acquired by consumers as of January 1, 2020.

Includes inhalant delivery devices in definition of tobacco products for purpose of imposition of tax. Exempts certain sales of inhalant delivery devices in medical marijuana dispensaries from taxation. Removes limit on tax imposed upon higher-priced cigars. Applies to tobacco products tax reporting periods beginning on or after January 1, 2020.

Prohibits distribution or sale of cigarettes or certain cigars in packages containing fewer than 20.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to taxes on nonfood consumer products; creating new provisions; amending ORS 323.010, 323.031, 323.457, 323.500, 323.505, 323.625 and 431A.175; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 323.031 is amended to read:

323.031. (1) Notwithstanding ORS 323.030 (2) and in addition to and not in lieu of any other tax, every distributor shall pay a tax upon distributions of cigarettes at the rate of [30] 130 mills for the distribution of each cigarette in this state.

(2) Any cigarette for which a tax has once been imposed under ORS 323.005 to 323.482 may not be subject upon a subsequent distribution to the taxes imposed by ORS 323.005 to 323.482.
SECTION 2. ORS 323.457 is amended to read:

323.457. (1) Moneys received under ORS 323.031 shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After the payment of refunds:

(a) \[29.37/30\] of the moneys shall be credited to the Oregon Health Plan Fund established under ORS 414.109;

(b) \[0.14/30\] of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the cities of this state;

(c) \[0.14/30\] of the moneys are continuously appropriated to the Oregon Department of Administrative Services for distribution to the counties of this state;

(d) \[0.14/30\] of the moneys are continuously appropriated to the Department of Transportation to be distributed and transferred to the Elderly and Disabled Special Transportation Fund established under ORS 391.800; [and]

(e) \[0.21/30\] of the moneys shall be credited to the Tobacco Use Reduction Account established under ORS 431A.153[.];

(f) \[10/30\] of the moneys are continuously appropriated to the Oregon Health Authority for tobacco use prevention and chronic disease prevention; and

(g) \[90/30\] of the moneys are continuously appropriated to the Oregon Health Authority for health-related programs.

(2)(a) Moneys distributed to cities and counties under this section shall be distributed to each city or county using the proportions used for distributions made under ORS 323.455.

(b) Moneys shall be distributed to cities, counties and the Elderly and Disabled Special Transportation Fund at the same time moneys are distributed to cities, counties and the Elderly and Disabled Special Transportation Fund under ORS 323.455.

SECTION 3. ORS 323.010 is amended to read:
323.010. As used in ORS 323.005 to 323.482, unless the context requires otherwise:

(1) “Cigarette” means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use and consists of or contains:

(a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco;

(b) Tobacco, in any form, that is functional in the product and that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; [or]

(c) Any roll of tobacco that is wrapped in any substance containing tobacco and that, because of its appearance, the type of tobacco used in the filler or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this subsection[.]; or

(d) A roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000 of these rolls collectively weigh not more than three pounds.

(2) “Cigarette activity in this state”:

(a) Means importing, storing or manufacturing cigarettes in this state, or exporting cigarettes out of this state, in order to sell the cigarettes either within or outside this state.

(b) Does not include importing, storing, manufacturing or exporting of cigarettes that are to be consumed by the person doing the importing, storing, manufacturing or exporting.

(3) “Contraband cigarettes” means cigarettes or packages of cigarettes:

(a) That do not comply with the requirements of ORS 323.005 to 323.482 or 323.856 or the cigarette tax laws of another state or the federal govern-
ment;
(b) That bear trademarks that are counterfeit under ORS 647.135 or other state or federal trademark laws; or
(c) That have been sold, offered for sale or possessed for sale in this state in violation of ORS 180.440.
(4) “Department” means the Department of Revenue.
(5) “Dealer” includes every person, other than a manufacturer or a person holding a distributor’s license, who engages in this state in the sale of cigarettes.
(6) “Exporting” means the act of carrying or conveying goods from a point of manufacture or storage in this state to a location outside this state and may be further defined by the department by rule.
(7) “Importing” means the act of bringing goods to a point of storage in this state from a location outside this state and may be further defined by the department by rule.
(8) “In this state” means within the exterior limits of the State of Oregon and includes all territory within these limits owned by or ceded to the United States of America.
(9) “Manufacturer” means any person who makes, manufactures or fabricates cigarettes for sale.
(10) “Package” means the individual package, box or other container in which retail sales or gifts of cigarettes are normally made or intended to be made.
(11) “Person” includes any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, trustee, syndicate, this state, any county, municipality, district or other political subdivision of the state, or any other group or combination acting as a unit.
(12) “Sale” includes any transfer of title or possession for a consideration, exchange or barter, in any manner or by any means whatsoever, but does not include the sale of cigarettes by a manufacturer to a distributor.
(13) “Taxpayer” means a distributor or other person required to pay a tax under ORS 323.005 to 323.482, and includes a distributor required to prepay a tax under ORS 323.068.

(14) “Transporter” means any person importing or transporting into this state, or transporting in this state, cigarettes obtained from a source located outside this state, or from any person not licensed as a distributor under ORS 323.005 to 323.482. It does not include a licensed distributor, a common carrier to whom is issued a certificate or permit by the United States Surface Transportation Board to carry commodities in interstate commerce, or to a carrier of federal tax-free cigarettes in bond, or any person transporting no more than 199 cigarettes at any one time.

(15) “Untaxed cigarette” means any cigarette that has not yet been distributed in such manner as to result in a tax liability under ORS 323.005 to 323.482.

(16) “Use or consumption” includes the exercise of any right or power over cigarettes incident to the ownership thereof, other than the sale of the cigarettes or the keeping or retention thereof for the purpose of sale.

(17) “Wholesaler” means any dealer who engages in the sale of cigarettes to any other dealer for purposes other than use or consumption.

SECTION 4. (1) In addition to and not in lieu of any other tax, for the privilege of holding or storing cigarettes for sale, use or consumption, a floor tax is imposed upon every dealer at the rate of 100 mills for each cigarette in the possession of or under the control of the dealer in this state at 12:01 a.m. on January 1, 2020.

(2) The tax imposed by this section is due and payable on or before January 20, 2020. Any amount of tax that is not paid within the time required shall bear interest at the rate established under ORS 305.220 per month, or fraction of a month, from the date on which the tax is due to be paid, until paid.

(3) By January 20, 2020, every dealer must file a report with the Department of Revenue in such form as the department may prescribe.
The report must state the number of cigarettes in the possession of or under the control of the dealer in this state at 12:01 a.m. on January 1, 2020, and the amount of tax due. Each report must be accompanied by a remittance payable to the department for the amount of tax due.

(4) As used in this section, “dealer” has the meaning given that term in ORS 323.010.

SECTION 5. Notwithstanding ORS 323.030 (3), for the privilege of distributing cigarettes as a distributor, as defined in ORS 323.015, and for holding or storing cigarettes for sale, use or consumption, a floor tax and cigarette adjustment indicia tax is imposed upon every distributor in the amount of $2.50 for each Oregon cigarette tax stamp bearing the designation “25,” and in the amount of $2 for each Oregon cigarette tax stamp bearing the designation “20,” that is affixed to any package of cigarettes in the possession of or under the control of the distributor at 12:01 a.m. on January 1, 2020.

SECTION 6. (1) Every distributor, as defined in ORS 323.015, must take an inventory as of 12:01 a.m. on January 1, 2020, of all packages of cigarettes to which are affixed Oregon cigarette tax stamps and of all unaffixed Oregon cigarette tax stamps in the possession of or under the control of the distributor.

(2) Every distributor must file a report with the Department of Revenue by January 20, 2020, in such form as the department may prescribe, showing:

(a) The number of Oregon cigarette tax stamps, with the designations of the stamps, that were affixed to packages of cigarettes in the possession of or under the control of the distributor at 12:01 a.m. on January 1, 2020; and

(b) The number of unaffixed Oregon cigarette tax stamps, with the designations of the stamps, that were in the possession of or under the control of the distributor at 12:01 a.m. on January 1, 2020.

(3) The amount of tax required to be paid with respect to the affixed
Oregon cigarette tax stamps shall be computed pursuant to section 5 of this 2019 Act and remitted with the distributor's report. Any amount of tax not paid within the time specified for the filing of the report shall bear interest at the rate established under ORS 305.220 per month, or fraction of a month, from the due date of the report until paid.

**SECTION 7.** All moneys received by the Department of Revenue from the taxes imposed by sections 4 and 5 of this 2019 Act shall be paid over to the State Treasurer to be held in a suspense account established under ORS 293.445. After payment of refunds, the balance shall be credited to the General Fund.

**SECTION 8.** ORS 323.500 is amended to read:

323.500. As used in ORS 323.500 to 323.645, unless the context otherwise requires:

(1) “Business” means any trade, occupation, activity or enterprise engaged in for the purpose of selling or distributing tobacco products in this state.

(2) “Cigar” means a roll for smoking that is of any size or shape and that is made wholly or in part of tobacco, irrespective of whether the tobacco is pure or flavored, adulterated or mixed with any other ingredient, if the roll has a wrapper made wholly or in greater part of tobacco and if 1,000 of these rolls collectively weigh more than three pounds. “Cigar” does not include a cigarette, as defined in ORS 323.010.

(3) “Consumer” means any person who purchases tobacco products in this state for the person’s use or consumption or for any purpose other than for reselling the tobacco products to another person.

(4) “Contraband tobacco products” means tobacco products or packages containing tobacco products:

(a) That do not comply with the requirements of ORS 323.500 to 323.645;

(b) That do not comply with the requirements of the tobacco products tax laws of the federal government or of other states;

(c) That bear trademarks that are counterfeit under ORS 647.135 or other [7]
(d) That have been sold, offered for sale or possessed for sale in this state in violation of ORS 180.486.

(5) “Department” means the Department of Revenue.

(6) “Distribute” means:
(a) Bringing, or causing to be brought, into this state from without this state tobacco products for sale, storage, use or consumption;
(b) Making, manufacturing or fabricating tobacco products in this state for sale, storage, use or consumption in this state;
(c) Shipping or transporting tobacco products to retail dealers in this state, to be sold, stored, used or consumed by those retail dealers;
(d) Storing untaxed tobacco products in this state that are intended to be for sale, use or consumption in this state;
(e) Selling untaxed tobacco products in this state; or
(f) As a consumer, being in possession of untaxed tobacco products in this state.

(7) “Distributor” means:
(a) Any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale;
(b) Any person who makes, manufactures or fabricates tobacco products in this state for sale in this state;
(c) Any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retail dealers in this state, to be sold by those retail dealers;
(d) Any person, including a retail dealer, who sells untaxed tobacco products in this state; or
(e) A consumer in possession of untaxed tobacco products in this state.

(8) “Inhalant delivery system” has the meaning given that term in ORS 431A.175, except that “inhalant delivery system” does not include:
(a) Batteries, battery chargers, straps or lanyards sold separately;
or

(b) Marijuana items as defined in ORS 475B.015.

[(8)] (9) “Manufacturer” means a person who manufactures tobacco products for sale.

[(9)] (10) “Moist snuff” means:

(a) Any finely cut, ground or powdered tobacco that is not intended to be smoked or placed in a nasal cavity; or

(b) Any other product containing tobacco that is intended or expected to be consumed without being combusted.

[(10)] (11) “Place of business” means any place where tobacco products are sold or where tobacco products are manufactured, stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train or vending machine.

[(11)] (12) “Retail dealer” means any person who is engaged in the business of selling or otherwise dispensing tobacco products to consumers. The term also includes the operators of or recipients of revenue from all places such as smoke shops, cigar stores and vending machines, where tobacco products are made or stored for ultimate sale to consumers.

[(12)] (13) “Sale” means any transfer, exchange or barter, in any manner or by any means, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of ORS 323.500 to 323.645, or for any other purpose.

[(13)] (14) “Taxpayer” includes a distributor or other person required to pay a tax imposed under ORS 323.500 to 323.645.

[(14)] (15) “Tobacco products” means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, moist snuff, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or
both for chewing and smoking, **and inhalant delivery systems**, but [shall] **does** not include cigarettes as defined in ORS 323.010.

[(15)] (16) “Untaxed tobacco products” means tobacco products for which the tax required under ORS 323.500 to 323.645 has not been paid.

[(16)] (17) “Wholesale sales price” means the price paid for untaxed tobacco products to or on behalf of a seller by a purchaser of the untaxed tobacco products.

**SECTION 9.** ORS 323.505 is amended to read:

323.505. (1) A tax is hereby imposed upon the distribution of all tobacco products in this state. The tax imposed by this section is intended to be a direct tax on the consumer, for which payment upon distribution is required to achieve convenience and facility in the collection and administration of the tax. The tax shall be imposed on a distributor at the time the distributor distributes tobacco products.

(2) The tax imposed under this section shall be imposed at the rate of:

[(a) Sixty-five percent of the wholesale sales price of cigars, but not to exceed 50 cents per cigar;]

[(b)] (a) One dollar and seventy-eight cents per ounce based on the net weight determined by the manufacturer, in the case of moist snuff, except that the minimum tax under this paragraph is $2.14 per retail container; or

[(c)] (b) Sixty-five percent of the wholesale sales price of all tobacco products that are not [cigars or] moist snuff.

(3) For reporting periods beginning on or after July 1, 2022, the rates of tax applicable to moist snuff under subsection [(2)(b)] (2)(a) of this section shall be adjusted for each biennium according to the cost-of-living adjustment for the calendar year. The Department of Revenue shall recompute the rates for each biennium by adding to the rates in subsection [(2)(b)] (2)(a) of this section the product obtained by multiplying the rates in subsection [(2)(b)] (2)(a) of this section by a factor that is equal to 0.25 multiplied by the percentage (if any) by which the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31 of the
prior calendar year exceeds the monthly averaged U.S. City Average Consumer Price Index for the 12 consecutive months ending August 31, 2020.

(4) If the tax imposed under this section does not equal an amount calculable to a whole cent, the tax shall be equal to the next higher whole cent. However, the amount remitted to the Department of Revenue by the taxpayer for each quarter shall be equal only to 98.5 percent of the total taxes due and payable by the taxpayer for the quarter.

(5) A tax under this section is not imposed on inhalant delivery systems that are:

(a) Marketed and sold solely for the purpose of vaporizing or aerosolizing marijuana items as defined in ORS 475B.015; and

(b) Purchased in a medical marijuana dispensary that is registered under ORS 475B.858 by a person to whom a registry identification card has been issued under ORS 475B.797.

(6) No tobacco product shall be subject to the tax if the base product or other intermediate form thereof has previously been taxed under this section.

SECTION 10. ORS 323.625 is amended to read:

323.625. All moneys received by the Department of Revenue under ORS 323.500 to 323.645 shall be deposited in the State Treasury and credited to a suspense account established under ORS 293.445. The department may pay expenses for administration and enforcement of ORS 323.500 to 323.645 out of moneys received from the taxes imposed under ORS 323.505 and 323.565. Amounts necessary to pay administrative and enforcement expenses are continuously appropriated to the department from the suspense account. After the payment of administrative and enforcement expenses and refunds or credits arising from erroneous overpayments, the balance of the money shall be credited to the General Fund. Of the amount credited to the General Fund under this section, 41.54 percent shall be dedicated to funding the maintenance and expansion of the number of persons eligible for the medical assistance program under ORS chapter 414, or to funding the maintenance of...
the benefits available under the program, or both, \[and 4.62\] 1.84 percent shall be credited to the Tobacco Use Reduction Account established under ORS 431A.153 and six percent shall be continuously appropriated to the Oregon Health Authority for tobacco use prevention and chronic disease prevention.

SECTION 11. ORS 431A.175 is amended to read:

431A.175. (1) As used in this section and ORS 431A.183:

(a)(A) “Inhalant delivery system” means:

(i) A device that can be used to deliver nicotine or cannabinoids in the form of a vapor or aerosol to a person inhaling from the device; or

(ii) A component of a device described in this subparagraph or a substance in any form sold for the purpose of being vaporized or aerosolized by a device described in this subparagraph, whether the component or substance is sold separately or is not sold separately.

(B) “Inhalant delivery system” does not include:

(i) Any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose; and

(ii) Tobacco products.

(b) “Tobacco products” means:

(A) Bidis, cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other forms of tobacco, prepared in a manner that makes the tobacco suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking;

(B) Cigarettes as defined in ORS 323.010 (1); or

(C) A device that:

(i) Can be used to deliver tobacco products to a person using the device; and
(ii) Has not been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for any other therapeutic purpose, if the product is marketed and sold solely for the approved purpose.

(2) It is unlawful:

(a) To violate ORS 167.750.

(b) To fail as a retailer of tobacco products to post a notice substantially similar to the notice described in subsection (3) of this section in a location that is clearly visible to the seller and the purchaser of the tobacco products.

(c) To fail as a retailer of inhalant delivery systems to post a notice in a location that is clearly visible to the seller and the purchaser of the inhalant delivery systems that it is unlawful to sell inhalant delivery systems to persons under 21 years of age. The Oregon Health Authority shall adopt by rule the content of the notice required under this paragraph.

(d) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery system is not labeled in accordance with rules adopted by the authority.

(e) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery system is not packaged in child-resistant safety packaging, as required by the authority by rule.

(f) To distribute, sell or allow to be sold an inhalant delivery system if the inhalant delivery system is packaged in a manner that is attractive to minors, as determined by the authority by rule.

(g) To distribute, sell or allow to be sold cigarettes in any form other than a sealed package.

(h) To distribute, sell or allow to be sold cigarettes, as defined in ORS 323.010, or cigars, as defined in ORS 323.500, in any package containing fewer than 20 cigarettes or cigars, unless the wholesale price of an individual cigar exceeds $3.

(3) The notice required by subsection (2)(b) of this section must be substantially as follows:
NOTICE

The sale of tobacco in any form to persons under 21 years of age is prohibited by law. Any person who sells, or allows to be sold, tobacco to a person under 21 years of age is in violation of Oregon law.

(4) Rules adopted under subsection (2)(d), (e) and (f) of this section must be consistent with any regulation adopted by the United States Food and Drug Administration related to labeling or packaging requirements for inhalant delivery systems.

SECTION 12. (1) The amendments to ORS 323.010, 323.031 and 323.457 by sections 1 to 3 of this 2019 Act apply to cigarette tax reporting periods beginning on or after January 1, 2020.

(2) The amendments to ORS 323.500, 323.505 and 323.625 by sections 8 to 10 of this 2019 Act apply to tobacco products tax reporting periods beginning on or after January 1, 2020.

SECTION 13. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Authorizes Public Health Officer to appoint local health officer in certain counties. Allows Oregon Health Authority discretion to determine effective date of transfer of responsibility from local public health authority to Oregon Health Authority.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to local public health authorities; creating new provisions; amending ORS 431.003, 431.045, 431.382, 431.418 and 431.443; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 431.045 is added to and made a part of ORS 431.001 to 431.550.

SECTION 2. ORS 431.045 is amended to read:

431.045. (1) The Director of the Oregon Health Authority shall appoint a Public Health Officer who shall be responsible for the medical and paramedical aspects of the health programs within the Oregon Health Authority. The Public Health Officer must be a physician licensed [by the Oregon Medical Board] under ORS chapter 677 who:

(a) Is certified by the American Board of Preventive Medicine or the board of a primary care clinical specialty such as internal medicine, family medicine or pediatrics; and

(b) Has at least two years of experience working for a local, state or federal public health authority.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(2) The Public Health Officer:
   (a) Is responsible for the duties imposed by 42 U.S.C. 300ff-133(g) and 300ff-136[. The officer];
   (b) May appoint a local health officer for a county that has transferred the responsibility of the local public health authority in the county to the Oregon Health Authority under ORS 431.382; and
   (c) May adopt rules to carry out the officer’s responsibilities under this subsection.

SECTION 3. ORS 431.382 is amended to read:
431.382. (1) If the Oregon Health Authority does not receive state moneys in an amount that equals or exceeds the estimate that the Oregon Health Authority submits to the Legislative Fiscal Office under ORS 431.380 (2), the governing body of the county in which a local public health authority operates may adopt an ordinance transferring the responsibility for fulfilling the local public health authority’s duties under ORS 431.001 to 431.550 and 431.990 and the other public health laws of this state to the Oregon Health Authority.

(2) The Oregon Health Authority shall prescribe the form and manner of informing the Oregon Health Authority that the local public health authority has made a transfer under this section.

(3) A transfer under this section may not take effect until 180 days after the date on which an ordinance mandating the transfer is adopted unless the Oregon Health Authority agrees to an earlier effective date.

(4) The local public health authority that makes a transfer under this section is not eligible to receive any moneys pursuant to ORS 431.380, and the Oregon Health Authority may use the moneys to provide or to contract for the provision of public health programs and public health activities within the local public health authority’s jurisdiction.

(5) If a local public health authority makes a transfer under this section, the Oregon Health Authority:
   (a) Is not obligated to provide or to contract for the provision of public
health programs and public health activities within the local public health authority’s jurisdiction; and

(b) Has the authority of a local public health authority and local public health administrator within the former local public health authority’s jurisdiction.

SECTION 4. ORS 431.418 is amended to read:

431.418. (1) Except when a local public health authority has transferred its responsibility to the Oregon Health Authority under ORS 431.382, each local public health authority shall appoint a qualified local public health administrator to supervise the activities of the local public health authority. In making an appointment under this subsection, the local public health authority shall consider standards for selection of local public health administrators prescribed by the Oregon Health Authority.

(2)(a) [When the local public health administrator is a physician licensed by the Oregon Medical Board, the local public health administrator shall serve as the local health officer for the local public health authority. When the local public health administrator is not a physician licensed by the Oregon Medical Board, the local public health administrator shall employ or otherwise contract for services with a local health officer who is a physician licensed by the Oregon Medical Board to perform the specific medical responsibilities requiring the services of a physician.] When the local public health administrator is a physician licensed under ORS chapter 677, the local public health administrator may serve as the local health officer for the local public health authority.

(b) When the local public health administrator does not serve as the local health officer, the local public health administrator shall employ or otherwise contract for services with a local health officer who is a physician licensed under ORS chapter 677 to perform the specific medical responsibilities requiring the services of a physician.

(c) A physician employed or whose services are contracted for under this subsection is responsible to the local public health administrator for the
medical and paramedical aspects of the public health programs administered
by the local public health administrator.

(3) The local public health administrator shall:

(a) Serve as the executive secretary of the local public health authority,
act as the administrator of the local health department and supervise the
officers and employees appointed under paragraph (b) of this subsection.

(b) Appoint, subject to the approval of the local public health authority,
administrators, medical officers, public health nurses, environmental health
specialists and such employees necessary to carry out the duties of the local
public health administrator under ORS 431.001 to 431.550 and 431.990 and any
other public health law of this state.

(c) Provide the local public health authority at appropriate intervals in-
formation concerning the activities of the local health department and sub-
mit an annual budget for the approval of the governing body of the county
or, for a health district formed under ORS 431.443, the governing bodies of
the counties that formed the health district.

(d) Act as the agent of the Oregon Health Authority in enforcing state
public health laws and rules of the authority, including such sanitary in-
spection of hospitals and related institutions as may be requested by the
authority.

(e) Perform any other duty required by law.

(4) A local public health administrator shall serve until removed by the
appointing local public health authority. A local public health administrator
may not engage in an occupation that conflicts with the local public health
administrator’s official duties and shall devote sufficient time to fulfilling
the requirements of subsection (3) of this section. However, if the governing
body of a local public health authority is not established under ORS 431.443
(3), the local public health authority may, with the approval of the Director
of the Oregon Health Authority, require the local public health administra-
tor to work less than full-time.

(5) A local public health administrator shall receive a salary fixed by the
appointing [board] authority and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.

**SECTION 5.** ORS 431.003 is amended to read:

431.003. As used in ORS 431.001 to 431.550 and 431.990:

(1) “Foundational capability” means the knowledge, skill or ability that is necessary to carry out a public health activity.

(2) “Foundational program” means a public health program that is necessary to assess, protect or improve the health of the residents of this state.

(3) “Governing body of a local public health authority” means:

(a) The governing body of a county;

(b) A board described in ORS 431.443 (2);

(c) A board established under ORS 431.443 (3); or

(d) The board of an intergovernmental entity created by an agreement pursuant to ORS 190.010 (5) for the purpose of providing public health services.

(4) “Local health department” means the agency established by the local public health authority that is responsible for administering public health programs and public health activities within the local public health authority’s jurisdiction.

(5) “Local health officer” means:

(a) A local public health administrator appointed under ORS 431.418 who is a physician licensed under ORS chapter 677; [or]

(b) [If the local public health administrator appointed under ORS 431.418 is not] A physician licensed [by the Oregon Medical Board, the physician] under ORS chapter 677 who is employed by or who enters a contract with a local public health administrator under ORS 431.418; or

(c) A physician licensed under ORS chapter 677 who is appointed by the Public Health Officer under ORS 431.045.

(6) “Local public health administrator” means an individual appointed under ORS 431.418 to supervise the public health programs and public health activities of a local health department.
(7) “Local public health authority” means:
(a) A county government;
(b) A health district formed under ORS 431.443; or
(c) An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010 (5).

SECTION 6. ORS 431.443 is amended to read:
431.443. (1) Two or more contiguous counties may combine for the purpose of forming a health district when the governing body of each of the counties concerned adopt resolutions signifying their intention to form the health district.

(2) The governing bodies of the counties forming the health district may meet together, elect a chairperson and transact business as a district board of health whenever a majority of the members of the governing bodies from each of the participating counties are present at a meeting.

(3) In lieu of the procedure described in subsection (2) of this section, the governing bodies of the counties forming the health district may, by a two-thirds vote of the members from each participating county, establish and, except as provided in paragraph (f) of this subsection, appoint a district board of health consisting of the following members:
(a) One member from each participating county governing body selected by the county governing body to which the member belongs.
(b) One member from a school administrative unit within the health district.
(c) One member from the administrative staff of a city within the health district.
(d) Two physicians who have been licensed to practice medicine [in this state by the Oregon Medical Board] under ORS chapter 677 and who are residents of the health district.
(e) One dentist who has been licensed to practice dentistry [in this state by the Oregon Board of Dentistry] under ORS chapter 679 and who is a resident of the health district.
(f) One person who is a resident of the health district and who is to be appointed by the members serving under paragraphs (a) to (c) of this subsection.

(4) The term of office of the members referred to in subsection (3)(a) to (f) of this section shall be four years, with terms expiring on February 1, except that the first appointments made under this subsection shall be for terms of one, two, three or four years, as designated by a two-thirds vote of the members from each participating county.

(5) The governing bodies of the counties comprising the health district may appoint a public health advisory board for terms of four years, with terms expiring on February 1, except that the first appointments made under this subsection shall be for terms of one, two, three or four years, as designated by the governing bodies. The advisory board shall meet regularly to advise the district board of health on matters of public health. The advisory board shall consist of:

(a) Persons licensed by this state as health care practitioners.

(b) Persons who are well informed on public health matters.

SECTION 7. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Modifies terms “venereal disease” and “sexually transmitted disease” to “sexually transmitted infection.” Clarifies hearings procedure for certificates of need for certain health care facilities. Authorizes Oregon Health Authority to collaborate with federal agencies for purposes of enforcement of laws regulating tobacco products and inhalant delivery systems. Clarifies complaint and investigation processes for certain regulated health professions. Includes representative from public safety answering point among membership of State Trauma Advisory Board and area trauma advisory boards. Replaces term “local health department” with “local public health authority.” Exempts persons who process marijuana into medical cannabinoid products and cannabinoid concentrates from certain tracking requirements. Modifies application requirements for authorizations to practice art therapy, music therapy, lactation consultation or respiratory therapy or to practice as emergency medical services provider or environmental health specialist trainee. Requires applicant for construction of certain public pools to submit plan to authority for approval.

Declares emergency, effective on passage.

A BILL FOR AN ACT

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Be It Enacted by the People of the State of Oregon:

SEXUALLY TRANSMITTED INFECTIONS

SECTION 1. ORS 109.610 is amended to read:

109.610. (1) Notwithstanding any other provision of law, a minor who may have come into contact with any [venereal disease] sexually transmitted infection, including HIV, may give consent to the furnishing of hospital, medical or surgical care related to the diagnosis or treatment of [such disease] the sexually transmitted infection, if the [disease or condition] sexually transmitted infection is one [which] that is required by law or regulation adopted pursuant to law to be reported to a state or local health agency or officer. [Such consent shall not be subject to disaffirmance because of minority] Consent given under this subsection may not be disaffirmed based on minority.

(2) The consent of the parent, parents, or legal guardian of such minor shall not be necessary to authorize such hospital, medical or surgical care and without having given consent the parent, parents, or legal guardian shall not be liable for payment for any such care rendered.

(2)(a) The consent of a parent or legal guardian of a minor described in subsection (1) of this section is not required to authorize the care described in subsection (1) of this section.

(b) A parent or legal guardian who does not consent to the care described in subsection (1) of this section is not liable for payment for the care provided under subsection (1) of this section.

SECTION 2. ORS 418.325 is amended to read:

[2]
418.325. (1) A child-caring agency that is subject to ORS 418.205 to 418.327, 418.470, 418.475 or 418.950 to 418.970 shall safeguard the health of each child, ward or other dependent or delinquent child to whom the agency provides care or services by providing for medical examinations of each child by a qualified physician or naturopathic physician at the following intervals:

(a) Three examinations during the first year of the child’s life;
(b) One examination during the second year of the child’s life;
(c) One examination at the age of four;
(d) One examination at the age of six;
(e) One examination at the age of nine; and
(f) One examination at the age of 14.

(2) If an examination under subsection (1) of this section has not occurred within six months prior to the transfer for adoption of the custody of a child by a child-caring agency to the prospective adoptive parents of such child, a child-caring agency shall provide for a medical examination of such child within six months prior to such transfer.

(3) Any testing that occurs at intervals other than those specified in subsections (1) and (2) of this section shall not be considered to be in lieu of the required examinations. However, nothing in subsections (1) and (2) of this section is intended to limit more frequent examinations that are dictated by the general state of the child’s health or by any particular condition.

(4) Within 90 days of obtaining custody of a child under six years of age, a child-caring agency shall provide for the child to be:

(a) Inoculated as determined appropriate by the local [health department] public health authority; and
(b) Tested for:
   (A) Phenylketonuria pursuant to ORS 433.285;
   (B) Visual and aural acuity consistent with the child’s age;
   (C) Sickle-cell anemia;
   (D) Effects of rubella, if any;
   (E) Effects of parental [venereal disease] sexually transmitted
infection, if any; and

(F) The hereditary or congenital effects of parental use of drugs or con-
trolled substances.

(5) Within six months prior to the transfer for adoption of the custody
of a child by a child-caring agency to the prospective adoptive parents of
such child, the child-caring agency shall provide for such child to have a
complete physical examination by a physician or naturopathic physician, in-
cluding but not limited to inspection for evidence of child abuse in accord-
ance with rules of the Department of Human Services, and be tested for
visual and aural acuity consistent with the child’s age.

(6) A child-caring agency shall record the results of tests provided a child
pursuant to subsections (1) to (5) of this section in the child’s health record.
The child’s health record shall be kept as a part of the agency’s total records
of that child. The child’s health record shall be made available to both na-
tural parents and to both prospective foster or adoptive parents of that child.
A qualified member of a child-caring agency under the supervision of a
qualified physician or naturopathic physician shall explain to adoptive par-
ents the medical factors possible as a result of a child’s birth history, he-
reditary or congenital defects, or disease or disability experience.

SECTION 3. ORS 435.010 is amended to read:

435.010. (1) [No] Appliances, drugs or medicinal preparations intended or
having special utility for the prevention of conception or [venereal diseases]
sexually transmitted infections, or both, [shall] may not be manufactured
or sold at wholesale in this state without a license issued by the State Board
of Pharmacy, as provided in ORS 435.010 to 435.130, which licenses shall be
in addition to other licenses required by law.

(2) The prohibitions of subsection (1) of this section do not apply to
practitioners as defined in ORS 689.005.

SECTION 4. ORS 677.370 is amended to read:

677.370. [No] Semen [shall] may not be donated for use in artificial
insemination by any person who:
(1) Has any disease or defect known by [him] the person to be transmissible by genes; or

(2) Knows or has reason to know [he has a venereal disease] that the person has a sexually transmitted infection.

HOSPITALS AND HOME HEALTH AGENCIES

SECTION 5. ORS 442.315, as amended by section 23, chapter 608, Oregon Laws 2013, and section 10, chapter 718, Oregon Laws 2017, is amended to read:

442.315. (1) Any new hospital or new skilled nursing or intermediate care service or facility not excluded pursuant to ORS 441.065 shall obtain a certificate of need from the Oregon Health Authority prior to an offering or development.

(2) The authority shall adopt rules specifying criteria and procedures for making decisions as to the need for the new services or facilities.

(3)(a) An applicant for a certificate of need shall apply to the authority on forms provided for this purpose by authority rule.

(b) An applicant shall pay a fee prescribed as provided in this section.

Subject to the approval of the Oregon Department of Administrative Services, the authority shall prescribe application fees, based on the complexity and scope of the proposed project.

(4)(a) The authority shall [be the decision-making authority for the purpose of certificates of need] issue a draft recommendation in response to an application for a certificate of need.

(b) The authority may establish an expedited review process for an application for a certificate of need to rebuild a long term care facility, relocate buildings that are part of a long term care facility or relocate long term care facility bed capacity from one long term care facility to another. The authority shall issue a [proposed order] draft recommendation not later than 120 days after the date a complete application [for] subject to expedited
review is received by the authority.

(5)(a) An applicant or any affected person who is dissatisfied with the proposed decision of the authority is entitled to an informal hearing before the authority in the course of review and before a final proposed decision is rendered. Following an informal hearing, or if no applicant or affected person requests an informal hearing within a period of time prescribed by the authority by rule, the authority shall issue a proposed decision.

(b) Following a final decision being rendered by the authority, an applicant or any affected person may request a reconsideration hearing pursuant to ORS chapter 183.

(c) In any proceeding brought by an affected person or an applicant challenging an authority decision under this subsection, the authority shall follow procedures consistent with the provisions of ORS chapter 183 relating to a contested case.

(b) An applicant or affected person is entitled to a contested case hearing in accordance with ORS chapter 183 to challenge the proposed decision of the authority. Following a contested case hearing, or if no applicant or affected person requests a contested case hearing within a period of time prescribed by the authority by rule, the authority shall issue a final order granting, with or without limitations, or denying the certificate of need.

(6) Once a certificate of need has been granted, it may not be revoked or rescinded unless it was acquired by fraud or deceit. However, if the authority finds that a person is offering or developing a project that is not within the scope of the certificate of need, the authority may limit the project as specified in the granted certificate of need or reconsider the application. A certificate of need is not transferable.

(7) Nothing in this section applies to any hospital, skilled nursing or intermediate care service or facility that seeks to replace equipment with equipment of similar basic technological function or an upgrade that im-
proves the quality or cost-effectiveness of the service provided. Any person acquiring such replacement or upgrade shall file a letter of intent for the project in accordance with the rules of the authority if the price of the replacement equipment or upgrade exceeds $1 million.

(8) Except as required in subsection (1) of this section for a new hospital or new skilled nursing or intermediate care service or facility not operating as a Medicare swing bed program, nothing in this section requires a rural hospital as defined in ORS 442.470 (6)(a)(A) and (B) to obtain a certificate of need.

(9) Nothing in this section applies to basic health services, but basic health services do not include:

(a) Magnetic resonance imaging scanners;
(b) Positron emission tomography scanners;
(c) Cardiac catheterization equipment;
(d) Megavoltage radiation therapy equipment;
(e) Extracorporeal shock wave lithotriptors;
(f) Neonatal intensive care;
(g) Burn care;
(h) Trauma care;
(i) Inpatient psychiatric services;
(j) Inpatient chemical dependency services;
(k) Inpatient rehabilitation services;
(L) Open heart surgery; or
(m) Organ transplant services.

(10) In addition to any other remedy provided by law, whenever it appears that any person is engaged in, or is about to engage in, any acts that constitute a violation of this section, or any rule or order issued by the authority under this section, the authority may institute proceedings in the circuit courts to enforce obedience to such statute, rule or order by injunction or by other processes, mandatory or otherwise.

(11) As used in this section, “basic health services” means health services
offered in or through a hospital licensed under ORS chapter 441, except skilled nursing or intermediate care nursing facilities or services and those services specified in subsection (9) of this section.

**SECTION 6.** ORS 443.035 is amended to read:

443.035. (1) The Oregon Health Authority may grant a license to a home health agency or caregiver registry for a calendar year, may annually renew a license and may allow for a change of ownership, upon payment of a fee as follows:

(a) For a new home health agency:

(A) $1,600; and

(B) An additional $1,600 for each subunit of a parent home health agency.

(b) For renewal of a home health agency license:

(A) $850; and

(B) An additional $850 for each subunit of a parent home health agency.

(c) For a change of ownership of a home health agency at a time other than the annual renewal date:

(A) $500; and

(B) An additional $500 for each subunit of a parent home health agency.

(d) For a new caregiver registry:

(A) $1,500; and

(B) An additional $750 for each subunit of a caregiver registry.

(e) For renewal of a caregiver registry license:

(A) $750; and

(B) An additional $750 for each subunit of a caregiver registry.

(f) For a change of ownership of a caregiver registry at a time other than the annual renewal date:

(A) $350; and

(B) An additional $350 for each subunit of a caregiver registry.

(a) $1,600 for a new home health agency license.

(b) $850 for a renewal of a home health agency license.
(c) $500 for a change of ownership of a home health agency at a time other than the annual renewal date.

(d)(A) $1,500 for a new caregiver registry license; and
(B) $750 for each subunit of a newly licensed caregiver registry.

(e)(A) $750 for a renewal of a caregiver registry license; and
(B) $750 for each subunit of a caregiver registry described in sub-
paragraph (A) of this paragraph.

(f)(A) $350 for a change of ownership of a caregiver registry at a time other than the annual renewal date; and
(B) $350 for each subunit of a caregiver registry described in sub-
paragraph (A) of this paragraph.

(2) Notwithstanding subsection (1)(c) or (f) of this section, the fee for a change in ownership shall be $100 if a change in ownership does not involve:
(a) The majority owner or partner; or
(b) The administrator operating the agency or registry.

(3) All fees received pursuant to subsection (1) of this section shall be paid over to the State Treasurer and credited to the Public Health Account. Such moneys are appropriated continuously to the Oregon Health Authority for the administration of ORS 443.014 to 443.105.

SECTION 7. (1) The amendments to ORS 442.315 and 443.035 by sections 5 and 6 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by the amendments to ORS 442.315 and 443.035 by sections 5 and 6 of this 2019 Act.

TOBACCO AND INHALANT DELIVERY SYSTEMS

SECTION 8. ORS 431A.183 is amended to read:

[9]
431A.183. (1)(a) The Oregon Health Authority [shall:] may enter into an agreement with federal agencies to assist the authority in monitoring and enforcing federal laws and regulations related to tobacco products or inhalant delivery systems.

(b) The authority may commission employees of the authority as federal officers for the purpose of carrying out the duties prescribed under an agreement entered into under paragraph (a) of this subsection.

(c) The authority may adopt rules and take any action necessary to carry out the authority’s duties as established under an agreement entered into under paragraph (a) of this subsection.

(2) The authority may enter into an agreement with federal, state and local government agencies, including federal and state law enforcement agencies, to assist the authority in carrying out the authority’s duties under ORS 431A.175 and to conduct random, unannounced inspections of wholesalers and retailers of tobacco products or inhalant delivery systems to ensure compliance with the laws of this state designed to discourage the use of tobacco products and inhalant delivery systems by persons under 21 years of age, including ORS 167.750, 167.755, 167.760, 167.765, 167.775, 167.780 and 431A.175[; and].

(3)(a) If the authority enters into an agreement with the Department of State Police under subsection (2) of this section, the department may employ retired state police officers who are active reserve officers. Service by a retired state police officer under this paragraph is subject to ORS 238.082.

(b) The department may not use the services of a retired state police officer to displace an active state police member.

(4)(a) The authority may apply for and accept moneys from the federal government or other public or private sources and, in accordance with any federal restrictions or other funding source restrictions,
use those moneys to carry out the duties and functions related to preventing the use of tobacco products or inhalant delivery systems by persons who are not of the minimum age to purchase tobacco products or inhalant delivery systems.

(b) Moneys received by the authority under paragraph (a) of this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101. Moneys subject to a federal restriction or other funding source restriction must be accounted for separately from other fund moneys.

(5)(a) The authority shall submit a written report each biennium to the Governor and to the appropriate committee or interim committee of the Legislative Assembly to which matters of public health are assigned.

(b) The report submitted under this subsection must contain information describing:

(A) The activities carried out to enforce the laws listed in subsection (2) of this section during the previous fiscal year biennium;

(B) The extent of success achieved in reducing the availability of tobacco products and inhalant delivery systems to persons under 21 years of age; and

(C) The strategies to be utilized for enforcing the laws listed in subsection (2) of this section during the year biennium following the report.

(2) (6) The authority shall adopt rules for conducting random inspections of establishments that distribute or sell tobacco products or inhalant delivery systems. The rules shall provide that inspections may take place:

(a) Only in areas open to the public;

(b) Only during the hours that tobacco products or inhalant delivery systems are distributed or sold; and

(c) No more frequently than once a month in any single establishment
unless a compliance problem exists or is suspected.

[(3) The Oregon Liquor Control Commission, pursuant to an agreement or otherwise, may assist the authority with the authority’s duties under subsection (1)(a) of this section and the enforcement of ORS 431A.175.]

SECTION 9. ORS 433.847 is amended to read:

ORS 433.847. (1) The Oregon Health Authority shall adopt rules establishing a certification system for smoke shops and any rules necessary for the implementation, administration and enforcement of ORS 433.835 to 433.875. In adopting [such] rules under this section, the authority shall prohibit the smoking, aerosolizing or vaporizing of inhalants that are not tobacco products in smoke shops.

(2) The authority shall issue a smoke shop certification to a business that:

(a)(A) Is primarily engaged in the sale, for off-premises consumption or use, of tobacco products and smoking instruments used to smoke tobacco products, with at least 75 percent of the gross revenues of the business resulting from such sales;

(B) Prohibits persons under 21 years of age from entering the premises;

(C) Does not offer video lottery games as authorized under ORS 461.217, social gaming or betting on the premises;

(D) Does not:

(i) Sell or offer food or beverages [and does not sell, offer or allow on-premises consumption of alcoholic beverages], including alcoholic beverages, for on-premises consumption; or

(ii) Allow on-premises consumption of alcoholic beverages;

(E) Is a stand-alone business with no other businesses or residential property attached to the premises;

(F) Has a maximum seating capacity of four persons; and

(G) Allows the smoking of tobacco product samples only for the purpose of making retail purchase decisions;

(b) On December 31, 2008:

(A) Met the requirements of paragraph (a)(A) to (D) of this subsection;
and

(B)(i) Was a stand-alone business with no other businesses or residential property attached; or

(ii) Had a ventilation system that exhausted smoke from the business and was designed and terminated in accordance with the state building code standards for the occupancy classification in use; or

(c)(A) Was certified as a smoke shop under ORS 433.835, as in effect immediately before June 30, 2011, by the authority on or before December 31, 2012; [and]

(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes[.];

(C) Does not:

(i) Sell or offer alcoholic beverages for on-premises consumption;

or

(ii) Allow on-premises consumption of alcoholic beverages; and

(D) Prohibits persons under 21 years of age from entering the premises.

(3) A smoke shop certified under subsection (2)(b) of this section must renew the smoke shop certification every five years by demonstrating to the satisfaction of the authority that the smoke shop:

(a)(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section; and

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(4) A smoke shop certified under subsection (2)(c) of this section must renew the smoke shop certification every five years by demonstrating to the
satisfaction of the authority that the smoke shop:

(a) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; and

(b) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes;

(c) Does not:

(i) Sell or offer alcoholic beverages for on-premises consumption; or

(ii) Allow on-premises consumption of alcoholic beverages; and

(d) Prohibits persons under 21 years of age from entering the premises.

(5) The owner of a smoke shop certified under subsection (2)(b) or (c) of this section may transfer the certification with ownership of the smoke shop if the transfer is made in accordance with rules adopted by the authority.

(6) A smoke shop certified under subsection (2)(b) of this section may continue to be certified in a new location under subsection (2)(b) of this section if:

(a)(A) The new location occupies no more than 3,500 square feet; or

(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:

(A) Meets the requirements of subsection (2)(a)(A) to (D) of this section;

(B)(i) Is a stand-alone business with no other businesses or residential property attached; or

(ii) Has a ventilation system that exhausts smoke from the business and is designed and terminated in accordance with the state building code standards for the occupancy classification in use; and

(C) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(7) A smoke shop certified under subsection (2)(c) of this section may
continue to be certified in a new location under subsection (2)(c) of this section if:

(a) (A) The new location occupies no more than 3,500 square feet; or
(B) If the old location occupied more than 3,500 square feet, the new location occupies no more than 110 percent of the space occupied by the old location; and

(b) The smoke shop as operated in the new location:
(A) Meets the requirements of ORS 433.835, as in effect immediately before June 30, 2011; [and]
(B) Allows the smoking of cigarettes only if at least 75 percent of the gross revenues of the business results from the sale of cigarettes.

(C) Does not:
(i) Sell or offer alcoholic beverages for on-premises consumption;
or
(ii) Allow on-premises consumption of alcoholic beverages; and

(D) Prohibits persons under 21 years of age from entering the premises.

(8) Rules adopted under this section must provide that, in order to obtain a smoke shop certification, a business must agree to allow the authority to make unannounced inspections of the business to determine compliance with ORS 433.835 to 433.875.

(9)(a) Subject to ORS chapter 183, the authority may revoke or refuse to issue or renew a certification to a smoke shop for a violation of any provision of ORS 433.835 to 433.875 or a violation of any rule adopted under ORS 433.835 to 433.875.

(b) If the authority revokes the certification or denies the renewal of the certification of a smoke shop that was certified under subsection (2)(b) or (c) of this section, the authority may not issue a new certification to the smoke shop under subsection (2)(b) or (c) of this section.

SECTION 10. ORS 413.101 is amended to read:
413.101. The Oregon Health Authority Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Oregon Health Authority Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Health Authority for carrying out the duties, functions and powers of the authority under ORS 413.032 and 431A.183.

SECTION 11. The State Police Tobacco Law Enforcement Fund established under ORS 181A.330 is abolished. Any unexpended balances of amounts authorized to be expended by the Department of State Police, from moneys continuously appropriated, appropriated or otherwise made available to the fund for the purpose of carrying out the duties, functions and powers of the program described in ORS 181A.335, remaining in the fund on the operative date specified in section 12 of this 2019 Act are transferred to the Oregon Health Authority Fund established under ORS 413.101. The moneys transferred are available for expenditure by the Oregon Health Authority for the purpose of administering and enforcing the duties of the authority under ORS 431A.183.

SECTION 12. (1) Section 11 of this 2019 Act and the amendments to ORS 413.101, 431A.183 and 433.847 by sections 8, 9 and 10 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the authority by section 11 of this 2019 Act and the amendments to ORS 413.101, 431A.183 and 433.847 by sections 8, 9 and 10 of this 2019 Act.

HEALTH LICENSING OFFICE
SECTION 13. ORS 676.150, as amended by section 19, chapter 61, Oregon Laws 2018, is amended to read:
676.150. (1) As used in this section:
(a) “Board” means the:
(A) State Board of Examiners for Speech-Language Pathology and Audiology;
(B) State Board of Chiropractic Examiners;
(C) State Board of Licensed Social Workers;
(D) Oregon Board of Licensed Professional Counselors and Therapists;
(E) Oregon Board of Dentistry;
(F) Board of Licensed Dietitians;
(G) State Board of Massage Therapists;
(H) Oregon Board of Naturopathic Medicine;
(I) Oregon State Board of Nursing;
(J) Long Term Care Administrators Board;
(K) Oregon Board of Optometry;
(L) State Board of Pharmacy;
(M) Oregon Medical Board;
(N) Occupational Therapy Licensing Board;
(O) Physical Therapist Licensing Board;
(P) Oregon Board of Psychology;
(Q) Board of Medical Imaging;
(R) State Board of Direct Entry Midwifery;
(S) State Board of Denture Technology;
(T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
(U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
(V) Oregon State Veterinary Medical Examining Board; or
(W) State Mortuary and Cemetery Board.
(b) “Licensee” means a health professional licensed or certified by or
registered with a board.

(c) “Prohibited conduct” means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

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

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

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

(6) A licensee who fails to report prohibited conduct as required by sub-
section (2) of this section commits a Class A violation.

(7)(a) Notwithstanding any other provision of law, a report under subsection (2) or (3) of this section is confidential under ORS 676.175.

(b) A board may disclose a report as provided in ORS 676.177.

(c) If the Health Licensing Office receives a report described in this subsection, the report is confidential and the office may only disclose the report pursuant to ORS 676.595 and 676.599.

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

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

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

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

SECTION 14. ORS 676.560 is amended to read:

676.560. (1) To provide for the more effective coordination of administrative and regulatory functions of certain health boards, [and] councils and programs involved in protecting the public through the licensing and regulation of health-related professions and occupations practiced in this state under a uniform mission and uniform goals, the Health Licensing Office is created within the Oregon Health Authority.

(2) The mission of the office is to serve the public by providing a uniform structure and accountability for the boards, [and] councils and programs under its administration to protect the public from harm. The office’s focus is to:

(a) Promote effective health policy that protects the public from incom-
petent or unauthorized individuals and allows consumers to select a provider
from a range of safe options.

  (b) Provide outreach and training to stakeholders to improve compliance
with public health and safety standards, and to involve stakeholders in the
regulation of the various disciplines and fields of practice.

  (c) Form partnerships and work in collaboration with each constituency,
local and state governmental agencies, educators, organizations and other
affected entities to encourage diverse opinions and perspectives.

  (d) Provide the boards, [and] councils and programs with a standardized
administrative forum and procedures for operation, fiscal services, licensing,
enforcement and complaint resolution.

  (e) Resolve disputes between regulatory entities regarding the scope of
practice of persons with authorization by those entities in the professions
and occupations overseen by those boards, [and] councils and programs.

SECTION 15. ORS 676.565, as amended by section 22, chapter 61, Oregon
Laws 2018, is amended to read:

676.565. Pursuant to ORS 676.568, the Health Licensing Office shall pro-
vide administrative and regulatory oversight and centralized service for the
following boards, councils and programs:

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

(2) Board of Cosmetology, as provided in ORS 690.005 to 690.225;

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

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

(5) Respiratory Therapist and Polysomnographic Technologist Licensing
Board, as provided in ORS 688.800 to 688.840;

(6) Environmental Health Registration Board, as provided in ORS chapter
700;

(7) Board of Electrologists and Body Art Practitioners, as provided in
ORS 690.350 to 690.410;

[20]
(8) Advisory Council on Hearing Aids, as provided in ORS 694.015 to 694.170;
(9) Sex Offender Treatment Board, as provided in ORS 675.360 to 675.410;
(10) Long Term Care Administrators Board, as provided in ORS 678.710 to 678.820;
(11) Board of Licensed Dietitians, as provided in ORS 691.405 to 691.485;
(12) Behavior Analysis Regulatory Board, as provided in ORS 676.806;
(13) Board of Certified Advanced Estheticians, as provided in ORS 676.630 to 676.660;
(14) Art therapy, as provided in ORS 681.740 to 681.758; [and]
(15) Lactation consultation, as provided in ORS 676.665 to 676.689; and
(16) Music therapy, as provided in ORS 681.700 to 681.730.

SECTION 16. ORS 676.579 is amended to read:
676.579. (1)(a) The Health Licensing Office is under the supervision and control of a director, who is responsible for the performance of the duties, functions and powers and for the organization of the office.
(b) The Director of the Oregon Health Authority shall establish the qualifications for and appoint the Director of the Health Licensing Office, who holds office at the pleasure of the Director of the Oregon Health Authority.
(c) The Director of the Health Licensing Office shall receive a salary as provided by law or, if not so provided, as prescribed by the Director of the Oregon Health Authority.
(d) The Director of the Health Licensing Office is in the unclassified service.
(2) The Director of the Health Licensing Office shall provide the boards, councils and programs administered by the office with any services and employees as the office requires to carry out the office’s duties. Subject to any applicable provisions of the State Personnel Relations Law, the Director of the Health Licensing Office shall appoint all subordinate officers and employees of the office, prescribe their duties and fix their compensation.
(3) The Director of the Health Licensing Office is responsible for carrying out the duties, functions and powers under ORS 675.360 to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815, 676.825, 676.992, 678.710 to 678.820, 680.500 to 680.565, \textit{681.700 to 681.730}, 681.740 to 681.758, 687.405 to 687.495, 687.895, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410, 691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700.

(4) The enumeration of duties, functions and powers in subsection (3) of this section is not intended to be exclusive or to limit the duties, functions and powers imposed on or vested in the office by other statutes.

\textbf{SECTION 17.} ORS 676.590 is amended to read:

676.590. (1) [\textit{Upon request, the Health Licensing Office shall disclose to a person against whom disciplinary action is sought information, including complaints and information identifying complainants, but not including information that is otherwise privileged or confidential under state or federal law,}] \textbf{Information} obtained by the \textbf{Health Licensing} Office as part of an investigation conducted under the following laws and any reports issued by an investigator are exempt from public disclosure:

(a) ORS 676.630 to 676.660, \textit{676.665 to 676.689}, 681.700 to 681.730, \textit{681.740 to 681.758}, 690.005 to 690.225, 690.350 to 690.410 or 694.015 to 694.170.

(b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:

(A) Advanced nonablative esthetics under ORS 676.630 to 676.660;

(B) \textbf{Lactation consultation under ORS 676.665 to 676.689};

[(B)] (C) Music therapy under ORS 681.700 to 681.730;

(D) \textbf{Art therapy under ORS 681.740 to 681.758};

[(C)] (E) Barbering, hair design, esthetics, nail technology or natural hair care under ORS 690.005 to 690.225;

[(D)] (F) Electrologists and body art practitioners under ORS 690.350 to 690.410; or

[(E)] (G) Dealing in hearing aids under ORS 694.015 to 694.170.
(2) The office shall disclose information obtained as part of an investigation described in subsection (1) of this section to a person who demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.

(3) A complaint that forms the basis for an investigation described in subsection (1) of this section shall not be considered information obtained as part of an investigation and is not exempt from public disclosure.

(4) Upon request, the office shall disclose to a person against whom disciplinary action is sought any information obtained as part of an investigation described in section (1) of this section, if the information is not otherwise privileged or confidential under state or federal law.

SECTION 18. ORS 676.595, as amended by section 23, chapter 61, Oregon Laws 2018, is amended to read:

ORS 676.595. (1) As used in this section, “board” means the:

(a) Sex Offender Treatment Board established under ORS 675.395.
(b) Behavior Analysis Regulatory Board created under ORS 676.806.
(c) Long Term Care Administrators Board established under ORS 678.800.
(d) State Board of Denture Technology established under ORS 680.556.
(e) State Board of Direct Entry Midwifery established under ORS 687.470.
(f) Board of Athletic Trainers established under ORS 688.705.
(g) Respiratory Therapist and Polysomnographic Technologist Licensing Board established under ORS 688.820.
(h) Board of Licensed Dietitians established under ORS 691.485.
(i) Environmental Health Registration Board established under ORS 700.210.

(2) Except to the extent that disclosure is necessary to conduct a full and proper investigation, the Health Licensing Office may not disclose information, including complaints and information identifying complainants, obtained by the office as part of an investigation conducted under:
(a) ORS 675.360 to 675.410, 676.810 to 676.820, 676.825, 676.830, 678.710 to 678.820, 680.500 to 680.565, 687.405 to 687.495, 688.701 to 688.734, 688.800 to 688.840 or 691.405 to 691.485 or ORS chapter 700.
(b) ORS 676.560 to 676.625 if the investigation is related to the regulation of:
(A) Sex offender therapy under ORS 675.360 to 675.410;
(B) Applied behavior analysis under ORS 676.810 to 676.820, 676.825 and 676.830;
(C) Nursing home administration and residential care facility administration under ORS 678.710 to 678.820;
(D) The practice of denture technology under ORS 680.500 to 680.565;
(E) Direct entry midwifery under ORS 687.405 to 687.495;
(F) Athletic training under ORS 688.701 to 688.734;
(G) Respiratory care and polysomnography under ORS 688.800 to 688.840;
(H) Dietetics under ORS 691.405 to 691.485; or
(I) Environmental or waste water sanitation under ORS chapter 700.

(3) Notwithstanding subsection (2) of this section, if the office or board decides not to impose a disciplinary sanction after conducting an investigation described in subsection (2) of this section:
(a) The office shall disclose information obtained as part of the investigation if the person requesting the information demonstrates by clear and convincing evidence that the public interest in disclosure outweighs other interests in nondisclosure, including the public interest in nondisclosure.
(b) The office may disclose to a complainant who made a complaint related to the investigation a written summary of information obtained as part of the investigation to the extent that disclosure is necessary to explain the office’s or board’s decision. The person who is the subject of the investigation may review and obtain a copy of a written summary disclosed under this paragraph after the office has redacted any information identifying the complainant.
(4) Notwithstanding subsection (2) of this section, if a decision is made
to impose a disciplinary sanction and to issue a notice of intent to impose
a disciplinary sanction after conducting an investigation described in sub-
section (2) of this section, upon written request by the person who is the
subject of the investigation, the office shall disclose to the person all infor-
mation obtained by the office or board during the investigation, except that
the office may not disclose:

(a) Information that is otherwise privileged or confidential under state
or federal law.
(b) Information identifying a person who provided information that led to
the investigation, unless the person will provide testimony at a hearing
arising out of the investigation.
(c) Information identifying a complainant.
(d) Reports of expert witnesses.
(5) Information disclosed to a person under subsection (4) of this section
may be further disclosed by the person only to the extent that disclosure is
necessary to prepare for a hearing arising out of the investigation.
(6) The office shall disclose:
(a) Any notice related to the imposition of a disciplinary sanction.
(b) A final order related to the imposition of a disciplinary sanction.
(c) An emergency suspension order.
(d) A consent order or stipulated agreement that involves the conduct of
a person against whom discipline is sought.
(e) Information to further an investigation into board conduct under ORS
192.685.
(7) The office or board must summarize the factual basis for the office’s
or board’s disposition of:
(a) A final order related to the imposition of a disciplinary sanction;
(b) An emergency suspension order; or
(c) A consent order or stipulated agreement that involves the conduct of
a person against whom discipline is sought.
(8)(a) An office or board record or order, or any part of an office or
board record or order, that is obtained during an investigation described in subsection (2) of this section, during a contested case proceeding or as a result of entering into a consent order or stipulated agreement is not admissible as evidence and may not preclude an issue or claim in a civil proceeding.

(b) This subsection does not apply to a proceeding between the office or board and a person against whom discipline is sought as otherwise authorized by law.

(9)(a) Notwithstanding subsection (2) of this section, the office is not publicly disclosing information when the office permits other public officials and members of the press to attend executive sessions where information obtained as part of an investigation is discussed. Public officials and members of the press attending such executive sessions may not disclose information obtained as part of an investigation to any other member of the public.

(b) For purposes of this subsection, “public official” means a member, member-elect or employee of a public entity as defined in ORS 676.177.

(10) The office may establish fees reasonably calculated to reimburse the actual cost of disclosing information to a person against whom discipline is sought as required by subsection (4) of this section.

SECTION 19. ORS 676.608 is amended to read:

676.608. (1) As used in this section, “public entity” has the meaning given that term in ORS 676.177.

(2)(a) The Health Licensing Office shall carry out the investigatory duties necessary to enforce the provisions of ORS 676.560 to 676.625 and 676.992.

(b) Subject to subsection (12) of this section, the office, upon its own motion, may initiate and conduct investigations of matters relating to the practice of occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.

(c) Subject to subsection (12) of this section, the office shall investigate all complaints received by the office relating to the practice of
occupations or professions subject to the authority of the boards, councils and programs listed in ORS 676.565.

(3) While conducting an investigation authorized under subsection (2) of this section or a hearing related to an investigation, the office may:

(a) Take evidence;
(b) Administer oaths;
(c) Take the depositions of witnesses, including the person charged;
(d) Compel the appearance of witnesses, including the person charged;
(e) Require answers to interrogatories;
(f) Compel the production of books, papers, accounts, documents and testimony pertaining to the matter under investigation; and
(g) Conduct criminal and civil background checks to determine conviction of a crime that bears a demonstrable relationship to the field of practice.

(4) In exercising its authority under this section, the office may issue subpoenas over the signature of the Director of the Health Licensing Office or designated employee of the director and in the name of the State of Oregon.

(5) If a person fails to comply with a subpoena issued under this section, the judge of the Circuit Court for Marion County may compel obedience by initiating proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court.

(6) If necessary, the director, or an employee designated by the director, may appear before a magistrate empowered to issue warrants in criminal cases to request that the magistrate issue a warrant. The magistrate shall issue a warrant, directing it to any sheriff or deputy or police officer, to enter the described property, to remove any person or obstacle, to defend any threatened violence to the director or a designee of the director or an officer, upon entering private property, or to assist the director in enforcing the office’s authority in any way.

(7) In all investigations and hearings, the office and any person affected by the investigation or hearing may have the benefit of counsel.
(8) If an authorization holder who is the subject of a complaint or an investigation is to appear before the office, the office shall provide the authorization holder with a current summary of the complaint or the matter being investigated not less than 10 days before the date that the authorization holder is to appear. At the time the summary of the complaint or the matter being investigated is provided, the office shall provide the authorization holder with a current summary of documents or alleged facts that the office has acquired as a result of the investigation. The name of the complainant may be withheld from the authorization holder.

(9) An authorization holder who is the subject of an investigation, and any person acting on behalf of the authorization holder, may not contact the complainant until the authorization holder has requested a contested case hearing and the office has authorized the taking of the complainant’s deposition pursuant to ORS 183.425.

(10) Except in an investigation or proceeding conducted by the office or another public entity, or in an action, suit or proceeding in which a public entity is a party, an authorization holder may not be questioned or examined regarding any communication with the office made in an appearance before the office as part of an investigation.

(11) This section does not prohibit examination or questioning of an authorization holder regarding records about the authorization holder’s care and treatment of a patient or affect the admissibility of those records.

(12) In conducting an investigation related to the practice of direct entry midwifery, as defined in ORS 687.405, the office shall:
   (a) Allow the State Board of Direct Entry Midwifery to review the motion or complaint before beginning the investigation;
   (b) Allow the board to prioritize the investigation with respect to other investigations related to the practice of direct entry midwifery; and
   (c) Consult with the board during and after the investigation for the purpose of determining whether to pursue disciplinary action.

SECTION 20. ORS 676.612 is amended to read:
676.612. (1) Subject to ORS 676.616 and 687.445, and in the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 676.685, 676.825, 678.780, 680.535, 681.755, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111 and section 42 of this 2019 Act, the Health Licensing Office may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit an authorization or may discipline or place on probation an authorization holder for commission of the prohibited acts listed in subsection (2) of this section.

(2) A person subject to the authority of a board, council or program listed in ORS 676.565 commits a prohibited act if the person engages in:

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

(b) Using, causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, insignia or any other representation, however disseminated or published, that is false, misleading or deceptive.

(c) Making a representation that the authorization holder knew or should have known is false or misleading regarding skill or the efficacy or value of treatment or remedy administered by the authorization holder.

(d) Practicing under a false, misleading or deceptive name, or impersonating another authorization holder.

(e) Permitting a person other than the authorization holder to use the authorization.

(f) Practicing with a physical or mental condition that presents an unreasonable risk of harm to the authorization holder or to the person or property of others in the course of performing the authorization holder’s duties.

(g) Practicing while under the influence of alcohol, cannabis, controlled substances or other skill-impairing substances, or engaging in the illegal use
of controlled substances or other skill-impairing substances so as to create
a risk of harm to the person or property of others in the course of performing
the duties of an authorization holder.

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

(i) Employing, directly or indirectly, any suspended, uncertified, unli-
censed or unregistered person to practice a regulated occupation or profes-
sion subject to the authority of the boards, councils and programs listed in
ORS 676.565.

(j) Unprofessional conduct, negligence, incompetence, repeated violations
or any departure from or failure to conform to standards of practice in per-
forming services or practicing in a regulated occupation or profession subject
to the authority of the boards, councils and programs listed under ORS
676.565.

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

(L) Failing to report any adverse action, as required by statute or rule,
taken against the authorization holder by another regulatory jurisdiction or
any peer review body, health care institution, professional association, gov-
ernmental agency, law enforcement agency or court for acts or conduct
similar to acts or conduct that would constitute grounds for disciplinary
action as described in this section.

(m) Violation of a statute regulating an occupation or profession subject
to the authority of the boards, councils and programs listed in ORS 676.565.

(n) Violation of any rule regulating an occupation or profession subject
to the authority of the boards, councils and programs listed in ORS 676.565.

(o) Failing to cooperate with the office in any investigation, inspection
or request for information.

(p) Selling or fraudulently obtaining or furnishing an authorization to
practice in a regulated occupation or profession subject to the authority of
the boards, councils and programs listed in ORS 676.565, or aiding or
abetting such an act.

(q) Selling or fraudulently obtaining or furnishing any record related to
practice in a regulated occupation or profession subject to the authority of
the boards, councils and programs listed in ORS 676.565, or aiding or
abetting such an act.

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

(3) For the purpose of requesting a state or nationwide criminal records
check under ORS 181A.195, the office may require the fingerprints of a per-
son who is:

(a) Applying for an authorization;
(b) Applying for renewal of an authorization; or
(c) Under investigation by the office.

(4) If the office places an authorization holder on probation under sub-
section (1) of this section, the office, in consultation with the appropriate
board, council or program, may determine and at any time modify the con-
ditions of the probation.

(5) If an authorization is suspended, the authorization holder may not
practice during the term of suspension. Upon the expiration of the term of
suspension, the authorization may be reinstated by the office if the condi-
tions of suspension no longer exist and the authorization holder has satisfied
all requirements in the relevant statutes or administrative rules for issuance,
renewal or reinstatement.

SECTION 21. ORS 676.613 is amended to read:

ORS 676.613. (1) In addition to all other remedies, when it appears to the
Health Licensing Office that a person is engaged in, has engaged in or is
about to engage in any act, practice or transaction that violates any pro-
vision of ORS 675.360 to 675.410, 676.665 to 676.689, 676.810, 676.815, 678.710
to 678.820, 680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405

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to 687.495, 688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to
690.410, 691.405 to 691.485 or 694.015 to 694.170 or ORS chapter 700, the office
may, through the Attorney General or the district attorney of the county in
which the act, practice or transaction occurs or will occur, apply to the
court for an injunction restraining the person from the act, practice or
transaction.

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

SECTION 22. ORS 676.622 is amended to read:

676.622. (1) A transaction conducted through a state or local system or
network that provides electronic access to the Health Licensing Office in-
formation and services is exempt from any requirement under ORS 675.360
to 675.410, 676.560 to 676.625, 676.665 to 676.689, 676.810, 676.815, 676.992,
680.500 to 680.565, 681.700 to 681.730, 681.740 to 681.758, 687.405 to 687.495,
688.701 to 688.734, 688.800 to 688.840, 690.005 to 690.225, 690.350 to 690.410,
691.405 to 691.485 and 694.015 to 694.170 and ORS chapter 700, and rules
adopted thereunder, requiring an original signature or the submission of
handwritten materials.

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

SECTION 23. The amendments to ORS 676.150, 676.560, 676.565,
676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections
13 to 22 of this 2019 Act apply to complaints and reports received on
or after the operative date specified in section 24 of this 2019 Act.

SECTION 24. (1) The amendments to ORS 676.150, 676.560, 676.565,
676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections
13 to 22 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the op-
erative date specified in subsection (1) of this section that is necessary
to enable the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by the amendments to ORS 676.150, 676.560, 676.565, 676.579, 676.590, 676.595, 676.608, 676.612, 676.613 and 676.622 by sections 13 to 22 of this 2019 Act.

TRAUMA ADVISORY BOARDS

SECTION 25. ORS 431A.055 is amended to read:

431A.055. (1) The State Trauma Advisory Board is established within the Oregon Health Authority. The board must have at least 18 members. The Director of the Oregon Health Authority shall appoint at least 17 voting members as described in subsection (2) of this section. The chairperson of the State Emergency Medical Service Committee established under ORS 682.039, or the chairperson’s designee, shall be a nonvoting member.

(2) The director shall, subject to subsection (3) of this section, appoint members to serve on the State Trauma Advisory Board, including:

(a) At least one member from each area trauma advisory board described in ORS 431A.070.

(b) At least two physicians who are trauma surgeons from each trauma center designated by the authority as a Level I trauma center.

(c) From trauma centers designated by the authority as Level I or Level II trauma centers:

\[(A)\] at least one physician who is a neurosurgeon; and
\[(B)\] At least one physician who is an orthopedic surgeon.

(d) From trauma centers designated by the authority as Level I trauma centers:

\[(A)\] At least one physician who practices emergency medicine; and
\[(B)\] At least one nurse who is a trauma program manager.

(e) From trauma centers designated by the authority as Level II trauma centers:
(A) At least one physician who is a trauma surgeon; and
(B) At least one nurse who is a trauma coordinator.

(f) From trauma centers designated by the authority as Level III trauma centers:
(A) At least one physician who is a trauma surgeon or who practices emergency medicine; and
(B) At least one nurse who is a trauma coordinator.

(g) At least one nurse who is a trauma coordinator from a trauma center designated by the authority as a Level IV trauma center.

(h) From a predominately urban area:
(A) At least one trauma hospital administration representative; and
(B) At least one emergency medical services provider.

(i) From a predominately rural area:
(A) At least one trauma hospital administration representative; and
(B) At least one emergency medical services provider.

(j) At least two public members.

(k) At least one representative from a public safety answering point.

(3) In appointing members under subsection (2)(j) of this section, the director may not appoint a member who has an economic interest in the provision of emergency medical services or trauma care.

(4)(a) The State Trauma Advisory Board shall:
(A) Advise the authority with respect to the authority’s duties and responsibilities under ORS 431A.050 to 431A.080, 431A.085, 431A.090, 431A.095, 431A.100 and 431A.105;
(B) Advise the authority with respect to the adoption of rules under ORS 431A.050 to 431A.080, 431A.085, 431A.095 and 431A.105;
(C) Analyze data related to the emergency medical services and trauma system developed pursuant to ORS 431A.050; and
(D) Suggest improvements to the emergency medical services and trauma system developed pursuant to ORS 431A.050.
(b) In fulfilling the duties, functions and powers described in this subsection, the board shall:

(A) Make evidence-based decisions that emphasize the standard of care attainable throughout this state and by individual communities located in this state; and

(B) Seek the advice and input of coordinated care organizations.

(5)(a) The State Trauma Advisory Board may establish a Quality Assurance Subcommittee for the purposes of providing peer review support to and discussing evidence-based guidelines and protocols with the members of area trauma advisory boards and trauma care providers located in this state.

(b) Notwithstanding ORS 414.227, meetings of the subcommittee are not subject to ORS 192.610 to 192.690.

(c) Personally identifiable information provided by the State Trauma Advisory Board to individuals described in paragraph (a) of this subsection is not subject to ORS 192.311 to 192.478.

(6) A majority of the voting members of the board constitutes a quorum for the transaction of business.

(7) Official action taken by the board requires the approval of a majority of the voting members of the board.

(8) The board shall nominate and elect a chairperson from among its voting members.

(9) The board shall meet at the call of the chairperson or of a majority of the voting members of the board.

(10) The board may adopt rules necessary for the operation of the board.

(11) The term of office of each voting member of the board is four years, but a voting member serves at the pleasure of the director. Before the expiration of the term of a voting member, the director shall appoint a successor whose term begins January 1 next following. A voting member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(12) Members of the board are not entitled to compensation, but may be
reimbursed from funds available to the Oregon Health Authority, for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amounts provided for in ORS 292.495.

SECTION 26. ORS 431A.070 is amended to read:

431A.070. (1)(a) Area trauma advisory boards shall meet as often as necessary to:

(A) Identify specific trauma area needs and problems; and

(B) Propose to the Oregon Health Authority area trauma system plans and changes that meet state standards and objectives.

(b) The authority, acting with the advice of the State Trauma Advisory Board established under ORS 431A.055, has the authority to implement plans and changes proposed under paragraph (a) of this subsection.

(2) In concurrence with the Governor, the authority shall select members for each trauma area from lists submitted by local associations of emergency medical services providers, emergency nurses, emergency physicians, surgeons, hospital administrators, emergency medical services agencies and citizens at large. The members of an area trauma advisory board must be broadly representative of the trauma area as a whole. An area trauma advisory board must consist of at least \(15\) members and must include:

(a) \(Three\) \(Two\) surgeons;

(b) Two physicians serving as emergency physicians;

(c) Two hospital administrators from different hospitals;

(d) Two nurses serving as emergency nurses;

(e) Two emergency medical services providers serving different emergency medical services;

(f) One emergency medical services medical director;

(g) Two representatives of the public at large selected from among those submitting letters of application in response to public notice by the authority;

(h) One representative of any bordering state that is included within the
patient referral area; [and]

(i) One ambulance service owner or operator or both; and

(j) One representative from a public safety answering point.

(3) Members of an area trauma advisory board described in subsection

(2)(g) of this section may not have an economic interest in health care ser-

vices provided in the trauma area for which the area trauma advisory board

makes proposals under subsection (1)(a)(B) of this section.

SECTION 27. The amendments to ORS 431A.055 and 431A.070 by

sections 25 and 26 of this 2019 Act apply to individuals who are mem-

bers of the State Trauma Advisory Board and area trauma advisory

boards on or after the operative date specified in section 28 of this 2019

Act.

SECTION 28. (1) The amendments to ORS 431A.055 and 431A.070 by


(2) The Oregon Health Authority may take any action before the

operative date specified in subsection (1) of this section that is neces-

sary to enable the authority to exercise, on and after the operative

date specified in subsection (1) of this section, all of the duties, func-

tions and powers conferred on the authority by the amendments to

ORS 431A.055 and 431A.070 by sections 25 and 26 of this 2019 Act.

DISEASES AND INFECTIONS

SECTION 29. ORS 432.510, as amended by section 13, chapter 98, Oregon

Laws 2018, is amended to read:

432.510. (1) The Oregon Health Authority[,] or designee[,] shall establish a

uniform, statewide, population-based registry system for the collection of in-

formation determining the incidence of cancer and benign or borderline tu-

mors of the brain and central nervous system and related data. The purpose

of the registry [shall be] is to provide information to design, target, monitor,

facilitate and evaluate efforts to determine the causes or sources of cancer

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and benign or borderline tumors among the residents of this state and to 
reduce the burden of cancer and benign or borderline tumors in this state. 
Such efforts may include but are not limited to:
(a) Targeting populations in need of cancer screening services or evalu-
ating screening or other cancer control services;
(b) Supporting the operation of hospital registries in monitoring and up-
grading the care and the end results of treatment for cancer and benign or
borderline tumors;
(c) Investigating suspected clusters or excesses of cancer and benign or
borderline tumors both in occupational settings and in the state’s environ-
ment generally;
(d) Conducting studies to identify cancer hazards to the public health and
cancer hazard remedies; and
(e) Projecting the benefits or costs of alternative policies regarding the
prevention or treatment of cancer and benign or borderline tumors.
(2) The authority shall adopt rules necessary to carry out the purposes
of ORS 432.510 to 432.550 and 432.900, including but not limited to designat-
ing which types of cancer and benign or borderline tumors of the brain and
central nervous system are reportable to the statewide registry, the data to
be reported, the data reporting standards and format and the effective date
after which reporting by health care facilities, clinical laboratories and
practitioners shall be required. When adopting rules under this subsection,
the authority shall, to the greatest extent practicable, conform the rules to
the standards and procedures established by the American College of Sur-
geons Commission on Cancer, with the goal of achieving uniformity in the
collection and reporting of data.
(3) The authority [or designee] shall:
(a) Conduct a program of epidemiologic analyses of registry data collected
under subsection (1) of this section to assess control, prevention, treatment
and causation of cancer and benign or borderline tumors in this state; and
(b) Utilize the data to promote, facilitate and evaluate programs designed
to reduce the burden of cancer and benign or borderline tumors among the
residents of Oregon.

(4) The authority [or designee] shall:
(a) Collaborate in studies of cancer and benign or borderline tumors with
clinicians and epidemiologists and publish reports on the results of such
studies; and
(b) Cooperate with the National Institutes of Health and the Centers for
Disease Control and Prevention in providing incidence data for cancer and
benign or borderline tumors.

(5) The authority [or designee] shall establish a training program for the
personnel of participating health care facilities and a quality control pro-
gram for data for cancer and benign or borderline tumors reported to the
state registry.

(6) The authority may contract with a public or private third party
to:
(a) Operate or maintain the statewide registry; and
(b) Fulfill the authority’s duties under subsections (3) to (5) of this
section.

SECTION 30. ORS 432.520 is amended to read:
432.520. (1) Except as provided in subsection (2) of this section, any health
care facility in which patients are diagnosed or provided treatment for can-
cer or benign or borderline tumors of the brain and central nervous system
shall report each case of cancer or benign or borderline tumors of the brain
and central nervous system to the Oregon Health Authority or its author-
ized representative within a time period and in a format prescribed by the
authority. The authority may provide, at cost, reporting services to health
care facilities. Health care facilities may also purchase reporting services
from another facility or commercial vendor. If a health care facility is unable
to report in conformance with the format and standards prescribed by the
authority, the authority may, after consultation with the health care facility,
elect to activate its reporting service for the facility. When activated, the
authority may enter the facility, obtain the information and report it in
conformance with the appropriate format and standards. In these instances,
the facility shall reimburse the authority or its authorized representative for
the cost of obtaining and reporting the information.

(2) Upon application to the authority by a health care facility, the au-
thority shall grant to the health care facility an extension of time in which
to meet the reporting requirements of this section. In no event shall the ex-
tension of time exceed one year from the date of application.

(3) Any licensed health care practitioner diagnosing or providing treat-
ment to patients with cancer or benign or borderline tumors of the brain and
central nervous system shall report each case to the authority or its au-
thorized representative within a time period and in a format prescribed by
the authority. Those cases diagnosed or treated at an Oregon health care
facility or previously admitted to an Oregon health care facility for diagnosis
or treatment of that instance of cancer or benign or borderline tumors of the
brain and central nervous system shall be considered by the authority to
have been reported by the licensed health care practitioner.

(4) Any clinical laboratory diagnosing cases of cancer or benign or
borderline tumors of the brain and central nervous system shall report each
case to the authority or its authorized representative within a time period
and in a format prescribed by the authority.

(5) For the purpose of assuring the accuracy and completeness of reported
data, the authority shall have the right to periodically review all records
that would:

(a) Identify cases of cancer and benign or borderline tumors, the treat-
ment of the cancer or benign or borderline tumors or the medical status of
any patient identified as being treated for cancer or benign or borderline
tumors; or

(b) Establish characteristics of the cancer or benign or borderline tumors.

(6) The authority may conduct special studies of cancer morbidity and
mortality. As part of such studies, registry personnel may obtain additional
information that applies to a patient’s cancer or benign or borderline tumors and that may be in the medical record of the patient. The record holder may either provide the requested information to the registry personnel or provide the registry personnel access to the relevant portions of the patient’s medical record. Neither the authority nor the record holder shall bill the other for the cost of providing or obtaining this information.

SECTION 31. ORS 433.004 is amended to read:

433.004. (1) The Oregon Health Authority shall by rule:

(a) Specify reportable diseases;

(b) Identify those categories of persons who must report reportable diseases and the circumstances under which the reports must be made;

(c) Prescribe the procedures and forms for making such reports and transmitting the reports to the authority; and

(d) Prescribe measures and methods for investigating the source and controlling reportable diseases.

(2) Persons required under the rules to report reportable diseases shall [do so by reporting] report to the authority or the local public health administrator as specified by the authority by rule. [The] A local public health administrator that receives a report under this subsection shall transmit [such reports] the report to the authority as specified by the authority by rule.

(3) The authority or local public health administrator may investigate a case of a reportable disease, disease outbreak or epidemic. The investigation may include, but is not limited to:

(a) Interviews of:

(A) The subject of a reportable disease report;

(B) Controls;

(C) Health care providers; or

(D) Employees of a health care facility.

(b) Requiring a health care provider, any public or private entity, or an individual who has information necessary for the investigation to:
(A) Permit inspection of the information by the authority or local public health administrator; and

(B) Release the information to the authority or local public health administrator.

(c) Inspection, sampling and testing of real or personal property with consent of the owner or custodian of the property or with an administrative warrant.

(4)(a) The authority shall establish by rule the manner in which information may be requested and obtained under subsection (3) of this section.

(b) Information requested may include, but is not limited to, individually identifiable health information related to:

(A) The case;

(B) An individual who may be the potential source of exposure or infection;

(C) An individual who has been or may have been exposed to or affected by the disease;

(D) Policies, practices, systems or structures that may have affected the likelihood of disease transmission; and

(E) Factors that may influence an individual’s susceptibility to the disease or likelihood of being diagnosed with the disease.

(5) In addition to other grounds for which a state agency may exercise disciplinary action against its licensees or certificate holders, the substantial or repeated failure of a licensee or certificate holder to report when required to do so under subsection (2) or (3) of this section shall be cause for the exercise of any of the agency’s disciplinary powers.

(6) Any person making a report or providing information under this section is immune from any civil or criminal liability that might otherwise be incurred or imposed with respect to the making of a report or providing information under this section.

SECTION 32. ORS 433.045, as amended by section 15, chapter 61, Oregon Laws 2018, is amended to read:
433.045. (1) As used in this section:

(a) “Health care provider” means an individual licensed by a health professional regulatory board, as defined in ORS 676.160, the Long Term Care Administrators Board, the Board of Licensed Dietitians or the Behavior Analysis Regulatory Board.

(b) “HIV test” means a test of an individual for the presence of HIV, or for antibodies or antigens that result from HIV infection, or for any other substance specifically indicating infection with HIV.

(c) “Insurance producer” has the meaning given that term in ORS 746.600.

(d) “Insurance-support organization” has the meaning given that term in ORS 746.600.

(e) “Insurer” has the meaning given that term in ORS 731.106.

(2) Except as provided in ORS 433.017, 433.055 
(3)
(2) and 433.080, a health care provider or the provider’s designee shall, before subjecting an individual to an HIV test:

(a) Notify the individual being tested; and

(b) Allow the individual being tested the opportunity to decline the test.

(3) The notification and opportunity to decline testing required under subsection (2) of this section may be verbal or in writing, and may be contained in a general medical consent form.

(4)(a) Regardless of the manner of receipt or the source of the information, including information received from the tested individual, a person may not disclose or be compelled to disclose the identity of any individual upon whom an HIV-related test is performed, or the results of such a test in a manner that permits identification of the subject of the test, except as required or permitted by federal law, the law of this state or any rule, including any authority rule considered necessary for public health or health care purposes, or as authorized by the individual whose blood is tested.

(b) This subsection does not apply to an individual acting in a private capacity and not in an employment, occupational or professional capacity.

(5) A person who complies with the requirements of this section is not
subject to an action for civil damages.

(6) Whenever an insurer, insurance producer or insurance-support organization asks an applicant for insurance to take an HIV test in connection with an application for insurance, the insurer, insurance producer or insurance-support organization must reveal the use of the test to the applicant and obtain the written consent of the applicant. The consent form must disclose the purpose of the test and the persons to whom the results may be disclosed.

SECTION 33. ORS 433.055 is amended to read:

433.055. (1) The Oregon Health Authority shall conduct studies of the prevalence of the HIV infection in this state. [Its findings shall be reported] The authority shall report findings to the Oregon Public Health Advisory Board, the Conference of Local Health Officials, the Emergency Board and other interested bodies at regular intervals, commencing in January 1988. The authority may cause the prevalence study of persons sentenced to the Department of Corrections of this state, as defined in ORS 421.005, to be made.

[(2) The authority shall contract with an appropriate education agency to prepare a curriculum regarding HIV infection, acquired immune deficiency syndrome (AIDS) and prevention of the spread of AIDS for all school districts and offer workshops to prepare teachers and parents to implement the curriculum. The authority shall award incentive grants from funds available therefor to school districts to encourage use of the curriculum in the schools.]  

SECTION 34. ORS 433.075 is amended to read:

433.075. (1) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065, the exposed person requesting the test, or the exposed person's employer in the case of an occupational exposure, shall
be responsible for the cost of the testing.

(2) If an employer provides a program of prevention, education and testing for HIV exposures for its employees, an employee to be tested under ORS 433.060 to 433.080 shall comply with the procedures provided by the program. [The program must be approved by the Oregon Health Authority.]

(3) When an HIV test is performed pursuant to ORS 433.080 or rules adopted under ORS 433.065, the results shall be reported confidentially to the person who suffered the substantial exposure giving rise to the test.

(4) The confidentiality provisions of ORS 433.045 (4) apply to any person who receives an HIV test result pursuant to ORS 433.080 or rules adopted under ORS 433.065. A person who complies with the requirements of this subsection is not subject to an action for damages.

**IMMUNIZATIONS**

**SECTION 35.** ORS 433.269 is amended to read:

433.269. [(1) Local health departments shall make immunizations available for administration under the direction of a local health officer in convenient areas and at convenient times. A local health department may not refuse to administer an immunization to a person because the person is unable to pay for the immunization.]

(1) A local public health authority shall ensure that immunizations required under ORS 433.282 and 433.283 and the rules adopted pursuant to ORS 433.273 for attendance at a school, children’s facility or post-secondary educational institution and that are available through the local public health authority or its designees or contractors are available:

(a) To the entire population of the area served by the local public health authority in convenient areas and at convenient times.

(b) Regardless of whether a child or student is able to pay for the immunization.
(2)(a) Each local [health department] public health authority, school and children’s facility shall report annually to the Oregon Health Authority on:

(A) The number of children in the area served by the local [health department] public health authority, school or children’s facility; and

(B) The number of children in the area served by the local [health department] public health authority, school or children’s facility who are susceptible to restrictable disease as prescribed by the Oregon Health Authority’s rules pursuant to ORS 433.273.

(b) Each school and children’s facility shall report annually to the Oregon Health Authority on the number of children in the area served by the school or children’s facility who are in attendance at the school or children’s facility conditionally because of an incomplete immunization schedule.

(c) Each local [health department] public health authority shall make available to each school and children’s facility in the area served by the local [health department] public health authority data on the immunization rate, by disease, of children in the area. Upon request, the Oregon Health Authority shall assist local [health departments] public health authorities in compiling data for purposes of this paragraph.

(d) A child exempted under ORS 433.267 is susceptible to restrictable disease for purposes of this subsection.

(3)(a) For the purpose of providing parents with the information necessary to protect their children’s health, each school and children’s facility shall make available the information reported and received by the school and children’s facility pursuant to subsection (2) of this section:

(A) At the main office of the school or children’s facility;

(B) On the school’s or school district’s website or on the children’s facility’s website, if available; and

(C) To the parents of the children who attend the school or children’s facility, in the form of a paper document or electronic communication that includes the information in a clear and easy to understand manner.

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(b) The information required to be made available under paragraph (a) of this subsection must be made available at the beginning of each school year and not later than one month after the date that children may be excluded as provided by ORS 433.267.

(4) The administrator of a school or children’s facility shall maintain immunization records of children, including children who are in attendance at the school or children’s facility conditionally because of an incomplete immunization schedule and children who are exempted as described in ORS 433.267 [(1)(b)] (2)(b) and (c).

MARIJUANA

SECTION 36. ORS 475B.797 is amended to read:

475B.797. (1) The Oregon Health Authority shall establish a program for the issuance of registry identification cards to applicants who meet the requirements of this section.

(2) The authority shall issue a registry identification card to an applicant who is 18 years of age or older if the applicant pays a fee in an amount established by the authority by rule and submits to the authority an application containing the following information:

(a) Written documentation from the applicant’s attending physician stating that the attending physician has diagnosed the applicant as having a debilitating medical condition and that the medical use of marijuana may mitigate the symptoms or effects of the applicant’s debilitating medical condition;

(b) The name, address and date of birth of the applicant;

(c) The name, address and telephone number of the applicant’s attending physician;

(d) Proof of residency, submitted in a form required by the authority by rule;

(e) The name and address of the applicant’s designated primary caregiver,
if the applicant is designating a primary caregiver under ORS 475B.804; and
(f) The information described in ORS 475B.810 (2), if the applicant is applying to produce marijuana or designate another person under ORS 475B.810 to produce marijuana.

(3)(a) The authority shall issue a registry identification card to an applicant who is under 18 years of age if:
(A) The applicant pays the fee and submits the application described in subsection (2) of this section; and
(B) The custodial parent or legal guardian who is responsible for the health care decisions of the applicant signs and submits to the authority a written statement that:
(i) The applicant’s attending physician has explained to the applicant and to the custodial parent or legal guardian the possible risks and benefits of the medical use of marijuana;
(ii) The custodial parent or legal guardian consents to the medical use of marijuana by the applicant;
(iii) The custodial parent or legal guardian agrees to serve as the applicant’s designated primary caregiver; and
(iv) The custodial parent or legal guardian agrees to control the acquisition, dosage and frequency of the medical use of marijuana by the applicant.
(b) An applicant who is under 18 years of age may not apply to produce marijuana under subsection (2)(f) of this section.

(4) If the authority does not approve or deny an application received under subsection (2) or (3) of this section within 30 days after receiving the application, the authority shall,:
(a) on the date on which the authority receives an application described in subsection (2) of this section, issue a receipt to the applicant verifying that the authority received an application under subsection (2) or (3) of this section.; and
(b) Approve or deny an application received under subsection (2) or (3) of this section within 30 days after receiving the application.]
(5)(a) If the authority approves an application, the authority shall issue a serially numbered registry identification card to the applicant within five days after approving the application. The registry identification card must include the following information:

(A) The registry identification cardholder’s name, address and date of birth;

(B) The issuance date and expiration date of the registry identification card;

(C) If the registry identification cardholder designated a primary caregiver under ORS 475B.804, the name and address of the registry identification cardholder's designated primary caregiver; and

(D) Any other information required by the authority by rule.

(b) If the registry identification cardholder designated a primary caregiver under ORS 475B.804, the authority shall issue an identification card to the designated primary caregiver. The identification card must contain the information required by paragraph (a) of this subsection.

(6) A registry identification cardholder shall:

(a) In a form and manner prescribed by the authority, notify the authority of any change concerning the registry identification cardholder’s:

(A) Name, address or attending physician;

(B) Designated primary caregiver, including the designation of a primary caregiver made at a time other than at the time of applying for or renewing a registry identification card; or

(C) Person responsible for a marijuana grow site, including the designation of a person responsible for a marijuana grow site made at a time other than at the time of applying for or renewing a registry identification card.

(b) Annually renew the registry identification card by paying a fee in an amount established by the authority by rule and submitting to the authority an application that contains the following information:

(A) Updated written documentation from the registry identification
cardholder’s attending physician stating that the registry identification
cardholder still has a debilitating medical condition and that the medical use
of marijuana may mitigate the symptoms or effects of the registry identifi-
cation cardholder’s debilitating medical condition;

(B) The information described in subsection (2)(b) to (f) of this section;

and

(C) If the registry identification cardholder is under 18 years of age, a
statement signed by the custodial parent or legal guardian of the registry
identification cardholder that meets the requirements of subsection (3) of this
section.

(7) If the authority does not approve or deny an application received
under subsection (6)(b) of this section within 30 days after receiving the application, the authority shall,[;]

[(a)] on the date on which the authority receives an application described
in subsection (2) of this section, issue a receipt to the applicant verifying
that the authority received an application under subsection (6)(b) of this
section.[; and]

[(b) Approve or deny an application received under subsection (6)(b) of this
section within 30 days after receiving the application.]

(8)(a) If the registry identification cardholder’s attending physician de-
termines that the registry identification cardholder no longer has a debili-
tating medical condition, or determines that the medical use of marijuana is
contraindicated for the registry identification cardholder’s debilitating med-
ical condition, the registry identification cardholder shall return the registry
identification card to the authority within 30 calendar days after receiving
notice of the determination.

(b) If, because of circumstances beyond the control of the registry iden-
tification cardholder, a registry identification cardholder is unable to obtain
a second medical opinion about the registry identification cardholder’s con-
tinuing eligibility for the medical use of marijuana before having to return
the registry identification card to the authority, the authority may grant the
registry identification cardholder additional time to obtain a second medical
opinion.

(9)(a) The authority may deny an application for a registry identification
card or an application to renew a registry identification card, or may sus-
pend or revoke a registry identification card, if:
(A) The applicant or registry identification cardholder does not provide
the information required by this section;
(B) The authority determines that the applicant or registry identification
cardholder provided false information; or
(C) The authority determines that the applicant or registry identification
cardholder violated a provision of ORS 475B.785 to 475B.949 or a rule
adopted under ORS 475B.785 to 475B.949.
(b) If a registry identification card is revoked, any associated identifica-
tion card issued under subsection (5)(b) of this section, or marijuana grow-
site registration card issued under ORS 475B.810 (6), shall also be revoked.
(c) A person whose application is denied, or whose registry identification
card is revoked, under this subsection may not reapply for a registry iden-
tification card for six months from the date of the denial or revocation un-
less otherwise authorized by the authority.

(10)(a) The authority may deny a designation of a primary caregiver made
under ORS 475B.804, or suspend or revoke an associated identification card
issued under subsection (5)(b) of this section, if the authority determines that
the designee or the registry identification cardholder violated a provision of
ORS 475B.785 to 475B.949 or a rule adopted under ORS 475B.785 to 475B.949.
(b) A person whose designation has been denied, or whose identification
card has been revoked, under this subsection may not be designated as a
primary caregiver under ORS 475B.804 for six months from the date of the
denial or revocation unless otherwise authorized by the authority.

(11)(a) Notwithstanding subsection (2) or (6)(b) of this section, if an ap-
licant for a registry identification card, or a registry identification
cardholder applying for renewal of a registry identification card, submits to
the authority proof of having served in the Armed Forces of the United
States, the authority may not impose a fee that is greater than $20 for the
issuance or renewal of the registry identification card.

(b) Notwithstanding subsection (6)(b)(A) of this section, the requirement
that a registry identification cardholder include in the application to renew
a registry identification card updated written documentation from the
cardholder’s attending physician regarding the cardholder’s continuing de-
bilitating medical condition does not apply to a service-disabled veteran who:

(A) Has been assigned a total and permanent disability rating for com-
pensation that rates the veteran as unable to secure or follow a substantially
gainful occupation as a result of service-connected disabilities as described
in 38 C.F.R. 4.16; or

(B) Has a United States Department of Veterans Affairs total disability
rating of 100 percent as a result of an injury or illness that the veteran in-
curred, or that was aggravated, during active military service and who re-
ceived a discharge or release under other than dishonorable conditions.

(12) For any purpose described in ORS 475B.785 to 475B.949, including
exemption from criminal liability under ORS 475B.907, a receipt issued by the
authority verifying that an application has been submitted to the authority
under subsection (2), (3) or (6)(b) of this section has the same legal effect as
a registry identification card for 30 days following the date on which the
receipt was issued to the applicant.

SECTION 37. ORS 475B.895, as amended by section 7, chapter 103,
Oregon Laws 2018, is amended to read:

475B.895. (1) The Oregon Health Authority shall enter into an agreement
with the Oregon Liquor Control Commission under which the commission
shall use the system developed and maintained under ORS 475B.177 to track:

(a) The propagation of immature marijuana plants and the production of
marijuana by marijuana grow sites;

(b) The processing of marijuana into medical cannabinoid products,
cannabinoid concentrates and cannabinoid extracts that are transferred to
a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites and medical marijuana dispensaries are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS 475B.810 that relate to ORS 475B.816.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475B.785 to 475B.949 about which the commission obtains knowledge as a result of performing the commission's duties under this section. Notwithstanding ORS 475B.299, the commission may use regulatory
specialists, as defined in ORS 471.001, to conduct the inspections and investiga-
tions, including inspections and investigations of marijuana grow sites located at a primary residence.

(7) When imposing a fee on a person responsible for a marijuana grow site, marijuana processing site or medical marijuana dispensary under ORS 475B.810, 475B.840 or 475B.858, the authority shall impose a fee that is reasonably calculated to pay costs incurred under this section. As part of the agreement entered into under subsection (1) of this section, the authority shall transfer fee moneys collected pursuant to this subsection to the commission for deposit in the Marijuana Control and Regulation Fund established under ORS 475B.296. Moneys collected pursuant to this subsection and deposited in the Marijuana Control and Regulation Fund are continuously appropriated to the commission for purposes of this section.

(8) The authority and the commission may adopt rules as necessary to administer this section.

(9) This section does not apply to a marijuana grow site located at an address where:

(a) A registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced; or

(b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

(B) The address is used to produce marijuana for no more than two registry identification cardholders.

SECTION 38. ORS 475B.895, as amended by sections 7 and 7a, chapter 103, Oregon Laws 2018, is amended to read:

475B.895. (1) The Oregon Health Authority shall enter into an agreement with the Oregon Liquor Control Commission under which the commission shall use the system developed and maintained under ORS 475B.177 to track:

(a) The propagation of immature marijuana plants and the production of marijuana by marijuana grow sites;
(b) The processing of marijuana into medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts that are transferred to a medical marijuana dispensary;

(c) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts by a marijuana grow site or a medical marijuana dispensary to a registry identification cardholder or the designated primary caregiver of a registry identification cardholder; and

(d) The transfer of usable marijuana, immature marijuana plants, medical cannabinoid products, cannabinoid concentrates and cannabinoid extracts between marijuana grow sites, marijuana processing sites and medical marijuana dispensaries.

(2) Marijuana grow sites, marijuana processing sites and medical marijuana dispensaries are subject to tracking under this section.

(3) On and after the date on which a marijuana grow site becomes subject to tracking under this section, the person is exempt from the requirements of ORS 475B.816 and the provisions of ORS 475B.810 that relate to ORS 475B.816.

(4) On and after the date on which a marijuana processing site becomes subject to tracking under this section, the marijuana processing site is exempt from the requirements of ORS 475B.846 and the provisions of ORS 475B.840 that relate to ORS 475B.846.

(5) On and after the date on which a medical marijuana dispensary becomes subject to tracking under this section, the medical marijuana dispensary is exempt from the requirements of ORS 475B.867 and the provisions of ORS 475B.858 that relate to ORS 475B.867.

(6) The commission may conduct inspections and investigations of alleged violations of ORS 475B.785 to 475B.949 about which the commission obtains
knowledge as a result of performing the commission’s duties under this sec-
tion. Notwithstanding ORS 475B.299, the commission may use regulatory
specialists, as defined in ORS 471.001, to conduct the inspections and inves-
tigations, including inspections and investigations of marijuana grow sites
located at a primary residence.

(7) Notwithstanding ORS 475B.759, before making any other distribution
from the Oregon Marijuana Account established under ORS 475B.759, the
Department of Revenue shall first distribute moneys quarterly from the ac-
count to the commission for deposit in the Marijuana Control and Regu-
lation Fund established under ORS 475B.296 for purposes of paying
administrative, inspection and investigatory costs incurred by the commis-
sion under this section, provided that the amount of distributed moneys does
not exceed $1.25 million per quarter. For purposes of estimating the amount
of moneys necessary to pay costs incurred under this section, the commission
shall establish a formulary based on expected costs for each marijuana grow
site, marijuana processing site or medical marijuana dispensary that is
tracked under this section. The commission shall provide to the Department
of Revenue and the Legislative Fiscal Officer before each quarter the esti-
mated amount of moneys necessary to pay costs expected to be incurred un-
der this section and the formulary.

(8) When imposing a fee on a person responsible for a marijuana grow
site, marijuana processing site or medical marijuana dispensary under ORS
475B.810, 475B.840 or 475B.858, the authority shall impose an additional fee
that is reasonably calculated to pay costs incurred under this section other
than costs paid pursuant to subsection (7) of this section. As part of the
agreement entered into under subsection (1) of this section, the authority
shall transfer fee moneys collected pursuant to this subsection to the com-
mission for deposit in the Marijuana Control and Regulation Fund estab-
lished under ORS 475B.296. Moneys collected pursuant to this subsection and
deposited in the Marijuana Control and Regulation Fund are continuously
appropriated to the commission for purposes of this section.
(9) The authority and the commission may adopt rules as necessary to administer this section.

(10) This section does not apply to a marijuana grow site located at an address where:

(a) A registry identification cardholder produces marijuana and no more than 12 mature marijuana plants and 24 immature marijuana plants are produced; or

(b)(A) No more than two persons are registered under ORS 475B.810 to produce marijuana; and

(B) The address is used to produce marijuana for no more than two registry identification cardholders.

SECTION 39. The amendments to ORS 475B.797 by section 36 of this 2019 Act apply to applications received on or after the effective date of this 2019 Act.

HEALTH CARE PROFESSIONS

SECTION 40. ORS 676.669 is amended to read:

676.669. The Health Licensing Office may issue a lactation consultant license to an applicant who:

(1) Is at least 18 years old;

(2) Submits sufficient proof, as determined by the office, that the applicant:

[(a) Certified by the International Board of Lactation Consultant Examiners, or its successor organization, as approved by the office by rule, as an International Board Certified Lactation Consultant; and]

(a) As approved by the office by rule, satisfies the requirements for certification as an International Board Certified Lactation Consultant by the International Board of Lactation Consultant Examiners or its successor organization; and

(b) Is in good standing in any other states where the applicant is au-
thorized as a lactation consultant;
(3) Pays a licensure fee; and
(4) Meets other qualifications required by the office by rule.

SECTION 41. ORS 676.689 is amended to read:
676.689. (1) The Health Licensing Office shall adopt rules to:
(a) Establish a process for issuing lactation consultant licenses;
(b) Establish licensure fees;
(c) Determine qualifications for applicants for initial licensure and
licensure by reciprocity;
[(d) Approve the certification issued by the International Board of
Lactation Consultant Examiners or its successor organization, so long as the
organization offers:]
[(A) A process to evaluate candidates for certification or education;]
[(B) A grievance process for applicants or individuals authorized by the
organization; and]
[(C) A process for recertification or reauthorization;]
[(e) (d) Develop and maintain a publicly available record of lactation
consultants; and
[(f) (e) Establish standards of practice and professional responsibility for
lactation consultants that [reflect] take into consideration the standards
established by the International Board of Lactation Consultant Examiners.
(2) The office may adopt other rules as necessary to carry out the pro-
visions of ORS 676.665 to 676.689.

SECTION 42. In the manner provided under ORS chapter 183 for
contested cases, the Health Licensing Office may impose a form of
discipline listed in ORS 676.612 against a person practicing music
therapy for any of the grounds listed in ORS 676.612, or for any vio-
lation of ORS 681.700 to 681.730 or the rules adopted pursuant to ORS
681.700 to 681.730.

SECTION 43. ORS 681.730 is amended to read:
681.730. The Health Licensing Office shall adopt rules to:
(1) Establish a process for issuance of licenses to practice music therapy;

(2) Establish licensure fees;

(3) Determine qualifications for applicants for initial licensure, licensure renewal and licensure by reciprocity;

(4) Approve:
   (a) The Certification Board for Music Therapists examination;
   (b) The certification issued by the Certification Board for Music Therapists; and
   (c) The professional designations issued by the National Music Therapy Registry;

(5) Develop and maintain a publicly available record of music therapists; and

(6) Establish standards of practice and professional responsibility for music therapists.

SECTION 44. ORS 681.743 is amended to read:

681.743. The Health Licensing Office [shall] may issue a license to engage in the practice of art therapy as a licensed art therapist to an applicant who:

(1) Is at least 18 years of age;

(2) Has received at least a master’s degree [in art therapy] from a program [approved] accepted by the Art Therapy Credentials Board, Inc., or its successor organization, and approved by the office;

(3) Submits sufficient proof, as determined by the office, of:
   [(a) Holding a current credential as a registered art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and]
   (a) As approved by the office by rule, satisfying the requirements to be credentialed as a registered art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and
   (b) Being in good standing in any other states where the applicant is licensed or certified to practice art therapy; and

(4) Pays a licensure fee.
SECTION 45. ORS 681.746 is amended to read:
681.746. The Health Licensing Office [shall] may issue a license to engage in the practice of art therapy as a licensed certified art therapist to an applicant who:
(1) Is at least 18 years of age;
(2) Has received at least a master's degree [in art therapy] from a program [approved] accepted by the Art Therapy Credentials Board, Inc., or its successor organization, and approved by the office;
(3) Submits sufficient proof, as determined by the office, of:
[(a) Current certification as a board certified art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and]
(a) As approved by the office by rule, satisfying the requirements as a board certified art therapist by the Art Therapy Credentials Board, Inc., or its successor organization; and
(b) Being in good standing in any other states where the applicant is licensed or certified to practice art therapy; and
(4) Pays a licensure fee.
SECTION 46. ORS 681.749 is amended to read:
681.749. (1) A licensed art therapist and a licensed certified art therapist shall comply with the [code of ethics, conduct and disciplinary procedures established by the Art Therapy Credentials Board, Inc., or its successor organization, and] rules adopted by the Health Licensing Office pursuant to ORS 681.758.
(2) A licensed art therapist or licensed certified art therapist may, in accordance with that person's education and training, administer and use appropriate assessment instruments to measure and treat a client's affective, behavioral and cognitive disorders or problems. A licensed art therapist or licensed certified art therapist shall refer a client who presents with a disorder or problem that is beyond the licensed art therapist's or licensed certified art therapist's education and training to a licensed health care practitioner qualified to treat that disorder or problem.
(3) A licensed art therapist or licensed certified art therapist may not perform psychological or other assessments or testing designed to diagnose or measure mental illness.

SECTION 47. ORS 681.758 is amended to read:

681.758. The Health Licensing Office shall adopt rules to:

(1) Establish a process for issuing licenses under ORS 681.743 and 681.746;

(2) Establish licensure fees for licenses issued under ORS 681.743 and 681.746;

(3) Determine qualifications for applicants for initial licensure, license renewal and licensure by reciprocity for licenses under ORS 681.743 and 681.746;

[(4) Approve the credentials issued by the Art Therapy Credentials Board, Inc., or its successor organization;]

[(5) (4) Develop and maintain a publicly available record of licensed art therapists and licensed certified art therapists; and]

[(6) (5) Establish standards of professional practice and standards of ethical conduct for licensed art therapists and licensed certified art therapists that take into consideration the code of ethics, conduct and disciplinary procedures of the Art Therapy Credentials Board, Inc., or its successor organization.]

SECTION 48. ORS 688.815 is amended to read:

688.815. The Health Licensing Office may issue a license to practice respiratory care to an applicant who:

(1) Submits to the office written evidence that the applicant:

(a) Is at least 18 years of age;

(b) Has completed an approved four-year high school course of study or the equivalent as determined by the appropriate educational agency; and

[(c) Holds an active credential conferred by the National Board for Respiratory Care, or its successor organization, as a Registered Respiratory Therapist; and]}

(c) As approved by the office by rule, satisfies the requirements to
be credentialed as a registered respiratory therapist by the National Board for Respiratory Care, or its successor organization; and

(2) Passes any examinations approved by the Respiratory Therapist and Polysomnographic Technologist Licensing Board, including but not limited to an examination regarding Oregon law and administrative rules related to the practice of respiratory care.

SECTION 49. Section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act apply to applications for authorization to practice lactation consultation, music therapy, art therapy or respiratory therapy on or after the operative date specified in section 50 of this 2019 Act.

SECTION 50. (1) Section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by section 42 of this 2019 Act and the amendments to ORS 676.669, 676.689, 681.730, 681.743, 681.746, 681.749, 681.758 and 688.815 by sections 40, 41 and 43 to 48 of this 2019 Act.

EMERGENCY MEDICAL SERVICES

SECTION 51. ORS 682.025 is amended to read:

682.025. As used in this chapter, unless the context requires otherwise:

(1) “Ambulance” or “ambulance vehicle” means a privately or publicly owned motor vehicle, aircraft or watercraft that is regularly provided or offered to be provided for the emergency transportation of persons who are ill.
or injured or who have disabilities.

(2) “Ambulance service” means a person, governmental unit or other entity that operates ambulances and that holds itself out as providing prehospital care or medical transportation to persons who are ill or injured or who have disabilities.

(3) “Emergency care” means the performance of acts or procedures under emergency conditions in the observation, care and counsel of persons who are ill or injured or who have disabilities; in the administration of care or medications prescribed by a licensed physician or naturopathic physician, insofar as any of these acts is based upon knowledge and application of the principles of biological, physical and social science as required by a completed course utilizing an approved curriculum in prehospital emergency care. “Emergency care” does not include acts of medical diagnosis or prescription of therapeutic or corrective measures.

(4) “Emergency medical services provider” means a person who has received formal training in prehospital and emergency care, and is licensed to attend any person who is ill or injured or who has a disability. Police officers, firefighters, funeral home employees and other persons serving in a dual capacity one of which meets the definition of “emergency medical services provider” are “emergency medical services providers” within the meaning of this chapter.

(5) “Fraud or deception” means the intentional misrepresentation or misstatement of a material fact, concealment of or failure to make known any material fact, or any other means by which misinformation or false impression knowingly is given.

(6) “Governmental unit” means the state or any county, municipality or other political subdivision or any department, board or other agency of any of them.

(7) “Highway” means every public way, thoroughfare and place, including bridges, viaducts and other structures within the boundaries of this state, used or intended for the use of the general public for vehicles.
(8) “Nonemergency care” means the performance of acts or procedures on a patient who is not expected to die, become permanently disabled or suffer permanent harm within the next 24 hours, including but not limited to observation, care and counsel of a patient and the administration of medications prescribed by a physician licensed under ORS chapter 677 or naturopathic physician licensed under ORS chapter 685, insofar as any of those acts are based upon knowledge and application of the principles of biological, physical and social science and are performed in accordance with scope of practice rules adopted by the Oregon Medical Board or Oregon Board of Naturopathic Medicine in the course of providing prehospital care.

(9) “Owner” means the person having all the incidents of ownership in an ambulance service or an ambulance vehicle or where the incidents of ownership are in different persons, the person, other than a security interest holder or lessor, entitled to the possession of an ambulance vehicle or operation of an ambulance service under a security agreement or a lease for a term of 10 or more successive days.

(10) “Patient” means a person who is ill or injured or who has a disability and who is transported in an ambulance who receives emergency or nonemergency care from an emergency medical services provider.

(11) “Prehospital care” means care rendered by emergency medical services providers as an incident of the operation of an ambulance and care rendered by emergency medical services providers as incidents of other public or private safety duties, and includes, but is not limited to, “emergency care.”

(12) “Scope of practice” means the maximum level of emergency or nonemergency care that an emergency medical services provider may provide.

(13) “Standing orders” means the written protocols that an emergency medical services provider follows to treat patients when direct contact with a physician is not maintained.

(14) “Supervising physician” means a physician licensed under ORS 677.100 to 677.228, actively registered and in good standing with the Oregon
Medical Board, who provides direction of emergency or nonemergency care provided by emergency medical services providers.

(15) "Unprofessional conduct" means conduct unbecoming a person licensed to perform emergency care, or detrimental to the best interests of the public and includes:

(a) Any conduct or practice contrary to recognized standards of ethics of the medical profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice or condition which does or might impair an emergency medical services provider’s ability safely and skillfully to practice emergency or nonemergency care;

(b) Willful performance of any medical treatment which is contrary to acceptable medical standards; and

(c) Willful and consistent utilization of medical service for treatment which is or may be considered inappropriate or unnecessary.

SECTION 52. ORS 682.035 is amended to read:

682.035. ORS 820.330 to 820.380 and this chapter do not apply to:

(1) Ambulances owned by or operated, and emergency medical service providers who operate, under the control of the United States Government.

(2) Vehicles being used to render temporary assistance in the case of a major catastrophe or emergency with which the ambulance services of the surrounding locality are unable to cope, or when directed to be used to render temporary assistance by an official at the scene of an accident.

(3) Vehicles operated solely on private property or within the confines of institutional grounds, whether or not the incidental crossing of any highway through the property or grounds is involved.

(4) Vehicles operated by lumber industries solely for the transportation of lumber industry employees.

(5) Any person who drives or attends [an individual who is ill or injured or who has a disability] a patient, if the [individual] patient is transported in a vehicle [mentioned] described in subsections [(I)] (2) to (4) of this sec-
(6) Any person who otherwise by license is authorized to attend patients.

**SECTION 53.** ORS 682.039 is amended to read:

682.039. (1) The State Emergency Medical Service Committee is established within the Oregon Health Authority. The committee must have at least [19] 18 members. The Oregon Health Authority shall appoint at least [18] 17 voting members as described in subsection (2) of this section. The chairperson of the State Trauma Advisory Board established under ORS 431A.055, or the chairperson's designee, shall be a nonvoting member.

(2) The authority shall appoint members to serve on the State Emergency Medical Service Committee, including:

(a) [Seven] Six physicians licensed under ORS chapter 677 whose practice consists of routinely treating emergencies, such as cardiovascular illness, or trauma or pediatric emergencies, appointed from a list submitted by the Oregon Medical Board. **At least two members appointed under this paragraph must be emergency medical services medical directors, at least one of whom specializes in pediatric emergency care.**

(b) Four emergency medical services providers whose practices consist of routinely treating emergencies, such as cardiovascular illness or trauma. At least one of the providers must be at the lowest level of licensure for emergency medical services providers established by the authority at the time of appointment. Emergency medical services providers appointed pursuant to this paragraph must be selected from lists submitted by each area trauma advisory board. The lists must include nominations from organizations that represent emergency care providers in this state.

(c) One volunteer ambulance operator.

(d) One person representing governmental agencies that provide ambulance services.

(e) One person representing a private ambulance company.

(f) One hospital administrator.

(g) One nurse who has served at least two years in the capacity of an
emergency department nurse.

(h) One representative of an emergency dispatch center.

(i) One community college or licensed career school representative.

(3) The committee must include at least one resident, but no more than three residents, from each region served by one area trauma advisory board at the time of appointment.

(4) Appointments are for a term of four years and must be made in a manner that preserves as much as possible the representation of the organization described in subsection (2) of this section. A vacancy must be filled for an unexpired term as soon as the authority can make the appointment. The committee shall choose a chairperson and shall meet at the call of the chairperson or the Director of the Oregon Health Authority.

(5) The State Emergency Medical Service Committee shall:

(a) Advise the authority concerning the adoption, amendment and repeal of rules authorized by this chapter;

(b) Assist the Emergency Medical Services and Trauma Systems Program in providing state and regional emergency medical services coordination and planning;

(c) Assist communities in identifying emergency medical service system needs and quality improvement initiatives;

(d) Assist the Emergency Medical Services and Trauma Systems Program in prioritizing, implementing and evaluating emergency medical service system quality improvement initiatives identified by communities;

(e) Review and prioritize rural community emergency medical service funding requests and provide input to the Rural Health Coordinating Council; and

(f) Review and prioritize funding requests for rural community emergency medical service training and provide input to the Area Health Education Center program.

(6) The chairperson of the committee shall appoint a subcommittee on the licensure and discipline of emergency medical services providers, consisting
of five physicians and four emergency medical services providers. The sub-
committee shall advise the authority and the Oregon Medical Board on the
adoption, amendment, repeal and application of rules implementing ORS
682.204 to 682.220 and 682.245. The decisions of the subcommittee are not
subject to the review of the committee.

(7) Members of the committee are entitled to compensation as provided
in ORS 292.495.

**SECTION 54.** ORS 682.208 is amended to read:

682.208. (1) A person desiring to be licensed as an emergency medical
services provider shall submit an application for licensure to the Oregon
Health Authority. The application must be upon forms prescribed by the
authority and must contain:

(a) The name and address of the applicant.

(b) The name and location of the training course successfully completed
by the applicant and the date of completion.

[c] A statement that to the best of the applicant’s knowledge the applicant
is physically and mentally qualified to act as an emergency medical services
provider, is free from addiction to controlled substances, cannabis or alcoholic
beverages or, if not so free, has been and is currently rehabilitated and is free
from epilepsy or diabetes or, if not so free, has been free from any lapses of
consciousness or control for a period of time as prescribed by rule of the au-
thority.]

(c) Evidence that the authority determines is satisfactory to prove
that the applicant’s physical and mental health is such that it is safe
for the applicant to act as an emergency medical services provider.

(d) Other information as the authority may reasonably require to deter-
mine compliance with applicable provisions of this chapter and the rules
adopted under this chapter.

(2) The application must be accompanied by proof as prescribed by rule
of the authority of the applicant’s successful completion of a training course
approved by the authority and, if an extended period of time has elapsed
since the completion of the course, of a satisfactory amount of continuing
education.

(3) The authority shall adopt a schedule of minimum educational re-
quirements in emergency and nonemergency care for emergency medical
services providers. A course approved by the authority must be designed to
protect the welfare of out-of-hospital patients, to promote the health, well-
being and saving of the lives of such patients and to reduce their pain and
suffering.

SECTION 55. (1) The amendments to ORS 682.039 by section 53 of
this 2019 Act apply to individuals who are members of the State
Emergency Medical Service Committee on or after the operative date
specified in section 56 of this 2019 Act.

(2) The amendments to ORS 682.208 by section 54 of this 2019 Act
apply to applications for licensure as an emergency medical services
provider received on or after the operative date specified in section 56
of this 2019 Act.

SECTION 56. (1) The amendments to ORS 682.025, 682.035, 682.039
and 682.208 by sections 51 to 54 of this 2019 Act become operative on

(2) The Oregon Health Authority may take any action before the
operative date specified in subsection (1) of this section that is neces-
sary to enable the authority to exercise, on and after the operative
date specified in subsection (1) of this section, all of the duties, func-
tions and powers conferred on the authority by the amendments to
ORS 682.025, 682.035, 682.039 and 682.208 by sections 51 to 54 of this 2019
Act.

LOCAL PUBLIC HEALTH AUTHORITIES

SECTION 57. ORS 124.050 is amended to read:

124.050. As used in ORS 124.050 to 124.095:
(1) “Abuse” means one or more of the following:

(a) Any physical injury to an elderly person caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.

(c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury upon an elderly person.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.

(f) Verbal abuse.

(g) Financial exploitation.

(h) Sexual abuse.

(i) Involuntary seclusion of an elderly person for the convenience of a caregiver or to discipline the person.

(j) A wrongful use of a physical or chemical restraint of an elderly person, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(2) “Elderly person” means any person 65 years of age or older who is not subject to the provisions of ORS 441.640 to 441.665.

(3) “Facility” means:

(a) A long term care facility as that term is defined in ORS 442.015.

(b) A residential facility as that term is defined in ORS 443.400, including but not limited to an assisted living facility.

(c) An adult foster home as that term is defined in ORS 443.705.

(4) “Financial exploitation” means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an elderly person or a person with a disability.

(b) Alarming an elderly person or a person with a disability by conveying
a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an elderly person or a person with a disability.

d) Failing to use the income or assets of an elderly person or a person with a disability effectively for the support and maintenance of the person.

(5) “Intimidation” means compelling or deterring conduct by threat.

(6) “Law enforcement agency” means:

(a) Any city or municipal police department.

(b) Any county sheriff’s office.

(c) The Oregon State Police.

(d) Any district attorney.

(e) A police department established by a university under ORS 352.121 or 353.125.

(7) “Neglect” means failure to provide basic care or services that are necessary to maintain the health or safety of an elderly person.

(8) “Person with a disability” means a person described in:

(a) ORS 410.040 (7); or

(b) ORS 410.715.

(9) “Public or private official” means:

(a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or chiropractor, including any intern or resident.

(b) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.

(c) Employee of the Department of Human Services or community developmental disabilities program.

(d) Employee of the Oregon Health Authority, local [health department] public health authority or community mental health program.

(e) Peace officer.
(f) Member of the clergy.
(g) Regulated social worker.
(h) Physical, speech or occupational therapist.
(i) Senior center employee.
(j) Information and referral or outreach worker.
(k) Licensed professional counselor or licensed marriage and family therapist.
(L) Member of the Legislative Assembly.
(m) Firefighter or emergency medical services provider.
(n) Psychologist.
(o) Provider of adult foster care or an employee of the provider.
(p) Audiologist.
(q) Speech-language pathologist.
(r) Attorney.
(s) Dentist.
(t) Optometrist.
(u) Chiropractor.
(v) Personal support worker, as defined by rule adopted by the Home Care Commission.
(w) Home care worker, as defined in ORS 410.600.
(x) Referral agent, as defined in ORS 443.370.
(10) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person.
(11)(a) “Sexual abuse” means:
(A) Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315;
(B) Verbal or physical harassment of a sexual nature, including but not limited to severe or pervasive exposure to sexually explicit material or language;
(C) Sexual exploitation;
(D) Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver; or
(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) “Sexual abuse” does not mean consensual sexual contact between an elderly person and:
(A) An employee of a facility who is also the spouse of the elderly person; or
(B) A paid caregiver.

(12) “Sexual contact” has the meaning given that term in ORS 163.305.

(13) “Verbal abuse” means to threaten significant physical or emotional harm to an elderly person or a person with a disability through the use of:
(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 58. ORS 124.050, as amended by section 8, chapter 75, Oregon Laws 2018, is amended to read:

124.050. As used in ORS 124.050 to 124.095:

(1) “Abuse” means one or more of the following:

(a) Any physical injury to an elderly person caused by other than accidental means, or which appears to be at variance with the explanation given of the injury.

(b) Neglect.

(c) Abandonment, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(d) Willful infliction of physical pain or injury upon an elderly person.

(e) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465, 163.467 or 163.525.
(f) Verbal abuse.
(g) Financial exploitation.
(h) Sexual abuse.
(i) Involuntary seclusion of an elderly person for the convenience of a
caregiver or to discipline the person.
(j) A wrongful use of a physical or chemical restraint of an elderly person,
excluding an act of restraint prescribed by a physician licensed under ORS
chapter 677 and any treatment activities that are consistent with an ap-
proved treatment plan or in connection with a court order.
(2) “Elderly person” means any person 65 years of age or older who is not
subject to the provisions of ORS 441.640 to 441.665.
(3) “Facility” means:
(a) A long term care facility as that term is defined in ORS 442.015.
(b) A residential facility as that term is defined in ORS 443.400, including
but not limited to an assisted living facility.
(c) An adult foster home as that term is defined in ORS 443.705.
(4) “Financial exploitation” means:
(a) Wrongfully taking the assets, funds or property belonging to or in-
tended for the use of an elderly person or a person with a disability.
(b) Alarming an elderly person or a person with a disability by conveying
a threat to wrongfully take or appropriate money or property of the person
if the person would reasonably believe that the threat conveyed would be
carried out.
(c) Misappropriating, misusing or transferring without authorization any
money from any account held jointly or singly by an elderly person or a
person with a disability.
(d) Failing to use the income or assets of an elderly person or a person
with a disability effectively for the support and maintenance of the person.
(5) “Intimidation” means compelling or deterring conduct by threat.
(6) “Law enforcement agency” means:
(a) Any city or municipal police department.
(b) Any county sheriff’s office.
(c) The Oregon State Police.
(d) Any district attorney.
(e) A police department established by a university under ORS 352.121 or 353.125.

(7) “Neglect” means failure to provide basic care or services that are necessary to maintain the health or safety of an elderly person.

(8) “Person with a disability” means a person described in:
   (a) ORS 410.040 (7); or
   (b) ORS 410.715.

(9) “Public or private official” means:
   (a) Physician or physician assistant licensed under ORS chapter 677, naturopathic physician or chiropractor, including any intern or resident.
   (b) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s aide, home health aide or employee of an in-home health service.
   (c) Employee of the Department of Human Services or community developmental disabilities program.
   (d) Employee of the Oregon Health Authority, local [health department] public health authority or community mental health program.
   (e) Peace officer.
   (f) Member of the clergy.
   (g) Regulated social worker.
   (h) Physical, speech or occupational therapist.
   (i) Senior center employee.
   (j) Information and referral or outreach worker.
   (k) Licensed professional counselor or licensed marriage and family therapist.
   (L) Member of the Legislative Assembly.
   (m) Firefighter or emergency medical services provider.
   (n) Psychologist.
   (o) Provider of adult foster care or an employee of the provider.
(p) Audiologist.
(q) Speech-language pathologist.
(r) Attorney.
(s) Dentist.
(t) Optometrist.
(u) Chiropractor.
(v) Personal support worker, as defined in ORS 410.600.
(w) Home care worker, as defined in ORS 410.600.
(x) Referral agent, as defined in ORS 443.370.

(10) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an elderly person.

(11)(a) “Sexual abuse” means:
(A) Sexual contact with an elderly person who does not consent or is considered incapable of consenting to a sexual act under ORS 163.315;
(B) Verbal or physical harassment of a sexual nature, including but not limited to severe or pervasive exposure to sexually explicit material or language;
(C) Sexual exploitation;
(D) Any sexual contact between an employee of a facility or paid caregiver and an elderly person served by the facility or caregiver; or
(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) “Sexual abuse” does not mean consensual sexual contact between an elderly person and:
(A) An employee of a facility who is also the spouse of the elderly person;

or

(B) A paid caregiver.

(12) “Sexual contact” has the meaning given that term in ORS 163.305.

(13) “Verbal abuse” means to threaten significant physical or emotional
harm to an elderly person or a person with a disability through the use of:
(a) Derogatory or inappropriate names, insults, verbal assaults, profanity
or ridicule; or
(b) Harassment, coercion, threats, intimidation, humiliation, mental cru-
elty or inappropriate sexual comments.

SECTION 59. ORS 181A.200 is amended to read:
181A.200. (1) As used in this section:
(a) “Care” means the provision of care, treatment, education, training,
instruction, supervision, placement services, recreation or support to chil-
dren, the elderly or persons with disabilities.
(b) “Native American tribe” has the meaning given that term in ORS
181A.210 (4).
(c) “Qualified entity” means a community mental health program, a com-
munity developmental disabilities program, a local public health authority, the government of a Native American tribe or an
agency of a Native American tribe responsible for child welfare or an indi-
vidual or business or organization, whether public, private, for-profit,
nonprofit or voluntary, that provides care, including a business or organiza-
tion that licenses, certifies or registers others to provide care.
(2) For the purpose of requesting a state or nationwide criminal records
check under ORS 181A.195, the Department of Human Services, the Oregon
Health Authority and the Employment Department may require the finger-
prints of a person:
(a) Who is employed by or is applying for employment with either de-
partment or the Oregon Health Authority;
(b) Who provides or seeks to provide services to either department or the
Oregon Health Authority as a contractor, subcontractor, vendor or volun-
teer who:
(A) May have contact with recipients of care;
(B) Has access to personal information about employees of either depart-
ment or the Oregon Health Authority, recipients of care from either de-
partment or the **Oregon Health** Authority or members of the public, including Social Security numbers, dates of birth, driver license numbers, medical information, personal financial information or criminal background information;

(C) Has access to information the disclosure of which is prohibited by state or federal laws, rules or regulations, or information that is defined as confidential under state or federal laws, rules or regulations;

(D) Has access to property held in trust or to private property in the temporary custody of the state;

(E) Has payroll or fiscal functions or responsibility for:

(i) Receiving, receipting or depositing money or negotiable instruments;

(ii) Billing, collections, setting up financial accounts or other financial transactions; or

(iii) Purchasing or selling property;

(F) Provides security, design or construction services for government buildings, grounds or facilities;

(G) Has access to critical infrastructure or secure facilities information; or

(H) Is providing information technology services and has control over or access to information technology systems;

(c) For the purposes of licensing, certifying, registering or otherwise regulating or administering programs, persons or qualified entities that provide care;

(d) For the purposes of employment decisions by or for qualified entities that are regulated or otherwise subject to oversight by the Department of Human Services or the Oregon Health Authority and that provide care;

(e) For the purposes of employment decisions made by a mass transit district or transportation district for qualified entities that, under contracts with the district or the Oregon Health Authority, employ persons to operate motor vehicles for the transportation of medical assistance program clients; or

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(f) For the purposes of licensure, certification or registration of foster homes by the government of a Native American tribe or an agency of a Native American tribe responsible for child welfare.

(3) The Department of Human Services and the Oregon Health Authority may conduct criminal records checks on a person through the Law Enforcement Data System maintained by the Department of State Police, if deemed necessary by the Department of Human Services or the Oregon Health Authority to protect children, elderly persons, persons with disabilities or other vulnerable persons.

(4) The Department of Human Services and the Oregon Health Authority may furnish to qualified entities, in accordance with the rules of the Department of Human Services or the Oregon Health Authority and the rules of the Department of State Police, information received from the Law Enforcement Data System. However, any criminal offender records and information furnished to the Department of Human Services or the Oregon Health Authority by the Federal Bureau of Investigation through the Department of State Police may not be disseminated to qualified entities.

(5)(a) Except as otherwise provided in ORS 443.735 and 475B.785 to 475B.949, a qualified entity, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall determine under this section whether a person is fit to hold a position, provide services, be employed or, if the qualified entity has authority to make such a determination, be licensed, certified or registered. If a person is determined to be unfit, then that person may not hold the position, provide services or be employed, licensed, certified or registered.

(b) A person prohibited from receiving public funds for employment under ORS 443.004 (3) is not entitled to a determination of fitness under this subsection.

(c) In making the fitness determination under this subsection, the qualified entity shall consider:

(A) The nature of the crime;
(B) The facts that support the conviction or pending indictment or indicate the making of a false statement;

(C) The relevancy, if any, of the crime or the false statement to the specific requirements of the person’s present or proposed position, services, employment, license, certification or registration; and

(D) Intervening circumstances relevant to the responsibilities and circumstances of the position, services, employment, license, certification or registration, such as:

(i) The passage of time since the commission of the crime;

(ii) The age of the person at the time of the crime;

(iii) The likelihood of a repetition of offenses;

(iv) The subsequent commission of another relevant crime; and

(v) The recommendation of an employer.

(6) The Department of Human Services and the Oregon Health Authority, subject to rules adopted by the Oregon Department of Administrative Services under ORS 181A.215, shall develop systems that maintain information regarding criminal records checks in order to minimize the administrative burden imposed by this section and ORS 181A.195. Records maintained under this subsection are confidential and may not be disseminated except for the purposes of this section and in accordance with the rules of the Department of Human Services, the Oregon Health Authority and the Department of State Police. Nothing in this subsection permits the Department of Human Services to retain fingerprint cards obtained pursuant to this section.

(7) In addition to the rules required by ORS 181A.195, the Department of Human Services and the Oregon Health Authority, in consultation with the Department of State Police, shall adopt rules:

(a) Specifying which qualified entities are subject to this section;

(b) Specifying which qualified entities may request criminal offender information;

(c) Specifying which qualified entities are responsible for deciding, subject to rules adopted by the Oregon Department of Administrative Services under
ORS 181A.215, whether a subject individual is not fit for a position, service, license, certification, registration or employment; and

(d) Specifying when a qualified entity, in lieu of conducting a completely new criminal records check, may proceed to make a fitness determination under subsection (5) of this section using the information maintained by the Department of Human Services and the Oregon Health Authority pursuant to subsection (6) of this section.

(8) If a person refuses to consent to the criminal records check or refuses to be fingerprinted, the qualified entity shall deny or terminate the employment of the person, or revoke or deny any applicable position, authority to provide services, employment, license, certification or registration.

(9) If the qualified entity requires a criminal records check of employees or other persons, the application forms of the qualified entity must contain a notice that employment is subject to fingerprinting and a criminal records check.

SECTION 60. ORS 336.035 is amended to read:

336.035. (1) The district school board shall see that the courses of study prescribed by law and by the rules of the State Board of Education are carried out. The board may establish supplemental courses that are not inconsistent with the prescribed courses and may adopt courses of study in lieu of state courses of study upon approval by the Superintendent of Public Instruction.

(2) Any district school board may establish a course of education concerning sexually transmitted [diseases] infections including recognition of causes, sources and symptoms, and the availability of diagnostic and treatment centers. Any such course established may be taught to adults from the community served by the individual schools as well as to students enrolled in the school. The board shall notify [cause] the parents or guardians of minor students [to be notified] in advance that the course is to be taught. Any such parent or guardian may direct in writing that the minor child in the care of the parent or guardian be excused from any class within the
course. Any parent or guardian may inspect the instructional materials to
be used before or during the time the course is taught.

(3) The district school board shall coordinate the course provided in sub-
section (2) of this section with the officials of the local [health department]
public health authority and the Superintendent of Public Instruction.
Teachers holding endorsements for health education shall be used where
available. [No] A teacher [shall] may not be subject to discipline or re-
moval for teaching or refusing to teach courses concerning sexually trans-
mitted [diseases] infections.

SECTION 61. ORS 403.115 is amended to read:

403.115. (1) The primary emergency telephone number within this state is
9-1-1, but a public or private safety agency shall maintain both a separate
10-digit secondary emergency number for use by a telephone operator or
provider and a separate 10-digit nonemergency number.

(2) Every public and private safety agency in this state shall participate
in the emergency communications system.

(3) An emergency telephone number other than 9-1-1 may not be published
on the top three-quarters of the emergency listing page of a telephone book.
However, an alternative nonemergency telephone number for a 9-1-1 juris-
diction may be printed on the top three-quarters of the emergency listing
page of a telephone book. The publisher may use the remainder of the page
to list the Oregon Poison Center, Federal Bureau of Investigation, a desig-
nated mental health crises service and United States Coast Guard, where
applicable. If there is more than one mental health crises service in a juris-
diction, the local [health department] public health authority shall decide
which mental health crises service the publisher may list by using the cri-
teria of a 24-hour staffed service, nonprofit organization and non-9-1-1 par-
ticipating agency. The publisher shall refer to the community services
section for other numbers.

(4) The emergency communications system must provide:

(a) Interconnectivity between public safety answering points and
interconnectivity with providers of the same or similar emergency response
services nationally;
(b) The capability, within each primary public safety answering point, to
receive all emergency calls placed locally within each 9-1-1 service area; and
(c) The automatic location identification accurately portraying the lo-
cation from which each emergency call originates.

SECTION 62. ORS 411.435 is amended to read:
411.435. The Oregon Health Authority and the Department of Human
Services shall endeavor to develop agreements with local governments to
facilitate the enrollment of medical assistance program clients. Subject to
the availability of funds therefor, the agreement shall be structured to allow
flexibility by the state and local governments and may allow any of the fol-
lowing options for enrolling clients in medical assistance programs:
(1) Initial processing may be done at the local [health department] public
health authority by employees of the local [health department] public
health authority, with eligibility determination completed at the local of-
office of the Department of Human Services or by the Oregon Health Au-
thority;
(2) Initial processing and eligibility determination may be done at the
local [health department] public health authority by employees of the local
[health department] public health authority; or
(3) Application forms may be made available at the local [health depart-
ment] public health authority with initial processing and eligibility deter-
mination done at the local office of the Department of Human Services or
by the Oregon Health Authority.

SECTION 63. ORS 413.600 is amended to read:
413.600. (1) There is established within the Oregon Health Authority the
Traditional Health Workers Commission.
(2) The Director of the Oregon Health Authority shall appoint the fol-
lowing 19 members to serve on the commission:
(a) Ten members, at least six of whom must be appointed from nominees
provided by the Oregon Community Health Workers Association, who represent traditional health workers, including at least one member to represent each of the following:

(A) Community health workers, as defined in ORS 414.025;

(B) Personal health navigators, as defined in ORS 414.025;

(C) Peer wellness specialists, including family support specialists and youth support specialists, all as defined in ORS 414.025;

(D) Peer support specialists, including family support specialists and youth support specialists, all as defined in ORS 414.025; and

(E) Doulas;

(b) One member who represents the Office of Community Colleges and Workforce Development;

(c) One member who is a community health nurse who represents the Oregon Nurses Association;

(d) One member who is a physician who represents the Oregon Medical Association;

(e) One member selected from nominees provided by the Home Care Commission;

(f) One member who represents coordinated care organizations;

(g) One member who represents a labor organization;

(h) One member who supervises traditional health workers at a community-based organization, local public health authority, as defined in ORS 433.235, or agency, as defined in ORS 183.310;

(i) One member who represents community-based organizations or agencies, as defined in ORS 183.310, that provide for the training of traditional health workers; and

(j) One member who represents a consumer of services provided by health workers who are not licensed by this state.

(3) In appointing members under subsection (2) of this section, the director shall consider whether the composition of the Traditional Health Workers Commission represents the geographic, ethnic, gender, racial, disability
status, gender identity, sexual orientation and economic diversity of traditional health workers.

(4) The term of office of each member of the commission is three years, but a member serves at the pleasure of the director. Before the expiration of the term of a member, the director shall appoint a successor whose term begins on January 1 next following. A member is eligible for reappointment. If there is a vacancy for any cause, the director shall make an appointment to become immediately effective for the unexpired term.

(5) A majority of the members of the commission constitutes a quorum for the transaction of business.

(6) Official action by the commission requires the approval of a majority of the members of the commission.

(7) The commission shall elect one of its members to serve as chairperson.

(8) The commission shall meet at times and places specified by the call of the chairperson or of a majority of the members of the commission.

(9) The commission may adopt rules necessary for the operation of the commission.

(10) A member of the commission is entitled to compensation and expenses as provided in ORS 292.495.

SECTION 64. ORS 414.152 is amended to read:

414.152. To capitalize on the successful public health programs provided by local [health departments] public health authorities and the sizable investment by state and local governments in the public health system, state agencies shall encourage agreements that allow local [health departments] public health authorities and other publicly supported programs to continue to be the providers of those prevention and health promotion services now available, plus other maternal and child health services such as prenatal outreach and care, child health services and family planning services to women and children who become eligible for poverty level medical assistance program benefits pursuant to ORS 414.153.

SECTION 65. ORS 414.153 is amended to read:
414.153. In order to make advantageous use of the system of public health care and services available through local [health departments] public health authorities and other publicly supported programs and to ensure access to public health care and services through contract under ORS chapter 414, the state shall:

(1) Unless cause can be shown why such an agreement is not feasible, require and approve agreements between coordinated care organizations and publicly funded providers for authorization of payment for point of contact services in the following categories:

(a) Immunizations;

(b) Sexually transmitted [diseases] infections; and

(c) Other communicable diseases;

(2) Allow members of coordinated care organizations to receive from fee-for-service providers:

(a) Family planning services;

(b) Human immunodeficiency virus and acquired immune deficiency syndrome prevention services; and

(c) Maternity case management if the Oregon Health Authority determines that a coordinated care organization cannot adequately provide the services;

(3) Encourage and approve agreements between coordinated care organizations and publicly funded providers for authorization of and payment for services in the following categories:

(a) Maternity case management;

(b) Well-child care;

(c) Prenatal care;

(d) School-based clinics;

(e) Health care and services for children provided through schools and Head Start programs; and

(f) Screening services to provide early detection of health care problems among low income women and children, migrant workers and other special
population groups; and

(4) Recognize the responsibility of counties under ORS 430.620 to operate community mental health programs by requiring a written agreement between each coordinated care organization and the local mental health authority in the area served by the coordinated care organization, unless cause can be shown why such an agreement is not feasible under criteria established by the Oregon Health Authority. The written agreements:

(a) May not prevent coordinated care organizations from contracting with other public or private providers for mental health or chemical dependency services;

(b) Must include agreed upon outcomes; and

(c) Must describe the authorization and payments necessary to maintain the mental health safety net system and to maintain the efficient and effective management of the following responsibilities of local mental health authorities, with respect to the service needs of members of the coordinated care organization:

(A) Management of children and adults at risk of entering or who are transitioning from the Oregon State Hospital or from residential care;

(B) Care coordination of residential services and supports for adults and children;

(C) Management of the mental health crisis system;

(D) Management of community-based specialized services, including but not limited to supported employment and education, early psychosis programs, assertive community treatment or other types of intensive case management programs and home-based services for children; and

(E) Management of specialized services to reduce recidivism of individuals with mental illness in the criminal justice system.

SECTION 66. ORS 414.629 is amended to read:

414.629. (1) A community health improvement plan adopted by a coordinated care organization and its community advisory council in accordance with ORS 414.627 shall include, to the extent practicable, a strategy and a
(a) Working with programs developed by the Early Learning Council, Early Learning Hubs, the Youth Development Council and the school health providers in the region; and

(b) Coordinating the effective and efficient delivery of health care to children and adolescents in the community.

(2) A community health improvement plan must be based on research, including research into adverse childhood experiences, and must identify funding sources and additional funding necessary to address the health needs of children and adolescents in the community and to meet the goals of the plan. The plan must also:

(a) Evaluate the adequacy of the existing school-based health resources including school-based health centers and school nurses to meet the specific pediatric and adolescent health care needs in the community;

(b) Make recommendations to improve the school-based health center and school nurse system, including the addition or improvement of electronic medical records and billing systems;

(c) Take into consideration whether integration of school-based health centers with the larger health system or system of community clinics would further advance the goals of the plan;

(d) Improve the integration of all services provided to meet the needs of children, adolescents and families;

(e) Focus on primary care, behavioral health and oral health; and

(f) Address promotion of health and prevention and early intervention in the treatment of children and adolescents.

(3) A coordinated care organization shall involve in the development of its community health improvement plan, school-based health centers, school nurses, school mental health providers and individuals representing:

(a) Programs developed by the Early Learning Council and Early Learning Hubs;

(b) Programs developed by the Youth Development Council in the region;
(c) The Healthy Start Family Support Services program in the region;  
(d) The Health Care for All Oregon Children program and other medical  
assistance programs;  
(e) Relief nurseries in the region;  
(f) Community health centers;  
(g) Oral health care providers;  
(h) Community mental health providers;  
(i) Administrators of [county health department programs] local public  
health authorities that offer preventive health services to children;  
(j) Hospitals in the region; and  
(k) Other appropriate child and adolescent health program administrators.  
(4) The Oregon Health Authority may provide incentive grants to coordi-  
nated care organizations for the purpose of contracting with individuals or  
organizations to help coordinate integration strategies identified in the  
community health improvement plan adopted by the community advisory  
council. The authority may also provide funds to coordinated care organiza-

tions to improve systems of services that will promote the implementation  
of the plan.  
(5) Each coordinated care organization shall report to the authority, in  
the form and manner prescribed by the authority, on the progress of the in-
tegration strategies and implementation of the plan for working with the  
programs developed by the Early Learning Council, Early Learning Hubs,  
the Youth Development Council and school health care providers in the re-

gion, as part of the development and implementation of the community  
health improvement plan. The authority shall compile the information  
biennially and report the information to the Legislative Assembly by De-
cember 31 of each even-numbered year.  
SECTION 67. ORS 417.827 is amended to read:  
417.827. (1) As used in this section and ORS 417.829:  
(a) “Early Learning Hub” means any entity designated by regional part-

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by the Early Learning Council.

(b) “Regional partners” includes counties, cities, school districts, education service districts, community colleges, public universities, private educational institutions, faith-based organizations, nonprofit service providers and tribes.

(2) The council shall implement and oversee a system that coordinates the delivery of early learning services to the communities of this state through the direction of Early Learning Hubs. The system may not include more than 16 Early Learning Hubs.

(3) The system implemented and overseen by the council must ensure that:

(a) Providers of early learning services are accountable for outcomes;

(b) Services are provided in a cost-efficient manner; and

(c) The services provided, and the means by which those services are provided, are focused on the outcomes of the services.

(4) The council shall develop and implement a process for requesting proposals from entities to become Early Learning Hubs. Proposals submitted under this subsection must comply with criteria and requirements adopted by the council by rule, including:

(a) The entity will be able to coordinate the provision of early learning services to the community that will be served by the entity. An entity may meet the requirement of this paragraph by submitting evidence that local stakeholders, including but not limited to service providers, parents, community members, county governments, local governments and school districts, have participated in the development of the proposal and will maintain a meaningful role in the Early Learning Hub.

(b) The services coordinated by the entity will be in alignment with the services provided by the public schools of the community that will be served by the entity.

(c) The entity will be in alignment with, and make advantageous use of, the system of public health care and services available through local [health departments] public health authorities and other publicly supported pro-
grams delivered through, or in partnership with, counties and coordinated care organizations.

(d) The entity will be able to integrate efforts among education providers, providers of health care, providers of human services and providers of other programs and services in the community.

(e) The entity will use coordinated and transparent budgeting.

(f) The entity will operate in a fiscally sound manner.

(g) The entity must have a governing body or community advisory body that:

(A) Has the authority to initiate audits, recommend the terms of a contract and provide reports to the public and to the council on the outcomes of the provision of early learning services to the community served by the entity.

(B) Has members selected through a transparent process and includes both public and private entities, locally based parents and service recipients, human social service providers, child care providers, health care providers and representatives of local governments from the service area.

(h) The entity will collaborate on documentation related to coordinated services with public and private entities that are identified by the council as providers of services that advance the early learning of children.

(i) The entity will serve a community that is based on the population and service needs of the community and will demonstrate the ability to improve results for at-risk children, including the ability to identify, evaluate and implement coordinated strategies to ensure that a child is ready to succeed in school.

(j) The entity will be able to raise and leverage significant funds from public and private sources and to secure in-kind support to support early learning services coordinated by the entity and operate in a fiscally sound manner.

(k) The entity meets any other qualifications established by the council.

(5) The council may adopt by rule requirements that are in addition to
the requirements described in subsections (3) and (4) of this section that an
entity must meet to qualify as an Early Learning Hub. When developing the
additional requirements, the council must use a statewide public process of
community engagement that is consistent with the requirements of the fed-
eral Head Start Act.

(6) When determining whether to designate an entity as an Early Learn-
ing Hub, the council shall balance the following factors:

(a) The entity’s ability to engage the community and be involved in the
community.

(b) The entity’s ability to produce outcomes that benefit children.

(c) The entity’s resourcefulness.

(d) The entity’s use, or proposed use, of evidence-based practices.

(7) The council shall develop metrics for the purpose of providing funding
to Early Learning Hubs designated under this section. The metrics must:

(a) Focus on community readiness, high capacity development and
progress toward tracking child outcomes;

(b) Establish a baseline of information for the area to be served by the
Early Learning Hub, including information about the inclusion of community
partners in the governance structure of the Early Learning Hub, the avail-
ability of data on local programs and outcomes and the success in leveraging
private, nonprofit and other governmental resources for early learning; and

(c) Include child performance metrics.

(8) The council may require that, as a condition of receiving funding as
a designated Early Learning Hub under this section, the Early Learning Hub
provide matching funding. The percentage of matching funding shall be de-
termined by the council and may vary for each fiscal year. Any moneys re-
ceived by an Early Learning Hub are subject to the restrictions of this
section.

(9) For any community in this state that is not served by an Early
Learning Hub, the council shall oversee and administer the delivery of early
learning services for that community and, to the extent practicable, shall
(10) The council may alter the lines of the territory served by an Early Learning Hub only to ensure that all children of this state are served by an Early Learning Hub.

(11) An entity designated as part of an Early Learning Hub may not use more than 15 percent of the moneys received by the entity from the council to pay administrative costs of the entity.

(12) The Department of Human Services or the Oregon Health Authority may not transfer any authority for determining eligibility for a state or federal program to an Early Learning Hub.

SECTION 68. ORS 418.714 is amended to read:

418.714. (1) A local domestic violence coordinating council recognized by the local public safety coordinating council or by the governing body of the county may establish a multidisciplinary domestic violence fatality review team to assist local organizations and agencies in identifying and reviewing domestic violence fatalities. When no local domestic violence coordinating council exists, a similar interdisciplinary group may establish the fatality review team.

(2) The purpose of a fatality review team is to review domestic violence fatalities and make recommendations to prevent domestic violence fatalities by:

(a) Improving communication between public and private organizations and agencies;

(b) Determining the number of domestic violence fatalities occurring in the team’s county and the factors associated with those fatalities;

(c) Identifying ways in which community response might have intervened to prevent a fatality;

(d) Providing accurate information about domestic violence to the community; and

(e) Generating recommendations for improving community response to and prevention of domestic violence.
A fatality review team shall include but is not limited to the following members, if available:

(a) Domestic violence program service staff or other advocates for battered women;

(b) Medical personnel with expertise in the field of domestic violence;

(c) Local health department staff public health authority personnel;

(d) The local district attorney or the district attorney’s designees;

(e) Law enforcement personnel;

(f) Civil legal services attorneys;

(g) Protective services workers;

(h) Community corrections professionals;

(i) Judges, court administrators or their representatives;

(j) Perpetrator treatment providers;

(k) A survivor of domestic violence; and

(L) Medical examiners or other experts in the field of forensic pathology.

Other individuals may, with the unanimous consent of the team, be included in a fatality review team on an ad hoc basis. The team, by unanimous consent, may decide the extent to which the individual may participate as a full member of the team for a particular review.

Upon formation and before reviewing its first case, a fatality review team shall adopt a written protocol for review of domestic violence fatalities. The protocol must be designed to facilitate communication among organizations and agencies involved in domestic violence cases so that incidents of domestic violence and domestic violence fatalities are identified and prevented. The protocol shall define procedures for case review and preservation of confidentiality, and shall identify team members.

Consistent with recommendations provided by the statewide interdisciplinary team under ORS 418.718, a local fatality review team shall provide the statewide team with information regarding domestic violence fatalities.

To ensure consistent and uniform results, fatality review teams may collect and summarize data to show the statistical occurrence of domestic
violence fatalities in the team’s county.

(8) Each organization or agency represented on a fatality review team may share with other members of the team information concerning the victim who is the subject of the review. Any information shared between team members is confidential.

(9) An individual who is a member of an organization or agency that is represented on a fatality review team is not required to disclose information. The intent of this section and ORS 418.718 is to allow the voluntary disclosure of information.

(10) An oral or written communication or a document related to a domestic violence fatality review that is shared within or produced by a fatality review team is confidential, not subject to disclosure and not discoverable by a third party. An oral or written communication or a document provided by a third party to a fatality review team is confidential, not subject to disclosure and not discoverable by a third party. All information and records acquired by a team in the exercise of its duties are confidential and may be disclosed only as necessary to carry out the purposes of the fatality review. However, recommendations of a team upon the completion of a review may be disclosed without personal identifiers at the discretion of two-thirds of the members of the team.

(11) Information, documents and records otherwise available from other sources are not immune from discovery or introduction into evidence solely because the information, documents or records were presented to or reviewed by a fatality review team.

(12) ORS 192.610 to 192.690 do not apply to meetings of a fatality review team.

(13) Each fatality review team shall develop written agreements signed by member organizations and agencies that specify the organizations’ and agencies’ understanding of and agreement with the principles outlined in this section.

SECTION 69. ORS 418.747 is amended to read:

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418.747. (1) The district attorney in each county shall be responsible for developing county multidisciplinary child abuse teams to consist of but not be limited to law enforcement personnel, Department of Human Services child protective service workers, school officials, local public health authority personnel, county mental health department personnel who have experience with children and family mental health issues, child abuse intervention center workers, if available, and juvenile department representatives, as well as others specially trained in child abuse, child sexual abuse and rape of children investigation.

(2) The teams shall develop a written protocol for immediate investigation of and notification procedures for child abuse cases and for interviewing child abuse victims. Each team also shall develop written agreements signed by member agencies that are represented on the team that specify:

(a) The role of each agency;
(b) Procedures to be followed to assess risks to the child;
(c) Guidelines for timely communication between member agencies;
(d) Guidelines for completion of responsibilities by member agencies;
(e) That upon clear disclosure that the alleged child abuse occurred in a child care facility as defined in ORS 329A.250, immediate notification of parents or guardians of children attending the child care facility is required regarding any abuse allegation and pending investigation; and
(f) Criteria and procedures to be followed when removal of the child is necessary for the child's safety.

(3) Each team member and the personnel conducting child abuse investigations and interviews of child abuse victims shall be trained in risk assessment, dynamics of child abuse, child sexual abuse and rape of children and legally sound and age appropriate interview and investigatory techniques.

(4) All investigations of child abuse and interviews of child abuse victims shall be carried out by appropriate personnel using the protocols and procedures called for in this section. If trained personnel are not available in a
timely fashion and, in the judgment of a law enforcement officer or child protective services worker, there is reasonable cause to believe a delay in investigation or interview of the child abuse victim could place the child in jeopardy of physical harm, the investigation may proceed without full participation of all personnel. This authority applies only for as long as reasonable danger to the child exists. A law enforcement officer or child protective services worker shall make a reasonable effort to find and provide a trained investigator or interviewer.

(5) To ensure the protection and safe placement of a child, the Department of Human Services may request that team members obtain criminal history information on any person who is part of the household where the department may place or has placed a child who is in the department’s custody. All information obtained by the team members and the department in the exercise of their duties is confidential and may be disclosed only when necessary to ensure the safe placement of a child.

(6) Each team shall classify, assess and review cases under investigation.

(7)(a) Each team shall develop and implement procedures for evaluating and reporting compliance of member agencies with the protocols and procedures required under this section. Each team shall submit to the administrator of the Child Abuse Multidisciplinary Intervention Program copies of the protocols and procedures required under this section and the results of the evaluation as requested.

(b) The administrator may:

(A) Consider the evaluation results when making eligibility determinations under ORS 418.746 (3);

(B) If requested by the Advisory Council on Child Abuse Assessment, ask a team to revise the protocols and procedures being used by the team based on the evaluation results; or

(C) Ask a team to evaluate the team’s compliance with the protocols and procedures in a particular case.

(c) The information and records compiled under this subsection are ex-
empt from ORS 192.311 to 192.478.

(8) Each team shall develop policies that provide for an independent re-
view of investigation procedures of sensitive cases after completion of court
actions on particular cases. The policies shall include independent citizen
input. Parents of child abuse victims shall be notified of the review proce-
dure.

(9) Each team shall designate at least one physician, physician assistant,
naturopathic physician or nurse practitioner who has been trained to con-
duct child abuse medical assessments, as defined in ORS 418.782, and who is,
or who may designate another physician, physician assistant, naturopathic
physician or nurse practitioner who is, regularly available to conduct the
medical assessment described in ORS 419B.023.

(10) If photographs are taken pursuant to ORS 419B.028, and if the team
meets to discuss the case, the photographs shall be made available to each
member of the team at the first meeting regarding the child’s case following
the taking of the photographs.

(11) No later than September 1, 2008, each team shall submit to the De-
partment of Justice a written summary identifying the designated medical
professional described in subsection (9) of this section. After that date, this
information shall be included in each regular report to the Department of
Justice.

(12) If, after reasonable effort, the team is not able to identify a desig-
nated medical professional described in subsection (9) of this section, the
team shall develop a written plan outlining the necessary steps, recruitment
and training needed to make such a medical professional available to the
children of the county. The team shall also develop a written strategy to
ensure that each child in the county who is a suspected victim of child abuse
will receive a medical assessment in compliance with ORS 419B.023. This
strategy, and the estimated fiscal impact of any necessary recruitment and
training, shall be submitted to the Department of Justice no later than Sep-
tember 1, 2008. This information shall be included in each regular report to
the Department of Justice for each reporting period in which a team is not able to identify a designated medical professional described in subsection (9) of this section.

SECTION 70. ORS 419B.005 is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined
in ORS 163.266, to purchase sex with a minor as described in ORS 163.413
or to engage in commercial sexual solicitation as described in ORS 167.008.
(F) Negligent treatment or maltreatment of a child, including but not
limited to the failure to provide adequate food, clothing, shelter or medical
care that is likely to endanger the health or welfare of the child.
(G) Threatened harm to a child, which means subjecting a child to a
substantial risk of harm to the child’s health or welfare.
(H) Buying or selling a person under 18 years of age as described in ORS
163.537.
(I) Permitting a person under 18 years of age to enter or remain in or
upon premises where methamphetamines are being manufactured.
(J) Unlawful exposure to a controlled substance, as defined in ORS
475.005, or to the unlawful manufacturing of a cannabinoid extract, as de-
fined in ORS 475B.015, that subjects a child to a substantial risk of harm to
the child’s health or safety.
(b) “Abuse” does not include reasonable discipline unless the discipline
results in one of the conditions described in paragraph (a) of this subsection.
(2) “Child” means an unmarried person who:
(a) Is under 18 years of age; or
(b) Is under 21 years of age and residing in or receiving care or services
at a child-caring agency as that term is defined in ORS 418.205.
(3) “Higher education institution” means:
(a) A community college as defined in ORS 341.005;
(b) A public university listed in ORS 352.002;
(c) The Oregon Health and Science University; and
(d) A private institution of higher education located in Oregon.
(4) “Law enforcement agency” means:
(a) A city or municipal police department.
(b) A county sheriff’s office.
(c) The Oregon State Police.
(d) A police department established by a university under ORS 352.121 or
353.125.
  (e) A county juvenile department.

(5) "Public or private official" means:
  (a) Physician or physician assistant licensed under ORS chapter 677 or
       naturopathic physician, including any intern or resident.
  (b) Dentist.
  (c) School employee, including an employee of a higher education insti-
       tution.
  (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse’s
       aide, home health aide or employee of an in-home health service.
  (e) Employee of the Department of Human Services, Oregon Health Au-
       thority, Early Learning Division, Youth Development Division, Office of
       Child Care, the Oregon Youth Authority, a local [health department] public
       health authority, a community mental health program, a community devel-
       opmental disabilities program, a county juvenile department, a child-caring
       agency as that term is defined in ORS 418.205 or an alcohol and drug treat-
       ment program.
  (f) Peace officer.
  (g) Psychologist.
  (h) Member of the clergy.
  (i) Regulated social worker.
  (j) Optometrist.
  (k) Chiropractor.
  (L) Certified provider of foster care, or an employee thereof.
  (m) Attorney.
  (n) Licensed professional counselor.
  (o) Licensed marriage and family therapist.
  (p) Firefighter or emergency medical services provider.
  (q) A court appointed special advocate, as defined in ORS 419A.004.
  (r) A child care provider registered or certified under ORS 329A.030 and
       329A.250 to 329A.450.

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(s) Member of the Legislative Assembly.
(t) Physical, speech or occupational therapist.
(u) Audiologist.
(v) Speech-language pathologist.
(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.
(ee) Home care worker, as defined in ORS 410.600.

SECTION 71. ORS 419B.005, as amended by section 21, chapter 75, Oregon Laws 2018, is amended to read:

419B.005. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:
(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child’s mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution as described in ORS 167.007 or a commercial sex act as defined in ORS 163.266, to purchase sex with a minor as described in ORS 163.413 or to engage in commercial sexual solicitation as described in ORS 167.008.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a
substantial risk of harm to the child’s health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, or to the unlawful manufacturing of a cannabinoid extract, as defined in ORS 475B.015, that subjects a child to a substantial risk of harm to the child’s health or safety.

(b) “Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) “Child” means an unmarried person who:

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) “Higher education institution” means:

(a) A community college as defined in ORS 341.005;

(b) A public university listed in ORS 352.002;

(c) The Oregon Health and Science University; and

(d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:

(a) A city or municipal police department.

(b) A county sheriff’s office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.121 or 353.125.

(e) A county juvenile department.

(5) “Public or private official” means:

(a) Physician or physician assistant licensed under ORS chapter 677 or naturopathic physician, including any intern or resident.

(b) Dentist.
(c) School employee, including an employee of a higher education institution.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Division, Youth Development Division, Office of Child Care, the Oregon Youth Authority, a local public health authority, a community mental health program, a community developmental disabilities program, a county juvenile department, a child-caring agency as that term is defined in ORS 418.205 or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
(x) Pharmacist.
(y) An operator of a preschool recorded program under ORS 329A.255.
(z) An operator of a school-age recorded program under ORS 329A.257.
(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
(bb) Employee of a public or private organization providing child-related services or activities:
   (A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and
   (B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.
(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.
(dd) Personal support worker, as defined in ORS 410.600.
(ee) Home care worker, as defined in ORS 410.600.

SECTION 72. ORS 430.735, as amended by section 2, chapter 77, Oregon Laws 2018, is amended to read:
430.735. As used in ORS 430.735 to 430.765:
(1) “Abuse” means one or more of the following:
   (a) Abandonment, including desertion or willful forsaking of an adult or the withdrawal or neglect of duties and obligations owed an adult by a caregiver or other person.
   (b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.
   (c) Willful infliction of physical pain or injury upon an adult.

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(d) Sexual abuse.

(e) Neglect.

(f) Verbal abuse of an adult.

(g) Financial exploitation of an adult.

(h) Involuntary seclusion of an adult for the convenience of the caregiver or to discipline the adult.

(i) A wrongful use of a physical or chemical restraint upon an adult, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

(2) “Adult” means a person 18 years of age or older:

(a) With a developmental disability who is currently receiving services from a community program or facility or who was previously determined eligible for services as an adult by a community program or facility;

(b) With a severe and persistent mental illness who is receiving mental health treatment from a community program; or

(c) Who is receiving services for a substance use disorder or a mental illness in a facility or a state hospital.

(3) “Adult protective services” means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult’s person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.
(4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) “Community program” includes:
(a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or
(b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.

(6) “Facility” means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) “Financial exploitation” means:
(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.
(b) Alarmingly an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.
(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.
(d) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult.

(8) “Intimidation” means compelling or deterring conduct by threat.

(9) “Law enforcement agency” means:
(a) Any city or municipal police department;
(b) A police department established by a university under ORS 352.121 or 353.125;
(c) Any county sheriff’s office;
(d) The Oregon State Police; or
(e) Any district attorney.

(10) “Neglect” means:
(a) Failure to provide the care, supervision or services necessary to
maintain the physical and mental health of an adult that may result in
physical harm or significant emotional harm to the adult;
(b) Failure of a caregiver to make a reasonable effort to protect an adult
from abuse; or
(c) Withholding of services necessary to maintain the health and well-
being of an adult that leads to physical harm of the adult.
(11) “Public or private official” means:
(a) Physician licensed under ORS chapter 677, physician assistant licensed
under ORS 677.505 to 677.525, naturopathic physician, psychologist or
chiropractor, including any intern or resident;
(b) Licensed practical nurse, registered nurse, nurse’s aide, home health
aide or employee of an in-home health service;
(c) Employee of the Department of Human Services or Oregon Health
Authority, local [health department] public health authority, community
mental health program or community developmental disabilities program or
private agency contracting with a public body to provide any community
mental health service;
(d) Peace officer;
(e) Member of the clergy;
(f) Regulated social worker;
(g) Physical, speech or occupational therapist;
(h) Information and referral, outreach or crisis worker;
(i) Attorney;
(j) Licensed professional counselor or licensed marriage and family ther-
apist;
(k) Any public official;
(L) Firefighter or emergency medical services provider;
(m) Member of the Legislative Assembly;
(n) Personal support worker, as defined by rule adopted by the Home Care
Commission; or
(o) Home care worker, as defined in ORS 410.600.

[109]
(12) "Services" includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) "Sexual abuse" means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between an adult and a relative of the adult other than a spouse;

(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or

(F) Any sexual contact between an individual receiving mental health or substance abuse treatment and the individual providing the mental health or substance abuse treatment.

(b) "Sexual abuse" does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(14) "Sexual contact" has the meaning given that term in ORS 163.305.

(15) "Verbal abuse" means to threaten significant physical or emotional harm to an adult through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

SECTION 73. ORS 430.735, as amended by section 22, chapter 75, Oregon Laws 2018, and section 2, chapter 77, Oregon Laws 2018, is amended to read:

430.735. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of an adult or
the withdrawal or neglect of duties and obligations owed an adult by a
caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental
means, or that appears to be at variance with the explanation given of the
injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse.

(e) Neglect.

(f) Verbal abuse of an adult.

(g) Financial exploitation of an adult.

(h) Involuntary seclusion of an adult for the convenience of the caregiver
or to discipline the adult.

(i) A wrongful use of a physical or chemical restraint upon an adult, ex-
cluding an act of restraint prescribed by a physician licensed under ORS
chapter 677, physician assistant licensed under ORS 677.505 to 677.525,
naturopathic physician licensed under ORS chapter 685 or nurse practitioner
licensed under ORS 678.375 to 678.390 and any treatment activities that are
consistent with an approved treatment plan or in connection with a court
order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411,
163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural
means.

(2) “Adult” means a person 18 years of age or older:

(a) With a developmental disability who is currently receiving services
from a community program or facility or who was previously determined el-
igible for services as an adult by a community program or facility;

(b) With a severe and persistent mental illness who is receiving mental
health treatment from a community program; or

(c) Who is receiving services for a substance use disorder or a mental
illness in a facility or a state hospital.
(3) “Adult protective services” means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard the adult’s person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) “Caregiver” means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) “Community program” includes:

(a) A community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695; or

(b) A provider that is paid directly or indirectly by the Oregon Health Authority to provide mental health treatment in the community.

(6) “Facility” means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) “Financial exploitation” means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of an adult.

(b) Alarming an adult by conveying a threat to wrongfully take or appropriate money or property of the adult if the adult would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by an adult.

(d) Failing to use the income or assets of an adult effectively for the support and maintenance of the adult.

(8) “Intimidation” means compelling or deterring conduct by threat.

(9) “Law enforcement agency” means:

(a) Any city or municipal police department;

(b) A police department established by a university under ORS 352.121 or
353.125;
(c) Any county sheriff’s office;
(d) The Oregon State Police; or
(e) Any district attorney.

(10) “Neglect” means:
(a) Failure to provide the care, supervision or services necessary to
maintain the physical and mental health of an adult that may result in
physical harm or significant emotional harm to the adult;
(b) Failure of a caregiver to make a reasonable effort to protect an adult
from abuse; or
(c) Withholding of services necessary to maintain the health and well-
being of an adult that leads to physical harm of the adult.

(11) “Public or private official” means:
(a) Physician licensed under ORS chapter 677, physician assistant licensed
under ORS 677.505 to 677.525, naturopathic physician, psychologist or
chiropractor, including any intern or resident;
(b) Licensed practical nurse, registered nurse, nurse’s aide, home health
aide or employee of an in-home health service;
(c) Employee of the Department of Human Services or Oregon Health
Authority, local [health department] public health authority, community
mental health program or community developmental disabilities program or
private agency contracting with a public body to provide any community
mental health service;
(d) Peace officer;
(e) Member of the clergy;
(f) Regulated social worker;
(g) Physical, speech or occupational therapist;
(h) Information and referral, outreach or crisis worker;
(i) Attorney;
(j) Licensed professional counselor or licensed marriage and family ther-
apist;
(k) Any public official;
(L) Firefighter or emergency medical services provider;
(m) Member of the Legislative Assembly;
(n) Personal support worker, as defined in ORS 410.600; or
(o) Home care worker, as defined in ORS 410.600.

(12) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(13)(a) “Sexual abuse” means:
(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;
(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;
(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;
(D) Any sexual contact between an adult and a relative of the adult other than a spouse;
(E) Any sexual contact that is achieved through force, trickery, threat or coercion; or
(F) Any sexual contact between an individual receiving mental health or substance abuse treatment and the individual providing the mental health or substance abuse treatment.

(b) “Sexual abuse” does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(14) “Sexual contact” has the meaning given that term in ORS 163.305.

(15) “Verbal abuse” means to threaten significant physical or emotional harm to an adult through the use of:
(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or
(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.
SECTION 74. ORS 431.003 is amended to read:

ORS 431.003. As used in ORS 431.001 to 431.550 and 431.990:

(1) “Foundational capability” means the knowledge, skill or ability that
is necessary to carry out a public health activity.

(2) “Foundational program” means a public health program that is nec-
essary to assess, protect or improve the health of the residents of this state.

(3) “Governing body of a local public health authority” means:

(a) The governing body of a county;

(b) A board described in ORS 431.443 (2);

(c) A board established under ORS 431.443 (3); or

(d) The board of an intergovernmental entity created by an agreement
pursuant to ORS 190.010 (5) for the purpose of providing public health ser-
vices.

[(4) “Local health department” means the agency established by the local
public health authority that is responsible for administering public health
programs and public health activities within the local public health authority's
jurisdiction.]

[(5) (4) “Local health officer” means:

(a) A local public health administrator appointed under ORS 431.418;

(b) [If the local public health administrator appointed under ORS 431.418
is not a physician licensed by the Oregon Medical Board.] The physician who
is employed by or who enters a contract with a local public health adminis-
trator under ORS 431.418[.]; or

(c) A physician appointed by the Public Health Officer described in
ORS 431.045.

[(6) (5) “Local public health administrator” means an individual ap-
pointed under ORS 431.418 to supervise the public health programs and
public health activities of a local [health department] public health au-
thority.

[(7) (6) “Local public health authority” means:

[115]
1. (a) A county government;
2. (b) A health district formed under ORS 431.443; or
3. (c) An intergovernmental entity that provides public health services pursuant to an agreement entered into under ORS 190.010 (5).

SECTION 75. ORS 431.120 is amended to read:

431.120. In addition to the duties described in ORS 431.115, the Oregon Health Authority shall:

1. (1) Enforce the laws, rules and policies of this state related to health.
2. (2) Routinely conduct epidemiological investigations for each case of sudden infant death syndrome, including the identification of risk factors such as birth weight, maternal age, prenatal care, history of apnea and socioeconomic characteristics. The Oregon Health Authority may conduct the investigations through local [health departments] public health authorities only upon adoption by rule of a uniform epidemiological data collection method.
3. (3) Adopt rules related to loans and grants awarded under ORS 285B.560 to 285B.599 or 541.700 to 541.855 for the improvement of drinking water systems for the purpose of maintaining compliance with applicable state and federal drinking water quality standards. In adopting rules under this subsection, the Oregon Health Authority shall coordinate the Oregon Health Authority’s rulemaking process with the Water Resources Department and the Oregon Business Development Department to ensure that rules adopted under this subsection are consistent with rules adopted under ORS 285B.563 and 541.845.
4. (4) Control health care capital expenditures by administering the state certificate of need program under ORS 442.325 to 442.344.

SECTION 76. ORS 431.405 is amended to read:

431.405. It is the purpose of ORS 431.380 to 431.510 to encourage improvement and standardization of local public health [departments] authorities in order to provide a more effective and more efficient public health service throughout the state.
SECTION 77. ORS 431.415 is amended to read:

431.415. (1) Subject to the availability of funds paid pursuant to ORS 431.380, each governing body of a local public health authority shall:

(a) In collaboration with the local public health administrator appointed under ORS 431.418, develop public health policies and goals for the local public health authority;

(b) Adopt ordinances and rules necessary for the local public health authority to administer ORS 431.001 to 431.550 and 431.990, any other public health law of this state and any other public health matter not expressly preempted by a law of this state;

(c) Adopt civil penalties for violations of ordinances and rules adopted under paragraph (b) of this subsection, provided that any civil penalty adopted under this paragraph is for an amount that does not exceed $1,000 per violation per day;

(d) Review and make recommendations on the local public health modernization plan adopted under ORS 431.413; and

(e) Monitor the progress of the local public health authority in meeting statewide and local public health goals, including progress in applying the foundational capabilities established under ORS 431.131 and implementing the foundational programs established under ORS 431.141.

(2) The governing body of a local public health authority shall adopt ordinances and rules necessary to carry out the duties of the local public health authority under subsection (1) of this section. The governing body of a local public health authority may not adopt an ordinance or rule or policy that is inconsistent with or less strict than a provision of ORS 431.001 to 431.550 and 431.990 or any other public health law of this state, or that is inconsistent with or less strict than a rule adopted under ORS 431.001 to 431.550 and 431.990 or any other public health law of this state.

(3) The governing body of a local public health authority may adopt schedules of fees for public health services that are reasonably calculated to not exceed the cost of the services performed. The local [health department]
public health authority shall charge fees in accordance with the schedule or schedules adopted.

SECTION 78. ORS 431.418 is amended to read:

431.418. (1) Each local public health authority shall appoint a qualified local public health administrator to supervise the activities of the local public health authority. In making an appointment under this subsection, the local public health authority shall consider standards for selection of local public health administrators prescribed by the Oregon Health Authority.

(2)(a) When the local public health administrator is a physician licensed [by the Oregon Medical Board] under ORS chapter 677, the local public health administrator [shall] may serve as the local health officer for the local public health authority.

(b) When the local public health administrator is not a physician licensed [by the Oregon Medical Board] under ORS chapter 677, or the local public health administrator elects to not serve as the local health officer, the local public health administrator shall employ or otherwise contract for services with [a local health officer who is] a physician licensed [by the Oregon Medical Board to perform the specific medical responsibilities requiring the services of a physician. A physician employed or whose services are contracted for under this subsection] under ORS chapter 677 to act as the local health officer.

(c) The local health officer is responsible to the local public health administrator for the medical and paramedical aspects of the public health programs administered by the local public health [administrator] authority.

(3) The local public health administrator shall:

(a) Serve as the executive secretary of the local public health authority[, act as the administrator of the local health department] and supervise the officers and employees appointed under paragraph (b) of this subsection.

(b) Appoint, subject to the approval of the local public health authority, administrators, medical officers, public health nurses, environmental health specialists and [such] other employees necessary to carry out the duties of
the local public health administrator under ORS 431.001 to 431.550 and
431.990 and any other public health law of this state.

(c) Provide the local public health authority at appropriate intervals in-
formation concerning the activities of the local [health department] public
health authority and submit an annual budget for the approval of the gov-
erning body of the county or, for a health district formed under ORS 431.443,
the governing bodies of the counties that formed the health district.

(d) Act as the agent of the Oregon Health Authority in enforcing state
public health laws and rules of the authority, including such sanitary in-
spection of hospitals and related institutions as may be requested by the
authority.

(e) Perform any other duty required by law.

(4) A local public health administrator shall serve until removed by the
appointing local public health authority. A local public health administrator
may not engage in an occupation that conflicts with the local public health
administrator’s official duties and shall devote sufficient time to fulfilling
the requirements of subsection (3) of this section. [However, if the governing
body of a local public health authority is not established under ORS 431.443
(3),] The local public health authority may, with the approval of the Director
of the Oregon Health Authority, require the local public health administra-
tor to work less than full-time.

(5) A local public health administrator shall receive a salary fixed by the
appointing [board] authority and shall be reimbursed for actual and neces-
sary expenses incurred in the performance of duties.

SECTION 79. ORS 431.510 is amended to read:

431.510. (1) The governing body of a county shall provide adequate quar-
ters and facilities for the office and operations of a local public health au-
thority [and shall appropriate sufficient moneys for the administration of the
local public health authority and the operation of the local health department
administered by the local public health authority].

(2) If a health district is established under ORS 431.443, the governing
body of each participating county shall appropriate annually moneys specifically designated for the administration and operation of a local public health authority described in ORS 431.443 (2) or established under ORS 431.443 (3) [and the operation of the local health department administered by the local public health authority].

SECTION 80. ORS 431.520 is amended to read:

431.520. Public records, as defined in ORS 192.005, of local [health departments] public health authorities and community mental health clinics may be destroyed or otherwise disposed of in accordance with rules prescribed by the State Archivist, except that public records may not be required to be maintained for more than seven years from the date of the last entry for purposes of preserving evidence for an action, suit or proceeding.

SECTION 81. ORS 431A.125 is amended to read:

431A.125. (1) Subject to available funding, including gifts, grants or donations, the Oregon Health Authority shall establish and administer a statewide injury and violence prevention program. In administering the program, the authority may:

(a) Collect and analyze data on injury and violence, including but not limited to data from death certificates, emergency department records, hospitalization records, medical examiner and coroner records and police reports and surveys;

(b) Develop and revise, as necessary, a comprehensive state plan for injury and violence prevention;

(c) Provide technical support and training to communities, local [health departments] public health authorities, state and local agencies, organizations and individuals;

(d) Prepare an annual report on injury and violence in Oregon;

(e) Conduct special studies of, collect data on and monitor and evaluate activities related to the risk factors, protective factors, causes and prevention of morbidity and mortality resulting from injury that occurs as a result of unintentional or undetermined causes, nonfatal self-harming be-
behavior, suicide, assault or homicide;
(f) Work with researchers to enhance knowledge about reducing injury
and violence in Oregon;
(g) Develop collaborative relationships with other state agencies and pri-
vent and community organizations for the purpose of establishing programs
that promote injury and violence prevention;
(h) Provide information to assist in the development of institutional and
public policies that will reduce injury and violence;
(i) Collaborate with local public health authorities, persons providing
emergency medical services, hospitals, law enforcement agencies, research
institutions and other organizations to conduct studies of, collect data on
and monitor and evaluate activities related to the causes and prevention of
injury and violence;
(j) Publish compilations of data and reports about injury and violence,
provided that the data and reports do not identify individual cases or sources
of information; and
(k) Adopt rules as necessary to carry out this section.
(2) Notwithstanding subsection (1) of this section, the authority may not
require a hospital, as defined in ORS 442.015, to report data to the authority
under this section unless the authority is otherwise authorized to require the
hospital to report the data to the authority under other state or federal law.
(3)(a) Except as provided in paragraph (c) of this subsection, all data
collected pursuant to this section is:
(A) Confidential and not subject to public disclosure law under ORS
192.311 to 192.478; and
(B) Privileged.
(b) Except as required by the administration or enforcement of the public
health laws of this state or rules adopted under the public health laws of this
state, a public health official, employee or agent may not be examined in an
administrative or judicial proceeding as to the existence or content of data
collected pursuant this section.
(c) The authority shall adopt rules under which confidential data collected pursuant to this section may be requested by a third party for the purpose of conducting research and studies for the public good. Research and studies conducted using confidential data collected pursuant to this section must be reviewed and approved by a committee established for the protection of human research subjects pursuant to 45 C.F.R. 46.

(4) A person who furnishes information to the authority for a purpose described in this section is not civilly or criminally liable for any loss, damage or injury arising out of the furnishing of that information to the authority.

(5) The authority may accept gifts, grants or donations from any public or private source for the purpose of carrying out this section. Funds received under this subsection shall be deposited in the Oregon Health Authority Fund established under ORS 413.101 and are continuously appropriated to the authority for the purposes of carrying out this section.

SECTION 82. ORS 432.141 is amended to read:

432.141. (1) From resources available to the Oregon Health Authority, the authority shall compile statistics on the total number of opioid and opiate overdoses and the total number of opioid and opiate overdose related deaths occurring in this state.

(2) Not less than once every three months, the Oregon Health Authority shall report to the Governor and each local [health department] public health authority, as defined in ORS 431.003, the statistics compiled under subsection (1) of this section.

(3) Not later than September 15 of each year, the Oregon Health Authority shall report to the interim committees of the Legislative Assembly related to health care, in the manner provided by ORS 192.245, the statistics compiled under subsection (1) of this section.

SECTION 83. ORS 433.012 is amended to read:

433.012. The Oregon Health Authority shall provide the necessary laboratory examinations requested by local [health departments] public health [122]
authorities for the diagnosis of those communicable diseases identified by
rule of the Oregon Health Authority to be a reportable disease.

SECTION 84. ORS 433.060 is amended to read:

433.060. As used in ORS 433.060 to 433.080 unless the context requires
otherwise:

[(1) “Authority” means the Oregon Health Authority.] [(1) “Health care facility” means a facility as defined in ORS 442.015
and a mental health facility, alcohol treatment facility or drug treatment
facility licensed or operated under ORS chapter 426 or 430.
[(3) “Hepatitis test” means a test of an individual for the presence of
hepatitis B or C or for any other substance specifically indicating the presence
of hepatitis B or C.] [(4) (2) “HIV test” means a test of an individual for the presence of hu-
man immunodeficiency virus (HIV), or for antibodies or antigens that result
from HIV infection, or for any other substance specifically indicating in-
fection with HIV.
[(5) (3) “Licensed health care provider” or “health care provider” means
a person licensed or certified to provide health care under ORS chapter 677,
678, 679, 680, 684 or 685 or ORS 682.216, or under comparable statutes of any
other state.
[(6) (4) “Local public health administrator” means the local public health
administrator, as defined in ORS 431.003, for the jurisdiction in which the
reported substantial exposure occurred.
[(7) (5) “Local public health officer” means the local health officer, as
described in ORS 431.418, of the county or district [health department] local
public health authority for the jurisdiction in which the substantial expo-
sure occurred.
[(8) (6) “Occupational exposure” means a substantial exposure of a
worker in the course of the worker’s occupation.
[(9) (7) “Source person” means a person who is the source of the blood
or body fluid in the instance of a substantial exposure of another person.

[123]
“(10) “Substantial exposure” means an exposure to blood or certain body fluids as defined by rule of the authority to have a potential for transmitting the human immunodeficiency virus based upon current scientific information.

“(11) “Worker” means a person who is licensed or certified to provide health care under ORS chapters 677, 678, 679, 680, 684 or 685 or ORS 682.216, an employee of a health care facility, of a licensed health care provider or of a clinical laboratory, as defined in ORS 438.010, a firefighter, a law enforcement officer, as defined in ORS 414.805, a corrections officer or a parole and probation officer.

SECTION 85. ORS 433.080 is amended to read:

433.080. When the Oregon Health Authority declares by rule that mandatory testing of source persons could help a defined class of workers from being infected or infecting others with the human immunodeficiency virus, the following apply:

(1) When a source person, after having been first requested to consent to testing by rules adopted under ORS 433.065, has refused or within a time period prescribed by rule of the Oregon Health Authority has failed to submit to the requested test, except when the exposed person has knowledge that the exposed person has a history of a positive HIV test, the exposed person may seek mandatory testing of the source person by filing a petition with the circuit court for the county in which the exposure occurred. The form for the petition shall be as prescribed by the Oregon Health Authority and shall be obtained from the local public health [department] authority.

(2) The petition shall name the source person as the respondent and shall include a short and plain statement of facts alleging:

(a) The petitioner is a worker subjected to an occupational exposure or a person who has been subjected to a substantial exposure by a worker administering health care and the respondent is the source person;

(b) The petitioner is in the class of workers defined by rule of the Oregon Health Authority under this section;
(c) All procedures for obtaining the respondent’s consent to an HIV test by rules adopted under ORS 433.065 have been exhausted by the petitioner and the respondent has refused to consent to the test, or within the time period prescribed by rule of the Oregon Health Authority has failed to submit to the test;

(d) The petitioner has no knowledge that the petitioner has a history of a positive HIV test and has since the exposure, within a time period prescribed by rule of the Oregon Health Authority, submitted a specimen from the petitioner for an HIV test; and

(e) The injury that petitioner is suffering or will suffer if the source person is not ordered to submit to an HIV test.

(3) The petition shall be accompanied by the certificate of the local public health administrator declaring that, based upon information in the possession of the local public health administrator, the facts stated in the allegations under subsection (2)(a), (b) and (c) of this section are true.

(4) Upon the filing of the petition, the court shall issue a citation to the respondent stating the nature of the proceedings, the statutes involved and the relief requested and, that if the respondent does not appear at the time and place for hearing stated in the citation, that the court will order the relief requested in the petition.

(5) The citation shall be served on the respondent together with a copy of the petition by the county sheriff or deputy. The person serving the citation and petition shall, immediately after service of the citation and petition, make a return showing the time, place and manner of such service and file the return with the clerk of the court.

(6) The hearing shall be held within three days of the service of the citation upon the respondent. The court may for good cause allow an additional period of 48 hours if additional time is requested by the respondent.

(7) Both the petitioner and the local public health administrator certifying to the matter alleged in the petition shall appear at the hearing. The hearing of the case shall be informal with the object of resolving the issue
before the court promptly and economically between the parties. The parties shall be entitled to subpoena witnesses, to offer evidence and to cross-examine. The judge may examine witnesses to [insure] ensure a full inquiry into the facts necessary for a determination of the matter before the court.

(8) After hearing all of the evidence, the court shall determine the truth of the allegations contained in the petition. The court shall order the respondent to submit to the requested test by a licensed health care provider without delay if, based upon clear and convincing evidence, the court finds that:

(a) The allegations in the petition are true;
(b) The injury the petitioner is suffering or will suffer is an injury that only the relief requested will adequately remedy; and
(c) The interest of the petitioner in obtaining the relief clearly outweighs the privacy interest of the respondent in withholding consent.

(9) If the court does not make the finding described in subsection (8) of this section, the court shall dismiss the petition.

(10) Failure to obey the order of the court shall be subject to contempt proceedings pursuant to law.

SECTION 86. ORS 433.090 is amended to read:

433.090. As used in ORS 433.090 to 433.102:

(1) “Authorized user” means a person or entity authorized to provide information to or to receive information from an immunization registry or tracking and recall system under ORS 433.090 to 433.102. “Authorized user” includes, but is not limited to:

(a) The Oregon Health Authority and its agents;
(b) Local public health [departments] authorities and their agents;
(c) Licensed health care providers and their agents;
(d) Health care institutions;
(e) Insurance carriers;
(f) State health plans as defined in ORS 192.556;
(g) Parents, guardians or legal custodians of children under 18 years of
age;
(h) Clients 18 years of age or older;
(i) Post-secondary education institutions;
(j) Schools; and
(k) Children’s facilities.
(2) “Children’s facility” has the meaning given that term in ORS 433.235.
(3) “Client” means a person registered with any Oregon tracking and re-
call system.
(4) “Immunization record” includes but is not limited to records of the
following:
(a) Any immunization received;
(b) Date immunization was received;
(c) Complication or side effect associated with immunization;
(d) Date and place of birth of a client;
(e) Hospital where a client was born;
(f) Client’s name; and
(g) Mother’s name.
(5) “Immunization registry” means a listing of clients and information
relating to their immunization status, without regard to whether the registry
is maintained in this state or elsewhere.
(6) “Local public health [department] authority” has the meaning given
that term in ORS 431.003.
(7) “Parent or guardian” has the meaning given the term “parent” in ORS
433.235.
(8) “Post-secondary education institution” means:
(a) A public university listed in ORS 352.002;
(b) A community college operated under ORS chapter 341;
(c) A school or division of Oregon Health and Science University; or
(d) An Oregon-based, generally accredited, private institution of higher
education.
(9) “Provider” means a physician or a health care professional who is
acting within the scope of the physician’s or professional’s licensure and is responsible for providing immunization services or for coordinating immunization services within a clinic, public health site, school or other immunization site.

(10) “School” has the meaning given that term in ORS 433.235.

(11) “Tracking and recall record” means information needed to send reminder cards to, place telephone calls to or personally contact the client or the parent or guardian of a client for the purposes of informing the client, parent or guardian that the client is late in receiving recommended immunizations, hearing or lead screenings, or other public health interventions, including but not limited to the client’s:

(a) Name;
(b) Address;
(c) Telephone number;
(d) Insurance carrier; and
(e) Health care provider.

(12) “Tracking and recall system” means a system attached to an immunization registry designed to contact clients listed in the immunization registry for the purposes of assisting in the timely completion of immunization series, hearing or lead screenings, or other public health interventions designated by rule of the Oregon Health Authority.

SECTION 87. ORS 433.094 is amended to read:

433.094. (1) The Oregon Health Authority, a local public health [department] authority, or both, or their agents or other providers may develop an immunization registry and an associated tracking and recall system.

(2) The immunization registry and tracking and recall system shall include, but not be limited to, the following:

(a) Registering all clients born in, living in or receiving services in this state;

(b) Tracking and updating immunization histories of the registered clients;
(c) Allowing a provider, the Oregon Health Authority or a local public health authority to provide information to and obtain information from the immunization records contained in the immunization registry, and the tracking and recall records contained in the tracking and recall system, without the consent of the client or the parent or guardian of the client;

(d) Allowing an immunization record of a client who is under the care of an authorized user or enrolled in an authorized user’s program to be released to the authorized user;

(e) Notifying in writing the parent or guardian of a client, at least through five years of age, when the tracking and recall system indicates that a client has missed a scheduled immunization;

(f) Integrating with any immunization registry and its associated tracking and recall systems; and

(g) Working with health care providers to develop information transfer systems.

(3) The immunization registry and tracking and recall system may allow information to be released to an authorized user from an immunization record or a tracking and recall record for purposes including, but not limited to:

(a) Outreach to clients under the care of the authorized user or enrolled in the authorized user’s program who have missed immunizations, hearing or lead screenings, or other public health interventions designated by rule of the Oregon Health Authority; or

(b) Public health assessment and evaluation related to immunizations and vaccine-preventable diseases conducted by the Oregon Health Authority or by a local public health authority for clients within the local public health authority’s jurisdiction.

SECTION 88. ORS 433.235 is amended to read:

433.235. As used in ORS 433.235 to 433.284:

(1) “Administrator” means the principal or other person having general
control and supervision of a school or children’s facility.

(2) “Children’s facility” or “facility” means:
(a) A certified child care facility as described in ORS 329A.030 and 329A.250 to 329A.450, except as exempted by rule of the Oregon Health Authority;
(b) A program operated by, or sharing the premises with, a certified child care facility, school or post-secondary institution where care is provided to children, six weeks of age to kindergarten entry, except as exempted by rule of the Oregon Health Authority; or
(c) A program providing child care or educational services to children, six weeks of age to kindergarten entry, in a residential or nonresidential setting, except as exempted by rule of the Oregon Health Authority.

(3) “Local public health authority” has the meaning given that term in ORS 431.003.

(4) “Parent” means a parent or guardian of a child or any adult responsible for the child.

(5) “Physician” means:
(a) A physician licensed under ORS chapter 677;
(b) A naturopathic physician licensed under ORS chapter 685;
(c) A physician similarly licensed by another state or country in which the physician practices; or
(d) A commissioned medical officer of the Armed Forces or Public Health Service of the United States.

(6) “School” means a public, private, parochial, charter or alternative educational program offering kindergarten through grade 12 or any part thereof, except as exempted by rule of the Oregon Health Authority.

SECTION 89. ORS 433.102 is amended to read:

433.102. (1) Nothing in ORS 433.090 to 433.102 is intended to affect the responsibility of a parent or guardian to have a child of that parent or
guardian properly immunized.

(2) Nothing in ORS 433.090 to 433.102 is intended to require immunization or tracking of any child otherwise exempt from immunization requirements under ORS 433.267 [(1)(b)] (2)(b) or (c).

SECTION 90. ORS 433.245 is amended to read:

433.245. (1) The Director of the Oregon Health Authority shall appoint a committee to advise the Oregon Health Authority on the administration of the provisions of ORS 433.235 to 433.284, including the adoption of rules pursuant to ORS 433.269 (2), 433.273, 433.282 and 433.283.

(2) Members of the committee appointed pursuant to subsection (1) of this section shall include, but need not be limited to, representatives of the Oregon Health Authority, the Department of Human Services, the Department of Education, public, private and parochial schools, children’s facilities, institutions of post-secondary education, education service districts, local health departments public health authorities, the boards of county commissioners or county courts and the public.

SECTION 91. ORS 433.255 is amended to read:

433.255. Except in strict conformity with the rules of the Oregon Health Authority, no child or employee shall be permitted to be in any school or children’s facility when:

(1) That child or employee has any restrictable disease;

(2) That child or employee comes from any house in which exists any restrictable disease; or

(3) That child has been excluded as provided in ORS 433.267 [(5)] (6) or [(7)] (8).

SECTION 92. ORS 433.260 is amended to read:

433.260. (1) Whenever any administrator has reason to suspect that any child or employee has or has been exposed to any restrictable disease and is required by the rules of the Oregon Health Authority to be excluded from a school or children’s facility, the administrator shall send such person home and, if the disease is one that must be reported to the Oregon Health Au-
authority, report the occurrence to the local [health department] public health authority by the most direct means available.

(2) Any person excluded under subsection (1) of this section may not be permitted to be in the school or facility until the person presents a certificate from a physician, physician assistant licensed under ORS 677.505 to 677.525, nurse practitioner licensed under ORS 678.375 to 678.390, local [health department] public health authority nurse or school nurse stating that the person does not have or is not a carrier of any restrictable disease.

SECTION 93. ORS 433.267 is amended to read:

433.267. (1) As used in this section:

(a) “Newly entering child” means a child who is initially attending:

(A) A facility in this state;

(B) A school at the entry grade level;

(C) Either a school at any grade level or a facility from homeschooling; or

(D) A school at any grade level or a facility after entering the United States from another country.

(b) “Transferring child” means a child moving from:

(A) One facility to another facility;

(B) One school in this state to another school in this state when the move is not the result of a normal progression of grade level; or

(C) A school in another state to a school in this state.

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public health authority certifying the immunizations the child has received;
(b) A document signed by a physician or a representative of the local public health authority stating that the child should be exempted from receiving specified immunization because of indicated medical diagnosis; or
(c) A document, on a form prescribed by the Oregon Health Authority by rule and signed by the parent of the child, stating that the parent is declining one or more immunizations on behalf of the child. A document submitted under this paragraph:
   (A) May include the reason for declining the immunization, including whether the parent is declining the immunization because of a religious or philosophical belief; and
   (B) Must include either:
      (i) A signature from a health care practitioner verifying that the health care practitioner has reviewed with the parent information about the risks and benefits of immunization that is consistent with information published by the Centers for Disease Control and Prevention and the contents of the vaccine educational module approved by the Oregon Health Authority pursuant to rules adopted under ORS 433.273; or
      (ii) A certificate verifying that the parent has completed a vaccine educational module approved by the Oregon Health Authority pursuant to rules adopted under ORS 433.273.

A newly entering child or a transferring child shall be required to submit the document described in subsection [(I)] (2) of this section prior to attending the school or facility.
(b) Notwithstanding paragraph (a) of this subsection, a child transferring from a school in the United States must submit the document required by subsection [(I)] (2) of this section not later than the exclusion date set by rule of the Oregon Health Authority.

Persons who have been emancipated pursuant to ORS 419B.558
or who have reached the age of consent for medical care pursuant to ORS 109.640 may sign those documents on their own behalf otherwise requiring the signatures of parents under subsection [(1)] (2) of this section.

[(4)] (5) The administrator shall conduct a primary evaluation of the records submitted pursuant to subsection [(1)] (2) of this section to determine whether the child is entitled to begin attendance by reason of having submitted a document that complies with the requirements of subsection [(1)] (2) of this section.

[(5)] (6) If the records do not meet the initial minimum requirements established by rule, the child may not be allowed to attend until the requirements are met. If the records meet the initial minimum requirements, the child shall be allowed to attend.

[(6)] (7) At the time specified by the Oregon Health Authority by rule, records for children meeting the initial minimum requirements and records previously on file shall be reviewed for completion of requirements by the administrator to determine whether the child is entitled to continue in attendance. If the records do not comply, the administrator shall notify the local [health department] public health authority and shall transmit any records concerning the child’s immunization status to the local [health department] public health authority.

[(7)] (8) The local [health department] public health authority shall provide for a secondary evaluation of the records to determine whether the child should be excluded for noncompliance with the requirements stated in subsection [(1)] (2) of this section. If the child is determined to be in non-compliance, the local [health department] public health authority shall issue an exclusion order and shall send copies of the order to the parent or the person who is emancipated or has reached the age of majority and the administrator. On the effective date of the order, the administrator shall exclude the child from the school or facility and not allow the child to attend the school or facility until the requirements of this section have been met.

[(8)] (9) The administrator shall readmit the child to the school or facility
when in the judgment of the local [health department] public health au-
thority the child is in compliance with the requirements of this section.

[(9) (10) The administrator shall be responsible for updating the docu-
ment described in subsection [(1)(a)] (2)(a) of this section as necessary to
reflect the current status of the immunization of the child and the time at
which the child comes into compliance with immunizations against the
restrictable diseases prescribed by rules of the Oregon Health Authority
pursuant to ORS 433.273.

[(10) (11) Nothing in this section shall be construed as relieving agencies,
in addition to school districts, which are involved in the maintenance and
evaluation of immunization records on April 27, 1981, from continuing re-
sponsibility for these activities.

[(11) (12) All documents required by this section shall be on forms ap-
proved or provided by the Oregon Health Authority.

[(12) (13) In lieu of signed documents from health care practitioners, the
authority may accept immunization record updates using practitioner docu-
mented immunization records generated by electronic means or on unsigned
practitioner letterhead if the authority determines such records are accurate.

[(13) As used in this section:]

[(a) “Newly entering child” means a child who is initially attending:]
[(A) A facility in this state;]
[(B) A school at the entry grade level;]
[(C) Either a school at any grade level or a facility from homeschooling;]
or]
[(D) A school at any grade level or a facility after entering the United
States from another country.]

[(b) “Transferring child” means a child moving from:]
[(A) One facility to another facility;]
[(B) One school in this state to another school in this state when the move
is not the result of a normal progression of grade level; or]
[(C) A school in another state to a school in this state.]
SECTION 94. ORS 433.273 is amended to read:

433.273. The Oregon Health Authority shall adopt rules pertaining to the implementation of ORS 433.235 to 433.284, which shall include, but need not be limited to:

1. The definition of “restrictable” disease;
2. The required immunization against diseases;
3. The time schedule for immunization;
4. The approved means of immunization;
5. The procedures and time schedule whereby children may be excluded from attendance in schools or children’s facilities under ORS 433.267 [(1)(b)] (2)(b) and (c), provided that the authority includes as part of those procedures service of notice to parents;
6. The manner in which immunization records for children are established, evaluated and maintained;
7. Exemptions for schools and children’s facilities, including exemptions from the reporting requirements of ORS 433.269 (2) and exemptions from the requirement under ORS 433.269 (3) to make information available;
8. The implementation of ORS 433.282 and 433.283;
9. The process for approving a vaccine educational module;
10. Criteria for a vaccine educational module, including the requirement that a vaccine educational module present information that is consistent with information published by the Centers for Disease Control and Prevention concerning:
   a. Epidemiology;
   b. The prevention of disease through the use of vaccinations; and
   c. The safety and efficacy of vaccines; and
11. Documentation required to verify completion of a vaccine educational module, including the qualifications of persons who may certify the completion.

SECTION 95. ORS 433.280 is amended to read:

433.280. Nothing in ORS 179.505, 192.553 to 192.581, 326.565, 326.575 or
336.187 prevents:

1. Inspection by or release to administrators by local [health departments] **public health authorities** of information relating to the status of a person’s immunization against restrictable diseases without the consent of the person, if the person has been emancipated or has reached the age of majority, or the parent of a child.

2. Local [health departments] **public health authorities** from releasing information concerning the status of a person’s immunization against restrictable diseases by telephone to the parent, administrators and public health officials.

**SECTION 96.** ORS 433.326 is amended to read:

433.326. The purpose of ORS 433.321, 433.323 and 433.327 [and section 4, chapter 240, Oregon Laws 2003,] is to waive the requirement of authorization to disclose information from, or provide information to, the record of a newborn child in the newborn hearing screening test registry and to waive confidentiality in regard to this information. The waiver allows providers, the Oregon Health Authority and local [health departments] **public health authorities** and their agents, parents or guardians and diagnostic facilities to share information from the newborn hearing screening test registry without violating confidentiality. The newborn hearing screening test registry and the associated tracking and recall system are designed to increase early and appropriate intervention to minimize delays in developing language skills by the children of this state.

**SECTION 97.** ORS 433.419 is amended to read:

433.419. When a local [health department] **public health authority** or the Oregon Health Authority learns of a case or suspected case of an infectious disease [which] **that** may have exposed a worker to risk of infection, the local [health department] **public health authority** or the Oregon Health Authority shall make every reasonable effort to notify the worker and employer of the exposure as soon as medically appropriate given the urgency of the disease or suspected disease. Notification shall include recommen-
dations to the worker and employer that are medically appropriate.

SECTION 98. ORS 433.423 is amended to read:

433.423. (1) The Oregon Health Authority shall adopt rules implementing ORS 433.407 to 433.423. [Such] The rules [shall] must include, but need not be limited to:

(a) The development of curriculum dealing with the exposure of workers to infectious diseases;

(b) Development and conduct of training programs for local [health department] public health authority personnel to prepare them to train workers about the subject of infectious diseases;

(c) Information on the manner in which infectious diseases are transmitted; and

(d) Guidelines that can assist workers and their employers in distinguishing between conditions in which such workers are or are not at risk with respect to infectious diseases.

(2) The rules adopted by the Oregon Health Authority shall require that implementation of ORS 433.407 to 433.423 be accomplished in such a manner as to protect the confidentiality of persons with infectious diseases and workers exposed to such persons.

SECTION 99. ORS 435.205 is amended to read:

435.205. (1) The Oregon Health Authority and every local public health [department] authority shall [offer] ensure access to family planning and birth control services within the limits of available funds. Both agencies jointly may offer [such] family planning and birth control services. [The Director of the Oregon Health Authority or a designee shall initiate and conduct discussions of family planning with each person who might have an interest in and benefit from such service.] The authority shall [furnish] provide consultation and assistance to local public health [departments] authorities.

(2) Family planning and birth control services may include [interviews] face-to-face encounters with trained personnel; distribution of literature;
referral to a licensed physician, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or nurse practitioner licensed under ORS 678.375 to 678.390 for consultation, examination, medical treatment and prescription; and, to the extent so prescribed, the distribution of [rhythm charts, the initial supply of a drug or other medical preparation, contraceptive devices and similar products] contraceptive methods, including drugs and devices to prevent pregnancy.

(3) Any [literature, charts or other] family planning and birth control information offered under this section in counties in which a significant segment of the population does not speak English shall be made available in the appropriate [foreign] language for that segment of the population.

(4) In carrying out its duties under this section, [and with the consent of the local public health authority as defined in ORS 431.003,] the local public health [department] authority may adopt a fee schedule for services provided by the local public health [department] authority. The fees shall be reasonably calculated not to exceed costs of services provided and may be adjusted on a sliding scale reflecting ability to pay.

(5) The local public health [department] authority shall collect fees according to the schedule adopted under subsection (4) of this section. [Such] The fees may be used to meet the expenses of providing the services authorized by this section.

SECTION 100. ORS 441.413 is amended to read:

441.413. (1) The Long Term Care Ombudsman shall appoint designees in consultation with local screening committees that may consist of but not be limited to persons representing:

(a) The area agency, as defined in ORS 410.040.
(b) The local office of the Department of Human Services.
(c) The local [health department] public health authority.
(d) Senior citizens groups in the area.
(e) Local elected officials.
(2) To be appointed as a designee, a person must complete an initial training, as prescribed by the Long Term Care Ombudsman by rule, and attend quarterly training sessions that are approved by the ombudsman and that shall be coordinated and funded by the Department of Human Services and the Oregon Health Authority, subject to the availability of funds. Local screening committees shall be appointed by and serve at the pleasure of the ombudsman.

(3) Designees must sign a contract with the state that outlines the scope of their duties. In districts where a designee is an employee or agent of a local entity, a three-party contract shall be executed. Violation of the contract is cause for the termination of the appointment. A directory of all designees shall be maintained in the office of the Long Term Care Ombudsman.

(4) The qualifications of designees shall include experience with long term care facilities or residents or potential residents of long term care facilities, and the ability to communicate well, to understand laws, rules and regulations, and to be assertive, yet objective.

(5) Applicants who have experience in either social service, mental health, developmental disability services, gerontology, nursing or paralegal work shall be given preference in the appointment of designees.

(6) The contract shall include statements that the purpose of the Long Term Care Ombudsman Program is to:

(a) Promote rapport and trust between the residents and staff of the long term care facilities and Long Term Care Ombudsman;

(b) Assist residents with participating more actively in determining the delivery of services at the facilities;

(c) Serve as an educational resource;

(d) Receive, resolve or relay concerns to the Long Term Care Ombudsman or the appropriate agency; and

(e) Ensure equitable resolution of problems.

(7) The duties of the designees are to:
(a) Visit each assigned long term care facility on a regular basis:
   (A) Upon arrival and departure, inform a specified staff member.
   (B) Review, with a specified staff member, any problems or concerns that
   need to be considered.
   (C) Visit individual residents and resident councils.
(b) Maintain liaison with appropriate agencies and the Long Term Care
    Ombudsman.
(c) Report, in writing, monthly to the Long Term Care Ombudsman.
(d) Keep residents and staff informed of the Long Term Care Ombudsman
    Program.
(e) Periodically review the rights prescribed in ORS 441.605, 441.610 and
    441.612, and any other applicable rights to services, with residents, families,
    guardians, administrators and staff of long term care facilities.
(f) Perform other related duties as specified.

SECTION 101. ORS 441.630 is amended to read:

441.630. As used in ORS 441.630 to 441.680:
(1) “Abuse” means:
   (a) Any physical injury to a resident of a long term care facility which
   has been caused by other than accidental means.
   (b) Failure to provide basic care or services, which failure results in
   physical harm or unreasonable discomfort or serious loss of human dignity.
   (c) Sexual contact with a resident caused by an employee, agent or other
   resident of a long term care facility by force, threat, duress or coercion.
   (d) Illegal or improper use of a resident’s resources for the personal profit
   or gain of another person.
   (e) Verbal or mental abuse as prohibited by federal law.
   (f) Corporal punishment.
   (g) Involuntary seclusion for convenience or discipline.
(2) “Abuse complaint” means any oral or written communication to the
    department, one of its agents or a law enforcement agency alleging abuse.
(3) “Department” means the Department of Human Services or a designee
of the department.

(4) “Facility” means a long term care facility, as defined in ORS 442.015.

(5) “Law enforcement agency” means:

(a) Any city or municipal police department.

(b) A police department established by a university under ORS 352.121 or 353.125.

(c) Any county sheriff’s office.

(d) The Oregon State Police.

(e) Any district attorney.

(6) “Public or private official” means:

(a) Physician, including any intern or resident.

(b) Licensed practical nurse or registered nurse.

(c) Employee of the Department of Human Services, a community developmental disabilities program or a long term care facility or person who contracts to provide services to a long term care facility.

(d) Employee of the Oregon Health Authority, local [health department] public health authority or community mental health program.

(e) Peace officer.

(f) Member of the clergy.

(g) Regulated social worker.

(h) Physical, speech and occupational therapists.

(i) Legal counsel for a resident or guardian or family member of the resident.

(j) Member of the Legislative Assembly.

(k) Personal support worker, as defined by rule adopted by the Home Care Commission.

(L) Home care worker, as defined in ORS 410.600.

SECTION 102. ORS 441.630, as amended by section 23, chapter 75, Oregon Laws 2018, is amended to read:

441.630. As used in ORS 441.630 to 441.680:

(1) “Abuse” means:
(a) Any physical injury to a resident of a long term care facility which has been caused by other than accidental means.

(b) Failure to provide basic care or services, which failure results in physical harm or unreasonable discomfort or serious loss of human dignity.

(c) Sexual contact with a resident caused by an employee, agent or other resident of a long term care facility by force, threat, duress or coercion.

(d) Illegal or improper use of a resident's resources for the personal profit or gain of another person.

(e) Verbal or mental abuse as prohibited by federal law.

(f) Corporal punishment.

(g) Involuntary seclusion for convenience or discipline.

(2) “Abuse complaint” means any oral or written communication to the department, one of its agents or a law enforcement agency alleging abuse.

(3) “Department” means the Department of Human Services or a designee of the department.

(4) “Facility” means a long term care facility, as defined in ORS 442.015.

(5) “Law enforcement agency” means:

   (a) Any city or municipal police department.

   (b) A police department established by a university under ORS 352.121 or 353.125.

   (c) Any county sheriff’s office.

   (d) The Oregon State Police.

   (e) Any district attorney.

   (6) “Public or private official” means:

       (a) Physician, including any intern or resident.

       (b) Licensed practical nurse or registered nurse.

       (c) Employee of the Department of Human Services, a community developmental disabilities program or a long term care facility or person who contracts to provide services to a long term care facility.

       (d) Employee of the Oregon Health Authority, local [health department] public health authority or community mental health program.

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443.014. As used in ORS 443.014 to 443.105:

(1) “Caregiver registry” means a person that prequalifies, establishes and maintains a roster of qualified private contractor caregivers that is provided to a client or the client’s representative for consideration in the hiring of an individual to provide caregiver services within the client’s place of residence.

(2) “Home health agency” means a public or private agency providing coordinated home health services on a home visiting basis. “Home health agency” does not include:

(a) Any visiting nurse service or home health service conducted by and for those who rely upon spiritual means through prayer alone for healing in accordance with the tenets and practices of a recognized church or religious denomination.

(b) Those home health services offered by local [health departments] public health authorities outside, and in addition to, programs formally designated and funded as home health agencies.

(3) “Home health services” means items and services furnished to an individual by a home health agency, or by others under arrangements with such agency, on a visiting basis, in a place of temporary or permanent residence used as the individual’s home for the purpose of maintaining that individual at home.
SECTION 104. ORS 448.150 is amended to read:

448.150. (1) The Oregon Health Authority shall:

(a) Conduct periodic sanitary surveys of drinking water systems and
sources, take water samples and inspect records to ensure that the systems
are not creating an unreasonable risk to health. The authority shall provide
written reports of the examinations to water suppliers and to local public
health administrators, as defined in ORS 431.003. The authority may impose
a fee on water suppliers to recover the costs of conducting the periodic
sanitary surveys.

(b) Require regular water sampling by water suppliers to determine com-
pliance with water quality standards established by the authority. These
samples shall be analyzed in a laboratory approved by the authority. The
results of the laboratory analysis of a sample shall be reported to the au-
thority by the water supplier, unless direct laboratory reporting is authorized
by the water supplier. The laboratory performing the analysis shall report
the validated results of the analysis directly to the authority and to the
water supplier if the analysis shows that a sample contains contaminant
levels in excess of any maximum contaminant level specified in the water
quality standards.

(c) Investigate any water system that fails to meet the water quality
standards established by the authority.

(d) Require every water supplier that provides drinking water that is from
a surface water source to conduct sanitary surveys of the watershed as may
be considered necessary by the Oregon Health Authority for the protection
of public health. The water supplier shall make written reports of such san-
itary surveys of watersheds promptly to the authority and to the local [health
department] public health authority.

(e) Investigate reports of waterborne disease pursuant to ORS 431.001 to
431.550 and 431.990 and take necessary actions as provided for in ORS
446.310, 448.030, 448.115 to 448.285, 454.235, 454.255 and 455.680 to protect the
public health and safety.
(f) Notify the Department of Environmental Quality of a potential ground water management area if, as a result of its water sampling under paragraphs (a) to (e) of this subsection, the Oregon Health Authority detects the presence in ground water of:

(A) Nitrate contaminants at levels greater than 70 percent of the levels established pursuant to ORS 468B.165; or

(B) Any other contaminants at levels greater than 50 percent of the levels established pursuant to ORS 468B.165.

(2) The notification required under subsection (1)(f) of this section shall identify the substances detected in the ground water and all ground water aquifers that may be affected.

SECTION 105. ORS 448.273 is amended to read:

448.273. The Legislative Assembly finds that an agreement between this state and the federal government to assume primary enforcement responsibility in this state for the federal Safe Drinking Water Act is in the best interest of this state, subject to the following assumptions:

(1) The federal government provides an annual program grant in an amount no less than that allocated for the state in the 1984 fiscal year.

(2) The federal government provides technical assistance to this state, as requested, in emergency situations and during outbreaks of waterborne diseases.

(3) The federal government must negotiate an annual work plan for the Oregon Health Authority that can be accomplished within the amount of program grant funding available.

(4) The authority adopts standards no less stringent than the National Primary Drinking Water Regulations of the United States Environmental Protection Agency.

(5) The authority provides engineering assistance through regional offices in at least four geographically distributed areas in this state.

(6) In cooperation with representatives of local [health departments] public health authorities, the Oregon Health Authority develops an eq-
suitable formula for distribution of available funds to support local [health department] public health authority water programs.

(7) The primacy agreement may be canceled by the Oregon Health Authority, upon 90 days’ notice, if at any time the federal requirements exceed the amount of federal funding and the cancellation is approved by the legislative review agency as defined in ORS 291.371 (1).

(8) The federal government can impose financial sanctions against this state if the state fails to meet the objectives of the annual negotiated work plan without reasonable explanation by tying the next annual funding to specific state production and by withholding of funds a possibility if continued unexplained failures occur but no sanction exists to interfere with other types of federal funding in this state.

(9) The federal government may seek to enforce the safe drinking water standards if this state fails to take timely compliance action against a public water system that violates such standards.

(10) Enforcement under subsection (9) of this section may be by injunctive relief or, in the case of willful violation, civil penalties authorized by 42 U.S.C. 300g-3(a) and (b).

SECTION 106. ORS 459.385 is amended to read:

459.385. (1) Personnel of the Department of Environmental Quality or a local [health department] public health authority, authorized environmental health specialists or other authorized personnel of a city or county may enter upon the premises of any person regulated under ORS 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 and 466.992 or under regulations adopted pursuant to ORS 450.075, 450.810, 450.820 and 451.570, at reasonable times, to determine compliance with and to enforce ORS 450.075, 450.810, 450.820, 451.570, 459.005 to 459.105, 459.205 to 459.385, 466.005 to 466.385 and 466.992 and any rules or regulations adopted pursuant thereto. The department shall also have access to any pertinent records, including but not limited to blueprints, operation and maintenance records and logs, operating rules and procedures.
(2) As used in this section, “pertinent records” does not include financial
information unless otherwise authorized by law.

SECTION 107. ORS 609.652 is amended to read:

609.652. As used in ORS 609.654:

(1)(a) “Aggravated animal abuse” means any animal abuse as described
in ORS 167.322.

(b) “Aggravated animal abuse” does not include:

(A) Good animal husbandry, as defined in ORS 167.310; or

(B) Any exemption listed in ORS 167.335.

(2) “Law enforcement agency” means:

(a) Any city or municipal police department.

(b) A police department established by a university under ORS 352.121 or
353.125.

(c) Any county sheriff’s office.

(d) The Oregon State Police.

(e) A law enforcement division of a county or municipal animal control
agency that employs sworn officers.

(f) A humane investigation agency as defined in ORS 181A.340 that em-

ploys humane special agents commissioned under ORS 181A.340.

(3) “Public or private official” means:

(a) A physician, including any intern or resident.

(b) A dentist.

(c) A school employee.

(d) A licensed practical nurse or registered nurse.

(e) An employee of the Department of Human Services, Oregon Health
Authority, Early Learning Division, Youth Development Division, Office of
Child Care, the Oregon Youth Authority, a local [health department] public
health authority, a community mental health program, a community devel-
opmental disabilities program, a county juvenile department, a child-caring
agency as defined in ORS 418.205 or an alcohol and drug treatment program.

(f) A peace officer.
1. (g) A psychologist.
2. (h) A member of the clergy.
3. (i) A regulated social worker.
4. (j) An optometrist.
5. (k) A chiropractor.
6. (L) A certified provider of foster care, or an employee thereof.
7. (m) An attorney.
8. (n) A naturopathic physician.
9. (o) A licensed professional counselor.
10. (p) A licensed marriage and family therapist.
11. (q) A firefighter or emergency medical services provider.
12. (r) A court appointed special advocate, as defined in ORS 419A.004.
13. (s) A child care provider registered or certified under ORS 329A.030 and 329A.250 to 329A.450.
14. (t) A member of the Legislative Assembly.

SECTION 108. ORS 624.320 is amended to read:

624.320. (1) A person may not operate a vending machine, warehouse, commissary or mobile unit without first procuring a license to do so from the Oregon Health Authority. The operator shall post the license in a conspicuous place in the warehouse or commissary. The operator shall affix a card, emblem or other device clearly showing the name and address of the licensee and the serial number of the license to each vending machine or mobile unit as the case may be.

(2) Application for the license shall be in writing in the form prescribed by the Oregon Health Authority and [shall] must contain the following information:

(a) Name and address of the applicant.
(b) Location of all warehouses or commissaries.
(c) Locations where supplies are kept.
(d) Locations where vending machines or mobile units are stored, repaired or renovated.
(e) Identity and form of food to be dispensed through vending machines.

(f) Number of each type of vending machine on location.

(3) The operator must keep the specific locations of the vending machines and specific itineraries of the mobile units on file at the operator’s business office and readily available to the Oregon Health Authority. [If the mobile unit is moved to a delegate county other than a delegate county that licensed the mobile unit, the operator shall notify the local health department for the county to which the mobile unit is moved prior to operating the mobile unit within that county.] If a local public health authority licenses a mobile unit, and the unit is moved to a location within the jurisdiction of a different local public health authority, the operator shall give notice of the move to the local public health authority that has jurisdiction for the new location before operating the mobile unit at the new location. The operator shall [furnish] provide the Oregon Health Authority with written details of the conversion of any vending machine to dispense products other than those for which the license was issued.

SECTION 109. ORS 624.400 is amended to read:

624.400. The Oregon Health Authority shall make such surveys as are necessary to obtain uniform enforcement of ORS 624.310 to 624.430 throughout the state and shall prepare and disseminate information and shall cooperate with and assist local [health departments] public health authorities in educational programs for the purpose of encouraging compliance with ORS 624.310 to 624.430 on the part of operators and employees of vending machines and mobile units.

SECTION 110. ORS 689.605 is amended to read:

689.605. (1) In a hospital or long term care facility [having] that has a pharmacy and [employing] employs a pharmacist, the pharmacy and pharmacist are subject to the requirements of this chapter, except that in a hospital when a pharmacist is not in attendance, pursuant to standing orders of the pharmacist, a registered nurse supervisor on the written order of a person authorized to prescribe a drug may withdraw such drug in such vol-
ume or amount as needed for administration to or treatment of an inpatient
or outpatient until regular pharmacy services are available in accordance
with the rules adopted by the [board] **State Board of Pharmacy**. However,
the [State] board [of Pharmacy] may grant an exception to the requirement
for a written order by issuing a special permit authorizing the registered
nurse supervisor in a hospital to dispense medication on the oral order of a
person authorized to prescribe a drug. An inpatient care facility *which* that
does not have a pharmacy must have a drug room. In an inpatient care fa-
cility *having* that has a drug room as may be authorized by rule of the
Department of Human Services or the Oregon Health Authority, the drug
room is not subject to the requirements of this chapter relating to pharma-
cies. However, a drug room must be supervised by a pharmacist and is sub-
ject to the rules of the State Board of Pharmacy. When a pharmacist is not
in attendance, any person authorized by the prescriber or by the pharmacist
on written order may withdraw such drug in such volume or amount as
needed for administration to or treatment of a patient, entering such with-
drawal in the record of the responsible pharmacist.

(2) In a hospital *having* that has a drug room, any drug may be with-
drawn from storage in the drug room by a registered nurse supervisor on the
written order of a licensed practitioner in such volume or amount as needed
for administration to and treatment of an inpatient or outpatient in the
manner set forth in subsection (1) of this section and within the authorized
scope of practice.

(3) A hospital *having* that has a drug room shall cause accurate and
complete records to be kept of the receipt, withdrawal from stock and use
or other disposal of all legend drugs stored in the drug room. Such record
shall be open to inspection by agents of the board and other qualified au-
thorities.

(4) In an inpatient care facility other than a hospital, the drug room shall
contain only prescribed drugs already prepared for patients therein and such
emergency drug supply as may be authorized by rule by the Department of
(5) The requirements of this section shall do not apply to facilities described in ORS 441.065.

(6) A registered nurse who is an employee of a local health department that is registered by the board under ORS 689.305 may, pursuant to the order of a person authorized to prescribe a drug or device, dispense a drug or device to a client of the local health department for purposes of caries prevention, birth control or prevention or treatment of a communicable disease. Such dispensing shall be subject to rules jointly adopted by the board and the Oregon Health Authority.

(6) Subject to rules adopted by the board in consultation with the Oregon Health Authority, a registered nurse may, pursuant to the order of a person authorized to prescribe a drug or device, dispense a drug or device to a patient for purposes of caries prevention, birth control or prevention or treatment of a communicable disease if the registered nurse is an employee of:

(a) A local public health authority registered by the board under ORS 689.305; or

(b) An entity registered by the board under ORS 689.305 with which the local public health authority has entered into an agreement for the purpose of performing local public health services and activities.

(7) The board shall adopt rules authorizing a pharmacist to delegate to a registered nurse the authority to withdraw prescription drugs from a manufacturer’s labeled container for administration to persons confined in penal institutions including, but not limited to, adult and juvenile correctional facilities. A penal institution, in consultation with a pharmacist, shall develop policies and procedures regarding medication management, procurement and distribution. A pharmacist shall monitor a penal institution for compliance with the policies and procedures and shall perform drug utilization reviews. The penal institution shall submit to the board for approval a written agreement between the pharmacist and the penal institution...
regarding medication policies and procedures.

MISCELLANEOUS

SECTION 111. ORS 700.035 is amended to read:

ORS 700.035. (1) Subject to ORS 676.612, upon application and payment of the applicable fees established under ORS 676.576, the Health Licensing Office shall issue an environmental health specialist trainee registration to any applicant who performs to the satisfaction of the Environmental Health Registration Board on an examination approved by the board and furnishes evidence satisfactory to the office that the applicant:

(a) Has a bachelor’s degree [or] and at least 45 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university; or

(b) Has at least 15 quarter hours, or the equivalent semester hours, in science courses relating to environmental sanitation from an accredited college or university and has at least five years of experience in environmental sanitation or related activities, as determined by the board, under the supervision of a registered environmental health specialist or a person possessing equal qualifications, as determined by the board.

(2) A person may not be registered as an environmental health specialist trainee for more than two years’ full-time employment in the environmental sanitation profession, or the equivalent hours if employment in environmental sanitation is less than full-time or 40 hours per week.

(3) The office, in consultation with the board, shall establish by rule requirements for registration as an environmental health specialist trainee when an individual’s date of employment precedes attainment of registration.

(4) An environmental health specialist trainee shall be supervised by a registered environmental health specialist or a person possessing equal qualifications as determined by the board.

SECTION 112. The amendments to ORS 700.035 by section 111 of this
2019 Act apply to applications received on or after the operative date specified in section 113 of this 2019 Act.

SECTION 113. (1) The amendments to ORS 700.035 by section 111 of this 2019 Act become operative on January 1, 2020.

(2) The Health Licensing Office may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the office to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the office by the amendments to ORS 700.035 by section 111 of this 2019 Act.

FOOD SANITATION

SECTION 114. Section 115 of this 2019 Act is added to and made a part of ORS chapter 624.

SECTION 115. (1) A person may apply to the Oregon Health Authority for a variance from one or more rules of the authority regarding food sanitation, including but not limited to rules regarding personnel, food protection, equipment and facilities, utilities and plan review. An application for a variance must be accompanied by a fee of $500. If the authority grants the variance, the authority shall state the terms and conditions of the variance.

(2) The authority shall adopt rules establishing requirements for applications and variances under this section.

(3) The authority may not delegate the granting of variances under this section.

SECTION 116. (1) Section 115 of this 2019 Act becomes operative on January 1, 2020.

(2) The Oregon Health Authority may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the authority to exercise, on and after the operative
date specified in subsection (1) of this section, all of the duties, func-
tions and powers conferred on the authority by section 115 of this 2019
Act.

PUBLIC POOLS

SECTION 117. ORS 448.011 is amended to read:

448.011. The Oregon Health Authority shall [make such] adopt rules per-
taining to [the submission of plans for] construction plan submission, [is-
suance of permits,] plan approval, design, construction, size, shape,
purification equipment, piping, operation, sanitation and accident prevention
for public swimming pools, public spa pools, public wading pools and
bathhouses as [it] the authority deems necessary.

SECTION 118. ORS 448.020 is amended to read:

448.020. [No person shall] A person may not construct or perform a ma-
jor alteration or reconstruction of a public swimming pool, public spa pool,
public wading pool or bathhouse without [a permit] plan approval to do so
from the Oregon Health Authority.

SECTION 119. ORS 448.030 is amended to read:

448.030. (1) Any person desiring to construct any public swimming pool,
public spa pool, public wading pool or bathhouse shall file an application for
[a permit to do so] plan approval with the Oregon Health Authority.

(2) The application [shall] must be accompanied by a description of the
sources of water supply, amount and quality of water available and intended
to be used, method and manner of water purification, treatment, disinfection,
heating, regulating and cleaning, lifesaving apparatus, and measures to [in-
sure] ensure safety of bathers, measures to [insure] ensure personal clean-
liness of bathers, methods and manner of washing, disinfecting, drying and
storing bathing apparel and towels, and all other information and statistics
that may be required by the authority. The authority shall either approve
or [reject] deny the application based upon the plans submitted [and either}
issue or deny the construction permit].

(3) After [a] construction [permit is issued and upon request], the authority shall cause an [investigation] inspection to be made of the proposed public swimming pool, public spa pool, public wading pool or bathhouse. If the authority determines that the public swimming pool, public spa pool, public wading pool or bathhouse as constructed complies with the rules of the authority, it shall issue a final approval [which shall authorize] authorizing the issuance of a license under ORS 448.035.

(4) [An applicant for a permit to construct] If a public swimming pool, public spa pool, public wading pool or bathhouse is to be owned, operated or maintained by a person for profit, or in conjunction with a travelers’ accommodation or recreation park, the applicant shall pay the authority a plan review fee of $600. [$100 and a construction permit fee of $200, which] Payment of the plan review fee entitles the [holder] applicant to two inspections toward final approval. The authority [shall] may not impose any new standards after a second or any subsequent inspection. For any subsequent construction inspection necessary, the [permit holder] applicant shall pay $100 for each inspection.

SECTION 120. ORS 448.051 is amended to read:

448.051. (1) The Director of the Oregon Health Authority shall inspect all public swimming pools, public spa pools, public wading pools and bathhouses to determine the sanitary conditions of such places and whether ORS 448.005 to 448.090 and the rules of the Oregon Health Authority pertaining to public swimming pools, public spa pools, public wading pools and bathhouses are being violated.

(2) If the director determines that a public swimming pool, public spa pool, public wading pool or bathhouse is being constructed, operated or maintained in violation of the rules of the authority or is found to be insanitary, unclean or dangerous to public health or safety, the director may suspend, revoke or deny the permit or plan approval issued under ORS 448.030 or license issued under ORS [448.030 or] 448.035 in accordance with
ORS chapter 183.

**SECTION 121.** ORS 448.060 is amended to read:

448.060. (1) **No** public swimming pool, public spa pool, public wading pool or bathhouse **shall** may not remain open to the public after the permit, plan approval or license to operate [such facilities] the facility has been suspended, denied or revoked.

(2) Any public swimming pool, public spa pool, public wading pool or bathhouse constructed, operated or maintained contrary to ORS 448.005 to 448.090[,] is a public nuisance, dangerous to health.

[(3)] Such nuisance may be abated or enjoined in an action brought by the Director of the Oregon Health Authority or may be summarily abated in the manner provided by law for the summary abatement of public nuisances dangerous to health.

**SECTION 122.** ORS 448.100 is amended to read:

448.100. (1) The Director of the Oregon Health Authority shall delegate to any county board of commissioners that requests any of the duties and functions of the director under ORS 448.005, 448.011, 448.020 to 448.035[,] and 448.040 to 448.060 and this section if the director determines that the county is able to carry out the rules of the Oregon Health Authority relating to fee collection, licensing, inspections, enforcement and issuance and revocation of [permits and certificates] plan approvals and licenses in compliance with standards for enforcement by the counties and monitoring by the authority. The authority shall review and monitor each county’s performance under this subsection. In accordance with ORS chapter 183, the director may suspend or rescind a delegation under this subsection. If it is determined that a county is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the authority for carrying out the duties and functions under this section.

(2) The county may determine the amount of, and retain, any fee for any function undertaken pursuant to subsection (1) of this section or use the fee
schedules pursuant to] amounts established under ORS 448.030 and
448.035. A county to whom licensing, inspection and enforcement authority
has been delegated under this section shall collect and remit to the authority
a fee to support the activities of the authority under this section. The fee
shall be established by the authority and the Conference of Local Health
Officials based upon a budget and formula for funding activities described
in this section. The authority and the Conference of Local Health Officials
shall consult with associations representing Oregon cities, special districts
and the lodging industry in establishing the fee. In the event the authority
and the Conference of Local Health Officials cannot reach agreement on the
budget and formula, the authority shall submit its budget proposal to the
Legislative Assembly.

(3) In any action, suit or proceeding arising out of county administration
of functions pursuant to subsection (1) of this section and involving the va-
lidity of a rule promulgated by the authority, the authority shall be made a
party to the action, suit or proceeding.

SECTION 123. (1) The amendments to ORS 448.011, 448.020 and
448.030 by sections 117 to 119 of this 2019 Act do not affect the validity
or terms of any permit issued under ORS 448.030 before the effective
date of this 2019 Act.

(2) The Oregon Health Authority shall treat any application for a
permit under ORS 448.030 that is pending with the authority on the
effective date of this 2019 Act as an application for plan approval. This
subsection does not subject an application pending authority approval
on the effective date of this 2019 Act to any additional fee amount es-
tablished in the amendments to ORS 448.030 by section 119 of this 2019
Act.

REPEALS

SECTION 124. ORS 181A.330 and 181A.335 are repealed.
CAPTIONS

SECTION 125. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

EFFECTIVE DATE

SECTION 126. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Increases certain fees charged by Oregon Liquor Control Commission. Declares emergency, effective July 1, 2019.

A BILL FOR AN ACT

Relating to Oregon Liquor Control Commission fees; creating new provisions; amending ORS 471.282 and 471.311; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 471.282 is amended to read:

471.282. (1) Notwithstanding any other provision of this chapter and except as provided by ORS 471.186 (6), a person may sell and ship malt beverages, wine or cider directly to a resident of Oregon only if the person holds a direct shipper permit. The Oregon Liquor Control Commission shall issue a direct shipper permit only to:

(a) A person that holds a license issued by this state or another state that authorizes the manufacture of malt beverages, wine or cider;

(b) A person that holds a license issued by this state or another state that authorizes the sale of wine or cider produced only from grapes or other fruit grown under the control of the person;

(c) A person that holds a license authorizing the sale of malt beverages, wine or cider at retail; or

(d) A nonprofit trade association that holds a temporary sales license under ORS 471.190 and that has a membership primarily composed of persons holding winery licenses issued under ORS 471.223 or grower sales privilege

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
licenses issued under ORS 471.227.

(2) The holder of a direct shipper permit that is a licensee of another state may deliver malt beverages under the permit only if that other state makes direct shipper permits, or the equivalent, available for the delivery of malt beverages by persons holding a license issued by the commission authorizing the manufacture or retail sale of malt beverages.

(3)(a) A person may apply for a direct shipper permit by filing an application with the commission. The application must be made in such form as may be prescribed by the commission.

(b) If the application is based on a license issued by this state, the person must include in the application the number of the license issued to the person.

(c) If the application is based on a license issued by another state, the person must include in the application a true copy of the license issued to the person by the other state or include sufficient information to allow verification of the license by electronic means or other means acceptable to the commission.

(d) If the application is based on a license issued by another state, or the application is by a nonprofit trade association described in subsection (1)(d) of this section, the person or association must pay a [$50] $100 registration fee and maintain a bond or other security described in ORS 471.155 in the minimum amount of $1,000.

(4) Sales and shipments under a direct shipper permit:

(a) May be made only to a person who is at least 21 years of age;

(b) May be made only for personal use and not for the purpose of resale; and

(c) May not exceed two cases, containing not more than nine liters per case, to any resident per month.

(5) Sales and shipments under a direct shipper permit must be made directly to a resident of this state in containers that are conspicuously labeled with the words: “CONTAINS ALCOHOL: SIGNATURE OF PERSON AGE
21 YEARS OR OLDER REQUIRED FOR DELIVERY.”

(6) A person holding a direct shipper permit must take all actions necessary to ensure that a carrier used by the permit holder does not deliver any malt beverages, wine or cider unless the carrier:

(a) Obtains the signature of the recipient of the malt beverages, wine or cider upon delivery;

(b) Verifies by inspecting government-issued photo identification that the recipient is at least 21 years of age; and

(c) Determines that the recipient is not visibly intoxicated at the time of delivery.

(7)(a) A person holding a direct shipper permit must report to the commission on a quarterly basis all shipments of malt beverages, wine or cider made to Oregon residents under the permit. The report must be made in a form prescribed by the commission.

(b) A person holding a direct shipper permit must allow the commission to audit the permit holder’s records upon request and shall make those records available to the commission in this state.

(c) A person holding a direct shipper permit consents to the jurisdiction of the commission and the courts of this state for the purpose of enforcing the provisions of this section and any related laws or rules.

(8)(a) A person holding a direct shipper permit must timely pay to the commission all taxes imposed under ORS chapter 473 on malt beverages, wine and cider sold and shipped under the permit. For the purpose of the privilege tax imposed under ORS chapter 473, all malt beverages, wine or cider sold and shipped pursuant to a direct shipper permit is sold in this state.

(b) A person holding a direct shipper permit based on a license issued by another state must timely pay to the commission all taxes imposed under ORS chapter 473 on all malt beverages, wine or cider sold and shipped directly to Oregon residents under the permit. The permit holder, not the purchaser, is responsible for the tax.

(9) A direct shipper permit must be renewed annually. If the person holds
the permit based on an annual license issued by another state, the person
may renew the permit by paying a \( \$50 \) \( \$100 \) renewal fee and providing the
commission with a true copy of a current license issued to the person by the
other state or with sufficient information to allow verification of the license
by electronic means or other means acceptable to the commission. If the
person holds the permit based on an annual license issued by this state, the
person may renew the permit at the same time that the person renews the
license.

(10) The commission may refuse to issue or may suspend or revoke a di-
rect shipper permit if the permit holder fails to comply with the provisions
of this section. A person may sell and ship malt beverages, wine or cider
under a direct shipper permit only for as long as the person has the license
issued by this state or another state that authorizes the person to hold a
direct shipper permit. A direct shipper permit does not authorize the ship-
ment of malt beverages by a permit holder described in subsection (1)(b) of
this section or lacking authority as provided under subsection (2) of this
section.

(11) Any person who knowingly or negligently delivers malt beverages,
wine or cider under the provisions of this section to a person under 21 years
of age, or who knowingly or negligently delivers malt beverages, wine or
cider under the provisions of this section to a visibly intoxicated person,
violates ORS 471.410.

(12) A person may not make sales and shipments of malt beverages, wine
or cider directly to Oregon residents unless the person holds a direct shipper
permit issued under this section. Any person who knowingly makes, partic-
ipates in, transports, imports or receives a shipment of malt beverages, wine
or cider that is in violation of this section commits a misdemeanor as pro-
vided in ORS 471.990 (1).

SECTION 2. ORS 471.311 is amended to read:

471.311. (1) Any person desiring a license or renewal of a license under
this chapter shall make application to the Oregon Liquor Control Commis-
sion upon forms to be furnished by the commission showing the name and
address of the applicant, location of the place of business that is to be op-
erated under the license, and such other pertinent information as the com-
mission may require. A license may not be granted or renewed until the
applicant has complied with the provisions of this chapter and the rules of
the commission.

(2) The commission may reject any application that is not submitted in
the form required by rule. The commission shall give applicants an opportu-
nity to be heard if an application is rejected. A hearing under this subsection
is not subject to the requirements for contested case proceedings under ORS
chapter 183.

(3) The commission shall charge an application fee, not to exceed $150,
to process an application for the issuance of a new license under this chapter
or a license following a change in ownership. The application fee applies
only to an application for a class of license having an annual license fee.
The application fee is nonrefundable, except that the commission shall refund
the fee if the applicant completes, submits and maintains an application and
the commission does not, on or before 75 days following receipt of the com-
pleted application, propose that the license be granted, granted with condi-
tions or refused. The commission shall adopt rules to:

(a) Establish application fees by class of license; and

(b) Define a completed application for purposes of this subsection.

(4) Subject to subsection (5) of this section, the commission shall assess
a nonrefundable fee for processing a renewal application for any license au-
thorized by this chapter only if the renewal application is received by the
commission less than 20 days before expiration of the license. If the renewal
application is received prior to expiration of the license but less than 20 days
prior to expiration, the fee shall be 25 percent of the annual license fee. If
a renewal application is received by the commission after expiration of the
license but no more than 30 days after expiration, the fee shall be 40 percent
of the annual license fee. This subsection does not apply to a certificate of
approval, a brewery-public house license or any license that is issued for a period of less than 30 days.

(5) The commission may waive the fee imposed under subsection (4) of this section if the commission finds that failure to submit a timely application was due to unforeseen circumstances or to a delay in processing the application by the local governing authority that is no fault of the licensee.

(6) The license fee is nonrefundable and must be paid by each applicant upon the granting or committing of a license. Subject to ORS 471.155 and 473.065, the annual or daily license fee and the minimum bond required of each class of license under this chapter are as follows:

<table>
<thead>
<tr>
<th>License Description</th>
<th>Minimum Fee</th>
<th>Bond</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brewery, including Certificate of Approval</td>
<td>$500</td>
<td>$1,000</td>
</tr>
<tr>
<td>Winery</td>
<td>$250</td>
<td>$500</td>
</tr>
<tr>
<td>Distillery</td>
<td>$100</td>
<td>$200</td>
</tr>
<tr>
<td>Wholesale Malt Beverage and Wine</td>
<td>$275</td>
<td>$550</td>
</tr>
<tr>
<td>Warehouse</td>
<td>$100</td>
<td>$200</td>
</tr>
<tr>
<td>Brewery-Public House, including Certificate of Approval</td>
<td>$250</td>
<td>$500</td>
</tr>
<tr>
<td>Limited On-Premises Sales</td>
<td>$200</td>
<td>$400</td>
</tr>
<tr>
<td>Off-Premises Sales</td>
<td>$100</td>
<td>$200</td>
</tr>
<tr>
<td>Temporary Sales</td>
<td>$50 per day</td>
<td></td>
</tr>
<tr>
<td>Grower sales privilege</td>
<td>$250</td>
<td>$500</td>
</tr>
<tr>
<td>Special events brewery</td>
<td>$10 per day</td>
<td></td>
</tr>
<tr>
<td>Special events winery</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
license $10 per day

Special events grower sales privilege license $10 per day

Special events brewery-public house license $10 per day

Special events distillery license $10 per day

(7) The fee for a certificate of approval or special certificate of approval granted under ORS 471.244 is nonrefundable and must be paid by each applicant upon the granting or committing of a certificate of approval or special certificate of approval. No bond is required for the granting of a certificate of approval or special certificate of approval. Certificates of approval are valid for a period commencing on the date of issuance and ending on December 31 of the fifth calendar year following the calendar year of issuance. The fee for a certificate of approval is $175. Special certificates of approval are valid for a period of 30 days. The fee for a special certificate of approval is $10.

(8) Except as provided in subsection (9) of this section, the annual license fee for a full on-premises sales license is $400. No bond is required for any full on-premises sales license.

(9) The annual license fee for a full on-premises sales license held by a nonprofit private club as described in ORS 471.175 (8), or held by a nonprofit or charitable organization that is registered with the state, is $200.

(10) The fee for temporary use of an annual license is $10 per day.

(11) The annual fee for a wine self-distribution permit is $200, and the minimum bond is $1,000.

SECTION 3. If this 2019 Act becomes law after July 1, 2019, the
amendments to ORS 471.282 and 471.311 by sections 1 and 2 of this 2019
Act apply retroactively to July 1, 2019, for fees charged by the Oregon
Liquor Control Commission under ORS 471.282 and 471.311 for periods
that begin on or after July 1, 2019.

SECTION 4. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
cleared to exist, and this 2019 Act takes effect July 1, 2019.
SUMMARY

Requires persons responsible for operation of beverage container redemption centers to annually register with Oregon Liquor Control Commission and pay registration fee. Requires fees collected by commission to be deposited in Bottle Bill Fund.

Establishes Bottle Bill Fund. Continuously appropriates moneys in fund to pay costs of commission in carrying out commission’s duties under bottle bill provisions.

A BILL FOR AN ACT

Relating to beverage containers; creating new provisions; and amending ORS 459A.737.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 459A.737 is amended to read:

459A.737. (1) Pursuant to the provisions of ORS 459A.735, the Oregon Liquor Control Commission:

(a) Shall approve one beverage container redemption center in a city having a population of less than 300,000, operated by a distributor cooperative serving a majority of the dealers in this state; and

(b) May approve one or more additional beverage container redemption centers.

(2) Notwithstanding any other provision of ORS 459A.700 to 459A.740, a beverage container redemption center:

(a) May not refuse to accept and to pay the refund value of up to 350 individual empty beverage containers, as established by ORS 459A.705, returned by any one person during one day;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(b) Must provide hand counting of up to 50 individual empty beverage containers returned by any one person during one day for the refund value established by ORS 459A.705;

c) May provide drop off service for at least 125 individual empty beverage containers returned by any one person during one day for the refund value established by ORS 459A.705, and may provide an accounting mechanism by which the person may redeem the refund value of the beverage containers at a later date; and

d) May provide other services as determined necessary by the person responsible for the operation of the beverage container redemption center.

(3)(a) By July 1 of each calendar year, a person responsible for the operation of one or more redemption centers shall register with the commission, for a period to cover the upcoming year, on a form provided by the commission. The registration shall include:

(A) A list of each beverage container redemption center that the person is responsible for operating during the upcoming year and the address of each redemption center; and

(B) Any other information required by the commission to process the registration.

(b) Each person responsible for the operation of one or more redemption centers shall pay an annual registration fee to the commission. The fee shall be paid at the time of registration under paragraph (a) of this subsection. The registration fee shall be $3,000 for each redemption center that the person is responsible for operating.

c) Fees collected by the commission under this subsection shall be deposited in the Bottle Bill Fund established under section 3 of this 2019 Act.

[(3)] (4) The commission may adopt all rules necessary to implement and administer the provisions of this section and ORS 459A.738.

SECTION 2. Section 3 of this 2019 Act is added to and made a part of ORS 459A.700 to 459A.740.
SECTION 3. The Bottle Bill Fund is established, separate and distinct from the General Fund. Interest earned by the Bottle Bill Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the Oregon Liquor Control Commission and may be used to pay the costs of the commission in carrying out the duties of the commission under ORS 459A.700 to 459A.740.
SUMMARY

Establishes that recreational marijuana licensure renewal fees are nonrefundable if applicant is conditionally or unconditionally authorized to operate marijuana establishment.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to marijuana; creating new provisions; amending ORS 475B.070, 475B.090, 475B.100 and 475B.105; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 475B.070 is amended to read:

475B.070. (1) The production of marijuana is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana producer must have a production license issued by the commission for the premises at which the marijuana is produced. To hold a production license issued under this section, a marijuana producer:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must provide proof that the applicant is 21 years of age or older; and

(c) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana producer to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana producers;

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(c) Require marijuana produced by marijuana producers to be tested in accordance with ORS 475B.555;
(d) Assist the viability of marijuana producers that are independently owned and operated and that are limited in size and revenue with respect to other marijuana producers, by minimizing barriers to entry into the regulated system and by expanding, to the extent practicable, transportation options that will support their access to the retail market;
(e) Allow a marijuana producer registered under ORS 475B.136 to produce marijuana for medical purposes in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana producer to produce marijuana for nonmedical purposes, excepting those circumstances where differentiating between the production of marijuana for medical purposes and the production of marijuana for nonmedical purposes is necessary to protect the public health and safety;
(f) Require marijuana producers to submit, at the time of applying for or renewing a license under ORS 475B.040, a report describing the applicant’s or licensee’s electrical or water usage; and
(g) Require a marijuana producer to meet any public health and safety standards and industry best practices established by the commission by rule related to the production of marijuana or the propagation of immature marijuana plants and marijuana seeds.

(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545;
(b) Shall be in the form of a schedule that imposes a greater fee for premises with more square footage or on which more marijuana plants are grown;
(c) That are for renewal of licensure are due upon submission of the renewal of licensure application and are nonrefundable if the applicant is authorized to operate, whether conditionally or unconditionally; and
[(c)] (d) Shall be deposited in the Marijuana Control and Regulation Fund [2]
SECTION 2. ORS 475B.090 is amended to read:

475B.090. (1) The processing of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana processor must have a processor license issued by the commission for the premises at which marijuana items are processed. To hold a processor license under this section, a marijuana processor:

(a) Must apply for a license in the manner described in ORS 475B.040;

(b) Must provide proof that the applicant is 21 years of age or older;

(c) If the marijuana processor processes marijuana extracts, may not be located in an area zoned exclusively for residential use; and

(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:

(a) Require a marijuana processor to annually renew a license issued under this section;

(b) Establish application, licensure and renewal of licensure fees for marijuana processors;

(c) Require marijuana processed by a marijuana processor to be tested in accordance with ORS 475B.555;

(d) Allow a marijuana processor registered under ORS 475B.139 to process marijuana and usable marijuana into medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana processor to process marijuana and usable marijuana into general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts, excepting those circumstances where differentiating between the processing of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the processing of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and
(e) Require a marijuana processor to meet any public health and safety standards and industry best practices established by the commission by rule related to:
(A) Cannabinoid edibles;
(B) Cannabinoid concentrates;
(C) Cannabinoid extracts; and
(D) Any other type of cannabinoid product identified by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545;
(b) That are for renewal of licensure are due upon submission of the renewal of licensure application and are nonrefundable if the applicant is authorized to operate, whether conditionally or unconditionally; and
(c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296.

SECTION 3. ORS 475B.100 is amended to read:

475B.100. (1) The wholesale sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.

(2) A marijuana wholesaler must have a wholesale license issued by the commission for the premises at which marijuana items are received, stored or delivered. To hold a wholesale license under this section, a marijuana wholesaler:

(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use; and
(d) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:
(a) Require a marijuana wholesaler to annually renew a license issued
(b) Establish application, licensure and renewal of licensure fees for marijuana wholesalers;
(c) Require marijuana items received, stored or delivered by a marijuana wholesaler to be tested in accordance with ORS 475B.555;
(d) Allow a marijuana wholesaler registered under ORS 475B.144 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana wholesaler to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at wholesale, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts is necessary to protect the public health and safety; and
(e) Require a marijuana wholesaler to meet any public health and safety standards and industry best practices established by the commission by rule.

(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed, together with other fees collected under ORS 475B.010 to 475B.545, the cost of administering ORS 475B.010 to 475B.545;
(b) That are for renewal of licensure are due upon submission of the renewal of licensure application and are nonrefundable if the applicant is authorized to operate, whether conditionally or unconditionally; and
[(b)] (c) Shall be deposited in the Marijuana Control and Regulation Fund established under ORS 475B.296.

 SECTION 4. ORS 475B.105 is amended to read:
475B.105. (1) The retail sale of marijuana items is subject to regulation by the Oregon Liquor Control Commission.
(2) A marijuana retailer must have a retail license issued by the commission for the premises at which marijuana items are sold. To hold a retail license under this section, a marijuana retailer:
(a) Must apply for a license in the manner described in ORS 475B.040;
(b) Must provide proof that the applicant is 21 years of age or older;
(c) May not be located in an area that is zoned exclusively for residential use;
(d) Except as provided in ORS 475B.109, may not be located within 1,000 feet of:
   (A) A public elementary or secondary school for which attendance is compulsory under ORS 339.020; or
   (B) A private or parochial elementary or secondary school, teaching children as described in ORS 339.030 (1)(a); and
(e) Must meet the requirements of any rule adopted by the commission under subsection (3) of this section.

(3) The commission shall adopt rules that:
(a) Require a marijuana retailer to annually renew a license issued under this section;
(b) Establish application, licensure and renewal of licensure fees for marijuana retailers;
(c) Require marijuana items sold by a marijuana retailer to be tested in accordance with ORS 475B.555;
(d) Notwithstanding ORS 475B.206, allow a marijuana retailer to deliver marijuana items to another marijuana retailer that is owned by the same or substantially the same persons;
(e) Subject to the limitations and privileges described in ORS 475B.146 (3), allow a marijuana retailer registered under ORS 475B.146 to sell medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail in the same manner that rules adopted under ORS 475B.010 to 475B.545 allow a marijuana retailer to sell general use cannabinoid products, cannabinoid concentrates and cannabinoid extracts at retail, excepting those circumstances where differentiating between the sale of medical grade cannabinoid products, cannabinoid concentrates and cannabinoid extracts and the sale of general use cannabinoid products, cannabinoid concentrates
and cannabinoid extracts is necessary to protect the public health and safety;
and
(f) Require a marijuana retailer to meet any public health and safety
standards and industry best practices established by the commission by rule.
(4) Fees adopted under subsection (3)(b) of this section:
(a) May not exceed, together with other fees collected under ORS 475B.010
to 475B.545, the cost of administering ORS 475B.010 to 475B.545;
(b) That are for renewal of licensure are due upon submission of the
renewal of licensure application and are nonrefundable if the applicant
is authorized to operate, whether conditionally or unconditionally; and
[(b)] (c) Shall be deposited in the Marijuana Control and Regulation Fund
established under ORS 475B.296.
SECTION 5. The amendments to ORS 475B.070, 475B.090, 475B.100
and 475B.105 by sections 1 to 4 of this 2019 Act apply to fees collected
on or after the operative date specified in section 6 of this 2019 Act.
SECTION 6. (1) The amendments to ORS 475B.070, 475B.090, 475B.100
and 475B.105 by sections 1 to 4 of this 2019 Act become operative on
(2) The Oregon Liquor Control Commission may take any action
before the operative date specified in subsection (1) of this section that
is necessary to enable the commission to exercise, on and after the
operative date specified in subsection (1) of this section, all of the du-
ties, functions and powers conferred on the commission by the
amendments to ORS 475B.070, 475B.090, 475B.100 and 475B.105 by
sections 1 to 4 of this 2019 Act.
SECTION 7. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
Eliminates requirement that amount of service permit application fee exceeding service permit program costs be dedicated to Alcohol Education Program. Eliminates special fee on licenses and service permits for support of Alcohol Education Program.

**A BILL FOR AN ACT**

Relating to Alcohol Education Program funding; amending ORS 471.375 and 471.542.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 471.375 is amended to read:

471.375. (1) Any person who has not had a permit refused or revoked or whose permit is not under suspension may mix, sell or serve alcoholic beverages as provided under subsection (3) of this section if the person prepares in duplicate an application for a service permit prior to mixing, selling or serving any alcoholic beverage for consumption on licensed premises. Until a person who has prepared an application under this subsection receives a service permit, the licensee for the premises shall make a copy of the application available for immediate inspection by any regulatory specialist or by any other peace officer.

(2) An applicant for a service permit must be 18 years of age or over. Application for a service permit shall be made on a form acceptable to the Oregon Liquor Control Commission. The applicant shall truly answer all questions, provide any further information required and pay a fee not to exceed $50. [The commission shall either set the fee to cover only the adminis-
trative costs of the service permit program, or apply any excess to the Alcohol
Education Program established under ORS 471.541.]

(3) An applicant described in subsection (1) of this section may:

(a) Participate in the mixing, selling or service of alcoholic beverages for
consumption on the premises where served or sold; and

(b) Participate in the dispensing of malt beverages, wine or cider sold in
securely covered containers provided by the consumer.

SECTION 2. ORS 471.542 is amended to read:

471.542. (1) Except as provided in subsection (2) of this section, the
Oregon Liquor Control Commission shall require a person applying for is-
suance or renewal of a service permit or any license that authorizes the sale
or service of alcoholic beverages for consumption on the premises to com-
plete an approved alcohol server education course and examination as a
condition of the issuance or renewal of the permit or license.

(2) A person applying for issuance or renewal of a license that authorizes
the sale or service of alcoholic beverages for consumption on the premises
need not complete an approved alcohol server education course and exam-
ination as a condition of the issuance or renewal of the license if:

(a) The license has been restricted by the commission to prohibit sale or
service of alcoholic beverages for consumption on the premises; or

(b) The person applying for issuance or renewal of the license submits a
sworn statement to the commission stating that the person will not engage
in sale or service of alcoholic beverages for consumption on the premises,
will not directly supervise or manage persons who sell or serve alcoholic
beverages on the premises, and will not participate in establishing policies
governing the sale or service of alcoholic beverages on the premises.

(3) The commission by rule shall establish requirements that licensees and
permittees must comply with as a condition of requalifying for a license or
permit. The licensee or permittee must comply with those requirements once
every five years after completing the initial alcohol server education course
and examination. The requirements established by the commission to re-
qualify for a license may include retaking the alcohol server education
course and examination. The requirements established by the commission to
requalify for a service permit shall include retaking the alcohol server edu-
cation course and examination.

(4) The commission may extend the time periods established by this sec-
tion upon a showing of hardship. The commission by rule may exempt a
licensee from the requirements of this section if the licensee does not par-
ticipate in the management of the business.

(5) The standards and curriculum of alcohol server education courses
shall include but not be limited to the following:

(a) Alcohol as a drug and its effects on the body and behavior, especially
driving ability.

(b) Effects of alcohol in combination with commonly used legal, pre-
scription or nonprescription, drugs and illegal drugs.

(c) Recognizing the problem drinker and community treatment programs
and agencies.

(d) State alcohol beverage laws such as prohibition of sale to minors and
sale to intoxicated persons, sale for on-premises or off-premises consumption,
hours of operation and penalties for violation of the laws.

(e) Drunk driving laws and liquor liability statutes.

(f) Intervention with the problem customer, including ways to cut off
service, ways to deal with the belligerent customer and alternative means
of transportation to get the customer safely home.

(g) Advertising and marketing for safe and responsible drinking patterns
and standard operating procedures for dealing with customers.

[(6) The commission shall impose a fee not to exceed $2.60 a year for each
license subject to the alcohol server education requirement, and a fee not to
exceed $13 for each service permit application. These fees shall be used for
administrative costs of the Alcohol Education Program established under ORS
471.541 and shall be in addition to any other license or permit fees required
by law or rule.]
The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.

The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media.
SUMMARY

Allows transfer of information that may be used to identify consumer of marijuana items if information is protected.

A BILL FOR AN ACT

Relating to marijuana; creating new provisions; and amending ORS 475B.220.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 475B.220 is amended to read:

475B.220. (1) As used in this section, “information that may be used to identify a consumer” means information that may be acquired through the production of a piece of identification as described in ORS 475B.216, whether the information is contained in a piece of identification described in ORS 475B.216 or in a different document or record.

(2) A consumer may not be required to procure for the purpose of acquiring or purchasing a marijuana item a piece of identification other than:

(a) A piece of identification described in ORS 475B.216; and

(b) If the consumer is a registry identification cardholder, as defined in ORS 475B.791, a registry identification card, as defined in ORS 475B.791.

(3) A marijuana retailer may not record and retain any information that may be used to identify a consumer, except as necessary to make deliveries to consumers pursuant to ORS 475B.206 (3), as required by any rules adopted under ORS 475B.206 (3).

(4) A marijuana retailer may not transfer any information that may be used to identify a consumer to any other person unless, upon transfer, the

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
information is protected by encryption, tokenization or some other method to conceal the identity of the consumer.

(5)(a) Notwithstanding subsection (3) of this section, a marijuana retailer may record and retain the name and contact information of a consumer for the purpose of notifying the consumer of services that the marijuana retailer provides or of discounts, coupons and other marketing information if:

(A) The marijuana retailer asks the consumer whether the marijuana retailer may record and retain the information; and

(B) The consumer consents to the recording and retention of the information.

(b) This subsection does not authorize a marijuana retailer to transfer information that may be used to identify a consumer.

(6) This section does not apply to deidentified information the documentation and transfer of which is required by the Department of Revenue for purposes of ORS 475B.707.

SECTION 2. The amendments to ORS 475B.220 by section 1 of this 2019 Act apply to information that may be used to identify a consumer transferred on or after the effective date of this 2019 Act.
SUMMARY

Requires person operating nonmotorized boat to have waterway access permit. Eliminates requirement that person operating nonmotorized boat have aquatic invasive species permit. Directs uses of waterway access permit fees.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to small watercraft; creating new provisions; amending ORS 830.110, 830.565, 830.570, 830.575 and 830.990; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 7 of this 2019 Act are added to and made a part of ORS chapter 830.

SECTION 2. Waterway Access Fund. (1) The Waterway Access Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Waterway Access Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board to carry out the provisions of sections 2 to 7 of this 2019 Act.

(2)(a) The fund consists of:

(A) Moneys deposited into the fund under section 6 of this 2019 Act.

(B) Moneys received under paragraph (b) of this subsection.

(C) Any other moneys appropriated to the fund by the Legislative Assembly.

(b) The board may receive gifts, grants or contributions from any
source, whether public or private. Moneys received under this para-
graph shall be deposited into the fund.

(3) The board may use the moneys in the fund:

(a) To award grants as provided in sections 3 and 4 of this 2019 Act.
(b) For any other purpose described in sections 2 to 7 of this 2019
Act.

SECTION 3. Grants for nonmotorized boat waterway access.

(1) As used in this section, “public body” has the meaning given
that term in ORS 174.109.

(2) The State Marine Board may award grants under this section
to public bodies, federally recognized Indian tribes in Oregon and fed-
eral agencies for the purposes of assisting with:

(a) The purchase of real property, leases or easements in order to
provide access to public waterways.
(b) The construction, renovation, expansion or development of
public boating facilities, including but not limited to public access to
waterways and public sanitation facilities.
(c) The construction, renovation, expansion or development of
public play parks for nonmotorized boat use, such as whitewater parks
and competition courses.

(3) For the purpose of awarding grants under this section, the board
shall develop a priority list, giving highest priority to:

(a) Projects that serve nonmotorized boat users; and
(b) Public boating facilities that are determined by the board to
have the greatest need for construction, renovation, expansion or de-
velopment.

(4) The board shall adopt rules for implementing the grant program
described in this section.

SECTION 4. Grants for boating safety education and waterway ac-
cess to underserved communities. (1) As used in this section:

(a) “Nonprofit organization” means an organization described in
section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code.

(b) “Public body” has the meaning given that term in ORS 174.109.

(2) The State Marine Board may award, from moneys in the Waterway Access Fund established under section 2 of this 2019 Act and the Boating Safety, Law Enforcement and Facility Account established under ORS 830.140, grants to public bodies, federally recognized Indian tribes in Oregon, private entities and nonprofit organizations, for the purposes of:

(a) Improving boating safety education; and

(b) Providing waterway access to underserved communities, as described by the board by rule.

(3) Grants may be awarded under this section to assist in paying for costs incurred to:

(a) Provide boating safety education;

(b) Purchase boating equipment; or

(c) Provide waterway access to underserved communities.

(4) The board shall adopt rules to implement the grant program described in this section.

SECTION 5. Waterway access permit. (1) Except as provided in subsections (3) and (4) of this section, a person 14 years of age or older shall carry a waterway access permit while operating a nonmotorized boat that is at least 10 feet in length or a sailboat that is at least 10 feet but less than 12 feet in length, in the manner provided by the State Marine Board by rule. The person shall present proof of a permit upon request by a peace officer.

(2) A waterway access permit under this section is transferrable to any nonmotorized boat that is at least 10 feet in length or a sailboat that is at least 10 feet but less than 12 feet in length.

(3) Subsection (1) of this section does not apply to:

(a) Days that the board designates, by rule, as free boating days and
on which the board allows individuals to operate a boat described in subsection (1) of this section without holding an otherwise required waterway access permit.

(b) A person operating a boat owned by an operator of a boat livery if the operator of a boat livery displays proof of holding a waterway access permit according to rules adopted by the board.

(c) A person operating a boat on a federally designated wild and scenic river for which a separate fee system is in place.

(d) A person operating a boat if the person is engaged in law enforcement, public safety or official business of a federal, state or municipal agency, as defined by the board by rule.

(e) A resident of a bordering state who launches a boat from that bordering state into bordering waters, as defined by the board by rule.

(f) A person operating a boat if the person holds a nonmotorized boating permit, a registration or a similar authorization that is issued by another state and accepted by the board by rule.

(4) The board may adopt rules that provide additional exemptions from the requirement to obtain a permit under subsection (1) of this section.

SECTION 6. Waterway access permit; fees. (1) Notwithstanding ORS 830.790 (3), fees for issuance of a waterway access permit are as follows:

(a) $5 for a one-week permit.

(b) $17 for an annual permit.

(c) $30 for a biennial permit.

(d) The annual fee for an operator of a boat livery that offers non-motorized boats at least 10 feet in length or sailboats at least 10 feet but less than 12 feet in length is:

(A) $90 for an operator who owns 6 to 10 nonmotorized boats or sailboats.

(B) $165 for an operator who owns 11 to 20 nonmotorized boats or
sailboats.

(C) $300 for an operator who owns 21 or more nonmotorized boats or sailboats.

(2) The State Marine Board shall deposit fees received under this section into the Waterway Access Fund established under section 2 of this 2019 Act as follows:

(a) $4 for every one-week permit fee paid.
(b) $12 for every annual permit fee paid.
(c) $20 for every biennial permit fee paid.
(d) $60 for every permit fee paid by an operator of a boat livery who owns 6 to 10 nonmotorized boats or sailboats.
(e) $110 for every permit fee paid by an operator of a boat livery who owns 11 to 20 nonmotorized boats or sailboats.
(f) $200 for every permit fee paid by an operator of a boat livery who owns 21 or more nonmotorized boats or sailboats.

(3) The board shall deposit fees received under this section into the Aquatic Invasive Species Prevention Fund established under ORS 830.585 as follows:

(a) $1 for every one-week permit fee paid.
(b) $5 for every annual permit fee paid.
(c) $10 for every biennial permit fee paid.
(d) $30 for every permit fee paid by an operator of a boat livery who owns 6 to 10 nonmotorized boats or sailboats.
(e) $55 for every permit fee paid by an operator of a boat livery who owns 11 to 20 nonmotorized boats or sailboats.
(f) $100 for every permit fee paid by an operator of a boat livery who owns 21 or more nonmotorized boats or sailboats.

SECTION 7. Waterway access permit; issuance; agents. (1) The State Marine Board shall issue a waterway access permit to a person who pays the fee for the permit described in section 6 of this 2019 Act.

(2) The board may appoint agents to issue waterway access permits.
(3) Agents shall issue waterway access permits in accordance with procedures prescribed by the board by rule and shall charge and collect the waterway access permit fees described in section 6 of this 2019 Act.

(4) The board may authorize an agent who is not a board employee to charge a service fee of $2, in addition to the waterway access permit fee, for the issuance service performed by the agent.

(5) The board may supply the agents with waterway access permits, if applicable.

SECTION 8. ORS 830.110 is amended to read:

830.110. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

(1) Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.

(2) Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.

(3) Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.

(4) Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870 and section 7 of this 2019 Act.

(5) Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.

(6) Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.

(7) Publicize the advantage of safe boating.

(8) Accept gifts and grants of property and money to be used to further the purposes of this chapter.

(9) Exempt from any provisions of this chapter any class of boats if it
determines that the safety of persons and property will not be materially
promoted by the applicability of those provisions to the class of boats. The
board may not exempt from numbering any class of boats unless:
(a) The board determines that the numbering will not materially aid in
their identification; and
(b) The secretary of the department of the federal government under
which the United States Coast Guard is operating has exempted from num-
bering the same boats or classes of boats.
(10) Appoint and require the bonding of agents to issue a temporary per-
mit to operate a boat. In addition to the prescribed fees, the agents may
charge [the following] a fee prescribed by the board for their services in
issuing the temporary permit[:].
[(a) $2.50 per transaction for calendar years 2008, 2009 and 2010;]
[(b) $3.75 per transaction for calendar years 2011, 2012 and 2013; and]
[(c) Beginning in 2014, and] Every three years [thereafter,] the board shall
issue an order revising the fee imposed under [specified in paragraph (b)
of] this subsection on January 1, based on changes in the [Portland-Salem,
OR-WA,] U.S. City Average Consumer Price Index for All Urban Consum-
ers for All Items, as published by the Bureau of Labor Statistics of the
United States Department of Labor. The board shall round the amount of the
fee to the nearest half-dollar. The revised fee takes effect on January 1 and
applies for the following three years.
(11) Publish and distribute to the interested public the boating laws of
this state and resumes or explanations of those laws.
(12) Publish and distribute forms for any application required under this
chapter and require the use of such forms.
(13) Make rules for the uniform navigational marking of the waters of
this state. Such rules shall not conflict with markings prescribed by the
United States Coast Guard. No political subdivision or person shall mark the
waters of this state in any manner in conflict with the markings prescribed
by the board.
(14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Oregon Health Authority or the Environmental Quality Commission.

(15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.

(16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.

(17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:

(a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.

(b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.

(18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

(19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

SECTION 9. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually
propelled boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a manually propelled boat is $30.]

[(b)] Violation of ORS 830.565 by a person operating a sailboat that is at least 12 feet in length or a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is $50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855 or section 5 of this 2019 Act, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

(9) A person who violates ORS 830.944 commits a Class A violation.

SECTION 10. ORS 830.565 is amended to read:

830.565. [(I)] A person may not operate [a manually propelled boat that is 10 feet or more in length or] a sailboat that is at least 12 feet in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS
830.570.

(2) A person who obtains an aquatic invasive species prevention permit for a manually propelled boat may use the permit on any manually propelled boat the person operates on the waters of this state.

SECTION 11. ORS 830.570 is amended to read:

830.570. (1) The State Marine Board shall issue and renew an aquatic invasive species prevention permit to a person who pays the fee for the permit described in ORS 830.575.

(2) The board may appoint agents to issue aquatic invasive species prevention permits.

(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species prevention permit fees prescribed by law.

(4) The board may authorize an agent other than a board employee to charge a service fee of $2, in addition to the permit fee, for the issuance service performed by the agent.

(5) The board may supply the agents with [motorboat and manually propelled boat] aquatic invasive species prevention permits.

SECTION 12. ORS 830.575 is amended to read:

830.575. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of an aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a sailboat that is at least 12 feet in length or a motorboat issued a certificate of number under ORS 830.795 is $5.

(2) The annual fee for a manually propelled boat 10 feet or more in length is $5.

(3) The annual fee for a sailboat that is at least 12 feet in length or a motorboat operated by a nonresident is $20.

(4) The annual fee for an operator of a boat livery is:

(a) $30 for an operator who owns 6 to 10 manually propelled boats;

(b) $55 for an operator who owns 11 to 20 manually propelled boats; or

(c) $100 for an operator who owns 21 or more manually propelled boats.
SECTION 13. The amendments to ORS 830.110 by section 8 of this 2019 Act apply to fees imposed on and after January 1, 2020.

SECTION 14. (1) Sections 2 to 7 of this 2019 Act and the amendments to ORS 830.110, 830.565, 830.570, 830.575 and 830.990 by sections 8 to 12 of this 2019 Act become operative on January 1, 2020.

(2) The State Marine Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all the duties, functions and powers conferred on the board by sections 2 to 7 of this 2019 Act and the amendments to ORS 830.110, 830.565, 830.570, 830.575 and 830.990 by sections 8 to 12 of this 2019 Act.

SECTION 15. The section captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

SECTION 16. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Requires boat operators to remove or open devices used to drain water from boat before transporting boat within this state. Provides exceptions. Punishes failure to comply by maximum fine of $250.

Requires person to cooperate with ordered decontamination process at aquatic invasive species check station. Punishes failure to cooperate with ordered decontamination process by maximum fine of $250.

Authorizes peace officer to stop person transporting recreational or commercial watercraft and require person to drive to open aquatic invasive species check station within five miles of stop if peace officer has probable cause that person failed to stop at check station. Punishes failure to comply with peace officer’s request by maximum of 30 days’ imprisonment, $1,250 fine, or both.

A BILL FOR AN ACT
Relating to aquatic invasive species; creating new provisions; and amending ORS 830.110, 830.565, 830.570, 830.575, 830.580, 830.585, 830.587, 830.589, 830.990, 830.998 and 830.999.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 830.

SECTION 2. (1) Except as provided in subsection (2) of this section, after leaving the waters of this state with a boat, a person shall remove or open all drain plugs, bailers, valves or other devices used to control the draining of water from ballast tanks, bilges, livewells and motorwells before transporting a boat within this state.

(2) Subsection (1) of this section does not apply to:
(a) Marine sanitation devices;
(b) A person who holds a permit issued pursuant to ORS 498.222 to transport live fish;
(c) A person participating in a fishing tournament authorized by the State Department of Fish and Wildlife, except that after weighing the fish the person shall return to the boat launch site and drain the boat as required under subsection (1) of this section;
(d) Boats operated by a peace officer; or
(e) Boats operated by an emergency responder, as defined by the State Marine Board by rule.

SECTION 3. ORS 830.565 is amended to read:

830.565. (1) A person may not operate a [manually propelled] nonmotorized boat that is at least 10 feet [or more] in length or a motorboat on the waters of this state without first obtaining an aquatic invasive species prevention permit from the State Marine Board under ORS 830.570.
(2) A person who obtains an aquatic invasive species prevention permit for a [manually propelled] nonmotorized boat may use the permit on any [manually propelled] nonmotorized boat the person operates on the waters of this state.
(3) As used in this section:
(a) “Nonmotorized boat” includes a sailboat that is at least 10 feet but less than 12 feet in length.
(b) “Motorboat” includes a sailboat that is at least 12 feet in length.

SECTION 4. ORS 830.570 is amended to read:

830.570. (1) The State Marine Board shall issue [and renew] an aquatic invasive species prevention permit to, or renew the permit of, a person who pays the fee for the permit described in ORS 830.575.
(2) The board may appoint agents to issue aquatic invasive species prevention permits.
(3) Agents shall issue permits in accordance with procedures prescribed by the board by rule and shall charge and collect the aquatic invasive species
(4) The board may authorize an agent other than a board employee to charge a service fee of $2, in addition to the permit fee, for the issuance of permits performed by the agent.

(5) The board may supply the agents with motorboat and manually propelled boat aquatic invasive species prevention permits.

SECTION 5. ORS 830.575 is amended to read:

ORS 830.575. Notwithstanding ORS 830.790 (3), fees for issuance and renewal of aquatic invasive species prevention permit are as follows:

(1) The biennial fee for a motorboat issued a certificate of number under ORS 830.795 is $5.

(2) The annual fee for a manually propelled nonmotorized boat at least 10 feet or more in length is $5.

(3) The annual fee for a motorboat operated by a nonresident that is not registered in Oregon is $20.

(4) The annual fee for an operator of a boat livery or an outfitter and guide, as that term is defined in ORS 704.010, is:

(a) $30 for an operator a person who owns 6 to 10 manually propelled nonmotorized boats at least 10 feet in length;

(b) $55 for an operator a person who owns 11 to 20 manually propelled nonmotorized boats at least 10 feet in length; or

(c) $100 for an operator a person who owns 21 or more manually propelled nonmotorized boats at least 10 feet in length.

(5) All fees collected under this section shall be deposited into the Aquatic Invasive Species Prevention Fund established under ORS 830.585.

(6) As used in this section:

(a) “Nonmotorized boat” includes a sailboat that is at least 10 feet but less than 12 feet in length.

(b) “Motorboat” includes a sailboat that is at least 12 feet in length.
830.580. [(1)] The State Marine Board shall adopt rules for the implementation and administration of ORS 830.565 to 830.575, including but not limited to the exemption of certain boats from the requirements of ORS 830.565 and the method for displaying an aquatic invasive species prevention permit.

[(2) Nothing in ORS 830.565 to 830.575 prevents the board from contracting any service provided under ORS 830.565 to 830.575 to any private person or entity or other unit of government.]

SECTION 7. ORS 830.110 is amended to read:

830.110. In addition to the powers and duties otherwise provided in this chapter, the State Marine Board shall have the power and duty to:

1. Make all rules necessary to carry out the provisions of this chapter. The rules shall be made in accordance with ORS chapter 183.

2. Devise a system of identifying numbers for boats, floating homes and boathouses. If an agency of the federal government has an overall system of identification numbering for boats within the United States, the system devised by the board shall conform with the federal system.

3. Cooperate with state and federal agencies to promote uniformity of the laws relating to boating and their enforcement.

4. Make contracts necessary to carry out the provisions of ORS 830.060 to 830.140, 830.565 to 830.575, 830.700 to 830.715, 830.725, 830.730, 830.770, 830.780, 830.785, 830.795 to 830.820 and 830.830 to 830.870.

5. Advise and assist county sheriffs and other peace officers in the enforcement of laws relating to boating.

6. Study, plan and recommend the development of boating facilities throughout the state which will promote the safety and pleasure of the public through boating.

7. Publicize the advantage of safe boating.

8. Accept gifts and grants of property and money to be used to further the purposes of this chapter.

9. Exempt from any provisions of this chapter any class of boats if it
determines that the safety of persons and property will not be materially promoted by the applicability of those provisions to the class of boats. The board may not exempt from numbering any class of boats unless:

(a) The board determines that the numbering will not materially aid in their identification; and

(b) The secretary of the department of the federal government under which the United States Coast Guard is operating has exempted from numbering the same boats or classes of boats.

(10) Appoint and require the bonding of agents to issue a temporary permit to operate a boat. In addition to the prescribed fees, the agents may charge [the following] a fee prescribed by the board for their services in issuing the temporary permit:

[(a) $2.50 per transaction for calendar years 2008, 2009 and 2010;]
[(b) $3.75 per transaction for calendar years 2011, 2012 and 2013; and]
[(c) Beginning in 2014, and] Every three years [thereafter,] the board shall issue an order revising the fee [specified in paragraph (b) of] imposed under this subsection on January 1, based on changes in the [Portland-Salem, OR-WA,] U.S. City Average Consumer Price Index for All Urban Consumers for All Items, as published by the Bureau of Labor Statistics of the United States Department of Labor. The board shall round the amount of the fee to the nearest half-dollar. The revised fee takes effect on January 1 and applies for the following three years.

(11) Publish and distribute to the interested public the boating laws of this state and resumes or explanations of those laws.

(12) Publish and distribute forms for any application required under this chapter and require the use of such forms.

(13) Make rules for the uniform navigational marking of the waters of this state. Such rules shall not conflict with markings prescribed by the United States Coast Guard. No political subdivision or person shall mark the waters of this state in any manner in conflict with the markings prescribed by the board.

[5]
(14) Make rules regarding marine toilets and their use consistent with the prevention and control of pollution of the waters of this state and not in conflict with the rules of the Oregon Health Authority or the Environmental Quality Commission.

(15) Institute proceedings to enjoin unlawful obstructions injuring free navigation on the waters of this state.

(16) Make rules regulating water ski course markers, ski jumps and other special use devices placed in the waters of this state. Such rules may regulate the installation and use of the devices and may require a permit.

(17) Adopt rules necessary to carry out and enforce the provisions of ORS 830.950 and 830.955. The rules shall include but need not be limited to:
   (a) The kinds of protective covering or physical barriers that are acceptable to be used between a submersible polystyrene device and the water.
   (b) Guidelines for the use of submersible polystyrene devices for the repair or maintenance of existing docks or floats.

(18) Adopt rules providing for establishment of a Safe Boating Education Course to be made available to courts and law enforcement agencies within this state for use as a sentencing option for those individuals convicted of boating offenses. The board shall specify the content of the Safe Boating Education Course and shall prescribe procedures for making the course available to local courts and law enforcement agencies, including procedures for promptly notifying such courts whether individuals required to enroll in the course have taken and successfully passed the course. Such rules may provide for administration of the course through nonprofit organizations, such as the United States Coast Guard Auxiliary, United States Power Squadrons or similar groups.

(19) For purposes of ORS 830.175, 830.180, 830.185, 830.187 and 830.195, in cooperation with the State Aviation Board, regulate boats that are seaplanes as provided in ORS 830.605 and 835.200.

SECTION 8. ORS 830.585 is amended to read:

830.585. (1) The Aquatic Invasive Species Prevention Fund is established
in the State Treasury, separate and distinct from the General Fund. Interest earned by the Aquatic Invasive Species Prevention Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Marine Board [for the purpose of administering the aquatic invasive species prevention permit program under ORS 830.565 to 830.575 and preventing and controlling aquatic invasive species].

(2)(a) The fund consists of:
(A) Moneys deposited into the fund under ORS 830.575;
(B) Moneys transferred to the fund from the federal government, other state agencies or local governments;
(C) Any other moneys appropriated to the fund by the Legislative Assembly; and
(D) Moneys deposited into the fund under paragraph (b) of this subsection.

(b) The board may receive gifts, grants or contributions from any source, whether public or private. Moneys received under this paragraph shall be deposited into the fund.

(3) The board may use the moneys in the fund:
(a) To pay the administrative costs of the aquatic invasive species prevention permit program;
(b) To award grants and enter into grant agreements to prevent and control aquatic invasive species; and
(c) For any other purpose of the board as described in ORS 830.565 to 830.575, 830.589 and 830.594.

SECTION 9. ORS 830.587 is amended to read:
830.587. As used in ORS 830.589, 830.594, 830.998 and 830.999 and section 12 of this 2019 Act:
(1) “Aquatic invasive species” means any aquatic species of wildlife or any freshwater or marine invertebrate, as specified by the State Fish and Wildlife Commission identifies as a prohibited species by rule, or any aquatic noxious weeds as specified by the State Department of Agriculture
by rule.

(2) “Recreational or commercial watercraft” means any boat, any equipment used to transport a boat and any auxiliary equipment for a boat, including but not limited to attached or detached outboard motors.

SECTION 10. ORS 830.589 is amended to read:

830.589. (1) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may require a person transporting a recreational or commercial watercraft to stop at a check station to inspect the watercraft for the presence of aquatic invasive species. The purpose of the administrative search authorized under this section is to prevent and limit the spread of aquatic invasive species within Oregon.

(2)(a) The State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture may decontaminate, or recommend order the decontamination of, any recreational or commercial watercraft that the agency inspects at a check station operated under authority of this section. If the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture orders decontamination, the person transporting the watercraft shall cooperate with the agency to complete the decontamination.

(b) Failure to cooperate with the ordered decontamination process is subject to penalties under ORS 830.998.

(3) All check stations operated under authority of this section must be plainly marked by signs that comply with all state and federal laws and must be staffed by at least one uniformed employee of the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture trained in inspection and decontamination of recreational or commercial watercraft.

(4) An agency that operates a check station under this section shall require all persons transporting recreational or commercial watercraft to stop at the check station, and the agency shall inspect every recreational or commercial watercraft that goes through the check station.
(5) Notwithstanding ORS 496.992, a person transporting a recreational or commercial watercraft who stops at a check station for inspection and who cooperates in the decontamination process is not subject to criminal sanctions for possessing or transporting aquatic invasive species.

(6) The State Department of Fish and Wildlife, the State Marine Board and the State Department of Agriculture may adopt rules to carry out the provisions of this section.

SECTION 11. Section 12 of this 2019 Act is added to and made a part of ORS chapter 830.

SECTION 12. (1) When a peace officer stops a person transporting a recreational or commercial watercraft for failing to stop at an aquatic invasive species check station as required under ORS 830.589, the peace officer may request that the person immediately drive to the nearest aquatic invasive species check station and have the watercraft inspected and, if needed, decontaminated, provided that:

(a) The peace officer has probable cause that the person violated ORS 830.589 by failing to stop at an aquatic invasive species check station; and

(b) An aquatic invasive species check station is open within five miles of the location of the stop.

(2) When it is necessary for the person to reverse direction in order to proceed to the nearest aquatic invasive species check station, the peace officer may assist the driver of the vehicle so that the turning movement can be made safely.

(3) Failure to comply with a peace officer's request to proceed to the nearest aquatic invasive species check station under subsection (1) of this section is subject to criminal penalties under ORS 830.990.

SECTION 13. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 or section 2 of this 2019 Act by a person operating a [manually propelled] nonmotorized boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation
of ORS 830.565 by a person operating a [manually propelled] nonmotorized boat is $30.

(b) Violation of ORS 830.565 or section 2 of this 2019 Act by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is $50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates section 12 of this 2019 Act commits a Class C misdemeanor.

[(6)] (7) A person who violates ORS 830.383 commits a Class B misdemeanor.

[(7)] (8) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

[(8)] (9) A person who violates ORS 830.475 (2) commits a Class C felony.

[(9)] (10) A person who violates ORS 830.944 commits a Class A violation.

SECTION 14. ORS 830.998 is amended to read:

830.998. (1) A person who is transporting a recreational or commercial watercraft and fails to stop and submit to an inspection or complete the
ordered decontamination at an aquatic invasive species check station operated by the State Department of Fish and Wildlife, the State Marine Board or the State Department of Agriculture as provided under ORS 830.589 commits a Class D violation.

(2) Notwithstanding ORS 153.042, [an enforcement] a peace officer may issue a citation under subsection (1) of this section when the conduct alleged to constitute a violation has not taken place in the presence of the [enforcement] peace officer, if the [enforcement] peace officer has reasonable grounds to believe that the conduct constitutes a violation on the basis of information received from an employee of an agency authorized to operate an aquatic invasive species check station who observed the violation.

SECTION 15. ORS 830.999 is amended to read:

830.999. (1) A person is subject to a civil penalty in an amount to be determined by the State Fish and Wildlife Director of not more than $6,250 if the person knowingly transports aquatic invasive species on or in a recreational or commercial watercraft. A second or subsequent violation of this subsection within a five-year period shall result in a civil penalty in an amount not less than $5,000 and not more than $15,000.

(2) Subsection (1) of this section does not apply to:

(a) A person who transports aquatic invasive species in ballast water, as defined in ORS 783.625.

(b) A person who complies with all instructions for the proper decontamination of the recreational or commercial watercraft given by an employee authorized under ORS 830.589 (1) to inspect recreational or commercial watercraft.

(c) A person who transports aquatic invasive species to the State Department of Fish and Wildlife or the State Department of Agriculture, or to another destination designated by the State Fish and Wildlife Commission by rule, in a manner designated by the commission for purposes of identifying or reporting an aquatic invasive species.

(3) The civil penalties authorized in this section shall be imposed as pro-
vided in ORS 183.745. Any civil penalty recovered under this section shall be deposited in the State Wildlife Fund. The commission by rule shall adopt the formula the State Fish and Wildlife Director shall use in determining the amount of civil penalties under this section.

SECTION 16. The amendments to ORS 830.110 by section 7 of this 2019 Act apply to fees imposed on or after January 1, 2020.
SUMMARY

Requires boat livery registration for operators of boat liveries. Imposes penalty for failure to register or renew registration. Punishes by maximum fine of $1,000.

A BILL FOR AN ACT

Relating to operators of boat liveries; creating new provisions; and amending ORS 830.410, 830.600, 830.770 and 830.990.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 830.

SECTION 2. (1) A person may not act as an operator of a boat livery without a boat livery registration issued by the State Marine Board.

(2) Application for a boat livery registration must be made in the form prescribed by the board and must contain the following:

(a) The applicant’s name.

(b) The applicant’s business address and telephone number.

(c) Proof of registration with the Secretary of State, if required.

(d) The number and types of boats provided by the livery at the time of registration.

(e) Any other information the board considers necessary.

(3) Every two years, each operator of a boat livery shall renew the boat livery registration by submitting a renewal application in the form prescribed by the board.

(4) An operator of a boat livery shall display proof of compliance

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with this section in the form and manner prescribed by the board.

SECTION 3. ORS 830.410 is amended to read:

830.410. [No operator of a] An operator of a boat livery [shall] may not permit any boat the operator rents to depart from the livery premises unless the boat is equipped as provided under ORS [830.005,] 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490.

SECTION 4. ORS 830.770 is amended to read:

830.770. (1) [No person shall] A person may not operate a boat on the waters of this state, and [no] an owner of a boat [shall] may not knowingly allow another person to operate the owner’s boat on the waters of this state, unless:

(a) The owner of the boat holds a valid, effective certificate of number issued in the owner’s name as owner:

(A) By this state, as provided in ORS 830.060 to 830.140 and 830.700 to 830.870;

(B) By an agency of the federal government; or

(C) By the state of principal use which issued the certificate of number under a federally approved numbering system.

(b) The certificate of number is carried on the boat, except as provided in subsection (2) of this section.

(2) Persons renting a boat from [a livery] an operator of a boat livery are not required to carry the certificate of number on the boat, provided:

(a) The [livery owner] operator of the boat livery retains the certificate of number at the livery office for immediate inspection by a peace officer;

(b) The boat is clearly marked and identified as a livery boat; and

(c) The boat operator has a signed rental or lease agreement containing the boat’s identifying number and the period of time for which the boat is rented or leased.

SECTION 5. ORS 830.600 is amended to read:

830.700 to 830.870 and 830.880 to 830.895 and section 2 of this 2019 Act do not apply to seaplanes as defined in ORS 835.200.

SECTION 6. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually propelled boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a manually propelled boat is $30.

(b) Violation of ORS 830.565 by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is $50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, 830.215, 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830 or section 2 of this 2019 Act, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

(9) A person who violates ORS 830.944 commits a Class A violation.
SUMMARY

Modifies laws related to boating safety education.

A BILL FOR AN ACT

Relating to boating safety education; amending ORS 830.084, 830.086, 830.088, 830.090, 830.092 and 830.094.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 830.084 is amended to read:

830.084. In establishing the mandatory boating safety education program pursuant to ORS 830.082, the State Marine Board shall:

(1) Set a minimum standard of boating safety education competency. The minimum competency standard shall be consistent with the applicable standard established or approved by the National Association of State Boating Law Administrators. The board by rule may update the minimum competency standard as necessary.

(2) Create a boating safety course and examination designed to educate and test for the minimum competency standard of safety established pursuant to subsection (1) of this section.

(3) Create an equivalency exam that may substitute for taking the boating safety course.

(4) Incorporate volunteer boating safety education programs to the maximum extent possible.

(5) Allow use of commercially provided boating safety courses, provided the courses meet the standard adopted by the board.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(6) Accept proof of prior completion of any approved boating safety course as meeting the requirement for a boating safety course.

(7) Establish a fee for the boating safety [certificate] education card issued under ORS 830.086 that may not exceed $10.

(8) Establish a temporary boating safety certificate that is valid for 60 days and issued in conjunction with a temporary certificate of number for newly acquired boats.

(9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available for taking a boating safety course that meets the minimum competency standard established pursuant to subsection (1) of this section.

SECTION 2. ORS 830.092 is amended to read:

830.092. A boating safety [certificate] education card is not required if a person:

(1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower and completes a required dockside safety check-list before operating the boat;

(2) Possesses a current commercial fishing license as required by ORS 508.235 and is engaged in commercial fishing;

(3) Possesses a valid United States Coast Guard commercial motorboat operator’s license; or

[(4) Is not a resident of this state and does not operate a boat with an engine greater than 10 horsepower in Oregon waters for more than 60 consecutive days;]

[(5)] (4) Is not a resident of this state, holds a [current out-of-state] boating safety [certificate] education card approved by the National Association of State Boating Law Administrators and has the [out-of-state certificate] card in the person’s possession.;]

[(6) Holds a temporary certificate as described under ORS 830.084; or]

[(7) Is not yet required to have a certificate under the phase-in program developed by the State Marine Board pursuant to section 9, chapter 716,
Oregon Laws 1999.]

SECTION 3. ORS 830.086 is amended to read:
830.086. A person may obtain a boating safety [certificate] education card if the person:

(1) Is at least 12 years of age;

(2) Passes the boating safety course and examination described in ORS 830.084 (2), or the equivalency exam[, as] described in ORS 830.084 (3), or submits proof to the satisfaction of the State Marine Board that the person has taken a boating safety course that is substantively equivalent to the boating safety course described in ORS 830.084; and

(3) Pays the fee required by the board.

SECTION 4. ORS 830.088 is amended to read:
830.088. A person 12 to 15 years of age [with] who has obtained a boating safety [certificate] education card may operate a motorboat with an engine of 10 horsepower or less. In addition, a person 12 to 15 years of age [with] who has obtained a boating safety [certificate] education card may operate a motorboat with an engine greater than 10 horsepower if accompanied by and under the direct supervision of a parent, guardian or responsible person 16 years of age or older who [possesses] has obtained a boating safety [certificate] education card.

SECTION 5. ORS 830.090 is amended to read:
830.090. A person may operate a motorboat with an engine greater than 10 horsepower if the person:

(1)(a) Is at least 16 years of age; and

(b) Obtains a boating safety [certificate] education card pursuant to ORS 830.086; or

(2) Is accompanied by and under the direct supervision of a person 16 years of age or older who has obtained a boating safety [certificate] education card pursuant to ORS 830.086.

SECTION 6. ORS 830.094 is amended to read:
830.094. A person [shall carry a boating safety certificate on the boat
while operating a motorboat[, as required,] shall carry the person’s boating safety education card on the boat and shall present the [certificate] card to a peace officer upon request by the peace officer.
SUMMARY

Modifies and adds laws related to boating offenses.

A BILL FOR AN ACT

Relating to boating offenses; creating new provisions; and amending ORS 830.084, 830.086, 830.088, 830.090, 830.092, 830.094, 830.315, 830.545, 830.990 and 830.994.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 830.315 is amended to read:

830.315. (1) A person commits the crime of reckless operation of a boat who boating if the person recklessly operates a boat carelessly and heedlessly in willful or wanton disregard of the rights, safety or property of others in a manner that endangers the safety of persons or property. As used in this subsection, “recklessly” has the meaning given that term in ORS 161.085.

(2) No person shall A person may not operate any boat at a rate of speed greater than will permit that person in the exercise of reasonable care to bring the boat to a stop within the assured clear distance ahead.

(3) Nothing in ORS 830.005, 830.015 to 830.050, 830.175, 830.210 to 830.420 and 830.475 to 830.490 is intended to prevent the operator of a boat actually competing in an event which that is authorized as provided in ORS 830.375 from attempting to attain high speeds on a marked racing course.

SECTION 2. ORS 830.990 is amended to read:

830.990. (1)(a) Violation of ORS 830.565 by a person operating a manually

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propelled boat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a manually propelled boat is $30.

(b) Violation of ORS 830.565 by a person operating a motorboat is a Class D violation. Notwithstanding ORS 153.019, the presumptive fine for a violation of ORS 830.565 by a person operating a motorboat is $50.

(2) A person who violates ORS 830.050, 830.088, 830.090, 830.092, 830.094, 830.215, 830.230, 830.415, 830.710, 830.720, 830.770, 830.780, 830.810, 830.850 or 830.855, or rules adopted to carry out the purposes of those statutes, commits a Class D violation.

(3) A person who violates ORS 830.220, 830.240, 830.245, 830.250, 830.375, 830.475 (4), 830.480, 830.785, 830.805 or 830.825, or rules adopted to carry out the purposes of those statutes, commits a Class C violation.

(4) A person who violates ORS 830.110, 830.175, 830.180, 830.185, 830.187, 830.195, 830.210, [830.215,] 830.225, 830.235, 830.260, 830.300, 830.315 (2) and (3), 830.335, 830.340, 830.345, 830.350, 830.355, 830.360, 830.362, 830.365, 830.370, 830.410, 830.420, 830.495, 830.560, 830.775, 830.795 or 830.830, or rules adopted to carry out the purposes of those statutes, commits a Class B violation.

(5) A person who violates ORS 830.305 or 830.390, or rules adopted to carry out the purposes of those statutes, commits a Class A violation.

(6) A person who violates ORS 830.383 commits a Class B misdemeanor.

(7) A person who violates ORS 830.035 (2), 830.053, 830.315 (1), 830.325, 830.475 (1), 830.730 or 830.955 (1) commits a Class A misdemeanor.

(8) A person who violates ORS 830.475 (2) commits a Class C felony.

(9) A person who violates ORS 830.944 commits a Class A violation.

SECTION 3. ORS 830.994 is amended to read:

ORS 830.994. (1) When a person is convicted of a violation of any provision of ORS 830.315 or 830.325, the court shall comply with the following in addition to any other penalty imposed upon the person under ORS 830.990:

(a) Order the person not to operate a boat for a period of one year;

(b) Order the person to complete a boating safety course conducted in
a classroom and approved by the State Marine Board; and

(c) Order the board to suspend the person’s boating safety education card issued under ORS 830.086 for one year.

[(c)] (2) When a person is convicted of a violation of any provision of ORS 830.325, the court shall, in addition to any other penalty imposed upon the person under ORS 830.990 or subsection (1) of this section, include in the record of conviction a finding whether the person willfully refused the request of a peace officer to submit to chemical testing of the breath or a field sobriety test [pursuant to] under ORS 830.505 and 830.550. For purposes of this subsection, a person shall be found to have willfully refused the request if the person was informed about rights and consequences concerning the test under ORS 830.505 and 830.545 and refused to submit to the test.

[(2)] (3) The record of conviction of each person convicted of violating ORS 830.315 or 830.325 shall be sent by the court to the board within 14 days of the entry of the judgment of conviction in the court register.

[(3)] (4) A person who knowingly operates a boat in violation of a court order under subsection (1)(a) of this section commits a Class A misdemeanor.

SECTION 4. Section 5 of this 2019 Act is added to and made a part of ORS chapter 830.

SECTION 5. In addition to any other penalty, the State Marine Board shall suspend a person’s boating safety education card issued under ORS 830.086 for three years from the date of conviction if the record of conviction under ORS 830.325 shows that the person willfully refused the request of a peace officer to submit to chemical testing of the breath or a field sobriety test under ORS 830.505 and 830.550.

SECTION 6. ORS 830.545 is amended to read:

ORS 830.545. This section establishes the requirements for information about rights and consequences for purposes of ORS 830.505. The following apply to the information about rights and consequences:

(1) The information about rights and consequences shall be substantially
in the form prepared by the State Marine Board. The board may establish
any form it determines appropriate and convenient.

(2) The information about rights and consequences shall be substantially
as follows:

(a) Operating a boat under the influence of intoxicants is a crime in
Oregon and the person is subject to criminal penalties if the test shows that
the person is under the influence of intoxicants. If the person refuses the test
or fails, evidence of the refusal or failure may also be offered against the
person.

(b) The person fails the test if the test shows the person is under the in-
fluence of intoxicants under Oregon law.

(c) If the person is convicted of operating a boat while under the influ-
ence of intoxicants, the person may not operate a boat for a period of time
following the conviction.

(d) If the person is convicted of operating a boat while under the influ-
ence of intoxicants, the following apply for one year:

(A) The person is not eligible to apply for any certificate of title, regis-
tration or numbering; and [all certificates of title, registration and numbering
necessary to lawfully operate a boat on Oregon waters shall be canceled for
at least a year. The ineligibility to apply for certificates or the cancellation of
the certificates shall be substantially longer if the person refuses the test.]

(B) The person’s boating safety education card is suspended.

(e) If the person refuses the test, the following apply for three years:

(A) The person is not eligible to apply for any certificate of title, regis-
tration or numbering; and

(B) The person’s boating safety education card is suspended.

[(e)] (f) After taking the test, the person shall have a reasonable oppor-
tunity, upon request, for an additional chemical test for blood alcohol con-
tent to be performed at the person’s own expense by a qualified individual
of the person’s choosing.

[4]
(3) Nothing in this section prohibits the board from providing additional information concerning rights and consequences that the board considers appropriate or convenient.

SECTION 7. ORS 830.084 is amended to read:

830.084. In establishing the mandatory boating safety education program pursuant to ORS 830.082, the State Marine Board shall:

(1) Set a minimum standard of boating safety education competency. The standard shall be consistent with the applicable standard established by the National Association of State Boating Law Administrators. The board may update the minimum standard of competency as necessary.

(2) Create a boating safety course of instruction and examination designed to educate and test for the minimum standard of safety established pursuant to subsection (1) of this section.

(3) Create an equivalency exam that may substitute for taking the boating safety course.

(4) Incorporate volunteer boating safety education programs to the maximum extent possible.

(5) Allow use of commercially provided boating safety courses, provided they meet the standard adopted by the board.

(6) Accept proof of prior completion of any approved boating safety course as meeting the requirement for a boating safety course.

(7) Establish a fee for the boating safety [certificate] education card issued under ORS 830.086 that may not exceed $10.

(8) Establish a temporary boating safety [certificate] education card that is valid for 60 days and issued in conjunction with a temporary certificate of number for newly acquired boats.

(9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available for taking a boating safety course that meets the minimum standard established pursuant to subsection (1) of this section.

SECTION 8. ORS 830.092 is amended to read:

830.092. A boating safety [certificate] education card is not required if a
person:

(1) Is at least 16 years of age and rents a motorboat with an engine greater than 10 horsepower and completes a required dockside safety check-list before operating the boat;

(2) Possesses a current commercial fishing license as required by ORS 508.235;

(3) Possesses a valid United States Coast Guard commercial motorboat operator’s license;

(4) Is not a resident of this state and does not operate a boat with an engine greater than 10 horsepower in Oregon waters for more than 60 consecutive days;

(5) Is not a resident of this state, holds a current out-of-state boating safety [certificate] education card and has the [out-of-state certificate] card in the person’s possession; or

(6) Holds a temporary [certificate] card as described under ORS 830.084[; or]

[7] Is not yet required to have a certificate under the phase-in program developed by the State Marine Board pursuant to section 9, chapter 716, Oregon Laws 1999].

SECTION 9. ORS 830.086 is amended to read:

830.086. A person may obtain a boating safety [certificate] education card if the person:

(1) Is at least 12 years of age;

(2) Passes the boating safety course and examination, or the equivalency exam, as described in ORS 830.084, or submits proof to the satisfaction of the State Marine Board that the person has taken a course that is substantively equivalent to the course described in ORS 830.084; and

(3) Pays the fee required by the board.

SECTION 10. ORS 830.088 is amended to read:

830.088. A person 12 to 15 years of age with a boating safety [certificate] education card may operate a motorboat with an engine of 10 horsepower
or less. In addition, a person 12 to 15 years of age with a boating safety [certificate] education card may operate a motorboat with an engine greater than 10 horsepower if accompanied by and under the direct supervision of a parent, guardian or responsible person 16 years of age or older who possesses a boating safety [certificate] education card.

**SECTION 11.** ORS 830.090 is amended to read:

830.090. A person may operate a motorboat with an engine greater than 10 horsepower if the person:

(1)(a) Is at least 16 years of age; and

(b) Obtains a boating safety [certificate] education card pursuant to ORS 830.086; or

(2) Is accompanied by and under the direct supervision of a person 16 years of age or older who has obtained a boating safety [certificate] education card pursuant to ORS 830.086.

**SECTION 12.** ORS 830.094 is amended to read:

830.094. A person shall carry a boating safety [certificate] education card on the boat while operating a motorboat, as required, and shall present the [certificate] card to a peace officer upon request by the peace officer.

**SECTION 13.** Section 5 of this 2019 Act and the amendments to ORS 830.315, 830.545, 830.990 and 830.994 by sections 1, 2, 3 and 6 of this 2019 Act apply to conduct occurring on or after the effective date of this 2019 Act.
SUMMARY

Increases certain fees assessed by State Marine Board.

A BILL FOR AN ACT
Relating to fees assessed by the State Marine Board; creating new provisions; and amending ORS 830.084, 830.790 and 830.810.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 830.084 is amended to read:

830.084. In establishing the mandatory boating safety education program pursuant to ORS 830.082, the State Marine Board shall:

(1) Set a minimum standard of boating safety education competency. The standard shall be consistent with the applicable standard established by the National Association of State Boating Law Administrators. The board may update the minimum standard of competency as necessary.

(2) Create a boating safety course of instruction and examination designed to educate and test for the minimum standard of safety established pursuant to subsection (1) of this section.

(3) Create an equivalency exam that may substitute for taking the boating safety course.

(4) Incorporate volunteer boating safety education programs to the maximum extent possible.

(5) Allow use of commercially provided boating safety courses, provided they meet the standard adopted by the board.

(6) Accept proof of prior completion of any approved boating safety course.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
as meeting the requirement for a boating safety course.

(7) Establish a fee for the boating safety certificate issued under ORS 830.086 that may not exceed \$10 \$20.

(8) Establish a temporary boating safety certificate that is valid for 60 days and issued in conjunction with a temporary certificate of number for newly acquired boats.

(9) Promote the fact that insurance discounts of 10 percent to 15 percent are widely available for taking a boating safety course that meets the minimum standard established pursuant to subsection (1) of this section.

SECTION 2. ORS 830.790 is amended to read:

830.790. (1) The biennial fee for the original or renewal certificate of number or registration is:

(a) \$4.50 \$5.95 per foot, or portion thereof, for all sailboats 12 feet in length or more and for all motorboats.

(b) \$6, for boats that are assessed by the Department of Revenue under ORS 308.505 to 308.681.

(c) \$6, for amphibious vehicles that are licensed by the Department of Transportation.

(2) Notwithstanding subsection (1) of this section, no fee is required for boats owned by eleemosynary organizations which are operated primarily as a part of organized activities for the purpose of teaching youths scoutcraft, camping, seamanship, self-reliance, patriotism, courage and kindred virtues.

(3) Except for the assessment referred to in subsection (1)(b) of this section, the fees provided by this section are in lieu of any other tax or license fee.

(4) The operator of a boat livery holding five or more boats ready for hire may pay a biennial certificate of number fee of \$90 plus \$10 for each boat instead of the fee otherwise provided in this section.

SECTION 3. ORS 830.810 is amended to read:

830.810. (1) Except as otherwise provided in this subsection, a person may not operate a boat for which an identifying number is required under ORS
830.705, 830.710, 830.770, 830.780 to 830.805 and 830.830 to 830.870, unless the owner has secured from the State Marine Board a certificate of title for the boat. This subsection does not apply to operation of:

(a) Amphibious vehicles that have a valid title issued by the Department of Transportation.

(b) A boat for which an identifying number issued under ORS 830.830 is required.

(2) A certificate of title is prima facie evidence of the ownership of a boat or a security interest therein. A certificate of title is good for the life of the boat so long as the certificate is owned or held by the legal holder of the certificate.

(3) The board may assess the following application fees:

(a) Original title or title transfer, [$50] $75.

(b) Duplicate title, $25.

(c) Duplicate certificate of number or registration, $15.

(d) Duplicate validation stickers, $15.

(4) The board shall establish, by rule, penalty fees for late application for certificates required by this section or ORS 830.710. A penalty fee may not exceed $50.

(5) Rules adopted pursuant to this section shall be in accordance with the provisions of ORS chapter 183.

**SECTION 4. The amendments to ORS 830.084, 830.790 and 830.810 by sections 1 to 3 of this 2019 Act apply to fees imposed on or after the effective date of this 2019 Act.**
SUMMARY

Allows acupuncturists to claim liability limitation for provision of health care services without compensation. Requires biennial registration by health practitioners claiming liability limitation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to health care professional liability limitation; creating new provisions; amending ORS 676.340 and 676.345; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 676.340 is amended to read:

676.340. (1) Notwithstanding any other provision of law, a health practitioner described in subsection (7) of this section who has registered under ORS 676.345 and who provides health care services without compensation is not liable for any injury, death or other loss arising out of the provision of those services, unless the injury, death or other loss results from the gross negligence of the health practitioner.

(2) A health practitioner may claim the limitation on liability provided by this section only if the patient receiving health care services, or a person who has authority under law to make health care decisions for the patient, signs a statement that notifies the patient that the health care services are provided without compensation and that the health practitioner may be held liable for death, injury or other loss only to the extent provided by this section. The statement required under this subsection must be signed before the health care services are provided.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(3) A health practitioner may claim the limitation on liability provided by this section only if the health practitioner obtains the patient's informed consent for the health care services before providing the services, or receives the informed consent of a person who has authority under law to make health care decisions for the patient.

(4) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner requires payment of laboratory fees, testing services and other out-of-pocket expenses.

(5) A health practitioner provides health care services without compensation for the purposes of subsection (1) of this section even though the practitioner provides services at a health clinic that receives compensation from the patient, as long as the health practitioner does not personally receive compensation for the services.

(6) In any civil action in which a health practitioner prevails based on the limitation on liability provided by this section, the court shall award all reasonable attorney fees incurred by the health practitioner in defending the action.

(7) This section applies only to:

(a) A physician licensed under ORS 677.100 to 677.228;
(b) A nurse licensed under ORS 678.040 to 678.101;
(c) A nurse practitioner licensed under ORS 678.375 to 678.390;
(d) A clinical nurse specialist certified under ORS 678.370 and 678.372;
(e) A physician assistant licensed under ORS 677.505 to 677.525;
(f) A dental hygienist licensed under ORS 680.010 to 680.205;
(g) A dentist licensed under ORS 679.060 to 679.180;
(h) A pharmacist licensed under ORS chapter 689;
(i) An optometrist licensed under ORS chapter 683; [and]
(j) A naturopathic physician licensed under ORS chapter 685; and
(k) An acupuncture licensed under ORS 677.757 to 677.770.

SECTION 2. ORS 676.345 is amended to read:
676.345. (1) A health practitioner described in ORS 676.340 (7) may claim the liability limitation provided by ORS 676.340 only if the health practitioner has registered with a health professional regulatory board in the manner provided by this section. Registration under this section must be made:

(a) By a physician, [or] physician assistant or acupuncturist, with the Oregon Medical Board;

(b) By a nurse, nurse practitioner or clinical nurse specialist, with the Oregon State Board of Nursing;

(c) By a dentist or dental hygienist, with the Oregon Board of Dentistry;

(d) By a pharmacist, with the State Board of Pharmacy;

(e) By an optometrist, with the Oregon Board of Optometry; and

(f) By a naturopathic physician, with the Oregon Board of Naturopathic Medicine.

(2) The health professional regulatory boards listed in subsection (1) of this section shall establish a registration program for the health practitioners who provide health care services without compensation and who wish to be subject to the liability limitation provided by ORS 676.340. All health practitioners registering under the program must provide the health professional regulatory board with:

(a) A statement that the health practitioner will provide health care services to patients without compensation, except for reimbursement for laboratory fees, testing services and other out-of-pocket expenses;

(b) A statement that the health practitioner will provide the notice required by ORS 676.340 (2) in the manner provided by ORS 676.340 (2) before providing the services; and

(c) A statement that the health practitioner will only provide health care services without compensation that are within the scope of the health practitioner’s license.

(3) Registration under this section must be made [annually] biennially. The health professional regulatory boards listed in subsection (1) of this
section [shall] may not charge [no] a fee for registration under this section.


(2) The Oregon Medical Board, the Oregon State Board of Nursing, the Oregon Board of Dentistry, the State Board of Pharmacy, the Oregon Board of Optometry and the Oregon Board of Naturopathic Medicine may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 676.340 and 676.345 by sections 1 and 2 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
LC 527
2019 Regular Session
84700-002
9/25/18  (SCT/ps)

SUMMARY

Increases membership of Oregon Medical Board by one public member.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to public members of the Oregon Medical Board; creating new pro-
visions; amending ORS 677.235; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 677.235 is amended to read:

677.235. (1) The Oregon Medical Board consists of [13] 14 members ap-
pointed by the Governor and subject to confirmation by the Senate in the
manner provided in ORS 171.562 and 171.565. All members of the board must
be residents of this state. Of the members of the board:

(a) Seven must have the degree of Doctor of Medicine;
(b) Two must have the degree of Doctor of Osteopathic Medicine;
(c) One must have the degree of Doctor of Podiatric Medicine;
(d) One must be a physician assistant licensed under ORS 677.512 or a
retired physician assistant; and

(e) [Two] Three must be members of the public [representing] who rep-
resent health consumers [and who are not:].

[(A) Otherwise eligible for appointment to the board; or]
[(B) A spouse, domestic partner, child, parent or sibling of a person having
the degree of Doctor of Medicine, Doctor of Osteopathic Medicine or Doctor
of Podiatric Medicine or of a physician assistant licensed under ORS 677.512

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted.
New sections are in boldfaced type.
or a retired physician assistant.]

(2)(a)(A) Board members required to possess the degree of Doctor of Medicine may be selected by the Governor from a list of three to five candidates for each member described in subsection (1)(a) of this section whose term expires in that year, submitted by the Oregon Medical Association not later than February 1.

(B) Board members required to possess the degree of Doctor of Osteopathic Medicine may be selected by the Governor from a list of three to five candidates for each member described in subsection (1)(b) of this section whose term expires in that year, submitted by the Osteopathic Physicians and Surgeons of Oregon, Inc., not later than February 1.

(C) The board member required to possess the degree of Doctor of Podiatric Medicine may be selected by the Governor from a list of three to five candidates for the member described in subsection (1)(c) of this section whose term expires in that year, submitted by the Oregon Podiatric Medical Association not later than February 1.

(D) The board member required to be a physician assistant licensed under ORS 677.512 or a retired physician assistant may be selected by the Governor from a list of three to five candidates for the member described in subsection (1)(d) of this section whose term expires in that year, submitted by the Oregon Society of Physician Assistants not later than February 1.

(b) Members who are physicians and the member who is a physician assistant or a retired physician assistant must have been in the active practice of their profession for at least five years immediately preceding their appointment.

(c)(A) A public member may not be otherwise eligible for appointment to the board.

(B) A public member, or the spouse, domestic partner, child, parent or sibling of a public member, may not be [employed as a health professional] a licensed health care professional in this state.

(d)(A) In selecting the members of the board, the Governor shall strive
to balance the representation on the board according to geographic areas of
this state and ethnicity.

(B) Of the seven members who hold the degree of Doctor of Medicine, at
least one member must be appointed from each federal congressional district.

(3)(a) The term of office of each board member is three years, but a
member serves at the pleasure of the Governor. The terms must be staggered
so that no more than five terms end each year. A term begins on March 1
of the year the member is appointed and ends on the last day of February
of the third year after the member is appointed. A member may not serve
more than two consecutive terms.

(b) If a vacancy occurs on the board, another qualifying member possess-
ing the same professional degree, license or retired status or fulfilling the
same public capacity as the person whose position has been vacated shall
be appointed as provided in this section to fill the unexpired term.

(c) A board member shall be removed immediately from the board if,
during the member’s term, the member:

(A) Is not a resident of this state;

(B) Has been absent from three consecutive board meetings, unless at
least one absence is excused; or

(C) Is not a current licensee or a retired licensee whose license was in
good standing at the time of retirement, if the board member was appointed
to serve on the board as a licensee.

(4) Members of the board are entitled to compensation and expenses as
provided in ORS 292.495. The board may provide by rule for compensation
to board members for the performance of official duties at a rate that is
greater than the rate provided in ORS 292.495.

(5)(a) The chairperson shall select at least one but no more than three
former board members to serve as emeritus board members. A person selected
to serve as an emeritus board member is subject to approval by the Governor.

(b) A person may serve as an emeritus board member for up to three years
after the date on which the person’s term as a board member ended.
(c) An emeritus board member serves at the pleasure of the Governor.

d) The board shall publish a list of emeritus board members on a website maintained by the board.

e) If a board member will be absent from a meeting of the board and has provided notice to the chairperson or executive director of the board in advance of the member’s absence, an emeritus board member who holds the same degree or professional license, or who fulfills the same public capacity, as the absent member may take the place of the absent member during the absence.

SECTION 2. The amendments to ORS 677.235 by section 1 of this 2019 Act apply to individuals who are members of the Oregon Medical Board on and after the operative date of this 2019 Act.


(2) The Oregon Medical Board may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by the amendments to ORS 677.235 by section 1 of this 2019 Act.

SECTION 4. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Clarifies that Record of Emergency Data form completed by member of Armed Forces of United States serves as written signed instrument to direct disposition of remains upon death of member.

A BILL FOR AN ACT
Relating to disposition of human remains; creating new provisions; and amending ORS 97.130 and 114.305.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 97.130 is amended to read:

97.130. (1) Any individual of sound mind who is 18 years of age or older, by completion of a written signed instrument or by preparing or prearranging with any funeral service practitioner licensed under ORS chapter 692, may direct any lawful manner of disposition of the individual’s remains. Except as provided under subsection [(6)] (7) of this section, disposition directions or disposition prearrangements that are prepaid or that are filed with a funeral service practitioner licensed under ORS chapter 692 are not subject to cancellation or substantial revision.

(2) A person within the first applicable listed class among the following listed classes that is available at the time of death, in the absence of actual notice of a contrary direction by the decedent as described under subsection (1) of this section or actual notice of opposition by completion of a written instrument by a member of the same class or a member of a prior class, may direct any lawful manner of disposition of a decedent’s remains by completion of a written instrument:

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(a) The spouse of the decedent.
(b) A son or daughter of the decedent 18 years of age or older.
(c) Either parent of the decedent.
(d) A brother or sister of the decedent 18 years of age or older.
(e) A guardian of the decedent at the time of death.
(f) A person in the next degree of kindred to the decedent.
(g) The personal representative of the estate of the decedent.
(h) The person nominated as the personal representative of the decedent in the decedent’s last will.
(i) A public health officer.

(3)(a) The decedent or any person authorized in subsection (2) of this section to direct the manner of disposition of the decedent’s remains may delegate such authority to any person 18 years of age or older.
(b) Delegation of the authority to direct the manner of disposition of remains must be made by completion of:
(A) The written instrument described in subsection [(7)] (8) of this section; or
(B) [A written instrument recognized by the Armed Forces of the United States, as that term is defined in ORS 348.282, if the decedent died while serving in the Armed Forces of the United States] The form described in subsection (4) of this section.
(c) The person to whom the authority is delegated has the same authority under subsection (2) of this section as the person delegating the authority.

(4)(a) A Record of Emergency Data, DD Form 93, or a successor form recognized by the Armed Forces of the United States, as that term is defined in ORS 348.282, completed by a member of the Armed Forces of the United States serves as a valid written instrument for purposes of subsection (3) of this section.
(b) In accordance with United States Department of Defense Instruction 1300.18, a member of the Armed Forces of the United States shall complete the form described in this subsection and shall verify
the accuracy of the form at least annually.

(c) The form described in this subsection, regardless of the date on which the form was signed, supersedes any other written instrument that directs the disposition of the decedent's remains.

(4) (5) Except as provided in subsection (4)(c) of this section, if a decedent or the decedent’s designee issues more than one authorization or direction for the disposal of the decedent’s remains, only the most recent authorization or direction is binding.

(5) (6) A donation of anatomical gifts under ORS 97.951 to 97.982 takes priority over directions for the disposition of a decedent’s remains under this section only if the person making the donation is of a priority under subsection (1) or (2) of this section the same as or higher than the priority of the person directing the disposition of the remains.

(6) (7) If the decedent directs a disposition under subsection (1) of this section and those financially responsible for the disposition are without sufficient funds to pay for such disposition or the estate of the decedent has insufficient funds to pay for the disposition, or if the direction is unlawful, the direction is void and disposition shall be in accordance with the direction provided by the person given priority in subsection (2) of this section and who agrees to be financially responsible.

(7) (8) The signature of the individual delegating the authority to direct the manner of disposition is required for the completion of the written instrument required in subsection (3)(b)(A) of this section. The following form or a form substantially similar shall be used by all individuals:

__________________________________________________________________________

APPOINTMENT OF PERSON
TO MAKE DECISIONS
CONCERNING DISPOSITION
OF REMAINS

I, ________________, appoint ________________, whose ad-
dress is ____________ and whose telephone number is (___)
__________, as the person to make all decisions regarding the disposition
of my remains upon my death for my burial or cremation. In the event
___________ is unable to act, I appoint ____________, whose address
is _______________ and whose telephone number is (___)
__________, as my alternate person to make all decisions regarding the
disposition of my remains upon my death for my burial or cremation.

It is my intent that this Appointment of Person to Make Decisions Con-
cerning Disposition of Remains act as and be accepted as the written au-
thorization presently required by ORS 97.130 (or its corresponding future
provisions) or any other provision of Oregon Law, authorizing me to name
a person to have authority to dispose of my remains.

DATED this ___ day of ______, _____.

________________________
(Signature)

DECLARATION OF WITNESSES

We declare that ____________ is personally known to us, that he/she
signed this Appointment of Person to Make Decisions Concerning Disposi-
tion of Remains in our presence, that he/she appeared to be of sound mind
and not acting under duress, fraud or undue influence, and that neither of
us is the person so appointed by this document.

Witnessed By:

_________________________ Date: ______

Witnessed By:

_________________________ Date: ______
[(8)] (9) Subject to the provisions of ORS 97.951 to 97.982, if disposition of the remains of a decedent has not been directed and authorized under this section within 10 days after the date of the death of the decedent, a public health officer may direct and authorize disposition of the remains.

[(9)] (10) Notwithstanding subsection (2) of this section, a person arrested for or charged with criminal homicide by reason of the death of the decedent may not direct the disposition of the decedent’s remains. The disposition of the decedent’s remains shall be made in accordance with the directions of an eligible person within the first applicable class established under subsection (2) of this section.

[(10)] (11) Notwithstanding subsections (2) and (3) of this section, if the person who has the authority to direct the manner of disposition of cremated remains pursuant to subsection (1) or (2) of this section transfers any portion of the cremated remains to another person, the recipient of the cremated remains has the authority to direct the manner of disposition of the cremated remains in the recipient’s possession.

SECTION 2. ORS 114.305 is amended to read:

114.305. Subject to the provisions of ORS 97.130 (2) and [(10)] (11) and except as restricted or otherwise provided by the will of the decedent, a document of anatomical gift under ORS 97.965 or by court order, a personal representative, acting reasonably for the benefit of interested persons, is authorized to:

(1) Direct and authorize disposition of the remains of the decedent pursuant to ORS 97.130 and incur expenses for the funeral in a manner suitable to the condition in life of the decedent. Only those funeral expenses necessary for a plain and decent funeral may be paid from the estate if the assets are insufficient to pay the claims of the Department of Human Services and the Oregon Health Authority for the net amount of public assistance, as defined in ORS 411.010, or medical assistance, as defined in ORS 414.025, paid to or for the decedent and for care and maintenance of any decedent who was at a state institution to the extent provided in ORS 179.610 to 179.770.

[5]
(2) Retain assets owned by the decedent pending distribution or liquidation.

(3) Receive assets from fiduciaries or other sources.

(4) Complete, compromise or refuse performance of contracts of the decedent that continue as obligations of the estate, as the personal representative may determine under the circumstances. In performing enforceable contracts by the decedent to convey or lease real property, the personal representative, among other courses of action, may:

(a) Execute and deliver a deed upon satisfaction of any sum remaining unpaid or upon receipt of the note of the purchaser adequately secured; or

(b) Deliver a deed in escrow with directions that the proceeds, when paid in accordance with the escrow agreement, be paid to the successors of the decedent, as designated in the escrow agreement.

(5) Satisfy written pledges of the decedent for contributions, whether or not the pledges constituted binding obligations of the decedent or were properly presented as claims.

(6) Deposit funds not needed to meet currently payable debts and expenses, and not immediately distributable, in bank or savings and loan association accounts, or invest the funds in bank or savings and loan association certificates of deposit, or federally regulated money-market funds and short-term investment funds suitable for investment by trustees under ORS 130.750 to 130.775, or short-term United States Government obligations.

(7) Abandon burdensome property when it is valueless, or is so encumbered or is in a condition that it is of no benefit to the estate.

(8) Vote stocks or other securities in person or by general or limited proxy.

(9) Pay calls, assessments and other sums chargeable or accruing against or on account of securities.

(10) Sell or exercise stock subscription or conversion rights.

(11) Consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of a corpo-
ration or other business enterprise.

(12) Hold a security in the name of a nominee or in other form without disclosure of the interest of the estate, but the personal representative is liable for any act of the nominee in connection with the security so held.

(13) Insure the assets of the estate against damage and loss, and insure the personal representative against liability to third persons.

(14) Advance or borrow money with or without security.

(15) Compromise, extend, renew or otherwise modify an obligation owing to the estate. A personal representative who holds a mortgage, pledge, lien or other security interest may accept a conveyance or transfer of the encumbered asset in lieu of foreclosure in full or partial satisfaction of the indebtedness.

(16) Accept other real property in part payment of the purchase price of real property sold by the personal representative.

(17) Pay taxes, assessments and expenses incident to the administration of the estate.

(18) Employ qualified persons, including attorneys, accountants and investment advisers, to advise and assist the personal representative and to perform acts of administration, whether or not discretionary, on behalf of the personal representative.

(19) Prosecute or defend actions, claims or proceedings in any jurisdiction for the protection of the estate and of the personal representative in the performance of duties as personal representative.

(20) Prosecute claims of the decedent including those for personal injury or wrongful death.

(21) Continue any business or venture in which the decedent was engaged at the time of death to preserve the value of the business or venture.

(22) Incorporate or otherwise change the business form of any business or venture in which the decedent was engaged at the time of death.

(23) Discontinue and wind up any business or venture in which the decedent was engaged at the time of death.
(24) Provide for exoneration of the personal representative from personal
liability in any contract entered into on behalf of the estate.
(25) Satisfy and settle claims and distribute the estate as provided in ORS
(26) Perform all other acts required or permitted by law or by the will
of the decedent.

SECTION 3. The amendments to ORS 97.130 by section 1 of this 2019
Act apply to persons who are members of the Armed Forces of the
United States before, on or after the effective date of this 2019 Act.
SUMMARY

Prohibits Oregon Military Department from incurring expense that is reimbursable under cooperative agreement with federal National Guard Bureau unless department has available moneys sufficient to meet expense.

Authorizes State Treasurer to create accounts or subaccounts and adopt rules to maintain eligibility to receive advance funding under cooperative agreement with federal bureau.

A BILL FOR AN ACT

Relating to federal moneys received by the Oregon Military Department.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Oregon Military Department may not incur an expense that is reimbursable in whole or in part from federal moneys under a cooperative agreement with the federal National Guard Bureau unless moneys sufficient to meet the expense are available in the State Treasury and:

(1) Are available for expenditure by the department; and

(2) Are not committed or encumbered for any other purpose.

SECTION 2. The State Treasurer may create accounts or subaccounts in the General Fund and adopt rules as necessary to maintain the eligibility of this state to receive advance payments under cooperative agreements with the federal National Guard Bureau.
SUMMARY

Allows licensed optometrists to use telehealth to provide telemedicine to patients. Defines “telehealth” and “telemedicine.”
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to optometry; creating new provisions; amending ORS 683.010, 683.180, 683.200 and 683.240; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 683.010 to 683.310.

SECTION 2. (1) As used in this section:

(a) “Licensed optometrist” means an optometrist licensed under ORS 683.010 to 683.340.

(b) “Optometric clinical health care services” includes, but is not limited to, assessment, consultation, diagnosis, patient education and care management by a licensed optometrist.

(c) “Store and forward” means the transmission of patient information between a licensed optometrist and a patient, whether or not in real time.

(d)(A) “Telehealth” means the use of electronic and telecommunications technologies, including remote patient monitoring devices and store and forward technology, to support delivery of optometric clinical health care services.

(B) “Telehealth” does not include electronic mail communication,
facsimile transmission or audio-only telephone communication between a licensed optometrist and a patient, or the use of an automated computer program or managed website to diagnose or treat ocular or refractive conditions.

(e) “Telemedicine” means the delivery of optometric clinical health care services to a patient by a licensed optometrist, through telehealth.

(2) A licensed optometrist authorized by the board to practice optometry may practice telemedicine if:

(a) The licensed optometrist provides notice to the patient that the licensed optometrist intends to practice telemedicine prior to engaging in the practice of telemedicine with the patient;

(b) The patient is physically located in this state during the practice of telemedicine; and

(c) The licensed optometrist reviews the patient’s clinical history or performs an in-person exam of the patient and appropriately documents the patient’s relevant clinical history and symptoms, prior to engaging in the practice of telemedicine with the patient.

(3) A licensed optometrist may not prescribe contact or ophthalmic lenses based solely on automated testing of a patient.

(4) The Oregon Board of Optometry may adopt rules related to the use of telehealth and the practice of telemedicine.

SECTION 3. ORS 683.010 is amended to read:

683.010. As used in ORS 683.010 to 683.310, unless the context requires otherwise:

(1) “Board” means the Oregon Board of Optometry.

(2) “Optometric nontopical formulary” means the list of nontopical pharmaceutical agents for the treatment of diseases of the human eye and the protocols for their usage adopted by the Council on Optometric Nontopical Formulary under ORS 683.240 (2).

(3) (2) “Practice of optometry” means the use of any means other than
invasive or laser surgery, or the prescription of Schedule I and II drugs or pharmaceutical agents that are not on the optometric nontopical formulary, for diagnosis and treatment in the human eye, for the measurement or assistance of the powers or range of human vision or the determination of the accommodative and refractive states of the human eye or the scope of its functions in general or the adaptation of lenses or frames for the aid thereof, subject to the limitations of ORS 683.040. “Practice of optometry” includes the prescription of Schedule II hydrocodone-combination drugs for the purposes listed in this subsection and the use of telehealth as defined in section 2 of this 2019 Act.

[(4) (3)] “Trial frames” or “test lenses” means any frame or lens that is used in testing the eye [which] and that is not sold and not for sale.

SECTION 4. ORS 683.180 is amended to read:

683.180. A person may not:

(1) Sell or barter, or offer to sell or barter, any license issued by the [board] Oregon Board of Optometry.

(2) Purchase or procure by barter any such license with intent to use it as evidence of the holder’s qualification to practice optometry.

(3) Alter the license with fraudulent intent in any material regard.

(4) Use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license.

(5) Practice optometry under a false or assumed name.

(6) Willfully make any false statement in a material regard in an application for an examination before the board or for a license.

(7) Practice optometry in this state without having at the time of so doing a valid unrevoked license as an optometrist.

(8) Advertise or represent, by displaying a sign or otherwise, to be an optometrist without having at the time of so doing a valid unrevoked license from the board.

(9) Dispense or sell an ophthalmic contact lens without having obtained a valid, unexpired prescription from the person to whom the contact lens is
dispensed or sold. As used in this subsection, “ophthalmic contact lens” means a contact lens with or without refractive power, including a plano lens or a cosmetic lens.

SECTION 5. ORS 683.200 is amended to read:

683.200. (1) Optometrists utilizing pharmaceutical agents shall be held to the same standards of liability as persons licensed as physicians to practice medicine and surgery by the Oregon Medical Board under ORS chapter 677. (2) Notwithstanding ORS 683.010 [(3)] (2), an optometrist may remove superficial foreign bodies from the eye and its appendages. (3)(a) An optometrist treating a patient with antiglaucoma medication shall consult with an ophthalmologist if: (A) The glaucoma progresses despite the use of two glaucoma medications; (B) More than two medications are required to control the glaucoma; or (C) A secondary glaucoma develops. (b) Glaucoma shall be considered to be progressing if, in comparison to prior examinations, there is a reproducible worsening of the patient’s visual field as measured by standard threshold testing or if there is a worsening of the patient’s optic nerve as measured by direct observation or standard imaging technology or by rising eye pressure despite the use of medication. Glaucoma shall be considered to be under control if target eye pressure, individualized for each patient, is maintained with no abnormal glaucomatous progression. (c) For purposes of this subsection, a combination medication that contains two pharmacologic agents shall be considered one medication.

SECTION 6. ORS 683.240 is amended to read:

683.240. (1)(a) The Council on Optometric Nontopical Formulary is established and shall consist of seven members appointed as follows: (A) One member of the Oregon Board of Optometry appointed by the Oregon Board of Optometry; (B) One member who is a pharmacist licensed by the State Board of Pharmacy or a person with an advanced degree in pharmacology or
pharmacognosy appointed by the State Board of Pharmacy;

(C) One member of the Oregon Medical Board appointed by the Oregon Medical Board;

(D) One member of the faculty of the Oregon Health and Science University School of Medicine appointed by the Oregon Medical Board;

(E) One member who is a physician licensed under ORS chapter 677 appointed by the Oregon Medical Board after consideration of three qualified nominees provided by the Oregon Academy of Ophthalmology;

(F) One member who is a practicing optometrist appointed by the Oregon Board of Optometry after consideration of three qualified nominees from the Oregon Optometric Physicians Association; and

(G) One member with a degree in optometry or ophthalmology who is a member of the faculty at a college of optometry appointed by the Oregon Board of Optometry.

(b)(A) The chair of the council shall be elected by a majority of the members.

(B) The term of office of each member of the council shall be two years. A member shall serve until a successor is appointed. If a vacancy occurs, it shall be filled for the unexpired term by a person with the same qualifications as the vacating member.

(C) Any member of the council who fails to attend two consecutive meetings of the council, whether regular or special, shall forfeit office unless the council member is prevented from attending by serious illness of the member or of a member of the council member's family.

(D) Meetings of the council shall be called at the request of the chair or at the request of two or more members of the council.

(E) Members of the council shall serve without compensation.

(2) After public hearings, the council shall determine the substances to be included in the optometric nontopical formulary that may be used by an optometrist under ORS 683.010 [(3)] (2). The council shall review the formulary periodically. Immediately upon adoption or revision of the
formulary, the council shall transmit the approved formulary to the Oregon Board of Optometry. The board shall adopt the formulary or a portion of the formulary. If the council approves protocols for the use of a nontopical pharmaceutical agent and the board adopts the portion of the formulary listing that agent, the board must also adopt those protocols. The board may not expand or add to the formulary submitted for adoption in any manner.

SECTION 7. (1) Section 2 of this 2019 Act and the amendments to ORS 683.010, 683.180, 683.200 and 683.240 by sections 3 to 6 of this 2019 Act become operative on January 1, 2020.

(2) The Oregon Board of Optometry may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the board to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the board by section 2 of this 2019 Act and the amendments to ORS 683.010, 683.180, 683.200 and 683.240 by sections 3 to 6 of this 2019 Act.

SECTION 8. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Authorizes Oregon Racing Commission to issue exchange wagering license to qualified applicant.
Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to exchange wagering; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Sections 2 to 15 of this 2019 Act are added to and made a part of ORS chapter 462.

SECTION 2. As used in sections 2 to 15 of this 2019 Act:

(1) “Back” means to wager on a selected outcome occurring in a given market.

(2) “Exchange” means a system operated by an exchange wagering licensee in which the exchange wagering licensee maintains one or more markets in which persons may back or lay a selected outcome.

(3) “Exchange revenues” means all charges and fees assessed or collected by an exchange wagering licensee in connection with the submission of any exchange wagers to the exchange wagering licensee.

(4) “Exchange wagering” means a form of pari-mutuel wagering in which two or more persons place identically opposing wagers in a given market.

(5) “Exchange wagering account” means an account held by a person participating in exchange wagering and managed by an exchange wagering licensee, and may include an account established with a

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub pursuant to ORS 462.725.

(6) “Exchange wagering licensee” means a person that holds an exchange wagering license issued under section 6 of this 2019 Act.

(7) “Exchange wagering system” means a system through which exchange wagers are processed.

(8) “Exchange wagers” means wagers submitted to an exchange wagering licensee to be posted in a market on an exchange.

(9) “Identically opposing wagers” means wagers that one or more persons offer to lay on a selected outcome at the same price at which one or more persons offer to back that same outcome, with the amount subject to the lay being proportionately commensurate to the amount subject to the back.

(10) “Interstate exchange pool” means an exchange wagering system established in this state or in another jurisdiction and that combines unmatched wagers on one or more horse races in order to form identically opposing wagers.

(11) “Lay” means to wager on a selected outcome not occurring in a given market.

(12) “Market” means, in relation to a given horse race or set of horse races, a particular outcome that is subject to exchange wagering as determined by an exchange wagering licensee.

(13) “Matched wager” means the wager that is formed when two or more persons are confirmed by an exchange wagering licensee as having placed identically opposing wagers in a given market on an exchange.

(14) “Net winnings” means the aggregate amounts payable to a person as a result of that person’s winning matched wagers in a pool less the aggregate amount paid by that person as a result of that person’s losing matched wagers in that pool.

(15) “Pari-mutuel” means any system in which wagers with respect
to the outcome of a horse race are placed with, or in, a wagering pool
carried on by an authorized person and in which the participants are
wagering with each other and not against the person conducting the
wagering pool.

(16) “Pool” means the total of all matched wagers in a given mar-
ket.

(17) “Price” means the odds for a given exchange wager.

(18) “Unmatched wager” means a wager or portion of a wager
placed in a given market on an exchange that does not become part
of a matched wager.

SECTION 3. (1) The Legislative Assembly finds and declares that
the horse racing industry is economically important to this state and
that the general welfare of the residents of this state will be promoted
by the advancement of horse racing and related projects and facilities
in this state.

(2) It is the intent of the Legislative Assembly, by authorizing ex-
change wagering in this state, to:

(a) Promote the economic future of the horse racing industry in
this state;

(b) Foster the potential for increased commerce, employment and
recreational opportunities in this state;

(c) Preserve the state’s open spaces;

(d) Permit exchange wagers to be taken in person, by telephone or
by communication through other electronic means; and

(e) Subject to the relevant federal law, permit exchange wagers to
be taken from residents of jurisdictions other than this state.

(3) The Legislative Assembly has determined that the Oregon Rac-
ing Commission is best suited to oversee, license and regulate ex-
change wagering in this state.

SECTION 4. Notwithstanding any other provision of law or rule to
the contrary, exchange wagering by residents of this state and other
jurisdictions on the results of horse races conducted in this state or other jurisdictions are lawful, provided that:

(1) Exchange wagering may be conducted only by an exchange wagering licensee through an exchange wagering system pursuant to an exchange wagering license issued under section 6 of this 2019 Act;

(2) Exchange wagering must be conducted pursuant to and in compliance with the provisions of the Interstate Horseracing Act of 1978, 15 U.S.C. 3001 to 3007, as amended, and sections 2 to 15 of this 2019 Act and the rules adopted pursuant to sections 2 to 15 of this 2019 Act; and

(3) Exchange wagers must be submitted to and accepted by an exchange wagering licensee in person, by telephone or by communication through other electronic means.

SECTION 5. (1) A person may not open an exchange wagering account or place an exchange wager except in accordance with federal law, sections 2 to 15 of this 2019 Act and the rules adopted pursuant to sections 2 to 15 of this 2019 Act.

(2) Only a person with a valid exchange wagering account may place wagers through an exchange.

(3) To establish an exchange wagering account, a person must be:

(a) At least 18 years of age; and

(b) A resident of this state or of another jurisdiction in which the placement of exchange wagers is allowed under federal law or the law of that jurisdiction.

(4) An exchange wagering account may be established with an exchange wagering licensee in person, by telephone, by mail or through electronic means.

SECTION 6. (1) The Oregon Racing Commission may issue an exchange wagering license to an applicant that meets the requirements of this section and the rules adopted by the commission pursuant to this section.

(2) An applicant shall submit an application in a form and manner
determined by the commission by rule and shall include information about the applicant’s security policies and safeguards designed to ensure player protection and integrity, including but not limited to provisions regarding:

(a) The acceptance of electronic applications for the establishment of exchange wagering accounts;

(b) Verification of location and age of applicants for the establishment of exchange wagering accounts;

(c) The use of identifying factors to ensure security of individual exchange wagering accounts; and

(d) The requirements for the management of moneys in exchange wagering accounts.

(3) An applicant may be located inside this state or in another jurisdiction.

SECTION 7. (1) An exchange wagering licensee may not accept an exchange wager, or series of exchange wagers, from an exchange wagering account holder if the results of the exchange wager or series of exchange wagers would create a liability for the holder in excess of moneys on the deposit in the holder’s exchange wagering account.

(2) An exchange wagering licensee may suspend or close an exchange wagering account at the discretion of the exchange wagering licensee.

SECTION 8. Subject to the approval of the Oregon Racing Commission, an exchange wagering licensee may collect exchange revenues in the manner and amounts determined by the exchange wagering licensee, including but not limited to assessing a surcharge on any person’s net winnings.

SECTION 9. An exchange wagering licensee may cancel or allow to be cancelled any unmatched wagers, without cause, at any time.

SECTION 10. The Oregon Racing Commission may adopt rules to regulate when an exchange wagering licensee may cancel or void a
matched wager or part of a matched wager, and the actions that an
exchange wagering licensee may take when all or part of a matched
wager is canceled or voided.

SECTION 11. An exchange wager may be posted in a market after
the start of a race if so authorized by the Oregon Racing Commission
by rule and agreed to by the race track or fair that is conducting the
race on which the exchange wager is made.

SECTION 12. Subject to applicable federal law, an exchange
wagering licensee may post exchange wagers submitted by residents
of this state in an interstate exchange pool in order to form identically
opposing wagers, and may treat any resulting matched wager as part
of one or more common pools with any other matched wagers in the
interstate exchange pool.

SECTION 13. (1) The Oregon Racing Commission may require an
exchange wagering licensee to:

(a) Pay a fee to the commission of not more than two percent of
the exchange wagering licensee’s exchange revenue; and

(b) Pay a portion of the exchange wagering licensee’s exchange
revenues as may be required by section 4 of this 2019 Act.

(2) Moneys collected under this section shall be deposited in the
General Fund in the State Treasury to the credit of the Oregon Racing
Commission Account.

SECTION 14. The Oregon Racing Commission may not require an
exchange wagering licensee to:

(1) Retain, withhold or take out any amounts from exchange
wagers; or

(2) Assure any minimum payoff amount for an exchange wager or
to calculate payoffs of winning exchange wagers in a manner incon-
sistent with exchange wagering authorized by sections 2 to 15 of this
2019 Act.

SECTION 15. The Oregon Racing Commission may:
(1) Adopt rules:
(a) To regulate exchange wagering in this state, including the manner in which exchange wagers may be accepted and the requirements for a person to participate in exchange wagering;
(b) Regarding the issuance, renewal, revocation and suspension of exchange wagering licenses;
(c) To require an annual audit of an exchange wagering licensee’s books and records pertaining to exchange wagering; and
(d) As otherwise necessary to carry out the provisions of sections 2 to 15 of this 2019 Act; and

(2) Require licensure or registration of the officers or directors of an exchange wagering licensee.


(2) The Oregon Racing Commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the commission to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the commission by sections 2 to 15 of this 2019 Act.

SECTION 17. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Allows Oregon Racing Commission to adopt rules to authorize and license Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs to conduct simulcast broadcasting of, and mutuel wagering on, animal races. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to virtual racing; amending ORS 462.725; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 462.725 is amended to read:

462.725. (1) Notwithstanding any other provision of this chapter, the Oregon Racing Commission may [develop and] adopt rules to:

(a) License and regulate all phases of operation of ["Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs"] located in Oregon;

(b) Authorize and license Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hubs to conduct simulcast broadcasting of, and mutuel wagering on, animal races, including previously held races on which mutuel wagering is lawful in Oregon.

(2) In addition to the other rules of operation adopted by the commission, the commission shall adopt a rule setting the amount that may be taken from the gross receipts of the multi-jurisdictional mutuel system.

[(2)] (3) All employees working in Oregon and all officers of any ["Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator...\]

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Hubs[""] located and operating in Oregon must obtain a license from the [Oregon Racing] commission prior to the commencement of business or employment. The commission shall adopt rules establishing license fees for the employees and officers, not to exceed $30 per year.

[(3) (4)] Payments to be made to the [Oregon Racing] commission include:

(a) [“]Multi-Jurisdictional Simulcasting and Interactive Wagering Totalizator Hub[”] license fee not more than $200 per operating day.

(b) Not more than one percent of total gross receipts of mutuel wagering recorded by the totalizator system.

[(4) (5)] Of the moneys received by the [Oregon Racing] commission under subsection [(3)(b)] (4)(b) of this section, 25 percent shall be paid to the State Treasurer for deposit in the General Fund and 75 percent shall be retained by the commission. The [Oregon Racing] commission may adopt rules under which the moneys retained by the commission may be distributed for the benefit of the Oregon pari-mutuel racing industry.

SECTION 2. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Directs Oregon Racing Commission to adopt rules related to issuance of licenses to conduct off-race course simulcast mutuel wagering. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to racing; creating new provisions; amending ORS 461.217, 462.010, 462.142, 462.145, 462.700, 462.710, 462.720 and 462.730; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 462.

SECTION 2. (1) The Oregon Racing Commission shall adopt rules regarding the issuance to qualified applicants of nonrace meet simulcast licenses to conduct off-race course simulcast mutuel wagering. The rules adopted under this section shall:

(a) Establish an application process;

(b) Set out requirements for licensure; and

(c) Establish fees related to issuance and renewal of nonrace meet simulcast licenses.

(2) The commission may adopt other rules as necessary related to the issuance of nonrace meet simulcast licenses.

SECTION 3. ORS 461.217 is amended to read:

461.217. (1) As used in this section, “video lottery game retailer” means a contractor under contract with the Oregon State Lottery to place video
lottery game terminals on premises authorized by the contract.

(2) A video lottery game terminal that offers a video lottery game authorized by the Director of the Oregon State Lottery:

(a) May be placed for operation only in or on the premises of an establishment that has a contract with the Oregon State Lottery as a video lottery game retailer.

(b) Must be within the control of an employee of the video lottery game retailer.

(c) May not be placed in any other business or location.

(3) A video lottery game terminal may be placed only on the premises of an establishment licensed by the Oregon Liquor Control Commission with a full on-premises sales license, a limited on-premises sales license or a brewery-public house license. A video lottery game terminal may be placed only in that part of the premises that is posted by the Oregon Liquor Control Commission as being closed to minors. In addition to the requirements of this subsection, the director may by rule establish other criteria and conditions as the director determines appropriate for the placement of video lottery game terminals in establishments.

(4) No more than six video lottery game terminals may be placed in or on premises described in subsection (3) of this section.

(5) No more than 10 video lottery game terminals may be placed in or on the premises of a race meet licensee licensed under ORS 462.020 or a non-race meet simulcast licensee licensed under section 2 of this 2019 Act that qualifies as a video lottery game retailer.

SECTION 4. ORS 462.010 is amended to read:

462.010. As used in this chapter, unless the context otherwise requires:

(1) “Breaks” means the odd cents remaining after the payoff prices have been computed in accordance with ORS 462.140 (3).

(2) “Calendar year” means a 12-month year, January 1 through December 31.

[(3) “Commission” means the Oregon Racing Commission.]
“Continuous race meet” includes any exhibition of animal racing continuously at the same race course by two or more licensees where the mutuel system is used in conjunction with any race.

“Drug” means any narcotic, sedative, anesthetic, analgesic, drug or other medication of any kind or description intended for use in any manner, directly or indirectly, internally or externally, in the diagnosis, treatment, mitigation or cure of injury or disease or for use in the prevention of disease that could affect, in any manner, the racing condition or performance of an animal as a depressant, stimulant, local anesthetic, analgesic, sedative or otherwise. “Drug” includes:

(a) Substances, other than foods, intended to affect the structure or any function of the body of the animal and all substances affecting the central nervous system, respiratory system or blood pressure of any animal other than vitamins or supplemental feeds; and

(b) Any identified substance that can affect or interfere with the true and accurate testing and analysis of blood, saliva, urine or other samples taken from racing animals.

“Fiscal year” means a 12-month year, as described in ORS 293.605.

“Gross mutuel wagering” means all mutuel wagering that is made in person:

(a) At the race course of a race meet licensee;

(b) At an off-race course mutuel wagering location approved by the Oregon Racing Commission; or

(c) Through account wagering authorized under ORS 462.142.

“Licensee” means a person, partnership, corporation, political subdivision, municipal corporation or any other body holding a license under this chapter.

“Mutuel” means a system whereby:

(a) Wagers with respect to the outcome of a race are placed with a wagering pool in which the participants are not wagering against the operator; and
(b) The operator distributes to one or more winning participants the total amount in the wagering pool, less amounts deducted by the operator as approved by the commission.

(9) “Nonrace meet simulcast licensee” means a licensee that holds a license issued under section 2 of this 2019 Act.

(10) “Public training track” means any race course or other facility that is available or open to the public for use in the training or schooling of racing animals.

(11) “Race” means any race conducted in a race meet. “Race” includes races conducted without wagering, provided one or more races in the meet are conducted with wagering.

(12) “Race course” means all the premises used in connection with the conduct of a race meet, including but not limited to, the race track, grandstands, paddock, stables, kennels and all other buildings and grounds adjacent to or appurtenant to the physical limits of the race track.

(13) “Race meet” means any exhibition of animal racing where the mutuel system is used in conjunction with any race.

SECTION 5. ORS 462.142 is amended to read:

462.142. (1) In addition to mutuel wagering otherwise authorized by this chapter, account wagering may be conducted upon such conditions as the Oregon Racing Commission determines appropriate. The commission may authorize only a race meet licensee [who is the holder of a license issued] licensed under ORS 462.057, 462.062 or 462.067 or a nonrace meet simulcast licensee licensed under section 2 of this 2019 Act to conduct account wagering.

(2)(a) As used in this section, “account wagering” means a form of mutuel wagering in which an individual may deposit money in an account with a race meet licensee or nonrace meet simulcast licensee and then use the account balance to pay for mutuel wagering conducted by the licensee.

(b) An account wager made with a race meet licensee must be made in person by the holder of the account at the race course.
SECTION 6. ORS 462.145 is amended to read:

462.145. Notwithstanding ORS 167.108 to 167.164, a race meet licensee or a nonrace meet simulcast licensee, with the prior approval of the Oregon Racing Commission, may conduct handicapping contests for race meet patrons. Such contests may include, but are not limited to, competitions for prizes for the highest percentage of correct selection of the order of finish of animals from among predetermined races that are live races conducted at the licensee’s race course or simulcast races offered by the licensee, or any combination thereof. Prizes offered for handicapping contests are not part of the pari-mutuel wagering system.

SECTION 7. ORS 462.700 is amended to read:

462.700. In addition to mutuel wagering authorized by this chapter to be conducted upon the premises of a race course, a race meet licensee licensed under ORS 462.062 and a nonrace meet simulcast licensee licensed under section 2 of this 2019 Act may conduct off-race course mutuel wagering in accordance with ORS 462.700 to 462.740 and Oregon Racing Commission rules.

SECTION 8. ORS 462.710 is amended to read:

462.710. (1) [Any] A race meet licensee or nonrace meet simulcast licensee may [make written application] apply in writing to the Oregon Racing Commission to conduct off-race course mutuel wagering:

(a) On races held at the licensee’s race course; or
(b) On races held at race courses outside this state.

(2)(a) [The application shall be in such form, shall contain such information and shall be submitted at such time and in such manner as the commission may require.] The commission shall establish the requirements for the application described in this section, including but not limited to:

(A) The form of the application;
(B) The contents of the application; and
(C) The time and manner of submission of the application.

(b) Information required by the commission may include, but is not lim-
ited to, a description of the facilities, equipment and method of operation
whereby the applicant proposes to conduct off-race course mutuel wagering
activities.

(3) If both a race meet licensee and a nonrace meet simulcast
licensee apply to conduct off-race course mutuel wagering under this
section, the commission shall give preference to the race meet licensee
to conduct off-race course mutuel wagering in this state and shall
authorize the race meet licensee unless, in its discretion, the com-
mission determines the race meet licensee’s application is inferior to
that of the nonrace meet simulcast licensee.

[(3)] (4)(a) The commission shall:

(A) Authorize off-race course mutuel wagering upon [such] the terms and
conditions regarding the time, location and manner of operation [as] that the
commission considers appropriate[.]; and

(B) Permit off-race course mutuel wagering only at an authorized
location.

(b) The commission may not authorize:

(A) More than 20 locations for off-race course mutuel wagering to be in
operation at any one time [and shall permit off-race course mutuel wagering
only at an authorized location. The commission may not authorize];

(B) The conduct of off-race course mutuel wagering at any time or place
or in any manner that the commission determines would have substantial
adverse impact upon mutuel wagering on races held at a race course in this
state[. The commission may not authorize];

(C) A race meet licensee or a nonrace meet simulcast licensee to
conduct off-race course mutuel wagering within the boundaries of any city
or county that has adopted an ordinance prohibiting the conduct of that ac-

tivity within the city or county[. The commission may not authorize]; or

(D) A race meet licensee or a nonrace meet simulcast licensee to
conduct off-race course mutuel wagering in any county with a population of
less than 250,000 at a location that is within 40 miles of any other location
where another [race meet] licensee is conducting a live race meet without written consent of the live race meet licensee.

[(4)] (5) In addition to other grounds provided in this chapter, the commission may refuse to issue or renew or may revoke or suspend the license of any race meet licensee or nonrace meet simulcast licensee, or any employee [thereof] of a race meet licensee or nonrace meet simulcast licensee, for failure to comply with ORS 462.700 to 462.740 or commission rules.

[(5)] (6) If a race meet licensee or nonrace meet simulcast licensee proposes to conduct off-race course mutuel wagering at a physical facility separate from [the] a race course:

(a) Individuals working at the separate facility must obtain a license for such employment from the commission if the individuals are performing duties for which a license would be required if the duties were performed at a race course. The fee for any such license shall be the same as the fee for the license required if the individual were working at a race course.

(b) ORS 462.080, 462.190 and 462.195 apply to the race meet licensee or the nonrace meet simulcast licensee and to individuals at the facility in the same manner as if the mutuel wagering activity were being conducted at a race course.

[(6)] (7) In addition to other requirements of ORS 462.700 to 462.740, the commission may authorize a race meet licensee to conduct off-race course mutuel wagering on a particular race that is held at a race course outside this state subject to the following conditions:

(a) The commission may authorize only one race meet licensee, that is the holder of a license under ORS 462.062 or 462.067, to conduct off-race course mutuel wagering on the race.

(b) The commission may authorize such off-race course mutuel wagering to be conducted at the licensee’s race course and any off-race course wagering site approved by the commission.

(c) The commission may authorize a race meet licensee to conduct off-race
course mutuel wagering on either horse races or greyhound races, except
that:

(A) A horse race meet licensee may conduct off-race course mutuel
wagering on greyhound races only if there is no active greyhound race meet
licensee; and

(B) A greyhound race meet licensee may conduct off-race course mutuel
wagering on horse races only if there is no active horse race meet licensee.

(d) If a licensee applies for authority to conduct mutuel wagering on
horse races held at race courses outside this state, the commission may re-
quire that the licensee provide [such] evidence [as] that the commission
considers appropriate regarding the ability of the licensee to comply with the

SECTION 9. ORS 462.720 is amended to read:

462.720. (1) All moneys wagered in off-race course mutuel wagering on
races held at race courses in this state shall be included in the computation
of the mutuel pool for that race at the race course. Subject to rules adopted
by the Oregon Racing Commission and upon application of the race meet
licensee or nonrace meet simulcast licensee, the commission may author-
ize:

(a) Moneys wagered in off-race course mutuel wagering at locations out-
side this state on races held at race courses in this state to be included in
the computation of the mutuel pool for the race at the Oregon race course.

(b) Moneys wagered in off-race course mutuel wagering at locations in
this state on races held at race courses outside this state to be included in
the computation of the mutuel pool for the race at the race course.

(2) Notwithstanding ORS 462.140, in the case of moneys wagered in off-
race course mutuel wagering at a location in this state and included in the
mutuel pool of a race held at a race course outside this state, the amount
taken from the mutuel pool by the race meet licensee or nonrace meet
simulcast licensee to pay taxes, purses, compensation for the licensee and
other payments shall be the amount required by statute at the race course

[8]
outside this state.

(3) A race meet licensee or nonrace meet simulcast licensee that is authorized to conduct off-race course mutuel wagering may exact a surcharge on off-race course mutuel wagering at a rate not exceeding five percent. At the discretion of the race meet licensee or nonrace meet simulcast licensee, the surcharge shall be paid by the wagerer on the amount wagered to the race meet licensee or nonrace meet simulcast licensee at the time the wager is made, or the surcharge shall be paid on the winnings and shall be deducted at the time winnings are paid. All surcharges collected by the race meet licensee or nonrace meet simulcast licensee shall be reported to the commission at such time and in such manner as the commission may require.

SECTION 10. ORS 462.730 is amended to read:

462.730. A race meet licensee or a nonrace meet simulcast licensee that conducts off-race course mutuel wagering shall make payments to the Oregon Racing Commission in the same manner as if the mutuel wagering were being conducted at [the] a race course.

SECTION 11. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Replaces exemption from laws regulating practice of engineering, land surveying and photogrammetric mapping with exemption from registration requirement. Modifies exemption of employee or subordinate of registered professional engineer from statutes regulating practice of engineering. Revises terminology regarding exempted entities. Rearranges exemption provisions.

A BILL FOR AN ACT

Relating to exemptions from registration in occupations regulated by the State Board of Examiners for Engineering and Land Surveying; creating new provisions; and amending ORS 455.062 and 672.060.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 672.060 is amended to read:

672.060. [ORS 672.002 to 672.325 do not apply to the following:]

[(1) A registered architect practicing architecture.]

[(2) A registered environmental health specialist or registered environmental health specialist trainee working under the supervision of a registered environmental health specialist practicing environmental sanitation, or a registered waste water specialist or registered waste water specialist trainee working under the supervision of a registered waste water specialist practicing waste water sanitation.]

Registration under ORS 672.002 to 672.325 is not required for the following:

[(3)] (1) [A person working] The performance of work as an employee or a subordinate of a registered professional engineer if:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.
(a) The work [of the person] does not include final engineering designs or decisions; and
(b) The work [of the person] is done under the supervision and control of
and is verified by a registered professional engineer.[; and]
\[(c) The person does not purport to be an engineer or registered professional
engineer by any verbal claim, sign, advertisement, letterhead, card or title.\]
(2) The performance of engineering work by an employee, sole
proprietorship, firm, partnership or corporation:
(a) On property owned or leased by the employer, sole
proprietorship, firm, partnership or corporation, or on property in
which the employer, sole proprietorship, firm, partnership or corpo-
ration has an interest, estate or possessory right; and
(b) That affects exclusively the property or interests of the em-
ployer, sole proprietorship, firm, partnership or corporation, unless
the performance affects the health or safety of the public or an em-
ployee.
(3) The performance of engineering work by a person, or by full-
time employees of the person, if:
(a) The engineering work is in connection with or incidental to the
operations of the person; and
(b) The engineering work is not offered directly to the public.
(4) An offer by an employee, sole proprietorship, firm, partnership
or corporation to perform engineering work if:
(a) The employer, sole proprietorship, firm, partnership or corpo-
ration holds a certificate of registration to engage in the practice of
professional engineering issued by the proper authority of any other
state, a territory or possession of the United States or a foreign
country; and
(b) The offer includes a written statement that the offeror is not
registered to practice engineering in the State of Oregon, but will
comply with ORS 672.002 to 672.325 by having an individual holding a
valid certificate of registration in this state in responsible charge of
the work prior to performing any engineering work within this state.

(5) The offering by a construction contractor licensed under ORS
chapter 701 of services constituting the performance of engineering
work if:

(a) The services are appurtenant to construction services to be
provided by the construction contractor;

(b) The services constituting the practice of engineering are per-
formed by an engineer or engineers registered under ORS 672.002 to
672.325; and

(c) The offer by the construction contractor discloses in writing
that the contractor is not an engineer and identifies the engineer or
engineers that will perform the services constituting the practice of
engineering.

(6) The execution of engineering work designed by a professional
engineer or the supervision of the construction of engineering work
as a foreman or superintendent.

(7) The making of drawings or specifications for, or the supervision
of the erection, enlargement or alteration of, a building, or an
appurtenance thereto, if the building has a ground area of 4,000 square
feet or less and is not more than 20 feet in height from the top surface
of lowest flooring to the highest interior overhead finish of the struc-
ture. The exemption in this subsection does not apply to a registered
professional engineer.

(8) The making of drawings or specifications for, or the supervision
of the erection, enlargement or alteration of, a building, or an
appurtenance thereto, if the building is to be used for a single family
residential dwelling or farm building or is a structure used in con-
nection with or auxiliary to a single family residential dwelling or
farm building, including but not limited to a three-car garage, barn
or shed or a shelter used for the housing of domestic animals or live-
stock. The exemption in this subsection does not apply to a registered professional engineer.

(9) The performance of work as a registered architect practicing architecture.

(10) The performance of work as a registered environmental health specialist or registered environmental health specialist trainee working under the supervision of a registered environmental health specialist practicing environmental sanitation, or a registered waste water specialist or registered waste water specialist trainee working under the supervision of a registered waste water specialist practicing waste water sanitation.

[(4)] (11) [A person practicing] The performance of land surveying work under the supervision of a registered professional land surveyor or registered professional engineer. The exemption in this subsection does not allow an engineer to supervise a land surveying activity the engineer could not personally perform under ORS 672.025.

[(5) An individual, firm, partnership or corporation practicing engineering or land surveying:]

[(a) On property owned or leased by the individual, firm, partnership or corporation, or on property in which the individual, firm, partnership or corporation has an interest, estate or possessory right; and]

[(b) That affects exclusively the property or interests of the individual, firm, partnership or corporation, unless the safety or health of the public, including employees and visitors, is involved.]

(12) The performance of land surveying by a person:

(a) On property owned or leased by the person, or on property in which the person has an interest, estate or possessory right; and

(b) That affects exclusively the property or interests of the person, unless the performance affects the health or safety of the public or an employee.

[(6) The performance of engineering work by a person, or by full-time em-
ployees of the person, provided:]
[(a) The work is in connection with or incidental to the operations of the
person; and]
[(b) The engineering work is not offered directly to the public.]
[(7) A person executing engineering work designed by a professional engi-
neer or supervising the construction of engineering work as a foreman or su-
perintendent.]
[(8)] (13) [A landowner performing land surveying] The performance of
land surveying work by a landowner within the boundaries of the
landowner's land or by the landowner's regular employee [performing land
surveying services] as part of the employee's official duties within the
boundaries of the land of the employer.
[(9) An individual, firm, partnership or corporation offering to practice
engineering, land surveying or photogrammetric mapping if:]
[(a) The individual, firm, partnership or corporation holds a certificate of
registration to engage in the practice of professional engineering, land survey-
ing or photogrammetric mapping issued by the proper authority of any other
state, a territory or possession of the United States, or a foreign country;
and]
[(b) The offer includes a written statement that the offeror is not registered
to practice engineering, land surveying or photogrammetric mapping in the
State of Oregon, but will comply with ORS 672.002 to 672.325 by having an
individual holding a valid certificate of registration in this state in responsible
charge of the work prior to performing any engineering, land surveying or
photogrammetric mapping work within this state.]
(14) An offer by a person to perform land surveying if:
(a) The person holds a certificate of registration to engage in the
practice of land surveying issued by the proper authority of any other
state, a territory or possession of the United States or a foreign
country; and
(b) The offer includes a written statement that the offeror is not
registered to practice land surveying in the State of Oregon, but will comply with ORS 672.002 to 672.325 by having an individual holding a valid certificate of registration in this state in responsible charge of the work prior to performing any land surveying work within this state.

(15) An offer by a person to perform photogrammetric mapping if:
(a) The person holds a certificate of registration to engage in the practice of professional photogrammetric mapping issued by the proper authority of any other state, a territory or possession of the United States or a foreign country; and
(b) The offer includes a written statement that the offeror is not registered to practice photogrammetric mapping in the State of Oregon, but will comply with ORS 672.002 to 672.325 by having an individual holding a valid certificate of registration in this state in responsible charge of the work prior to performing any photogrammetric mapping work within this state.

[(10) A person making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building is to be used for a single family residential dwelling or farm building or is a structure used in connection with or auxiliary to a single family residential dwelling or farm building, including but not limited to a three-car garage, barn or shed or a shelter used for the housing of domestic animals or livestock. The exemption in this subsection does not apply to a registered professional engineer.]

[(11) A person making plans or specifications for, or supervising the erection, enlargement or alteration of, a building, or an appurtenance thereto, if the building has a ground area of 4,000 square feet or less and is not more than 20 feet in height from the top surface of lowest flooring to the highest interior overhead finish of the structure. The exemption in this subsection does not apply to a registered professional engineer.]

[(12) A construction contractor licensed under ORS chapter 701 that offers]
services constituting the practice of engineering if:

[(a) The services are appurtenant to construction services to be provided by
the contractor;

[(b) The services constituting the practice of engineering are performed by
an engineer or engineers registered under ORS 672.002 to 672.325; and]

[(c) The offer by the construction contractor discloses in writing that the
contractor is not an engineer and identifies the engineer or engineers that will
perform the services constituting the practice of engineering.]

[(13) (16) A person transcribing] The transcription of existing
georeferenced data into a Geographic Information System or Land Informa-
tion System format by manual or electronic means, and the maintenance of
that data, if the data are clearly not intended to indicate the authoritative
location of property boundaries, the precise shape or contour of the earth
or the precise location of fixed works of humans.

[(14) (17) A person carrying out] Activities under ORS 306.125 or 308.245.
This exemption applies to the transcription of tax maps, zoning maps and
other public data records into Geographic Information System or Land In-
formation System formatted cadastre and the maintenance of those cadastre,
if:

(a) The data are not modified for other than graphical purposes; and

(b) The data are clearly not intended to authoritatively represent property
boundaries.

[(15) (18) A person preparing maps or compiling] The preparation of
maps or the compilation of databases depicting the distribution of natural
or cultural resources, features or phenomena, if the maps or data are not
intended to indicate the authoritative location of property boundaries, the
precise shape or contour of the earth or the precise location of fixed works
by humans.

[(16) (19) The preparation by a federal agency or its contractors, in the
preparation of military maps, quadrangle topographic maps, satellite imagery
or other maps or images that do not define real property boundaries.
The preparation or transcription by a federal agency or its contractors, in the preparation or transcription of documents or databases into a Geographical Information System or Land Information System format, including but not limited to the preparation or transcription of federal census and other demographic data.

The preparation by a law enforcement agency or its contractors, in the preparation of documents or maps for traffic accidents, crime scenes or similar purposes depicting physical features or events or generating or using georeferenced data involving crime statistics or criminal activities.

Activities of a peace officer, as defined in ORS 161.015, or a fire service professional, as defined in ORS 181A.355, in conducting, reporting on or testifying about or otherwise performing duties regarding an official investigation.

A person creating general maps prepared for private firms or governmental agencies:
(a) For use as guides to motorists, boaters, aviators or pedestrians;
(b) For publication in a gazetteer or an atlas as an educational tool or reference publication;
(c) For use in the curriculum of any course of study;
(d) If produced by any electronic or print media, for use as an illustrative guide to the geographic location of any event; or
(e) If prepared for conversational or illustrative purposes, including but not limited to for use as advertising material or user guides.

SECTION 2. ORS 455.062 is amended to read:

455.062. (1) A Department of Consumer and Business Services employee acting within the scope of that employment may provide typical plans and specifications:
(a) For structures of a type for which the provision of plans drawings or specifications is exempted under ORS 671.030 from the application of ORS 671.010 to 671.220 and exempted under ORS 672.060 from the application of
registration requirements of ORS 672.002 to 672.325; and
(b) Notwithstanding ORS 671.010 to 671.220 and 672.002 to 672.325, for
structures that are metal or wood frame Use and Occupancy Classification
Group U structures under the structural specialty code.
(2) A building official or inspector, as those terms are defined in ORS
455.715, when acting within the scope of direct employment by a munici-
pality, may provide typical [plans and] drawings or specifications for
structures of a type for which the provision of [plans] drawings or specifi-
cations is exempted under ORS 671.030 from the application of ORS 671.010
to 671.220 and exempted under ORS 672.060 from the [application of] regis-
tration requirements of ORS 672.002 to 672.325.
(3) This section does not alter any applicable requirement under ORS
671.010 to 671.220 or 672.002 to 672.325 regarding stamps and seals for a set
of plans for a structure.
SECTION 3. The amendments to ORS 455.062 and 672.060 by sections
1 and 2 of this 2019 Act apply to work performed, and offers made, on
or after the effective date of this 2019 Act.

[9]
SUMMARY

Directs Department of State Police to maintain staffing level of at least 15 patrol troopers per 100,000 residents of this state, beginning January 1, 2030.

A BILL FOR AN ACT

Relating to patrol trooper staffing levels for Department of State Police troopers.

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Department of State Police shall maintain a patrol trooper staffing level of at least 15 patrol troopers per 100,000 residents of this state, based on population figures from the most recent federal decennial census.

SECTION 2. (1) Section 1 of this 2019 Act becomes operative on January 1, 2030.

(2) The Department of State Police may take any action before the operative date specified in subsection (1) of this section that is necessary for the department to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on the department by section 1 of this 2019 Act.
SUMMARY

Requires sex offender to report within 10 days of legal change of name. Punishes failure to report change of name by maximum of 364 days' imprisonment, $6,250 fine, or both. If sex crime requiring reporting is felony, punishes failure to report change of name by maximum of five years' imprisonment, $125,000 fine, or both.

A BILL FOR AN ACT

Relating to sex offender reporting; creating new provisions; and amending ORS 163A.010, 163A.015, 163A.020, 163A.025 and 163A.040.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 163A.010 is amended to read:

163A.010. (1) The agency to which a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.

(2) Subsection (3) of this section applies to a person who:

(a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:

(A) Conviction of a sex crime or a crime for which the person would have to register as a sex offender under federal law; or

(B) Having been found guilty except for insanity of a sex crime;

(b) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or
(B) For which the person would have to register as a sex offender in that court’s jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state; or

c (c) Is discharged by the court under ORS 161.329 after having been found guilty except for insanity of a sex crime.

(3)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county to which the person was discharged, paroled or released or in which the person was otherwise placed:

(A) Within 10 days following discharge, release on parole, post-prison supervision or other supervised or conditional release;

(B) Within 10 days of a change of residence;

(C) Within 10 days of a legal change of name;

[(C)] (D) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;

[(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

[(E)] (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence.

(c) Notwithstanding paragraphs (a) and (b) of this subsection, during the period of supervision or custody authorized by law, the Oregon Youth Authority may authorize a youth offender committed to its supervision and custody by order of the juvenile court or a person placed in its physical custody under ORS 137.124 or any other provision of law to report to the authority regardless of the youth offender’s or the person’s last reported residence.
residence.

(d) In the event that a person reports to the authority under this subsection, the authority shall register the person.

(e) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, Oregon Youth Authority, city police department or county sheriff’s office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person’s fingerprints are not included in the record file of the Department of State Police.

SECTION 2. ORS 163A.015 is amended to read:

163A.015. (1) The agency to which a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By a federal court after being convicted of a crime for which the person would have to register as a sex offender under federal law, regardless of whether the crime would constitute a sex crime in this state; or
(c) To or in this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court’s jurisdiction, regardless of whether the crime would constitute a sex crime in this state.

(3) The court shall ensure that the person completes a form that documents the person’s obligation to report under ORS 163A.010 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county to which the person was discharged or released or in which the person was placed on probation:

(A) Within 10 days following discharge, release or placement on probation;

(B) Within 10 days of a change of residence;

(C) **Within 10 days of a legal change of name**;

[(C)] (D) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;

[(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

[(E)] (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence.
The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration and reporting requirements of this section:
   (a) The person required to report shall:
       (A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and
       (B) Submit to the requirements described in paragraph (b) of this subsection.

   (b) The Department of State Police, the city police department or the county sheriff's office:
       (A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;
       (B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and
       (C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

SECTION 3. ORS 163A.020 is amended to read:

163A.020. (1)(a) When a person described in subsection (6) of this section moves into this state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's residence:
   (A) No later than 10 days after moving into this state;
   (B) Within 10 days of a change of residence;
   (C) Within 10 days of a legal change of name;
   [(C)] (D) Once each year within 10 days of the person's birth date, regardless of whether the person changed residence;
   [(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and
Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person's last reported residence.

(2)(a) When a person described in ORS 163A.010 (2) or 163A.015 (2) or subsection (6) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the school or place of work is located, no later than 10 days after:

(A) The first day of school attendance or the 14th day of employment in this state; [and]

(B) A change in school enrollment or employment[.]; and

(C) A legal change of name.

(b) As used in this subsection, “attends school” means enrollment in any type of school on a full-time or part-time basis.

(3)(a) When a person described in subsection (6) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, continues to reside in this state following the conviction or adjudication and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person’s residence:

(A) Within 10 days following:

(i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or de-
(ii) Discharge, release or placement on probation, by another United States court;

(B) Within 10 days of a change of residence;

(C) **Within 10 days of a legal change of name**;

[(C)] (D) Once each year within 10 days of the person’s birth date, regardless of whether the person has changed residence;

[(D)] (E) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

[(E)] (F) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(b) If a person required to report under this subsection has complied with the applicable initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence.

(4) When a person reports under this section, the agency to which the person reports shall complete a sex offender registration form concerning the person.

(5) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(6) Subsections (1) to (5) of this section apply to a person convicted in another United States court of a crime:

(a) That would constitute a sex crime if committed in this state; or

(b) For which the person would have to register as a sex offender in that court’s jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state.

(7) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

[7]
(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff’s office:

(A) Shall photograph the person when the person initially reports under this section, each time the person reports annually under subsection [(1)(a)(C) or (3)(a)(C)] (1)(a)(D) or (3)(a)(D) of this section and each time the person reports under subsection (2)(a)(B) of this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person’s fingerprints are not included in the record file of the Department of State Police.

SECTION 4. ORS 163A.025 is amended to read:

163A.025. (1) A person found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that, if committed by an adult, would constitute a felony sex crime shall report as a sex offender as described in subsections (2) to (4) of this section, unless the juvenile court enters an order under ORS 163A.130 or 163A.135 relieving the person of the obligation to report, if:

(a) The person has been ordered under ORS 163A.030 to report as a sex offender;

(b) The person was adjudicated, and the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person ended, prior to August 12, 2015;

(c) The person was adjudicated prior to August 12, 2015, and the jurisdiction of the juvenile court or the Psychiatric Security Review Board over the person ended after August 12, 2015, and before April 4, 2016; or
(d) The person has been found in a juvenile adjudication in another United States court to have committed an act while the person was under 18 years of age that would constitute a felony sex crime if committed in this state by an adult.

(2) A person described in subsection (1)(a) or (d) of this section, or a person described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, who resides in this state shall make an initial report, in person, to the Department of State Police, a city police department or a county sheriff’s office as follows:

(a) The person shall report no later than 10 days after the date of the court order requiring the person to report under ORS 163A.030;

(b) If the person is adjudicated for the act giving rise to the obligation to report in another United States court and the person is found to have committed an act that if committed by an adult in this state would constitute:

(A) A Class A or Class B felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility.

(B) A Class C felony sex crime:

[9]
(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than six months after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility; or

(c) For persons described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, the person shall report no later than 120 days after April 4, 2016.

(3) After making the initial report described in subsection (2) of this section or, for a person described in subsection (1)(c) of this section who made an initial report prior to April 4, 2016, or a person described in subsection (1)(b) of this section, beginning after April 4, 2016, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence:

(a) Within 10 days of a change of residence;

(b) Within 10 days of a legal change of name;

[(b)] (c) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;

[(c)] (d) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

[(d)] (e) Within 10 days of a change in work, vocation or attendance sta-
tus at an institution of higher education.

(4) When a person described in subsection (1) of this section attends school or works in this state, resides in another state and is not otherwise required to report as a sex offender under this section or ORS 163A.010, 163A.015 or 163A.020, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the person attends school or works, no later than 10 days after:

(a) The first day of school attendance or the 14th day of employment in this state; [and]

(b) A change in school enrollment or employment[.]; and

(c) A legal change of name.

(5) The agency to which a person reports under this section shall complete a sex offender registration form concerning the person when the person reports under this section.

(6) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, Oregon Youth Authority, county juvenile department, city police department or county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

(7) The obligation to report under this section is terminated if the adju-
ication that gave rise to the obligation is reversed or vacated.

(8) Notwithstanding subsections (2) and (3) of this section:

(a) The Oregon Youth Authority may authorize a youth offender committed to its custody and supervision by order of the juvenile court, or a person placed in its physical custody under ORS 137.124 or any other provision of law, to report to the authority regardless of the youth offender’s or the person’s last reported residence.

(b) A county juvenile department may authorize a youth offender or young person, as those terms are defined in ORS 419A.004, to report to the department, regardless of the county of the youth offender’s or the young person’s last reported residence.

(c) In the event that a person reports to the authority or the department under this subsection, the authority or the department shall register the person.

SECTION 5. ORS 163A.040 is amended to read:

163A.040. (1) A person who is required to report as a sex offender in accordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025 and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or attends an institution of higher education;

(c) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;

(d) Fails to report following a change of residence;

(e) Fails to report a legal change of name;

(f) Fails to make an annual report;

(g) Fails to provide complete and accurate information;

(h) Fails to sign the sex offender registration form as required;

(i) Fails or refuses to participate in a sex offender risk assessment
as directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority; or

[(i)] (j) Fails to submit to fingerprinting or to having a photograph taken of the person’s face, identifying scars, marks or tattoos.

(2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s new residence, if the person otherwise complied with all reporting requirements.

(b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into this state.

(c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within six months of moving into this state.

(d) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the Department of State Police in Marion County, Oregon, if the person otherwise complied with all reporting requirements.

(e) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (3) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county
of the person’s residence, if the person otherwise complied with all reporting
requirements.

(f) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.010 (3) that the person reported to the Oregon Youth Authority if the
person establishes that the authority registered the person under ORS
163A.010 (3)(c).

(g) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.025 (2) or (3) that the person reported to the Oregon Youth Authority
or a county juvenile department if the person establishes that the authority
or department registered the person under ORS 163A.025 (8).

(3)(a) Except as otherwise provided in paragraph (b) of this subsection,
failure to report as a sex offender is a Class A misdemeanor.

(b) Failure to report as a sex offender is a Class C felony if the person
violates:

(A) Subsection (1)(a) of this section; or

(B) Subsection (1)(b), (c), (d), (e) or [(g)] (h) of this section and the crime
for which the person is required to report is a felony.

(4) A person who fails to sign and return an address verification form as
required by ORS 163A.035 (4) commits a violation.

SECTION 6. ORS 163A.040, as amended by section 2, chapter 418, Oregon
Laws 2017, is amended to read:

163A.040. (1) A person who is required to report as a sex offender in ac-
cordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020
or 163A.025 and who has knowledge of the reporting requirement commits
the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or
attends an institution of higher education;

(c) Fails to report following a change of school enrollment or employment
status, including enrollment, employment or vocation status at an institution of higher education;
(d) Moves to a new residence and fails to report the move and the person’s new address;
(e) Fails to report a legal change of name;
(f) Fails to make an annual report;
(g) Fails to provide complete and accurate information;
(h) Fails to sign the sex offender registration form as required;
(i) Fails or refuses to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority; or
(j) Fails to submit to fingerprinting or to having a photograph taken of the person’s face, identifying scars, marks or tattoos.
(2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s new residence, if the person otherwise complied with all reporting requirements.
(b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into this state.
(c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within six months of moving into this state.
(d) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the Department of State Police in Marion County, Oregon, if the person otherwise complied with all reporting requirements.

(e) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (3) that the person reported, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, if the person otherwise complied with all reporting requirements.

(f) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.010 (3) that the person reported to the Oregon Youth Authority if the person establishes that the authority registered the person under ORS 163A.010 (3)(c).

(g) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2) or (3) that the person reported to the Oregon Youth Authority or a county juvenile department if the person establishes that the authority or department registered the person under ORS 163A.025 (8).

3(a) Except as otherwise provided in paragraph (b) of this subsection, failure to report as a sex offender is a Class A misdemeanor.

(b) Failure to report as a sex offender is a Class C felony if the person violates:

(A) Subsection (1)(a) of this section; or

(B) Subsection (1)(b), (c), (d), (e) or [(g)] (h) of this section and the crime for which the person is required to report is a felony.

(4) A person who fails to sign and return an address verification form as required by ORS 163A.035 (4) commits a violation.

SECTION 7. The amendments to ORS 163A.040 by sections 5 and 6
of this 2019 Act apply to legal changes of name occurring on or after
the effective date of this 2019 Act.

___________
SUMMARY

Requires juvenile court to ensure that person who waives right to hearing on issue of reporting as sex offender, or who fails to appear at hearing, completes form documenting person’s obligation to report. Requires court to send form to Department of State Police.

A BILL FOR AN ACT

Relating to sex offenders adjudicated in juvenile court; amending ORS 163A.030.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 163A.030 is amended to read:

163A.030. (1)(a) Except as provided in subsection (6) of this section, the juvenile court shall hold a hearing on the issue of reporting as a sex offender by a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005, or found by the juvenile court to be responsible except for insanity under ORS 419C.411, for having committed an act that if committed by an adult would constitute a felony sex crime if:

(A) The person was adjudicated on or after August 12, 2015; or
(B) The person was adjudicated before August 12, 2015, and was still under the jurisdiction of the juvenile court or the Psychiatric Security Review Board on April 4, 2016.

(b) Unless the court continues the hearing described in this section for good cause, the hearing must be held:

(A) During the six-month period before the termination of juvenile court jurisdiction over the person; or

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(B) During the six-month period after the court receives the notice described in subsection (2) of this section from the Psychiatric Security Review Board, if the person was placed under the jurisdiction of the board.

c) The court shall notify the person of the person’s right to a hearing under this section upon finding the person within the jurisdiction of the juvenile court under ORS 419C.005.

(2)(a) The county or state agency responsible for supervising the person shall notify the person and the juvenile court when the agency determines that termination of jurisdiction is likely to occur within six months.

(b) If the Psychiatric Security Review Board discharges a person prior to the end of the board’s jurisdiction over the person, the board shall notify the juvenile court within three business days after the discharge date.

(3) Upon receipt of the notice described in subsection (2) of this section, the court shall:

(a) Appoint an attorney for the person as described in subsection (4) of this section;

(b) Set an initial hearing date; and

(c) Notify the parties and the juvenile department or the Psychiatric Security Review Board, if the department or board is supervising or has jurisdiction over the person, of the hearing at least 60 days before the hearing date.

(4)(a) A person who is the subject of a hearing under this section has the right to be represented by a suitable attorney possessing skills and experience commensurate with the nature and complexity of the case, to consult with the attorney prior to the hearing and, if financially eligible, to have a suitable attorney appointed at state expense.

(b) In order to comply with the right to counsel under paragraph (a) of this subsection, the court may:

(A) Continue the appointment of the attorney appointed under ORS 419C.200 at the time of disposition;

(B) Set a date prior to the hearing under this section in order to reap-
(C) Appoint or reappoint an attorney at any time in response to a request by the person who is the subject of a hearing under this section.

(5)(a) The district attorney shall notify the victim prior to the hearing of the right to appear and the right to be heard under ORS 419C.273.

(b) If the person is under the jurisdiction of the Psychiatric Security Review Board, the board shall notify the following of the hearing:

(A) The mental health agency providing services to the person, if any;

(B) The person’s board defense attorney; and

(C) The assistant attorney general representing the state at board hearings.

(6)(a) A person may waive the right to the hearing described in this section after consultation with the person’s attorney. If the court finds that the person has knowingly waived the right to a hearing, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.

(b) If a person fails to appear at a hearing described in this section, the court may enter an order requiring the person to report as a sex offender under ORS 163A.025.

(7) At the hearing described in subsection (1) of this section:

(a) The district attorney, the victim, the person and the juvenile department or a representative of the Oregon Youth Authority shall have an opportunity to be heard.

(b) The person who is the subject of the hearing has the burden of proving by clear and convincing evidence that the person is rehabilitated and does not pose a threat to the safety of the public. If the court finds that the person has not met the burden of proof, the court shall enter an order requiring the person to report as a sex offender under ORS 163A.025.

(8) In determining whether the person has met the burden of proof, the juvenile court may consider but need not be limited to considering:

(a) The extent and impact of any physical or emotional injury to the
(b) The nature of the act that subjected the person to the duty of reporting as a sex offender;
(c) Whether the person used or threatened to use force in committing the act;
(d) Whether the act was premeditated;
(e) Whether the person took advantage of a position of authority or trust in committing the act;
(f) The age of any victim at the time of the act, the age difference between any victim and the person and the number of victims;
(g) The vulnerability of the victim;
(h) Other acts committed by the person that would be crimes if committed by an adult and criminal activities engaged in by the person before and after the adjudication;
(i) Statements, documents and recommendations by or on behalf of the victim or the parents of the victim;
(j) The person’s willingness to accept personal responsibility for the act and personal accountability for the consequences of the act;
(k) The person’s ability and efforts to pay the victim’s expenses for counseling and other trauma-related expenses or other efforts to mitigate the effects of the act;
(L) Whether the person has participated in and satisfactorily completed a sex offender treatment program or any other intervention, and if so the juvenile court may also consider:
(A) The availability, duration and extent of the treatment activities;
(B) Reports and recommendations from the providers of the treatment;
(C) The person’s compliance with court, board or supervision requirements regarding treatment; and
(D) The quality and thoroughness of the treatment program;
(m) The person’s academic and employment history;
(n) The person’s use of drugs or alcohol before and after the adjudication;
(o) The person's history of public or private indecency;
(p) The person's compliance with and success in completing the terms of supervision;
(q) The results of psychological examinations of the person;
(r) The protection afforded the public by records of sex offender registration; and
(s) Any other relevant factors.

(9) In a hearing under this section, the juvenile court may receive testimony, reports and other evidence, without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585, if the evidence is relevant evidence related to the determination and findings required under this section. As used in this subsection, “relevant evidence” has the meaning given that term in ORS 40.150.

(10)(a) In a hearing under this section, the Oregon Youth Authority or the juvenile department, if either agency is supervising the person, or the Psychiatric Security Review Board, if the board has jurisdiction over the person, shall file with the juvenile court the following records and materials in the possession of the agency or board at least 45 days prior to the hearing unless good cause is shown:

(A) Evaluations and treatment records concerning the person conducted by a clinician or program operating under the standards of practice for the evaluation and treatment of juvenile sex offenders adopted by the Sex Offender Treatment Board under ORS 675.400, and recommendations contained therein regarding the need for the person to register in order to protect the public from future sex crimes;

(B) All examination preparation material and examination records from polygraph examinations conducted by or for the treatment provider, juvenile department or Oregon Youth Authority; and


(b) Any records and materials filed with the court under this subsection shall be made available to the parties in accordance with ORS 419A.255.
(11) When the juvenile court enters an order described in subsection (6) or (7)(b) of this section, the court shall ensure that the person completes a form that documents the person’s obligation to report under ORS 163A.025. No later than three business days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(12) Notwithstanding ORS 419C.005 (4)(c), (d) and (e), the juvenile court retains jurisdiction over a person for purposes of this section.

(13) As used in this section, “parties” means the person, the state as represented by the district attorney or the juvenile department, and the Oregon Youth Authority or other child care agency, if the person is temporarily committed to the authority or agency.
SUMMARY

Requires sex offender to report 21 days prior to intended travel outside United States. Punishes failure to report intended travel by maximum of 364 days’ imprisonment, $6,250 fine, or both.

A BILL FOR AN ACT

Relating to sex offender reporting; creating new provisions; and amending ORS 163A.010, 163A.015, 163A.020, 163A.025 and 163A.040.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 163A.010 is amended to read:

163A.010. (1) The agency to which a person reports under subsection (3) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (3) of this section.

(2) Subsection (3) of this section applies to a person who:

(a) Is discharged, paroled or released on any form of supervised or conditional release from a jail, prison or other correctional facility or detention facility in this state at which the person was confined as a result of:

(A) Conviction of a sex crime or a crime for which the person would have to register as a sex offender under federal law; or

(B) Having been found guilty except for insanity of a sex crime;

(b) Is paroled to this state under ORS 144.610 after being convicted in another United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court’s jurisdiction, or as required under federal law, regardless of whether

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
the crime would constitute a sex crime in this state; or
(c) Is discharged by the court under ORS 161.329 after having been found
guilty except for insanity of a sex crime.

(3)(a) A person described in subsection (2) of this section shall report, in
person, to the Department of State Police, a city police department or a
county sheriff’s office, in the county to which the person was discharged,
paroled or released or in which the person was otherwise placed:
(A) Within 10 days following discharge, release on parole, post-prison
supervision or other supervised or conditional release;
(B) Within 10 days of a change of residence;
(C) Once each year within 10 days of the person’s birth date, regardless
of whether the person changed residence;
(D) Within 10 days of the first day the person works at, carries on a vo-
cation at or attends an institution of higher education; [and]
(E) Within 10 days of a change in work, vocation or attendance status
at an institution of higher education[.]; and
(F) At least 21 days prior to any intended travel outside of the
United States.

(b) If a person required to report under this subsection has complied with
the initial reporting requirement under paragraph (a)(A) of this subsection,
the person shall subsequently report, in person, in the circumstances speci-
fied in paragraph (a) of this subsection, as applicable, to the Department of
State Police, a city police department or a county sheriff’s office, in the
county of the person’s last reported residence.
(c) Notwithstanding paragraphs (a) and (b) of this subsection, during the
period of supervision or custody authorized by law, the Oregon Youth Au-
thority may authorize a youth offender committed to its supervision and
custody by order of the juvenile court or a person placed in its physical
custody under ORS 137.124 or any other provision of law to report to the
authority regardless of the youth offender’s or the person’s last reported
residence.
(d) In the event that a person reports to the authority under this subsection, the authority shall register the person.

(e) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(4) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, Oregon Youth Authority, city police department or county sheriff's office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person's fingerprints are not included in the record file of the Department of State Police.

SECTION 2. ORS 163A.015 is amended to read:

163A.015. (1) The agency to which a person reports under subsection (4) of this section shall complete a sex offender registration form concerning the person when the person reports under subsection (4) of this section.

(2) Subsection (4) of this section applies to a person who is discharged, released or placed on probation:

(a) By the court after being convicted in this state of a sex crime;

(b) By a federal court after being convicted of a crime for which the person would have to register as a sex offender under federal law, regardless of whether the crime would constitute a sex crime in this state; or

(c) To or in this state under ORS 144.610 after being convicted in another
United States court of a crime:

(A) That would constitute a sex crime if committed in this state; or

(B) For which the person would have to register as a sex offender in that court’s jurisdiction, regardless of whether the crime would constitute a sex crime in this state.

(3) The court shall ensure that the person completes a form that documents the person’s obligation to report under ORS 163A.010 or this section. No later than three working days after the person completes the form required by this subsection, the court shall ensure that the form is sent to the Department of State Police.

(4)(a) A person described in subsection (2) of this section shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county to which the person was discharged or released or in which the person was placed on probation:

(A) Within 10 days following discharge, release or placement on probation;

(B) Within 10 days of a change of residence;

(C) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; [and]

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education[.]; and

(F) At least 21 days prior to any intended travel outside of the United States.

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence.

[4]
(c) The obligation to report under this subsection terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(5) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, the city police department or the county sheriff’s office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person’s fingerprints are not included in the record file of the Department of State Police.

SECTION 3. ORS 163A.020 is amended to read:

163A.020. (1)(a) When a person described in subsection (6) of this section moves into this state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence:

(A) No later than 10 days after moving into this state;

(B) Within 10 days of a change of residence;

(C) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; [and]

(E) Within 10 days of a change in work, vocation or attendance status
(F) **At least 21 days prior to any intended travel outside of the United States.**

(b) If a person required to report under this subsection has complied with the initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person’s last reported residence.

(2)(a) When a person described in ORS 163A.010 (2) or 163A.015 (2) or subsection (6) of this section attends school or works in this state, resides in another state and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county in which the school or place of work is located, no later than 10 days after:

(A) The first day of school attendance or the 14th day of employment in this state; and

(B) A change in school enrollment or employment.

(b) As used in this subsection, “attends school” means enrollment in any type of school on a full-time or part-time basis.

(3)(a) When a person described in subsection (6) of this section resides in this state at the time of the conviction or adjudication giving rise to the obligation to report, continues to reside in this state following the conviction or adjudication and is not otherwise required by ORS 163A.010, 163A.015 or 163A.025 to report, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff's office, in the county of the person’s residence:

(A) Within 10 days following:

(i) Discharge, release on parole or release on any form of supervised or conditional release, from a jail, prison or other correctional facility or de-
(i) Discharge, release or placement on probation, by another United States court;

(B) Within 10 days of a change of residence;

(C) Once each year within 10 days of the person’s birth date, regardless of whether the person has changed residence;

(D) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; and

(E) Within 10 days of a change in work, vocation or attendance status at an institution of higher education.

(F) At least 21 days prior to any intended travel outside of the United States.

(b) If a person required to report under this subsection has complied with the applicable initial reporting requirement under paragraph (a)(A) of this subsection, the person shall subsequently report, in person, in the circumstances specified in paragraph (a) of this subsection, as applicable, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence.

(4) When a person reports under this section, the agency to which the person reports shall complete a sex offender registration form concerning the person.

(5) The obligation to report under this section terminates if the conviction or adjudication that gave rise to the obligation is reversed or vacated or if the registrant is pardoned.

(6) Subsections (1) to (5) of this section apply to a person convicted in another United States court of a crime:

(a) That would constitute a sex crime if committed in this state; or

(b) For which the person would have to register as a sex offender in that court’s jurisdiction, or as required under federal law, regardless of whether the crime would constitute a sex crime in this state.

(7) As part of the registration and reporting requirements of this section:
(a) The person required to report shall:
   (A) Provide the information necessary to complete the sex offender reg-
       istration form and sign the form as required; and
   (B) Submit to the requirements described in paragraph (b) of this sub-
       section.
(b) The Department of State Police, the city police department or the
    county sheriff’s office:
   (A) Shall photograph the person when the person initially reports under
       this section, each time the person reports annually under subsection (1)(a)(C)
       or (3)(a)(C) of this section and each time the person reports under subsection
       (2)(a)(B) of this section;
   (B) May photograph the person or any identifying scars, marks or tattoos
       located on the person when the person reports under any of the circum-
       stances described in this section; and
   (C) Shall fingerprint the person if the person’s fingerprints are not in-
       cluded in the record file of the Department of State Police.

SECTION 4. ORS 163A.025 is amended to read:
163A.025. (1) A person found to be within the jurisdiction of the juvenile
court under ORS 419C.005, or found by the juvenile court to be responsible
except for insanity under ORS 419C.411, for having committed an act that,
if committed by an adult, would constitute a felony sex crime shall report
as a sex offender as described in subsections (2) to (4) of this section, unless
the juvenile court enters an order under ORS 163A.130 or 163A.135 relieving
the person of the obligation to report, if:
   (a) The person has been ordered under ORS 163A.030 to report as a sex
       offender;
   (b) The person was adjudicated, and the jurisdiction of the juvenile court
       or the Psychiatric Security Review Board over the person ended, prior to
       August 12, 2015;
   (c) The person was adjudicated prior to August 12, 2015, and the jurisd-

[8]
the person ended after August 12, 2015, and before April 4, 2016; or

d) The person has been found in a juvenile adjudication in another United States court to have committed an act while the person was under 18 years of age that would constitute a felony sex crime if committed in this state by an adult.

(2) A person described in subsection (1)(a) or (d) of this section, or a person described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, who resides in this state shall make an initial report, in person, to the Department of State Police, a city police department or a county sheriff’s office as follows:

(a) The person shall report no later than 10 days after the date of the court order requiring the person to report under ORS 163A.030;

(b) If the person is adjudicated for the act giving rise to the obligation to report in another United States court and the person is found to have committed an act that if committed by an adult in this state would consti-

(A) A Class A or Class B felony sex crime:

(i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person moves into this state; or

(ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility.
(B) A Class C felony sex crime:
   (i) If the person is not a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than six months after the date the person moves into this state; or
   (ii) If the person is a resident of this state at the time of the adjudication, the person shall make the initial report to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s residence, no later than 10 days after the date the person is discharged, released or placed on probation or any other form of supervised or conditional release by the other United States court or, if the person is confined in a correctional facility by the other United States court, no later than 10 days after the date the person is discharged or otherwise released from the facility; or
   (c) For persons described in subsection (1)(c) of this section who did not make an initial report prior to April 4, 2016, the person shall report no later than 120 days after April 4, 2016.

(3) After making the initial report described in subsection (2) of this section or, for a person described in subsection (1)(c) of this section who made an initial report prior to April 4, 2016, or a person described in subsection (1)(b) of this section, beginning after April 4, 2016, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s last reported residence:
   (a) Within 10 days of a change of residence;
   (b) Once each year within 10 days of the person’s birth date, regardless of whether the person changed residence;
   (c) Within 10 days of the first day the person works at, carries on a vocation at or attends an institution of higher education; [and]
   (d) Within 10 days of a change in work, vocation or attendance status at
an institution of higher education[.]; and

(e) At least 21 days prior to any intended travel outside of the United States.

(4) When a person described in subsection (1) of this section attends school or works in this state, resides in another state and is not otherwise required to report as a sex offender under this section or ORS 163A.010, 163A.015 or 163A.020, the person shall report, in person, to the Department of State Police, a city police department or a county sheriff’s office, in the county in which the person attends school or works, no later than 10 days after:

(a) The first day of school attendance or the 14th day of employment in this state; and

(b) A change in school enrollment or employment.

(5) The agency to which a person reports under this section shall complete a sex offender registration form concerning the person when the person reports under this section.

(6) As part of the registration and reporting requirements of this section:

(a) The person required to report shall:

(A) Provide the information necessary to complete the sex offender registration form and sign the form as required; and

(B) Submit to the requirements described in paragraph (b) of this subsection.

(b) The Department of State Police, Oregon Youth Authority, county juvenile department, city police department or county sheriff’s office:

(A) Shall photograph the person when the person initially reports under this section and each time the person reports annually under this section;

(B) May photograph the person or any identifying scars, marks or tattoos located on the person when the person reports under any of the circumstances described in this section; and

(C) Shall fingerprint the person if the person’s fingerprints are not included in the record file of the Department of State Police.
(7) The obligation to report under this section is terminated if the adjudication that gave rise to the obligation is reversed or vacated.

(8) Notwithstanding subsections (2) and (3) of this section:

(a) The Oregon Youth Authority may authorize a youth offender committed to its custody and supervision by order of the juvenile court, or a person placed in its physical custody under ORS 137.124 or any other provision of law, to report to the authority regardless of the youth offender’s or the person’s last reported residence.

(b) A county juvenile department may authorize a youth offender or young person, as those terms are defined in ORS 419A.004, to report to the department, regardless of the county of the youth offender’s or the young person’s last reported residence.

(c) In the event that a person reports to the authority or the department under this subsection, the authority or the department shall register the person.

SECTION 5. ORS 163A.040 is amended to read:

163A.040. (1) A person who is required to report as a sex offender in accordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020 or 163A.025 and who has knowledge of the reporting requirement commits the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or attends an institution of higher education;

(c) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;

(d) Fails to report following a change of residence;

(e) Fails to make an annual report;

(f) Fails to provide complete and accurate information;

(g) Fails to sign the sex offender registration form as required;

(h) Fails or refuses to participate in a sex offender risk assessment as
directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority; [or]

(i) Fails to submit to fingerprinting or to having a photograph taken of the person’s face, identifying scars, marks or tattoos. [or]

(j) Fails to report prior to any intended travel outside of the United States.

(2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s new residence, if the person otherwise complied with all reporting requirements.

(b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into this state.

(c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(B)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within six months of moving into this state.

(d) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the Department of State Police in Marion County, Oregon, if the person otherwise complied with all reporting requirements.

(e) It is an affirmative defense to a charge of failure to report under subsection (1) of this section by a person required to report under ORS
163A.025 (3) that the person reported, in person, to the Department of State
Police, a city police department or a county sheriff's office, in the county
of the person's residence, if the person otherwise complied with all reporting
requirements.

(f) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.010 (3) that the person reported to the Oregon Youth Authority if the
person establishes that the authority registered the person under ORS
163A.010 (3)(c).

(g) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.025 (2) or (3) that the person reported to the Oregon Youth Authority
or a county juvenile department if the person establishes that the authority
or department registered the person under ORS 163A.025 (8).

(3)(a) Except as otherwise provided in paragraph (b) of this subsection,
failure to report as a sex offender is a Class A misdemeanor.

(b) Failure to report as a sex offender is a Class C felony if the person
violates:

(A) Subsection (1)(a) of this section; or
(B) Subsection (1)(b), (c), (d) or (g) of this section and the crime for which
the person is required to report is a felony.

(4) A person who fails to sign and return an address verification form as
required by ORS 163A.035 (4) commits a violation.

SECTION 6. ORS 163A.040, as amended by section 2, chapter 418, Oregon
Laws 2017, is amended to read:

163A.040. (1) A person who is required to report as a sex offender in ac-
cordance with the applicable provisions of ORS 163A.010, 163A.015, 163A.020
or 163A.025 and who has knowledge of the reporting requirement commits
the crime of failure to report as a sex offender if the person:

(a) Fails to make the initial report to an agency;

(b) Fails to report when the person works at, carries on a vocation at or
attends an institution of higher education;
(c) Fails to report following a change of school enrollment or employment status, including enrollment, employment or vocation status at an institution of higher education;
(d) Moves to a new residence and fails to report the move and the person’s new address;
(e) Fails to make an annual report;
(f) Fails to provide complete and accurate information;
(g) Fails to sign the sex offender registration form as required;
(h) Fails or refuses to participate in a sex offender risk assessment as directed by the State Board of Parole and Post-Prison Supervision, Psychiatric Security Review Board, Oregon Health Authority or supervisory authority; [or]
(i) Fails to submit to fingerprinting or to having a photograph taken of the person’s face, identifying scars, marks or tattoos.; or
(j) Fails to report prior to any intended travel outside of the United States.

(2)(a) It is an affirmative defense to a charge of failure to report under subsection (1)(d) of this section by a person required to report under ORS 163A.010 (3)(a)(B), 163A.015 (4)(a)(B) or 163A.025 (3)(a) that the person reported, in person, within 10 days of a change of residence to the Department of State Police, a city police department or a county sheriff’s office, in the county of the person’s new residence, if the person otherwise complied with all reporting requirements.
(b) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS 163A.025 (2)(b)(A)(i) that the person reported, in person, to the Department of State Police in Marion County, Oregon, within 10 days of moving into this state.
(c) It is an affirmative defense to a charge of failure to report under subsection (1)(a) of this section by a person required to report under ORS
163A.025 (2)(b)(B)(i) that the person reported, in person, to the Department
of State Police in Marion County, Oregon, within six months of moving into
this state.

(d) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.025 (2)(b)(A)(ii) or (B)(ii) that the person reported, in person, to the
Department of State Police in Marion County, Oregon, if the person other-
wise complied with all reporting requirements.

(e) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.025 (3) that the person reported, in person, to the Department of State
Police, a city police department or a county sheriff’s office, in the county
of the person’s residence, if the person otherwise complied with all reporting
requirements.

(f) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.010 (3) that the person reported to the Oregon Youth Authority if the
person establishes that the authority registered the person under ORS
163A.010 (3)(c).

(g) It is an affirmative defense to a charge of failure to report under
subsection (1) of this section by a person required to report under ORS
163A.025 (2) or (3) that the person reported to the Oregon Youth Authority
or a county juvenile department if the person establishes that the authority
or department registered the person under ORS 163A.025 (8).

3(a) Except as otherwise provided in paragraph (b) of this subsection,
failure to report as a sex offender is a Class A misdemeanor.

(b) Failure to report as a sex offender is a Class C felony if the person
violates:

(A) Subsection (1)(a) of this section; or

(B) Subsection (1)(b), (c), (d) or (g) of this section and the crime for which
the person is required to report is a felony.

[16]
(4) A person who fails to sign and return an address verification form as required by ORS 163A.035 (4) commits a violation.

SECTION 7. The amendments to ORS 163A.040 by sections 5 and 6 of this 2019 Act apply to intended travel outside the United States occurring on or after the effective date of this 2019 Act.
SUMMARY

Requires law enforcement agencies to collect fingerprints, palm prints and identifying data for persons arrested for felony or misdemeanor. Requires completion of disposition report for all felonies and misdemeanors.

Authorizes Department of State Police, after consultation with courts, to determine manner and format in which disposition information must be transmitted. Requires transmission of disposition information even if no accusatory instrument is filed, accusatory instrument is dismissed or charges are dismissed.

A BILL FOR AN ACT

Relating to criminal offender information; amending ORS 181A.160, 181A.175 and 181A.220; and repealing ORS 181A.165.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 181A.160 is amended to read:

181A.160. (1) Immediately upon the arrest of a person for [a crime for which criminal offender information must be provided under ORS 181A.165] a felony or misdemeanor, a law enforcement agency shall:

(a) Place the arrested person’s fingerprints, palm prints and identifying data on forms prescribed or furnished by the Department of State Police, photograph the arrested person and promptly transmit the form and photograph to the department.

(b) If the arrest is disposed of by the arresting agency, cause the disposition report to be completed and promptly transmitted to the department.

(c) If the arrest is not disposed of by the agency, cause the disposition report to be forwarded to the court that will dispose of [the] each charge for

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
further action in accordance with ORS 181A.175.

(2) A law enforcement agency may record, in addition to fingerprints, palm prints, the sole prints, toe prints or other personal identifiers when, in the discretion of the agency, it is necessary to effect identification of the persons or to the investigation of the crime charged.

(3) A law enforcement agency, for the purpose of identification, may record and submit to the department the fingerprints, palm prints and photograph of persons arrested for [crimes for which criminal offender information is not required under ORS 181A.165] a crime other than a felony or misdemeanor.

SECTION 2. ORS 181A.175 is amended to read:

181A.175. (1) As used in this section, “disposition information” means information disclosing that criminal proceedings have been concluded and the nature of the termination, including information disclosing that no accusatory instrument was filed, the accusatory instrument was dismissed or the charges were dismissed.

(2) When a court receives a disposition report from a law enforcement agency pursuant to ORS 181A.160, the court shall transmit disposition information for each criminal charge contained in the charging instrument, including any written findings of fact made by the court and any restrictions placed by the court on the person’s possession of firearms, to the Department of State Police in a manner and format determined by [the State Court Administrator after consultation with] the department to update criminal history record information through entry into the Law Enforcement Data System.

(3) If the court is required to transmit disposition information under subsection (2) of this section and a charge is included in the charging instrument that was not included in the original arrest report, citation or charge, the court shall transmit the person’s fingerprints to the department in a manner and format determined by the department.

[2]
(4) In determining the manner and format for submissions required under this section, the department shall consult with state, municipal and justice courts.

SECTION 3. ORS 181A.220 is amended to read:
181A.220. (1) Notwithstanding the provisions of ORS 192.311 to 192.478 relating to public records the fingerprints, palm prints, photographs, records and reports compiled under ORS 137.225, 181A.010, 181A.160, 181A.175, 181A.230, 805.060 and this section are confidential and exempt from public inspection except:
(a) As ordered by a court;
(b) As provided in rules adopted by the Department of State Police under ORS chapter 183 to govern access to and use of computerized criminal offender information including access by an individual for review or challenge of the individual’s own records;
(c) As provided in ORS 181A.230 and 181A.245;
(d) As provided in ORS 181A.180; or
(e) As provided in ORS 418.747 (5).
(2) The records of the department of crime reports to the department and of arrests made by the department, however, shall not be confidential and shall be available in the same manner as the records of arrest and reports of crimes of other law enforcement agencies under ORS 192.345 (3).

SECTION 4. ORS 181A.165 is repealed.
SUMMARY

Prohibits disclosure, pursuant to public records request, of contents of reports made through Department of State Police statewide tip line. Authorizes disclosure to tip line staff, service providers, law enforcement and specified education persons for purpose of follow-up contact to provide or obtain further information. Provides that further information may be disclosed only to persons authorized to receive tip line information.

Permits department to disclose aggregated or summary tip line information for reporting and public education purposes.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to the disclosure of tip line information; amending ORS 339.329; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 339.329 is amended to read:

339.329. (1) As used in this section:

(a) “Cyberbullying” and “harassment, intimidation or bullying” have the meanings given those terms in ORS 339.351.

(b) “Local law enforcement contact” means a local law enforcement officer designated by the Department of State Police to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety.

(c) “Personally identifiable information” means any information that would permit the identification of a person who reports information using the tip line, and is not limited to name, phone number,
physical address, electronic mail address, race, gender, sexual orientation, disability designation, religious affiliation, national origin, ethnicity, school of attendance, city, county or any geographic identifier included in information conveyed through the tip line, or information identifying the machine or device used by the person in making a report using the tip line.

[(c)] (d) “Service provider” means a person designated by the department to be notified when the tip line receives a report of a threat to student safety or potential threat to student safety. “Service provider” includes:

(A) A provider of behavioral health care or mental health care;

(B) A provider of school-based health care;

(C) A certificated school counselor;

(D) A clinical social worker licensed under ORS 675.530; or

(E) A professional counselor or a marriage and family therapist licensed under ORS 675.615.

[(d)] (e) “Student” means a student of:

(A) A school district, as defined in ORS 332.002;

(B) A community college, as defined in ORS 341.005;

(C) A private school that provides educational services to kindergarten through grade 12 students;

(D) A career school, as defined in ORS 345.010; or

(E) A public university listed under ORS 352.002.

[(e)] (f) “Threat to student safety” includes, but is not limited to, a threat or instance of:

(A) Harassment, intimidation or bullying or cyberbullying;

(B) Suicide or self-harm; and

(C) Violence against others.

[(f)] (g) “Tip line” means a statewide resource designed to accept information concerning threats to student safety or potential threats to student safety through methods of transmission including:

(A) Telephone calls;

[2]
(B) Text messages; and
(C) Electronically through the Internet.

(2) The Department of State Police shall establish a statewide tip line for students and other members of the public to use to confidentially report information concerning threats to student safety or potential threats to student safety.

(3) In consultation with state and local government behavioral health care providers, the department shall adopt rules necessary to establish and operate the tip line. The rules must include, but are not limited to:

(a) Provisions that protect the personally identifiable information of a person reporting information without compromising opportunities for follow-up contact from local law enforcement contacts or service providers to provide further information to or obtain further information from the person; and

(b) Written policies and procedures for:
(A) Logging reports received on the tip line;
(B) Verifying the authenticity and validity of a reported threat to student safety or potential threat to student safety;
(C) Relaying information concerning a threat to student safety or potential threat to student safety to local law enforcement contacts, service providers and appropriate education provider contacts;
(D) Connecting the tip line with other hotlines that are available for reports of violence or for crisis prevention; and
(E) Reporting for the purposes of tracking referrals to local law enforcement contacts and service providers resulting from information received on the tip line and tracking the outcome of any action taken in response to the referral.

(4) The contents of tips reported to the tip line may not be disclosed pursuant to a public records request under ORS 192.311 to 192.478 or otherwise, except that personally identifiable information and other information reported through the tip line may be disclosed to the fol-
allowing persons for the purpose of follow-up contact to obtain or pro-
vide further information:
    (a) Tip line staff;
    (b) A school district, education service district, community college,
private school that provides educational services to kindergarten
through grade 12 students, a career school or a public university;
    (c) A service provider; or
    (d) Law enforcement.
(5) Any person authorized to receive tip line information under
subsection (4) of this section must use the information only for the
purpose of making follow-up contact to obtain or provide further in-
formation. Any further information obtained through follow-up con-
tact may be disclosed only to the persons described in subsection (4)
of this section.
(6) Persons authorized to receive tip line information under sub-
section (4) of this section may not disclose to the public the outcomes
or actions taken as a result of tip line information unless the disclo-
sure is required by a statute other than this section.
(7) Notwithstanding subsections (4) to (6) of this section, the de-
partment may release aggregated or summary information for report-
ing purposes and may provide information obtained through the tip
line for the purpose of educating the public about the tip line, but may
not disclose personally identifiable information under this subsection.
[(4)] (8) The department may seek and accept gifts, grants and donations
from any source for the purpose of carrying out its duties under this section.
SECTION 2. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.

[4]
SUMMARY

Revises definitions and harmonizes language for purposes of program supporting working land conservation. Revises Oregon Agricultural Heritage Commission duties.

A BILL FOR AN ACT

Relating to working land conservation; creating new provisions; and amending ORS 541.977, 541.981, 541.982, 541.984, 541.988 and 541.989.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 541.977 is amended to read:

541.977. As used in ORS 541.977 to 541.989:

(1) “Agricultural owner or operator” means a landowner, operator, manager or other person having responsibility for exercising control over the day-to-day operation of a farm or ranch.

(2) “Working land” means land that is actively used by an agricultural owner or operator for an agricultural operation that includes, but need not be limited to, active engagement in farming or ranching.

(3) “Working land conservation covenant” means a nonpossessory interest in working land for a fixed term that imposes limitations or affirmative obligations for the purposes that support the use of the land for agricultural production and for the maintenance or enhancement of fish [and] or wildlife habitat, [improvement of] water quality or [support of] other natural resource values.

(4) “Working land conservation easement” means a permanent nonpossessory interest in working land that imposes limitations or affirmat-
tive obligations for purposes that [support the use of] **preserve and protect** the land for agricultural production and for the maintenance or enhancement of fish [and] or wildlife habitat, [improvement of] water quality or [support of] other natural resource values.

**SECTION 2.** ORS 541.981 is amended to read:

541.981. (1) An agricultural owner or operator may enter into a conservation management plan with an organization for working land to be managed in a manner that [supports] **maintains or enhances** one or more natural resource values. The conservation management plan may be composed of multiple components addressing different natural resource values as identified in subsection (2) of this section.

(2) A conservation management plan must be for the purpose of developing and implementing conservation measures or other protections for maintaining or enhancing fish or wildlife habitat, [improving] water quality or [supporting] other natural resource values in a manner consistent with the social and economic interests and abilities of the agricultural owner or operator. The plan may include provisions for addressing particular priorities related to natural resource values, including but not limited to soil, water, plants, animals, energy and human need considerations.

(3) A conservation management plan must:

(a) Meet the standards established by Oregon Watershed Enhancement Board rules;

(b) State the duration or terminating event for the plan;

(c) Be specific to the land, and account for the needs of, the agricultural owner or operator;

(d) Provide for the parties to review the plan on a regular basis;

(e) Provide for flexibility and allow for mutual modification as necessary to reflect changes in practices or circumstances;

(f) Provide for regular monitoring by the organization to ensure that the agricultural owner or operator is adhering to the plan;

(g) Make any receipt by the agricultural owner or operator of annual
payments for carrying out the plan contingent on adherence to the plan; and
(h) Limit any annual payments for carrying out the plan to a term of not
less than 20 years or more than 50 years.

(4) An organization that enters into, or proposes to enter into, a conserv-
ervation management plan may apply to the board for a grant to fund the
[purchasing, implementing] development, implementation, carrying out or
monitoring of the plan if the organization is:
(a) A holder, as defined in ORS 271.715, other than a state agency;
(b) A watershed council; or
(c) Tax exempt under section 501(c)(3) of the Internal Revenue Code.
(c) A not-for-profit organization other than a state agency.

SECTION 3. ORS 541.982 is amended to read:
541.982. (1) An owner of working land may enter into a working land
conservation covenant with or grant a working land conservation easement
to an organization that is a holder, as defined in ORS 271.715, other than a
state agency. The covenant or easement must be for the [purpose of ensuring
the continued use of] purposes of preserving and protecting the land for
agricultural purposes while maintaining or enhancing fish or wildlife
habitat, [improving] water quality or [supporting] other natural resource
values on the land. A working land conservation covenant must be for a term
of years that is established as permissible in [Oregon Agricultural Heritage
Commission] rules described under subsection (6) of this section.

(2) In addition to the purposes required under subsection (1) of this sec-
tion, a working land conservation covenant or working land conservation
easement may provide for carrying out any purposes of a conservation ease-
ment, as defined in ORS 271.715. The covenant or easement must provide for
carrying out those additional purposes in a manner consistent with ORS
271.715 to 271.795.

(3) A working land conservation covenant or working land conservation
easement must:
(a) Provide for regular monitoring by the organization [accepting] enter-
ing into the covenant or accepting the easement to ensure that the owner
of the working land is adhering to the covenant or easement provisions; and
(b) If identical in duration to a conservation management plan for the
working land, refer to the conservation management plan in the text of the
covenant or easement.
(4) An organization that enters into[,] or proposes to enter into[,] a
working land conservation covenant, or [accept] that accepts a working
land conservation easement, may apply to the Oregon Watershed Enhance-
ment Board for a grant to fund the purchasing, implementing, carrying out
or monitoring of the covenant or easement.
(5) An application under subsection (4) of this section may be combined
with an application under ORS 541.981 for a grant to fund the development,
implementation, carrying out or monitoring of a conservation manage-
ment plan associated with the working land conservation covenant or work-
ing land conservation easement.
(6) The board shall adopt rules establishing three or more permis-
sible terms of years, which are not less than 20 or more than 50 years,
for working land conservation covenants formed under this section.
SECTION 4. ORS 541.984 is amended to read:
541.984. (1) The Oregon Watershed Enhancement Board shall establish
programs to provide grants from the Oregon Agricultural Heritage Fund for
the purposes of:
(a) Assisting [owners of working land] agricultural owners or operators
with succession planning for [those] working lands;
[(b) Funding the purchasing, implementing, carrying out or monitoring of
conservation management plans, working land conservation covenants or
working land conservation easements described in ORS 541.981 and 541.982;
and]
(b)(A) Funding the development, implementation, carrying out or moni-
toring of conservation management plans under ORS 541.981; or
(B) Funding the purchase, implementation, carrying out or moni-
toring of working land conservation covenants or working land con-
servation easements under ORS 541.982; and
(c) Providing [development funding or] technical assistance to organiza-
tions that:

(A) Enter into or [propose] are eligible to enter into agreements resulting
in conservation management plans, or that accept or propose to accept] or
working land conservation covenants; or

(B) Are eligible to accept working land conservation easements.

(2) The board, after consultation with the Oregon Agricultural Heritage
Commission established in ORS 541.986, shall adopt rules that establish a
process for submitting and processing applications for grants under ORS
541.981 and 541.982. To the extent practicable, the board shall design the
process to:

(a) Allow flexibility and responsiveness to program participant needs; and

(b) Ensure compatibility with federal working land conservation easement
programs and other programs for the conservation of working land.

(3) The [board and the commission, shall jointly] commission shall ap-
point one or more technical committees to evaluate and rank conservation
management plans, working land conservation covenants and working land
conservation easements described in applications filed under ORS 541.981 and
541.982. The system used by the technical committee or committees shall
provide for the ranking of conservation management plans to be separate
from the ranking of working land conservation covenants and working land
conservation easements. The ranking for a plan, covenant or easement shall
be based on criteria that include, but need not be limited to:

(a) The extent to which the plan, covenant or easement would protect,
maintain or enhance farming or ranching on working land;

(b) The extent to which the plan, covenant or easement would protect,
maintain or enhance fish or wildlife habitat, [improve] water quality or
[support] other natural resource values;

(c) The extent to which the plan, covenant or easement would protect,
maintain or enhance agricultural outcomes, benefits or other investment gains;

(d) The capacity of the organization that filed the application to enter into a conservation management plan, accept or to accept working land conservation covenant or working land conservation easement, and the competence of the organization;

(e) The extent to which the benefit to the state from the investment may be maximized, based on the ability to leverage grant moneys with other funding sources and on the duration and extent of the conservation management plan, working land conservation covenant or working land conservation easement; and

(f) The extent and nature of plan, covenant or easement impacts on owners or operators of neighboring lands.

(4) The criteria for ranking conservation management plans, working land conservation covenants or working land conservation easements under subsection (3) of this section may not include a consideration of the type of agricultural operation conducted on the working land.

(5) An applicant must demonstrate to the satisfaction of the board that the participants in a conservation management plan, working land conservation covenant or working land conservation easement to be benefitted by a grant under this section understand and agree to their roles and responsibilities under the plan, covenant or easement.

(6) The board may issue a grant to fund a conservation management plan, working land conservation covenant or working land conservation easement described in ORS 541.981 and 541.982 only if:

(a) There is a contribution of cash for the plan, covenant or easement, a contribution of in-kind services or another form of investment in the plan, covenant or easement from a funding source other than the Oregon Agricultural Heritage Fund;

(b) The plan, covenant or easement is reviewed by a technical committee that has expertise relevant to the described plan, covenant or easement; and
(c) The commission reviews and recommends funding of the plan, covenant or easement.

(7) (a) Except as provided in paragraph (b) of this subsection, an organization that receives a grant from the board for a conservation management plan, or an agricultural owner or operator receiving payments of moneys from an organization grant regarding a conservation management plan, may receive cash contributions, other financial assistance, in-kind services or investments, rental or easement payments, tax benefits or other benefits from a federal, state or private entity in return for practices related to the [purchasing, implementing] development, implementation, carrying out or monitoring of the conservation management plan.

(b) The board or an organization grant may not, however, provide payments that duplicate any federal, state or private payments for the same measures directed to maintaining or enhancing fish or wildlife habitat, [improving] water quality or [supporting] other natural resource values within the conservation management plan.

(8) An organization that receives a grant from the board for a working land conservation covenant or a working land conservation easement, or an owner of working land that enters into a working land conservation covenant or grants a working land conservation easement, may receive cash contributions, other financial assistance, in-kind services or [other forms of investment from any public or private sources for purposes of purchasing, implementing,] investments, rental or easement payments, tax benefits or other benefits from a federal, state or private entity in return for practices related to the purchase, implementation, carrying out or monitoring of the covenant or easement.

SECTION 5. ORS 541.988 is amended to read:

541.988. (1) In accordance with applicable provisions of ORS chapter 183, the Oregon Agricultural Heritage Commission [may adopt rules necessary for the administration of the laws that the commission is charged with administering] shall assist the Oregon Watershed Enhancement Board in the
adoption and administration of board rules for carrying out programs under ORS 541.977 to 541.989.

(2) The commission may establish any advisory or technical committee the commission considers necessary to aid and advise staff or the commission in the performance of its functions. The committees may be continuing or temporary committees. The commission shall determine the representation, membership, terms and organization of the committees and shall appoint the members of the committees. The commission chairperson shall be a nonvoting member of each committee.

(3) Members of advisory or technical committees established by the commission are not entitled to compensation but, at the discretion of the commission and with the consent of the Oregon Watershed Enhancement Board, may be reimbursed from funds available to the board for actual and necessary travel and other expenses incurred by the members in the performance of official duties in the manner and amount provided in ORS 292.495.

SECTION 6. ORS 541.989 is amended to read:

541.989. (1) The Oregon Agricultural Heritage Commission shall:

[(a) Assist the Oregon Watershed Enhancement Board with the development of rules for the administration of programs under ORS 541.977 to 541.989;]

[(b) Adopt rules establishing three or more permissible terms of years, that are not less than 20 or more than 50 years, for working land conservation covenants formed under ORS 541.982;]

[(c) Recommend policies and priorities for use by the Oregon Watershed Enhancement Board in evaluating the farm or ranch values, and the fish or wildlife habitat, water quality or other natural resource values, on working land described in a grant application filed under ORS 541.981 or 541.982; and]

[(d) Review and consider the recommendations of technical committees appointed under ORS 541.984;]

[(e) Consult with the board concerning grant applications[.]]

(2) The commission shall:
[(f)] (a) Provide conservation management plan, working land conservation covenant and working land conservation easement funding recommendations to the board based on the availability of funding from the Oregon Agricultural Heritage Fund; and

[(g)] (b) Provide funding recommendations to the Legislative Assembly, or recommendations for grant funding to the board, to provide training and support to owners of working land agricultural owners or operators, or persons advising owners of working land agricultural owners or operators, regarding succession planning for the working lands.

[(2)] (3) The commission’s recommendations for funding under subsection [(1)(g)] (2)(b) of this section may include recommendations for funding succession planning programs through the Oregon State University Extension Service only if the university has presented the commission with a program proposal for review. If a commission recommendation for funding succession planning programs through the university extension service is adopted, the university shall provide the commission with an annual report regarding each program.

SECTION 7. The amendments to ORS 541.977, 541.981, 541.982, 541.984, 541.988 and 541.989 by sections 1 to 6 of this 2019 Act apply to working land conservation covenants, working land conservation easements, conservation management plans and interests in working lands:

(1) Created on or after effective date of this 2019 Act; or

(2) That are the subject of an application for funding from the Oregon Agricultural Heritage Fund on which the Oregon Watershed Enhancement Board makes a final decision on or after the effective date of this 2019 Act.
SUMMARY

Modifies language regarding Oregon Heritage Commission’s coordination of statewide activities recognizing events of historical significance.

A BILL FOR AN ACT

Relating to Oregon Heritage Commission duties; amending ORS 358.595.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 358.595 is amended to read:

ORS 358.595. (1) The Oregon Heritage Commission is the primary agency for coordination of heritage activities and shall coordinate its activities with public and private organizations that express an interest in the heritage of Oregon.

(2) The commission shall:

(a) Prepare and adopt an Oregon Heritage Plan to coordinate the identification, curation, restoration and interpretation of heritage resources.

(b) Increase efficiency and avoid duplication among the various interest groups that seek to preserve heritage resources.

(c) Pursuant to ORS 358.600, develop plans for coordination among agencies and organizations dedicated to preserving Oregon historical records.

(d) Coordinate a comprehensive inventory of state-owned cultural properties and make the inventory available to the public.

(e) In conjunction with the Oregon Business Development Department encourage tourism activities relating to heritage resources.

(f) Coordinate statewide anniversary [celebrations] commemorations.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(g) Coordinate statewide celebrations of Asian American Heritage Month.
SUMMARY
Extends sunset of historic property special assessment program.
Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT
Relating to historic property; amending ORS 358.499; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 358.499 is amended to read:
358.499. (1) Property first classified and specially assessed as historic property for a tax year beginning on or before July 1, 1994, shall continue to be so classified, specially assessed and removed from special assessment as provided under ORS 358.487 to 358.543 as those sections were in existence and in effect on December 31, 1992.
(2) Property may be classified and specially assessed under ORS 358.487 to 358.543 pursuant to application filed under ORS 358.487 on or after September 9, 1995, and first applicable for the tax year 1996-1997 or any tax year thereafter.
(3) Property may not be classified and specially assessed pursuant to application filed under ORS 358.487 or 358.540 if the application is filed on or after July 1, [2020] 2023.

SECTION 2. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Exempts from Public Contracting Code timber sales from lands that State Parks and Recreation Commission or State Parks and Recreation Department owns or manages.


Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to sales of forest products from state parks and recreation land; creating new provisions; amending ORS 279A.025 and 390.121; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 279A.025 is amended to read:

279A.025. (1) Except as provided in subsections (2) to (4) of this section, the Public Contracting Code applies to all public contracting.

(2) The Public Contracting Code does not apply to:

(a) Contracts between a contracting agency and:

(A) Another contracting agency;

(B) The Oregon Health and Science University;

(C) A public university listed in ORS 352.002;

(D) The Oregon State Bar;

(E) A governmental body of another state;

(F) The federal government;

(G) An American Indian tribe or an agency of an American Indian tribe;

(H) A nation, or a governmental body in a nation, other than the United

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States; or

(I) An intergovernmental entity formed between or among:

(i) Governmental bodies of this or another state;
(ii) The federal government;
(iii) An American Indian tribe or an agency of an American Indian tribe;
(iv) A nation other than the United States; or
(v) A governmental body in a nation other than the United States;

(b) Agreements authorized by ORS chapter 190 or by a statute, charter provision, ordinance or other authority for establishing agreements between or among governmental bodies or agencies or tribal governing bodies or agencies;

(c) Insurance and service contracts as provided for under ORS 414.115, 414.125, 414.135 and 414.145 for purposes of source selection;

(d) Grants;

(e) Contracts for professional or expert witnesses or consultants to provide services or testimony relating to existing or potential litigation or legal matters in which a public body is or may become interested;

(f) Acquisitions or disposals of real property or interest in real property;

(g) Sole-source expenditures when rates are set by law or ordinance for purposes of source selection;

(h) Contracts for the procurement or distribution of textbooks;

(i) Procurements by a contracting agency from an Oregon Corrections Enterprises program;

(j) The procurement, transportation, sale or distribution of distilled liquor, as defined in ORS 471.001, or the appointment of agents under ORS 471.230 or 471.750 by the Oregon Liquor Control Commission;

(k) Contracts entered into under ORS chapter 180 between the Attorney General and private counsel or special legal assistants;

(L) Contracts for the sale of timber from lands [owned or managed by] that the State Board of Forestry, [and] the State Forestry Department, the State Parks and Recreation Commission or the State Parks and Re-
creation Department owns or manages;

(m) Contracts for activities necessary or convenient for the sale of timber under paragraph (L) of this subsection, either separately from or in conjunction with contracts for the sale of timber, including but not limited to activities such as timber harvesting and sorting, transporting, gravel pit development or operation, and road construction, maintenance or improvement;

(n) Contracts for forest protection or forest related activities, as described in ORS 477.406, by the State Forester or the State Board of Forestry;

(o) Contracts [entered into by] that the Housing and Community Services Department [in exercising] enters into in exercising the department’s duties prescribed in ORS chapters 456 and 458, except that the department’s public contracting for goods and services is subject to ORS chapter 279B;

(p) Contracts [entered into by] that the State Treasurer [in exercising] enters into in exercising the powers of that office prescribed in ORS 178.010 to 178.090 and 276A.242 and ORS chapters 286A, 287A, 289, 293, 294 and 295, including but not limited to investment contracts and agreements, banking services, clearing house services and collateralization agreements, bond documents, certificates of participation and other debt repayment agreements, and any associated contracts, agreements and documents, regardless of whether the obligations that the contracts, agreements or documents establish are general, special or limited, except that the State Treasurer’s public contracting for goods and services is subject to ORS chapter 279B;

(q) Contracts, agreements or other documents entered into, issued or established in connection with:

(A) The issuance of obligations, as defined in ORS 286A.100 and 287A.310, of a public body;

(B) [The making of] Program loans and similar extensions or advances of funds, aid or assistance [by] that a public body makes to a public or private body for the purpose of carrying out, promoting or sustaining activities or programs authorized by law; or

[3]
(C) The investment of funds by a public body as authorized by law, and other financial transactions of a public body that by their character cannot practically be established under the competitive contractor selection procedures of ORS 279B.050 to 279B.085;

(r) Contracts for employee benefit plans as provided in ORS 243.105 (1), 243.125 (4), 243.221, 243.275, 243.291, 243.303 and 243.565;

(s) Contracts for employee benefit plans as provided in ORS 243.860 to 243.886; or

(t) Any other public contracting of a public body specifically exempted from the code by another provision of law.

(3) The Public Contracting Code does not apply to the contracting activities of:

(a) The Oregon State Lottery Commission;

(b) The legislative department;

(c) The judicial department;

(d) Semi-independent state agencies listed in ORS 182.454, except as provided in ORS 279.835 to 279.855 and 279A.250 to 279A.290;

(e) Oregon Corrections Enterprises;

(f) The Oregon Film and Video Office, except as provided in ORS 279A.100 and 279A.250 to 279A.290;

(g) The Travel Information Council, except as provided in ORS 279A.250 to 279A.290;

(h) The Oregon 529 Savings Network and the Oregon 529 Savings Board;

(i) The Oregon Innovation Council;

(j) The Oregon Utility Notification Center; or

(k) Any other public body specifically exempted from the code by another provision of law.

(4) ORS 279A.200 to 279A.225 and 279B.050 to 279B.085 do not apply to contracts made with qualified nonprofit agencies providing employment opportunities for individuals with disabilities under ORS 279.835 to 279.855.

SECTION 2. ORS 390.121 is amended to read:
390.121. In carrying out its responsibilities, the State Parks and Recreation Commission may:

(1) Acquire by purchase, agreement, donation or by exercise of eminent domain, real property or any right or interest therein deemed necessary for the operation and development of state parks, roads, trails, campgrounds, picnic areas, boat ramps, nature study areas, waysides, relaxation areas, visitor and interpretive centers, department management facilities, such as shops, equipment sheds, office buildings, park ranger residences or other real property or any right or interest because of its natural, scenic, cultural, historic or recreational value, or any other places of attraction and scenic or historic value which in the judgment of the State Parks and Recreation Department will contribute to the general welfare, enjoyment and pleasure of the public.

(2) Construct, improve, develop, manage, operate and maintain facilities and areas, including but not limited to roads, trails, campgrounds, picnic areas, boat ramps and nature study areas named in subsection (1) of this section.

(3) Sell, lease, exchange or otherwise dispose or permit use of real or personal property, including equipment and materials acquired by the department, if in the opinion of the department it is no longer needed, required or useful for department purposes, except that:

(a) Real property may be leased when such real property will not be needed for department purposes during the leasing period.

(b) Real property used for park purposes may be donated to the United States Department of Interior for the purpose of establishing a national monument when in the judgment of the department such disposition would best serve the interests of this state.

(c) Proceeds from the sale of all surplus or unsuitable lands held for park purposes shall be deposited in the Parks Donation Trust Fund for use for park land acquisition or development. Proceeds from the sale of other property shall be paid by the department to the State Treasurer for credit
to the State Parks and Recreation Department Fund, and any interest from
this fund shall be credited to this fund.

(d)(A) Before offering forest products for sale, the department shall cause
the forest products to be appraised.

(B) If the appraised value of the forest products exceeds $15,000, the de-
partment shall offer [them] the forest products for sale by competitive bid.

A sale under this paragraph is not subject to the Public Contracting
Code. Prior to such bid offering, the department shall give notice not less
than once a week for three consecutive weeks by publication in one or more
newspapers of general circulation in the county in which the forest products
are located and by such other media of communication as the department
deems advisable. The minimum bid price and a brief statement of the terms
and conditions of the sale [shall] must be in the notice.

(C) The notice and competitive bidding under subparagraph (B) of this
paragraph [shall not be] are not required if the State Parks and Recreation
Director declares an emergency to exist that requires the immediate removal
of the timber. If an emergency has been so declared:

(i) The timber, regardless of value, may be sold by a negotiated price; and
(ii) The director shall make available for public inspection a written
statement giving the reasons for declaring the emergency.

(e) In the case of real property acquired by eminent domain, the prior
owner of real property for which sale, lease, exchange or other disposal is
proposed must be given the first opportunity to reacquire the property in
accordance with ORS chapter 35.

(4) Enter into contracts deemed necessary for the construction, mainte-
nance, operation, improvement or betterment of parks or for the accom-
plishment of the purposes of chapter 904, Oregon Laws 1989. All contracts
executed by the department shall be made in the name of this state, by and
through the department.

(5) In carrying out its duties, functions and powers under this chapter,
publish guides and other materials relating to recreational opportunities in
this state or to any program or function administered by the department. The
department may arrange for the sale of such publications. The price of such
publications shall include the cost of publishing and distributing the mate-
rials. All moneys received by the department from the sale of publications
shall be deposited in the State Parks and Recreation Department Fund. The
department may contract for the publication of the materials described in
this subsection, including the research, design and writing of the materials.
The contract may include, among other matters, provisions for advance pay-
ment or reimbursement for services performed under the contract.

SECTION 3. The amendments to ORS 279A.025 and 390.121 by
sections 1 and 2 of this 2019 Act apply to forest product sales that oc-
cur on or after the operative date specified in section 4 of this 2019
Act.

SECTION 4. (1) The amendments to ORS 279A.025 and 390.121 by
sections 1 and 2 of this 2019 Act become operative on January 1, 2020.

(2) The State Parks and Recreation Director and the State Parks
and Recreation Commission may adopt rules and take any other action
before the date specified in subsection (1) of this section that is nec-
essary to enable the director or the commission to exercise, on and
after the date specified in subsection (1) of this section, all of the du-
ties, functions and powers conferred on the director and the commis-
sion by the amendments to ORS 279A.025 and 390.121 by sections 1 and
2 of this 2019 Act.

SECTION 5. This 2019 Act takes effect on the 91st day after the date
on which the 2019 regular session of the Eightieth Legislative Assem-
bly adjourns sine die.
SUMMARY

Increases value at which State Parks and Recreation Department must offer forest products for sale by competitive bid.

A BILL FOR AN ACT

Relating to disposal of forest products by State Parks and Recreation Department; amending ORS 390.121.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 390.121 is amended to read:

390.121. In carrying out its responsibilities, the State Parks and Recreation Commission may:

(1) Acquire by purchase, agreement, donation or by exercise of eminent domain, real property or any right or interest therein deemed necessary for the operation and development of state parks, roads, trails, campgrounds, picnic areas, boat ramps, nature study areas, waysides, relaxation areas, visitor and interpretive centers, department management facilities, such as shops, equipment sheds, office buildings, park ranger residences or other real property or any right or interest because of its natural, scenic, cultural, historic or recreational value, or any other places of attraction and scenic or historic value which in the judgment of the State Parks and Recreation Department will contribute to the general welfare, enjoyment and pleasure of the public.

(2) Construct, improve, develop, manage, operate and maintain facilities and areas, including but not limited to roads, trails, campgrounds, picnic

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
areas, boat ramps and nature study areas named in subsection (1) of this
section.

(3) Sell, lease, exchange or otherwise dispose or permit use of real or
personal property, including equipment and materials acquired by the de-
partment, if in the opinion of the department it is no longer needed, required
or useful for department purposes, except that:

(a) Real property may be leased when such real property will not be
needed for department purposes during the leasing period.

(b) Real property used for park purposes may be donated to the United
States Department of Interior for the purpose of establishing a national
monument when in the judgment of the department such disposition would
best serve the interests of this state.

(c) Proceeds from the sale of all surplus or unsuitable lands held for park
purposes shall be deposited in the Parks Donation Trust Fund for use for
park land acquisition or development. Proceeds from the sale of other
property shall be paid by the department to the State Treasurer for credit
to the State Parks and Recreation Department Fund, and any interest from
this fund shall be credited to this fund.

(d)(A) Before offering forest products for sale, the department shall cause
the forest products to be appraised.

(B) If the appraised value of the forest products exceeds [$15,000]
$25,000, the department shall offer them for sale by competitive bid. Prior
to such bid offering, the department shall give notice not less than once a
week for three consecutive weeks by publication in one or more newspapers
of general circulation in the county in which the forest products are located
and by such other media of communication as the department deems advis-
able. The minimum bid price and a brief statement of the terms and condi-
tions of the sale shall be in the notice.

(C) The notice and competitive bidding under subparagraph (B) of this
paragraph shall not be required if the State Parks and Recreation Director
declares an emergency to exist that requires the immediate removal of the
timber. If an emergency has been so declared:

(i) The timber, regardless of value, may be sold by a negotiated price; and

(ii) The director shall make available for public inspection a written statement giving the reasons for declaring the emergency.

(e) In the case of real property acquired by eminent domain, the prior owner of real property for which sale, lease, exchange or other disposal is proposed must be given the first opportunity to reacquire the property in accordance with ORS chapter 35.

(4) Enter into contracts deemed necessary for the construction, maintenance, operation, improvement or betterment of parks or for the accomplishment of the purposes of chapter 904, Oregon Laws 1989. All contracts executed by the department shall be made in the name of this state, by and through the department.

(5) In carrying out its duties, functions and powers under this chapter, publish guides and other materials relating to recreational opportunities in this state or to any program or function administered by the department. The department may arrange for the sale of such publications. The price of such publications shall include the cost of publishing and distributing the materials. All moneys received by the department from the sale of publications shall be deposited in the State Parks and Recreation Department Fund. The department may contract for the publication of the materials described in this subsection, including the research, design and writing of the materials. The contract may include, among other matters, provisions for advance payment or reimbursement for services performed under the contract.
SUMMARY

Requires Class II and Class IV all-terrain vehicle operator 16 years of age or older to carry and present both driver license and all-terrain vehicle operator permit.

Requires Class II and Class IV all-terrain vehicle operator to complete safety education course or pass equivalency examination to obtain all-terrain vehicle operator permit.

Limits Class II all-terrain vehicle operator permits to persons 15 years of age or older.

Directs State Parks and Recreation Department to adopt rules to provide for Class II all-terrain vehicle safety education courses and to issue operator permit to person who has taken course.

Adds Class II all-terrain vehicle to various offenses relating to all-terrain vehicles.

Creates offense of operation of a Class II all-terrain vehicle without driving privileges. Punishes by maximum fine of $500.

Creates offense of endangering a Class II all-terrain vehicle operator. Punishes by maximum fine of $500.

Creates offense of failure to carry on all-terrain vehicle operator permit or to present an all-terrain vehicle operator permit to a police officer. Punishes by maximum fine of $500.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to all-terrain vehicles; creating new provisions; amending ORS 390.555, 390.577, 807.020, 813.110, 821.165, 821.170, 821.172, 821.174, 821.176, 821.291, 821.292 and 821.293; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 390.550 to 390.590.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SECTION 2. (1) The State Parks and Recreation Department shall issue or provide for issuance of a Class II all-terrain vehicle operator permit to any person who:

(a) Is at least 15 years of age and has taken a Class II all-terrain vehicle safety education course established under this section and has been found qualified to operate a Class II all-terrain vehicle; or

(b) Is at least 16 years of age, has five or more years of experience operating a Class II all-terrain vehicle and passes an equivalency examination.

(2) The department shall adopt rules to provide for Class II all-terrain vehicle safety education courses, equivalency examinations and the issuance of Class II all-terrain vehicle operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

(a) The courses must be given by instructors designated by the department as qualified to conduct the courses and issue the permits.

(b) The instructors may be provided and permits issued through public or private local and state organizations meeting qualifications established by the department.

(c) The department may collect a fee of not more than $5 from each participant in a course established under this section.

SECTION 3. Sections 4, 5 and 6 of this 2019 Act are added to and made a part of the Oregon Vehicle Code.

SECTION 4. (1) A person 16 years of age or older commits the offense of operation of a Class II all-terrain vehicle without driving privileges if the person operates a Class II all-terrain vehicle on public lands and the person does not hold a valid driver license issued under ORS 807.040 and a valid Class II all-terrain vehicle operator permit issued under section 2 of this 2019 Act.

(2) A child under 16 years of age commits the offense of operation of a Class II all-terrain vehicle without driving privileges if the child
operates a Class II all-terrain vehicle on public lands and the child
does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18
years of age, holds a valid driver license issued under ORS 807.040,
holds a valid all-terrain vehicle operator permit issued under ORS
390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to
provide immediate assistance and direction to the child.

(b) The child must hold a valid Class II all-terrain vehicle operator
permit issued under section 2 of this 2019 Act.

(3) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations
or used by persons licensed under ORS chapter 571 exclusively for
nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of a Class II
all-terrain vehicle without driving privileges, is a Class C traffic vio-
lation.

SECTION 5. (1) A person commits the offense of endangering a
Class II all-terrain vehicle operator if the person is the parent, legal
guardian or person with legal responsibility for the safety and welfare
of a child under 16 years of age, the child operates a Class II all-terrain
vehicle on public lands and the child:

(a) Does not hold a valid Class II all-terrain vehicle operator permit
issued under section 2 of this 2019 Act; or

(b) Is not accompanied by a person who is at least 18 years of age,
holds a valid driver license issued under ORS 807.040, holds a valid
all-terrain vehicle operator permit issued under ORS 390.570, 390.575
or 390.577 or section 2 of this 2019 Act and is able to provide immediate
assistance and direction to the child.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations
or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class II all-terrain vehicle operator, is a Class C traffic violation.

SECTION 6. (1) A person commits the offense of failure to carry an all-terrain vehicle operator permit or to present an all-terrain vehicle operator permit to a police officer if the person:

(a) Operates a Class I, Class II, Class III or Class IV all-terrain vehicle on public lands without a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act in the person’s possession;

(b) Is 16 years of age or older and operates a Class II or Class IV all-terrain vehicle on public lands without a valid driver license in the person’s possession; or

(c) Does not present and deliver such all-terrain vehicle operator permit or driver license to a police officer when requested by the police officer under any of the following circumstances:

(A) Upon being lawfully stopped or detained when operating a Class I, Class II, Class III or Class IV all-terrain vehicle.

(B) When a Class I, Class II, Class III or Class IV all-terrain vehicle that the person was operating is involved in an accident.

(2) Except as provided in ORS 813.110, it is a defense to any charge under this section that the person so charged produce a Class I, Class II, Class III or Class IV all-terrain vehicle operator permit or driver license that had been issued to the person and was valid at the time of violation of this section.

(3) A police officer may detain a person arrested or cited for the offense described in this section only for such time as reasonably necessary to investigate and verify the person’s identity.

(4) The offense described in this section, failure to carry an all-
terrain vehicle operator permit or to present an all-terrain vehicle
operator permit to a police officer, is a Class C violation.

SECTION 7. ORS 390.555 is amended to read:

390.555. The All-Terrain Vehicle Account is established as a separate ac-
count in the State Parks and Recreation Department Fund, to be accounted
for separately. Interest earned by the All-Terrain Vehicle Account shall be
credited to the account. After deduction of expenses of collection, transfer
and administration, including the expenses of establishment and operation
of Class I, Class II, Class III and Class IV all-terrain vehicle safety educa-
tion courses and examinations under ORS 390.570, 390.575 and 390.577 and
section 2 of this 2019 Act, the following moneys shall be transferred to the
account:

(1) Fees collected by the State Parks and Recreation Department for is-
suance of operating permits for all-terrain vehicles under ORS 390.580 and
390.590.

(2) Fees collected by the department from participants in the Class I,
Class II, Class III and Class IV all-terrain vehicle safety education courses
under ORS 390.570, 390.575 and 390.577 and section 2 of this 2019 Act.

(3) The moneys transferred from the Department of Transportation under
ORS 802.125 that represent unrefunded fuel tax.

SECTION 8. ORS 390.577 is amended to read:

390.577. (1) The State Parks and Recreation Department shall issue or
provide for issuance of a Class IV all-terrain vehicle operator permit to any
person who:

(a) Has taken a Class IV all-terrain vehicle safety education course es-
tablished under this section and has been found qualified to operate a Class
IV all-terrain vehicle; or

(b) Is at least 16 years of age, has five or more years of experience
operating a Class IV all-terrain vehicle and passes an equivalency ex-
amination.

(2) The department shall adopt rules to provide for Class IV all-terrain
vehicle safety education courses, equivalency examinations and the issuance of Class IV all-terrain vehicle operator permits consistent with this section. The rules adopted by the department shall be consistent with the following:

(a) The courses must be given by instructors designated by the department as qualified to conduct the courses and issue the permits.

(b) The instructors may be provided and permits issued through public or private local and state organizations meeting qualifications established by the department.

(c) The department may collect a fee of not more than $5 from each participant in a course established under this section.

SECTION 9. ORS 807.020, as amended by section 36, chapter 76, Oregon Laws 2018, is amended to read:

807.020. A person who is granted a driving privilege by this section may exercise the driving privilege described without violation of the requirements under ORS 807.010. A grant of driving privileges to operate a motor vehicle under this section is subject to suspension and revocation the same as other driving privileges granted under the vehicle code. This section is in addition to any exemptions from the vehicle code under ORS 801.026. The following persons are granted the described driving privileges:

(1) A person who is not a resident of this state or who has been a resident of this state for less than 30 days may operate a motor vehicle without an Oregon license or driver permit if the person holds a current out-of-state license issued to the person. For the purpose of this subsection, a person is a resident of this state if the person meets the residency requirements described in ORS 807.062. To qualify under this subsection, the person must have the out-of-state license or driver permit in the person’s possession. A person is not granted driving privileges under this subsection:

(a) If the person is under the minimum age required to be eligible for driving privileges under ORS 807.060;

(b) During a period of suspension or revocation by this state or any other jurisdiction of driving privileges or of the right to apply for a license or
driver permit issued by this state or any other jurisdiction; or

(c) That exceed the driving privileges granted to the person by the out-of-state license or driver permit.

(2) A person who is a member of the Armed Forces of the United States or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle without an Oregon license or driver permit if the person is operating a motor vehicle in the course of the person’s duties in the Armed Forces or the National Oceanic and Atmospheric Administration.

(3) A person without a license or driver permit may operate a road roller or road machinery that is not required to be registered under the laws of this state.

(4) A person without a license or driver permit may temporarily operate, draw, move or propel a farm tractor or implement of husbandry.

(5) A person without a license or driver permit may operate a motor vehicle to demonstrate driving ability during the course of an examination administered under ORS 807.070 for the purpose of qualifying for a license or driver permit. This subsection only applies when an authorized examiner is in a seat beside the driver of the motor vehicle.

(6) Driving privileges for snowmobiles are exclusively as provided in ORS 821.150.

(7) Driving privileges for Class I all-terrain vehicles are exclusively as provided in ORS 821.170, unless a person is operating a Class I all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the Oregon Transportation Commission as open to all-terrain vehicles.

(8) Driving privileges for Class II all-terrain vehicles are exclusively as provided in section 4 of this 2019 Act, unless a person is operating a Class II all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.

[(8)] (9) Driving privileges for Class III all-terrain vehicles are exclusively
as provided in ORS 821.172, unless a person is operating a Class III all-
terrain vehicle on an all-terrain vehicle highway access route that is desig-
nated by the commission as open to all-terrain vehicles.

[(9)] [(10)] Driving privileges for Class IV all-terrain vehicles are exclu-
sively as provided in ORS 821.176, unless a person is operating a Class IV all-terrain vehicle on an all-terrain vehicle highway access route that is designated by the commission as open to all-terrain vehicles.

[(10)] [(11)] A person without a license or driver permit may operate a golf cart in accordance with an ordinance adopted under ORS 810.070.

[(11)] [(12)] The spouse of a member of the Armed Forces of the United States on active duty or the spouse of a member of the commissioned corps of the National Oceanic and Atmospheric Administration who is accompa-
yning the member on assignment in this state may operate a motor vehicle if the spouse has a current out-of-state license or driver permit issued to the spouse by another state in the spouse’s possession.

[(12)] [(13)] A person who is a member of the Armed Forces of the United States on active duty or a member of the commissioned corps of the National Oceanic and Atmospheric Administration may operate a motor vehicle if the person has a current out-of-state license or driver permit in the person’s possession that is issued to the person by the person’s state of domicile or by the Armed Forces of the United States in a foreign country. Driving privileges described under this subsection that are granted by the Armed Forces apply only for a period of 45 days from the time the person returns to the United States.

[(13)] [(14)] A person who does not hold a motorcycle endorsement may operate a motorcycle if the person is:

(a) Within an enclosed cab;
(b) Operating a vehicle designed to travel with three wheels in contact with the ground at speeds of less than 15 miles per hour; or
(c) Operating an autocycle.

[(14)] [(15)] A person may operate a bicycle that is not an electric assisted
bicycle without any grant of driving privileges.

[(15)] (16) A person may operate an electric assisted bicycle without a
driver license or driver permit if the person is 16 years of age or older.

[(16)] (17) A person may operate a motor assisted scooter without a driver
license or driver permit if the person is 16 years of age or older.

[(17)] (18) A person who is not a resident of this state or who has been
a resident of this state for less than 30 days may operate a motor vehicle
without an Oregon license or driver permit if the person is at least 15 years
of age and has in the person’s possession a current out-of-state equivalent
of a Class C instruction driver permit issued to the person. For the purpose
of this subsection, a person is a resident of this state if the person meets the
residency requirements described in ORS 807.062. A person operating a mo-
tor vehicle under authority of this subsection has the same privileges and is
subject to the same restrictions as a person operating under the authority
of a Class C instruction driver permit issued as provided in ORS 807.280.

[(18)] (19) A person may operate an electric personal assistive mobility
device without any grant of driving privileges if the person is 16 years of
age or older.

SECTION 10. ORS 813.110 is amended to read:

813.110. (1) Except as otherwise provided by this section, police officers,
on behalf of the Department of Transportation, shall issue temporary driving
permits described under this section to persons when required under ORS
813.100.

(2) The department shall provide police departments and agencies with
permits for issuance as required by this section. The department shall es-
tablish the form and content of permits described in this section as the de-
partment determines appropriate, but in a manner consistent with this
section.

(3) A permit described in this section is subject to all the following:
(a) Except as provided in paragraph (b) of this subsection, the permit is
valid until the 30th day after the date of arrest.
(b) During the 12-hour period following issuance of the permit, the person is subject to ORS 807.570 and section 6 of this 2019 Act, and the permit is not a defense to a charge under ORS 807.570 or section 6 of this 2019 Act.

(c) The permit shall be issued without payment of any fee.

(d) The permit grants the same driving privileges as those granted by the person’s license taken into possession under ORS 813.100.

(4) A police officer shall not issue a permit under this section if:

(a) Driving privileges of the person were suspended, revoked or canceled at the time the person was arrested;

(b) The person whose license was taken into custody was operating on an invalid license;

(c) The person was not entitled to driving privileges at the time of the arrest for any other reason; or

(d) The person holds a license or permit granting driving privileges that was issued by another state or jurisdiction and that is not taken into custody under ORS 813.100.

SECTION 11. ORS 821.165 is amended to read:

821.165. As used in ORS 821.170, 821.172, 821.176, 821.192, 821.291, 821.292 and 821.293 and sections 4, 5 and 6 of this 2019 Act, “public lands” includes privately owned land that is open to the general public for the use of all-terrain vehicles as the result of funding from the All-Terrain Vehicle Account under ORS 390.560.

SECTION 12. ORS 821.170 is amended to read:

821.170. (1) A person 16 years of age or older commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the person operates a Class I all-terrain vehicle on public lands and the person does not hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(2) A child under 16 years of age commits the offense of operation of a Class I all-terrain vehicle without driving privileges if the child operates a Class I all-terrain vehicle on public lands and the child does not meet all the
following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570.

(c) The child must meet rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(3) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of Class I all-terrain vehicle without driving privileges, is a Class C traffic violation.

SECTION 13. ORS 821.172 is amended to read:

821.172. (1) A person 16 years of age or older commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the person operates a Class III all-terrain vehicle on public lands and the person does not hold a valid Class III all-terrain vehicle operator permit issued under ORS 390.575.

(2) A child under 16 years of age commits the offense of operation of a Class III all-terrain vehicle without driving privileges if the child operates a Class III all-terrain vehicle on public lands and the child does not meet all the following conditions:

(a) The child must be accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to provide immediate assistance and direction to the child.

(b) The child must hold a valid Class III all-terrain vehicle operator per-
(3) A child under seven years of age may not operate a Class III all-terrain vehicle on public lands.

(4) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(5) The offense described in this section, operation of a Class III all-terrain vehicle without driving privileges, is a Class C traffic violation.

SECTION 14. ORS 821.174 is amended to read:

821.174. Notwithstanding any other provision of law, a person may not operate a Class I, Class II, Class III or Class IV all-terrain vehicle while the person’s driving privileges are suspended or revoked. A person who violates this section is in violation of ORS 811.175 or 811.182, as appropriate.

SECTION 15. ORS 821.176 is amended to read:

821.176. (1) A person 16 years of age or older commits the offense of operation of a Class IV all-terrain vehicle without driving privileges if the person operates a Class IV all-terrain vehicle on public lands and the person does not hold a valid driver license issued under ORS 807.040 and a valid Class IV all-terrain vehicle operator permit issued under ORS 390.577.

(2) [This section does not apply to a child under the age of 16 if:] A child under 16 years of age commits the offense of operation of a Class IV all-terrain vehicle without driving privileges if the child operates a Class IV all-terrain vehicle on public lands and the child does not meet all of the following conditions:

(a) The child’s age [complies] must comply with the manufacturer’s minimum age recommendation as evidenced by the manufacturer’s warning label affixed to the vehicle;

(b) The child [is] must be accompanied by a person who is at least 18 years of age, [who] holds a valid driver license issued under ORS 807.040,
holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and [who] is able to provide immediate assistance and direction to the child; and

(c) The child [holds a] must hold a valid Class IV all-terrain vehicle operator permit issued under ORS 390.577.

(3) This section does not apply if:

(a) The vehicle is used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; [or] and

(b) The vehicle is being used on land owned or leased by the owner of the vehicle.

(4) The offense described in this section, operation of a Class IV all-terrain vehicle without driving privileges, is a Class C traffic violation.

SECTION 16. ORS 821.291 is amended to read:

821.291. (1) A person commits the offense of endangering a Class I all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class I all-terrain vehicle on public lands and the child:

(a) Does not [possess a] hold a valid Class I all-terrain vehicle operator permit issued under ORS 390.570;

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to provide immediate assistance and direction to the child; or

(c) Is not in compliance with the rider fit guidelines established by the Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

[13]
(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class I all-terrain vehicle operator, is a Class C traffic violation.

SECTION 17. ORS 821.292 is amended to read:

821.292. (1) A person commits the offense of endangering a Class III all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child at least seven years of age but under 16 years of age, the child operates a Class III all-terrain vehicle on public lands and the child:

(a) Does not possess a valid Class III all-terrain vehicle operator permit issued under ORS 390.575; or

(b) Is not accompanied by a person who is at least 18 years of age, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to provide immediate assistance and direction to the child.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class III all-terrain vehicle operator, is a Class C traffic violation.

SECTION 18. ORS 821.293 is amended to read:

821.293. (1) A person commits the offense of endangering a Class IV all-terrain vehicle operator if the person is the parent, legal guardian or person with legal responsibility for the safety and welfare of a child under 16 years of age, the child operates a Class IV all-terrain vehicle on public lands and the child:

(a) Does not possess a valid Class IV all-terrain vehicle operator permit issued under ORS 390.577;

(b) Is not accompanied by a person who is at least 18 years of age, holds
a valid driver license issued under ORS 807.040, holds a valid all-terrain vehicle operator permit issued under ORS 390.570, 390.575 or 390.577 or section 2 of this 2019 Act and is able to provide immediate assistance and direction to the child;

(c) Is not in compliance with the manufacturer’s minimum age recommendation as evidenced by the manufacturer’s warning label affixed to the vehicle; or

(d) Is not in compliance with the rider fit guidelines established by the State Parks and Recreation Department under ORS 390.585.

(2) This section does not apply if the all-terrain vehicle is:

(a) Used exclusively in farming, agricultural or forestry operations or used by persons licensed under ORS chapter 571 exclusively for nursery or Christmas tree growing operations; and

(b) Being used on land owned or leased by the owner of the vehicle.

(3) The offense described in this section, endangering a Class IV all-terrain vehicle operator, is a Class C traffic violation.


SECTION 20. The State Parks and Recreation Department may take any action before the operative date specified in section 19 of this 2019 Act that is necessary for the department to exercise, on and after the operative date specified in section 19 of this 2019 Act, all of the duties, functions and powers conferred on the department by sections 1 to 6 of this 2019 Act and the amendments to ORS 390.555, 390.577, 807.020, 813.110, 821.165, 821.170, 821.172, 821.174, 821.176, 821.291, 821.292 and 821.293 by sections 7 to 18 of this 2019 Act.

SECTION 21. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Directs State Parks and Recreation Department to work in cooperation with Department of Transportation to allocate funding for bicycle and pedestrian projects. Sunsets January 2, 2025.

Repeals Department of Transportation’s authority to request reimbursement for funding bicycle and pedestrian projects within Connect Oregon program.

A BILL FOR AN ACT

Relating to use of lottery funding for transportation projects; creating new provisions; and repealing ORS 367.089.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Each biennium, in cooperation with the Department of Transportation, the State Parks and Recreation Department shall allocate up to $4 million of lottery revenues used for outdoor recreation improvement projects for bicycle and pedestrian projects to meet recreation and transportation needs.

SECTION 2. Section 1 of this 2019 Act is repealed on January 2, 2025.

SECTION 3. ORS 367.089 is repealed.

SECTION 4. The repeal of ORS 367.089 by section 3 of this 2019 Act does not apply to a request for reimbursement submitted pursuant to ORS 367.089 that is received by the State Parks and Recreation Department before the effective date of this 2019 Act. A request for reimbursement received before the effective date of this 2019 Act shall be governed by the provisions of ORS 367.089 in effect immediately before the effective date of this 2019 Act.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
SUMMARY

Provides that interest earned by Employer Incentive Fund may be used to match lump sum payments by participating public employers in Public Employees Retirement System.

Shortens time period during which participating public employers in Public Employees Retirement System must make lump sum payments to receive matching funds from Employer Incentive Fund. Shortens time period during which certain employers have priority to reserve matching funds from Employer Incentive Fund.

Provides for certain transfers to School Districts Unfunded Liability Fund to occur on last business day of odd-numbered year.

Limits participation in Unfunded Actuarial Liability Resolution Program to participating public employers that have applied to reserve matching amounts from Employer Incentive Fund.

Sunsets Unfunded Actuarial Liability Resolution Program on January 2, 2025.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to employer contributions to the Public Employees Retirement System; amending sections 1, 2, 3, 13, 15 and 26, chapter 105, Oregon Laws 2018; repealing section 26, chapter 105, Oregon Laws 2018; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 1, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 1. (1) The Employer Incentive Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by
the Employer Incentive Fund shall be credited to the fund,[but]. Interest earned by the fund may [not] be used under section 2, chapter 105, Oregon Laws 2018, [of this 2018 Act] to match lump sum payments made under ORS 238.229.

(2) Moneys in the fund are continuously appropriated to the Public Employees Retirement Board for the purposes described in sections 2 and 26, chapter 105, Oregon Laws 2018 [of this 2018 Act].

SECTION 2. Section 2, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 2. (1)(a) The Public Employees Retirement Board shall establish a process for distributing the moneys in the Employer Incentive Fund established under section 1, chapter 105, Oregon Laws 2018 [of this 2018 Act].

(b) The process must allow a participating public employer to apply to reserve matching amounts in the Employer Incentive Fund by committing to make a qualifying lump sum payment of at least $25,000 to an account established under ORS 238.229.

(2) The board shall adopt rules establishing:

(a) The percentage of a lump sum payment that may be matched by distributions from the fund, not to exceed 25 percent of a qualifying lump sum payment.

(b) The maximum matching amount that may be reserved by a participating public employer, not to exceed the greater of:

(A) Five percent of the unfunded actuarial liability attributable to the employer, as determined in the most recent report prepared under ORS 238.605; or

(B) $300,000.

(c) The qualifications for lump sum payments that may be matched under this section. The qualifications must include the following requirements:

(A) The participating public employer must apply to reserve matching funds no later than December 31, 2019.

(B) The participating public employer must make the qualifying lump sum
payment no later than [July 1, 2023] **September 30, 2021**.

(C) A qualifying lump sum payment may not be a payment from moneys borrowed by the employer.

(d) A requirement that the participating public employer participate in the Unfunded Actuarial Liability Resolution Program to develop a plan under section 26, *chapter 105, Oregon Laws 2018* [of this 2018 Act].

[(3)(a) The board may begin accepting applications under subsection (1) of this section on the date on which the board determines that there are sufficient moneys in the Employer Incentive Fund.]

[(b)] (3)(a) For [180] **90** days after the board begins accepting applications under subsection (1) of this section, a participating public employer may apply to reserve matching amounts from the Employer Incentive Fund under subsection (1) of this section only if the unfunded actuarial liability attributable to the employer, as determined in the most recent report prepared under ORS 238.605, is more than 200 percent of the employer’s payroll for members of the Public Employees Retirement System.

[(c)] (b) After the [180-day] **90-day** period described in paragraph [(b)] (a) of this subsection, any participating public employer may apply to reserve matching funds from the Employer Incentive Fund under subsection (1) of this section.

(4)(a) The board shall approve applications that meet the qualifications established under subsection (2) of this section in the order in which the applications are submitted. The board shall continue approving applications as long as **adequate** moneys in the Employer Incentive Fund are **projected to become** available.

(b) After all of the moneys projected to become available in the Employer Incentive Fund are reserved for matching under paragraph (a) of this subsection, the board may establish a waiting list for the remaining timely submitted applications and, if sufficient moneys in the Employer Incentive Fund become available, shall approve, in the order in which they were submitted, applications that meet the qual-
fications under subsection (2) of this section.

(5) The board shall transfer matching amounts approved under subsection (4) of this section from the Employer Incentive Fund to the approved employers’ accounts established under ORS 238.229.

(6) The board may transfer moneys from the Employer Incentive Fund to the Public Employees Retirement Fund established under ORS 238.660 for crediting to the reserves for pension accounts and annuities as provided in ORS 238.670 (2).

(7) The board may use moneys in the Employer Incentive Fund for reasonable administrative costs incurred under this section.

SECTION 3. Section 3, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 3. (1) Section 2, chapter 105, Oregon Laws 2018, as amended by section 2 of this 2019 Act, [of this 2018 Act] is repealed January 2, 2025.

(2)(a) The Employer Incentive Fund established under section 1, chapter 105, Oregon Laws 2018, [of this 2018 Act] is abolished on January 2, 2025.

(b) The unexpended moneys remaining in the Employer Incentive Fund on January 2, 2025, shall be transferred to the General Fund.

(3) Section 26, chapter 105, Oregon Laws 2018, as amended by section 6 of this 2019 Act, is repealed on January 2, 2025.

SECTION 4. Section 13, chapter 105, Oregon Laws 2018, is amended to read:

Sec. 13. (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and 2023, the division of the Oregon Department of Administrative Services that serves as office of economic analysis shall:

(a) Calculate the rate of change in the tax liability from personal income taxes on taxable capital gains during the five preceding biennia; and

(b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the tax liability from personal income taxes on taxable capital gains for the biennium beginning on July 1 of the year in which the calculation is made.
(2) Not later than November 1 of the odd-numbered year following each calculation under subsection (1) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall estimate the tax liability from personal income taxes on taxable capital gains for the previous biennium.

(3) Not later than November 30 of the odd-numbered year in which the estimate is made under subsection (2) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall determine whether the tax liability from personal income taxes on capital gains estimated under subsection (2) of this section, less any amount required to be returned to taxpayers under ORS 291.349, exceeds the tax liability from personal income taxes on taxable capital gains forecasted under subsection (1) of this section.

(4) Except as provided in subsection (5) of this section, on the last business day of the odd-numbered year in which the estimate is made under subsection (2) of this section, the Department of Revenue shall transfer an amount equal to 25 percent of any excess calculated under subsection (3) of this section to the School Districts Unfunded Liability Fund established in section 24, chapter 105, Oregon Laws 2018 [of this 2018 Act].

(5) The Department of Revenue may not make a transfer under subsection (4) of this section if:

(a) The Legislative Assembly has appropriated moneys from the Oregon Rainy Day Fund under ORS 293.144 on or after [the effective date of this 2018 Act] June 2, 2018; or

(b) The Public Employees Retirement System is more than 90 percent funded as determined in accordance with rules adopted by the Public Employees Retirement Board.

(6) The Department of Revenue shall retain unreceipted revenue from the tax imposed under ORS chapter 316 in an amount necessary to make the transfer required under subsection (4) of this section. The department shall
make the transfer out of the unreceipted revenue in lieu of paying the revenue over to the State Treasurer for deposit in the General Fund.

**SECTION 5.** Section 15, chapter 105, Oregon Laws 2018, is amended to read:

**Sec. 15.** (1) Not earlier than July 1 and not later than October 1 of the years 2019, 2021 and 2023, the division of the Oregon Department of Administrative Services that serves as office of economic analysis shall:

(a) Calculate the rate of change in collections from estate taxes during the five preceding biennia; and

(b) Use the rate of change calculated under paragraph (a) of this subsection to forecast the collections from estate taxes for the biennium beginning on July 1 of the year in which the calculation is made.

(2) Not later than November 1 of the odd-numbered year following each calculation under subsection (1) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall estimate the collections from estate taxes for the previous biennium.

(3) Not later than November 30 of the odd-numbered year in which the estimate is made under subsection (2) of this section, the Oregon Department of Administrative Services, in consultation with the Department of Revenue, shall determine whether the collections from estate taxes estimated under subsection (2) of this section exceed the collections from estate taxes forecasted under subsection (1) of this section.

(4) **On the last business day of the odd-numbered year in which the estimate is made under subsection (2) of this section,** the Department of Revenue shall transfer an amount equal to the amount of any excess calculated under subsection (3) of this section, less any amount required to be returned to taxpayers under ORS 291.349, to the School Districts Unfunded Liability Fund established in section 24, **chapter 105, Oregon Laws 2018 [of this 2018 Act].**

(5) The Department of Revenue shall retain unreceipted revenue from estate taxes imposed under ORS 118.005 to 118.540 in an amount necessary to
make the transfer required under subsection (4) of this section. The depart-
ment shall make the transfer out of the unreceipted revenue in lieu of paying
the revenue over to the State Treasurer for deposit in the General Fund.

SECTION 6. Section 26, chapter 105, Oregon Laws 2018, is amended to
read:

Sec. 26. (1) The Public Employees Retirement Board shall establish an
Unfunded Actuarial Liability Resolution Program. Under the program, the
board shall provide technical expertise to participating public employers
that have applied to reserve matching amounts under section 2,
chapter 105, Oregon Laws 2018, from the Employer Incentive Fund es-
tablished in section 1, chapter 105, Oregon Laws 2018, in developing
plans to improve the employers’ funded status and to manage projected em-
ployer contribution rate changes. Participating public employers are not re-
quired to participate in the program.

(2) The board may use moneys in the Employer Incentive Fund [estab-
lished in section 1 of this 2018 Act] for reasonable administrative costs in-
curred under this section.

SECTION 7. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Renames Physical Therapist Licensing Board to Oregon Board of Physical Therapy.

A BILL FOR AN ACT


Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 182.454 is amended to read:

ORS 182.454. The following semi-independent state agencies are subject to ORS 182.456 to 182.472:

1. The Appraiser Certification and Licensure Board.
2. The State Board of Architect Examiners.
3. The State Board of Examiners for Engineering and Land Surveying.
4. The State Board of Geologist Examiners.
5. The State Landscape Architect Board.
6. The Oregon Board of Optometry.
8. The Oregon Wine Board.
9. The State Board of Massage Therapists.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
Therapy.
(11) The State Landscape Contractors Board.

SECTION 2. ORS 182.460 is amended to read:

182.460. (1) Except as provided in subsections (2) and (3) of this section and as otherwise provided by law, the provisions of ORS 283.085 to 283.092 and ORS chapters 240, 276, 279A, 279B, 279C, 282, 283, 291, 292 and 293 do not apply to a board. A board is subject to all other statutes governing a state agency that do not conflict with ORS 182.456 to 182.472, including the tort liability provisions of ORS 30.260 to 30.300 and the provisions of ORS chapter 183, and a board’s employees are included within the Public Employees Retirement System.

(2) Notwithstanding subsection (1) of this section, the following provisions apply to a board:

(a) ORS 240.309 (1) to (6) and 240.321;
(b) ORS 279A.250 to 279A.290;
(c) ORS 282.210 to 282.230; and
(d) ORS 293.240.

(3) Notwithstanding subsection (1) of this section, ORS chapter 240 applies to the Oregon Board of Optometry, the State Board of Massage Therapists and the Physical Therapist Licensing Board.

(4) In carrying out the duties, functions and powers of a board, the board may contract with any state agency for the performance of duties, functions and powers as the board considers appropriate. A state agency may not charge a board an amount that exceeds the actual cost of those services. ORS 182.456 to 182.472 do not require an agency to provide services to a board other than pursuant to a voluntary interagency agreement or contract.

(5) A board shall adopt personnel policies and contracting and purchasing procedures. The Oregon Department of Administrative Services shall review those policies and procedures for compliance with applicable state and fed-
eral laws and collective bargaining contracts.

(6) Except as otherwise provided by law, directors and employees of a board are eligible to receive the same benefits as state employees and are entitled to retain their State of Oregon hire dates, transfer rights and job bidding rights, all without loss of seniority, and to the direct transfer of all accumulated state agency leaves.

SECTION 3. ORS 182.462 is amended to read:

182.462. (1)(a) A board shall adopt budgets on a biennial basis using classifications of expenditures and revenues required by ORS 291.206 (1), but the budget is not subject to review and approval by the Legislative Assembly or to future modification by the Emergency Board or the Legislative Assembly.

(b) The budget referred to in paragraph (a) of this subsection shall be adopted in accordance with applicable provisions of ORS chapter 183. Except as provided in this paragraph, a board shall adopt or modify a budget only after a public hearing thereon. A board must give notice of the hearing to all holders of licenses issued by the board.

(c) A board shall follow generally accepted accounting principles and keep financial and statistical information as necessary to completely and accurately disclose the financial condition and financial operations of the board as may be required by the Secretary of State.

(d) A board shall prepare an annual financial statement of board revenues and expenses and shall make the statement available for public review. The board shall provide a copy of the statement to the Oregon Department of Administrative Services not later than the 90th day after the end of the state fiscal year.

(e) A board may, by rule, elect to donate all or part of the revenue derived by the board from civil penalties to the General Fund of the State Treasury.

(2) In addition to the reports required by ORS 182.472, the Oregon Board of Optometry, the State Board of Massage Therapists and the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy shall, on
or before February 1 of each odd-numbered year, present the budget adopted by the board under this section to the Governor, the President of the Senate, the Speaker of the House of Representatives and the Legislative Fiscal Officer.

SECTION 4. ORS 445.010 is amended to read:

445.010. As used in this chapter, unless the context requires otherwise:

(1) “Ambulance operator” means any person operating an ambulance for hire.

(2) “Authority” means the Oregon Health Authority.

(3) “Care” means:

(a) Treatment in and by a hospital.

(b) Professional services of a doctor.

(c) Professional services of a nurse.

(d) Medicines, substances, articles, appliances or physical therapy supplied on the prescription or order of the doctor in charge of the case.

(e) Transportation and services by an ambulance operator.

(f) Supplying prosthetic appliances and services.

(g) Any combination of any two or more of the services listed in this subsection.

(h) Professional services of a licensed physical therapist.

(4) “Claimant” means a hospital, doctor, nurse, pharmacy, ambulance operator, supplier of prosthetic appliances and services or licensed physical therapist, who supplies care to an indigent patient, and who files a claim for charges therefor pursuant to this chapter. In respect of a hospital, it includes the operator or managing officer thereof. “Claimant” also means an indigent patient, or a personal representative of the patient after the death of the patient, but claims allowed shall be paid directly to those who supply care to the indigent patient; and an indigent claimant, or personal representative of the patient, has no right of appeal under ORS 445.160 (1969 Replacement Part).

(5) “Doctor” means a person licensed by the appropriate board of this
state to practice one or more of the healing arts.

(6) “Hospital” includes nursing homes and means any institution that has a provider agreement with the authority and which admits and cares for patients suffering from motor vehicle injuries and applies for the benefits of this chapter in the manner provided in ORS 445.110.

(7) “Indigent patient” means a person who has suffered a motor vehicle injury and who is unable to pay the cost of the care supplied on account of such injury and, except in the case of a claim filed after a claim arising out of the same motor vehicle injury has been allowed by the authority or finally adjudged affirmatively by a court on appeal, whose account therefor remains unpaid at the expiration of 90 days after the termination of the care and who is not entitled to the benefits of the Workers’ Compensation Law of this state or any other state or country on account of such injury.

(8) “Motor vehicle injury” means any personal injury suffered by a human being, and accidentally caused in, by, or as the proximate result of, the movement of a motor vehicle on a public way, street or highway within this state, whether the injured person is the operator of the vehicle, a passenger in the same or another vehicle, a pedestrian or whatever the relationship of the injured person to the movement of the vehicle, and whether or not the vehicle is under the control of a human being at the time of the injury.

(9) “Nurse” means a person registered or licensed to practice nursing by the Oregon State Board of Nursing.

(10) “Pharmacy” means a place of business licensed by the State Board of Pharmacy, where drugs, medicines, prescriptions, chemicals or poisons are compounded, dispensed or sold at retail.

(11) “Supplier of prosthetic appliances and services” means a place of business or person licensed to manufacture or supply prosthetic appliances and services.

(12) “Licensed physical therapist” means a physical therapist within the State of Oregon licensed by the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy.
SECTION 5. ORS 676.150, as amended by section 19, chapter 61, Oregon Laws 2018, is amended to read:

676.150. (1) As used in this section:

(a) "Board" means the:

(A) State Board of Examiners for Speech-Language Pathology and Audiology;
(B) State Board of Chiropractic Examiners;
(C) State Board of Licensed Social Workers;
(D) Oregon Board of Licensed Professional Counselors and Therapists;
(E) Oregon Board of Dentistry;
(F) Board of Licensed Dietitians;
(G) State Board of Massage Therapists;
(H) Oregon Board of Naturopathic Medicine;
(I) Oregon State Board of Nursing;
(J) Long Term Care Administrators Board;
(K) Oregon Board of Optometry;
(L) State Board of Pharmacy;
(M) Oregon Medical Board;
(N) Occupational Therapy Licensing Board;
(O) [Physical Therapist Licensing Board] Oregon Board of Physical Therapy;
(P) Oregon Board of Psychology;
(Q) Board of Medical Imaging;
(R) State Board of Direct Entry Midwifery;
(S) State Board of Denture Technology;
(T) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
(U) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers;
(V) Oregon State Veterinary Medical Examining Board; or
(W) State Mortuary and Cemetery Board.

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(b) “Licensee” means a health professional licensed or certified by or registered with a board.

(c) “Prohibited conduct” means conduct by a licensee that:

(A) Constitutes a criminal act against a patient or client; or

(B) Constitutes a criminal act that creates a risk of harm to a patient or client.

(d) “Unprofessional conduct” means conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee’s profession or conduct that endangers the health, safety or welfare of a patient or client.

(2) Unless state or federal laws relating to confidentiality or the protection of health information prohibit disclosure, a licensee who has reasonable cause to believe that another licensee has engaged in prohibited or unprofessional conduct shall report the conduct to the board responsible for the licensee who is believed to have engaged in the conduct. The reporting licensee shall report the conduct without undue delay, but in no event later than 10 working days after the reporting licensee learns of the conduct.

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

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

(5) A licensee who fails to report prohibited or unprofessional conduct as required by subsection (2) of this section or the licensee’s conviction or arrest as required by subsection (3) of this section is subject to discipline by the board responsible for the licensee.
(6) A licensee who fails to report prohibited conduct as required by subsection (2) of this section commits a Class A violation.

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

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

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

(10) A licensee who reports to a board in good faith as required by subsection (2) of this section is immune from civil liability for making the report.

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

**SECTION 6.** ORS 676.160 is amended to read:

676.160. As used in ORS 676.165 to 676.180, “health professional regulatory board” means the:

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

(2) State Board of Chiropractic Examiners;

(3) State Board of Licensed Social Workers;

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

(5) Oregon Board of Dentistry;

(6) State Board of Massage Therapists;

(7) State Mortuary and Cemetery Board;

(8) Oregon Board of Naturopathic Medicine;

(9) Oregon State Board of Nursing;

(10) Oregon Board of Optometry;
1. (11) State Board of Pharmacy;
2. (12) Oregon Medical Board;
3. (13) Occupational Therapy Licensing Board;
4. (14) [Physical Therapist Licensing Board] Oregon Board of Physical Therapy;
5. (15) Oregon Board of Psychology;
6. (16) Board of Medical Imaging;
7. (17) Oregon State Veterinary Medical Examining Board; and
8. (18) Oregon Health Authority, to the extent that the authority licenses emergency medical services providers.

**SECTION 7.** ORS 676.177 is amended to read:

676.177. (1) Notwithstanding any other provision of ORS 676.165 to 676.180, a health professional regulatory board, upon a determination by the board that it possesses otherwise confidential information that reasonably relates to the regulatory or enforcement function of another public entity, may disclose that information to the other public entity.

(2) Any public entity that receives information pursuant to subsection (1) of this section shall agree to take all reasonable steps to maintain the confidentiality of the information, except that the public entity may use or disclose the information to the extent necessary to carry out the regulatory or enforcement functions of the public entity.

(3) For purposes of this section, “public entity” means:

(a) A board or agency of this state, or a board or agency of another state with regulatory or enforcement functions similar to the functions of a health professional regulatory board of this state;

(b) A district attorney;

(c) The Department of Justice;

(d) A state or local public body of this state that licenses, franchises or provides emergency medical services; or

(e) A law enforcement agency of this state, another state or the federal government.
(4) Notwithstanding subsections (1) to (3) of this section, the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy may disclose information described in subsection (1) of this section to the Physical Therapy Compact Commission established in ORS 688.240.

SECTION 8. ORS 676.410 is amended to read:

676.410. (1) As used in this section, “health care workforce regulatory board” means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;
(b) State Board of Chiropractic Examiners;
(c) State Board of Licensed Social Workers;
(d) Oregon Board of Licensed Professional Counselors and Therapists;
(e) Oregon Board of Dentistry;
(f) Board of Licensed Dietitians;
(g) State Board of Massage Therapists;
(h) Oregon Board of Naturopathic Medicine;
(i) Oregon State Board of Nursing;
(j) Respiratory Therapist and Polysomnographic Technologist Licensing Board;
(k) Oregon Board of Optometry;
(L) State Board of Pharmacy;
(m) Oregon Medical Board;
(n) Occupational Therapy Licensing Board;
(o) [Physical Therapist Licensing Board] Oregon Board of Physical Therapy;
(p) Oregon Board of Psychology; and
(q) Board of Medical Imaging.

(2) An individual applying to renew a license with a health care workforce regulatory board must provide the information prescribed by the Oregon Health Authority pursuant to subsection (3) of this section to the health care workforce regulatory board. Except as provided in subsection [10]
(4) of this section, a health care workforce regulatory board may not approve an application to renew a license until the applicant provides the information.

(3) The authority shall collaborate with each health care workforce regulatory board to adopt rules establishing:

(a) The information that must be provided to a health care workforce regulatory board under subsection (2) of this section, which may include:

(A) Demographics, including race and ethnicity.
(B) Education and training information.
(C) License information.
(D) Employment information.
(E) Primary and secondary practice information.
(F) Anticipated changes in the practice.
(G) Languages spoken.

(b) The manner and form of providing information under subsection (2) of this section.

(4)(a) Subject to paragraph (b) of this subsection, a health care workforce regulatory board shall report health care workforce information collected under subsection (2) of this section to the authority.

(b) Except as provided in paragraph (c) of this subsection, personally identifiable information collected under subsection (2) of this section is confidential and a health care workforce regulatory board and the authority may not release such information.

(c) A health care workforce regulatory board may release personally identifiable information collected under subsection (2) of this section to a law enforcement agency for investigative purposes or to the authority for state health planning purposes.

(5) A health care workforce regulatory board may adopt rules to perform the board’s duties under this section.

(6) In addition to renewal fees that may be imposed by a health care workforce regulatory board, the authority shall establish fees to be paid by
individuals applying to renew a license with a health care workforce regulatory board. The amount of fees established under this subsection must be reasonably calculated to reimburse the actual cost of obtaining or reporting information as required by subsection (2) of this section.

(7) Using information collected under subsection (2) of this section, the authority shall create and maintain a health care workforce database that will provide data, including data related to the diversity of this state’s health care workforce, upon request to state agencies and to the Legislative Assembly. The authority may contract with a private or public entity to establish and maintain the database and to perform data analysis.

SECTION 9. ORS 676.440 is amended to read:

676.440. (1) Health professional regulatory boards shall encourage the development of state-of-the-art multidisciplinary pain management services and the availability of these services to the public.

(2) As used in subsection (1) of this section, “health professional regulatory boards” means the:

(a) Oregon Medical Board;
(b) Oregon Board of Naturopathic Medicine;
(c) Oregon Board of Dentistry;
(d) Oregon State Board of Nursing;
(e) [Physical Therapist Licensing Board] Oregon Board of Physical Therapy;
(f) State Board of Chiropractic Examiners;
(g) State Board of Pharmacy; and
(h) Oregon Board of Psychology.

SECTION 10. ORS 676.802 is amended to read:

676.802. As used in this section, ORS 676.806 and 676.810 to 676.820:

(1)(a) “Applied behavior analysis” means the design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce significant improvement in human social behavior, including the use of direct observation, measurement and functional analysis

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of the relationship between environment and behavior.

(b) “Applied behavior analysis” does not mean psychological testing, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy or long-term counseling as treatment modalities.

(2) “Licensed health care professional” means an individual whose scope of practice includes applied behavior analysis and who is licensed by:

(a) The Occupational Therapy Licensing Board;
(b) The Oregon Board of Licensed Professional Counselors and Therapists;
(c) The Oregon Medical Board;
(d) The Oregon State Board of Nursing;
(e) The [Physical Therapist Licensing Board] Oregon Board of Physical Therapy;
(f) The State Board of Examiners for Speech-Language Pathology and Audiology;

(g) The State Board of Licensed Social Workers; or
(h) The Oregon Board of Psychology.

SECTION 11. ORS 676.850, as amended by section 24, chapter 61, Oregon Laws 2018, is amended to read:

676.850. (1) As used in this section, “board” means the:

(a) State Board of Examiners for Speech-Language Pathology and Audiology;
(b) State Board of Chiropractic Examiners;
(c) State Board of Licensed Social Workers;
(d) Oregon Board of Licensed Professional Counselors and Therapists;
(e) Oregon Board of Dentistry;
(f) Board of Licensed Dietitians;
(g) State Board of Massage Therapists;
(h) Oregon Board of Naturopathic Medicine;
(i) Oregon State Board of Nursing;
(j) Long Term Care Administrators Board;
(k) Oregon Board of Optometry;
(L) State Board of Pharmacy; 
(m) Oregon Medical Board; 
(n) Occupational Therapy Licensing Board; 
(o) [Physical Therapist Licensing Board] Oregon Board of Physical Therapy; 
(p) Oregon Board of Psychology; 
(q) Board of Medical Imaging; 
(r) State Board of Direct Entry Midwifery; 
(s) State Board of Denture Technology; 
(t) Respiratory Therapist and Polysomnographic Technologist Licensing Board; 
(u) Home Care Commission; 
(v) Oregon Health Authority, to the extent that the authority licenses emergency medical service providers; and 
(w) Health Licensing Office, to the extent that the office licenses lactation consultants. 

(2)(a) In collaboration with the Oregon Health Authority, a board may adopt rules under which the board may require a person authorized to practice the profession regulated by the board to receive cultural competency continuing education approved by the authority under ORS 413.450. 
(b) Cultural competency continuing education courses may be taken in addition to or, if a board determines that the cultural competency continuing education fulfills existing continuing education requirements, instead of any other continuing education requirement imposed by the board. 

(3)(a) A board, or the Health Licensing Office for those boards for which the office issues and renews authorizations to practice the profession regulated by the board, shall document participation in cultural competency continuing education by persons authorized to practice a profession regulated by the board. 
(b) For purposes of documenting participation under this subsection, a board may adopt rules requiring persons authorized to practice the profes-
sion regulated by the board to submit documentation to the board, or to the
office for those boards for which the office issues and renews authorizations
to practice the profession regulated by the board, of participation in cultural
competency continuing education.

(4) A board shall report biennially to the authority on the participation
documented under subsection (3) of this section.

(5) The authority, on or before August 1 of each even-numbered year, shall
report to the interim committees of the Legislative Assembly related to
health care on the information submitted to the authority under subsection
(4) of this section.

SECTION 12. ORS 676.860 is amended to read:

676.860. (1) As used in this section:

(a) “Board” means:

(A) Occupational Therapy Licensing Board;
(B) Oregon Board of Licensed Professional Counselors and Therapists;
(C) Oregon Board of Naturopathic Medicine;
(D) Oregon Medical Board;
(E) Oregon State Board of Nursing;
(F) [Physical Therapist Licensing Board] Oregon Board of Physical
Therapy;
(G) State Board of Chiropractic Examiners;
(H) State Board of Licensed Social Workers;
(I) Oregon Board of Psychology; and
(J) Teacher Standards and Practices Commission.

(b) “Licensee” means a person authorized to practice one of the following
professions:

(A) Clinical social worker, as defined in ORS 675.510;
(B) Licensed marriage and family therapist, as defined in ORS 675.705;
(C) Licensed professional counselor, as defined in ORS 675.705;
(D) Licensed psychologist, as defined in ORS 675.010;
(E) Occupational therapist, as defined in ORS 675.210;
(F) Regulated social worker, as defined in ORS 675.510;
(G) School counselor, as defined by rule by the Teacher Standards and Practices Commission;
(H) Certified registered nurse anesthetist, as defined in ORS 678.245;
(I) Chiropractic physician, as defined in ORS 684.010;
(J) Clinical nurse specialist, as defined in ORS 678.010;
(K) Naturopathic physician, as defined in ORS 685.010;
(L) Nurse practitioner, as defined in ORS 678.010;
(M) Physician, as defined in ORS 677.010;
(N) Physician assistant, as defined in ORS 677.495;
(O) Physical therapist, as defined in ORS 688.010; and
(P) Physical therapist assistant, as defined in ORS 688.010.

(2) In collaboration with the Oregon Health Authority, a board shall adopt rules to require a licensee regulated by the board to report to the board, upon reauthorization to practice, the licensee’s completion of any continuing education regarding suicide risk assessment, treatment and management.

(3) A licensee shall report the completion of any continuing education described in subsection (2) of this section to the board that regulates the licensee.

(4)(a) A board shall document completion of any continuing education described in subsection (2) of this section by a licensee regulated by the board. The board shall document the following data:
   (A) The number of licensees who complete continuing education described in subsection (2) of this section;
   (B) The percentage of the total of all licensees who complete the continuing education;
   (C) The counties in which licensees who complete the continuing education practice; and
   (D) The contact information for licensees willing to share information about suicide risk assessment, treatment and management with the authority.
(b) The board shall remove any personally identifying information from the data submitted to the board under this subsection, except for the personally identifying information of licensees willing to share such information with the authority.

(c) For purposes of documenting completion of continuing education under this subsection, a board may adopt rules requiring licensees to submit documentation of completion to the board.

(5) A board, on or before March 1 of each even-numbered year, shall report to the authority on the data documented under subsection (4) of this section, as well as information about any initiatives by the board to promote suicide risk assessment, treatment and management among its licensees.

(6) The authority, on or before August 1 of each even-numbered year, shall report to the interim committees of the Legislative Assembly related to health care on the information submitted to the authority under subsection (5) of this section. The authority shall include in the report information about initiatives by boards to promote awareness about suicide risk assessment, treatment and management and information on how boards are promoting continuing education described in subsection (2) of this section to licensees.

(7) The authority may use the information submitted to the authority under subsection (5) of this section to develop continuing education opportunities related to suicide risk assessment, treatment and management for licensees and to facilitate improvements in suicide risk assessment, treatment and management efforts in this state.

SECTION 13. ORS 688.010 is amended to read:

688.010. As used in ORS 688.010 to 688.201, unless the context requires otherwise:

[(1)] “Board” means the Physical Therapist Licensing Board.]

[(2)] (1) “Physical therapist” means a person who is licensed pursuant to ORS 688.010 to 688.201 to practice physical therapy.

[(3)] (2) “Physical therapist aide” means a person who is trained by a
physical therapist or physical therapist assistant to perform designated and
supervised routine tasks related to physical therapy and who works under
the direct on-site supervision of a physical therapist or physical therapist
assistant.

[(4)] (3) “Physical therapist assistant” means a person who assists a
physical therapist in the administration of selected components of physical
therapy intervention. A physical therapist assistant works under the super-
vision and direction of the physical therapist.

[(5)] (4) “Physical therapy” means the care and services provided by a
physical therapist or by a physical therapist assistant under the supervision
and direction of a physical therapist.

[(6)] (5) “Practice of physical therapy” means:

(a) Examining, evaluating and testing for mechanical, physiological and
developmental impairments, functional limitations and disabilities or other
neuromusculoskeletal conditions in order to determine a physical therapy
diagnosis or prognosis or a plan of physical therapy intervention and to as-
sess the ongoing effects of physical therapy intervention.

(b) Alleviating impairments and functional limitations by designing, im-
plementing, administering and modifying physical therapy interventions.

(c) Reducing the risk of injury, impairment, functional limitation and
disability by physical therapy interventions that may include as a component
the promotion and maintenance of health, fitness and quality of life in all
age populations.

(d) Consulting or providing educational services to a patient for the pur-
poses of paragraphs (a), (b) and (c) of this subsection.

SECTION 14. ORS 688.015 is amended to read:

688.015. (1) The Legislative Assembly finds and declares that providing for
state administrative control, supervision, licensure and regulation of the
practice of physical therapy in this state serves the purpose of protecting the
public health, safety and welfare.

(2) It is the intent of the Legislative Assembly that only individuals who
meet and maintain prescribed standards of competence may engage in the practice of physical therapy as authorized by ORS 688.010 to 688.201 and implemented by the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy.

SECTION 15. ORS 688.040 is amended to read:

688.040. (1) Any person desiring to be a licensed physical therapist or physical therapist assistant shall apply in writing to the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy in the form and manner provided by the board by rule.

(2) Each application shall include or be accompanied by evidence, satisfactory to the board, that the applicant possesses the qualifications prescribed by ORS 688.050 for applicants for licensing as a physical therapist and ORS 688.055 for applicants for licensing as a physical therapist assistant.

(3) An applicant shall include with the application any application and examination fees prescribed by the board by rule.

(4) The board shall notify an applicant of any deficiencies in the application.

SECTION 16. ORS 688.050 is amended to read:

688.050. (1) Each applicant for a license as a physical therapist shall:

(a) Be at least 18 years of age.

(b) Be of good moral character as determined by the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy.

(c)(A) Be a graduate of an accredited professional physical therapy education program approved by the board; or

(B) Have military experience or training that the board determines is substantially equivalent to the education required by subparagraph (A) of this paragraph.

(d) Pass to the satisfaction of the board an examination approved by the board to determine the fitness of the applicant to practice as a physical therapist or to be entitled to be licensed as provided in ORS 688.080. An applicant for licensure as a physical therapist who does not pass the exam-
ination on the first attempt may retake the examination as provided by rules
adopted by the board.

(2) In addition to the requirements of subsection (1) of this section, an
applicant for a license as a physical therapist who has been educated outside
the United States shall:

(a) Provide evidence satisfactory to the board that the applicant’s phys-
ical therapy education program is recognized or accredited and that the
applicant’s education is substantially equivalent to the education of physical
therapists who graduated from accredited physical therapy education pro-
gress approved by the board. If the board determines that the education of
an applicant who graduated from a physical therapy education program out-
side the United States is not substantially equivalent, the board may require
the applicant to complete additional course work before the board proceeds
with the application process.

(b) Obtain an evaluation of the applicant’s educational credentials by a
credentials evaluation agency approved by the board.

(c) Demonstrate proficiency in English if required by the board.

(d) Pass to the satisfaction of the board an examination approved by the
board.

(3) If an applicant who has been educated outside the United States is a
graduate of an accredited physical therapy education program approved by
the board, the board may waive the requirements of subsection (2)(a) and (b)
of this section.

SECTION 17. ORS 688.055 is amended to read:
688.055. Each applicant for a license as a physical therapist assistant
shall:

(1) Be at least 18 years of age.

(2) Be of good moral character as determined by the [Physical Therapist
Licensing Board] Oregon Board of Physical Therapy.

(3) Be a graduate of an accredited physical therapist assistant education
program approved by the board.
(4) Pass to the satisfaction of the board an examination approved by the
board to determine the fitness of the applicant to work as a physical thera-
pist assistant or to be entitled to be licensed as provided in ORS 688.080.
An applicant for licensure as a physical therapist assistant who does not
pass the examination on the first attempt may retake the examination as
provided by rules adopted by the board.

SECTION 18. ORS 688.080 is amended to read:

ORS 688.080. (1) The [Physical Therapist Licensing Board] Oregon Board of
Physical Therapy may license as a physical therapist or license as a phys-
ical therapist assistant, without examination, any person who:
   (a) Applies for a license as provided in ORS 688.040;
   (b) Is of good moral character as determined by the board; and
   (c) On the date of making application, is a physical therapist or physical
therapist assistant who has a valid unrestricted license from any other state
or territory of the United States if the requirements for licensing of physical
therapists or physical therapist assistants in the state or territory in which
the applicant is licensed are substantially equivalent to Oregon’s licensure
requirements and the applicant passed to the satisfaction of the examiner of
such state or territory a written examination that is approved by the board
of this state.

(2) Each applicant under this section shall pay a fee to the board at the
time of filing the application.

SECTION 19. ORS 688.090 is amended to read:

ORS 688.090. The [Physical Therapist Licensing Board] Oregon Board of
Physical Therapy shall license as a physical therapist or a physical thera-
pist assistant each applicant who proves to the satisfaction of the board fit-
ness for such license as provided in ORS 688.010 to 688.201. The board shall
issue a certificate to each person licensed. The certificate shall be prima
facie evidence of the right of the person to whom it is issued to represent
that person as a licensed physical therapist or physical therapist assistant,
whichever certificate the person holds, subject to the provisions of ORS
688.010 to 688.201.

SECTION 20. ORS 688.100 is amended to read:

688.100. (1) A person who is licensed as a physical therapist or physical therapist assistant shall renew the person’s license pursuant to the rules of the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy. A person who fails to renew the license on or before the expiration date specified by board rule may not practice as a physical therapist or work as a physical therapist assistant in this state until the lapsed license is renewed.

(2) The board may reinstate a lapsed license upon payment of all past renewal and delinquency fees.

(3) If a person’s license has lapsed for more than five consecutive years, that person shall reapply for a license and pay all applicable fees. The person shall also demonstrate to the board’s satisfaction competence to practice physical therapy, or shall serve an internship under a restricted license or take remedial or refresher courses, or both, at the discretion of the board. The board may also require the applicant to take an examination.

(4) A person who is licensed as a physical therapist or physical therapist assistant shall report to the board a name change or any change in business or residential address, electronic mail address or contact telephone number within 30 days after the date of change.

SECTION 21. ORS 688.110 is amended to read:

688.110. (1) The [Physical Therapist Licensing Board] Oregon Board of Physical Therapy, in its discretion, may issue without examination a temporary permit to a person to practice as a physical therapist or to work as a physical therapist assistant in this state if the person files an application for license as provided in ORS 688.040 or 688.080, and pays to the board at the time of filing the application the temporary permit fee.

(2) A person holding a temporary permit may practice physical therapy only under the direction of a physical therapist licensed under ORS 688.010 to 688.201.
(3) The temporary permit shall be granted for a period not to exceed three months. The board may renew the temporary permit at its discretion for no more than 90 days.

**SECTION 22.** ORS 688.140 is amended to read:

688.140. (1) The [Physical Therapist Licensing Board] **Oregon Board of Physical Therapy**, after notice and hearing as provided in ORS 688.145, may impose any or all of the following sanctions or take any of the following actions upon any of the grounds specified in subsection (2) of this section:

(a) Refuse to license any applicant.

(b) Refuse to renew the license of any physical therapist or physical therapist assistant.

(c) Suspend or revoke the license of any physical therapist or physical therapist assistant.

(d) Suspend or revoke a temporary permit issued under ORS 688.110.

(e) Impose a civil penalty not to exceed $5,000.

(f) Impose probation with authority to limit or restrict a license.

(g) Impose conditions, restrictions or limitations on practice.

(h) Issue letters of reprimand.

(i) Impose any other appropriate sanction, including assessment of the reasonable costs of a proceeding under ORS 688.145 as a civil penalty. Costs include, but are not limited to, the costs of investigation, attorney fees, hearing officer costs and the costs of discovery.

(2) Grounds exist for the imposition of sanctions as specified in subsection (1) of this section when a person:

(a) Violates any provision of ORS 688.010 to 688.201, board rules or a written order from the board.

(b) Practices or offers to practice beyond the scope of practice of physical therapy.

(c) Obtains or attempts to obtain or renew a license or temporary permit by fraud or misrepresentation.

(d) Provides substandard care as a physical therapist through a deliberate
or negligent act or failure to act, regardless of whether injury to the patient occurs.

(e) Provides substandard care as a physical therapist assistant by exceeding the authority to perform components of physical therapy interventions selected by the supervising physical therapist or through a deliberate or negligent act or failure to act, regardless of whether injury to the patient occurs.

(f) Fails as a physical therapist to supervise physical therapist assistants in accordance with board rules.

(g) Fails as a physical therapist or physical therapist assistant to supervise physical therapist aides in accordance with board rules.

(h) Subject to the provisions of ORS 670.280, has been convicted of a crime in Oregon or any other state, territory or country. For purposes of this paragraph, conviction includes a verdict of guilty, a plea of guilty or a plea of no contest.

(i) Has an impairment as defined in ORS 676.303.

(j) Has had an application for licensure refused because of conduct or circumstances that would be grounds for sanctions by the board, or a license revoked or suspended, or other disciplinary action taken by the proper authorities of another state, territory or country.

(k) Engages in sexual misconduct. For purposes of this paragraph, sexual misconduct includes but is not limited to:

(A) Engaging in sexual conduct or soliciting a sexual relationship with a current patient, whether consensual or nonconsensual.

(B) Intentionally exposing or viewing a completely or partially disrobed patient in the course of treatment if the exposure or viewing is not related to patient diagnosis or treatment under current practice standards.

(L) Directly or indirectly requests, receives, pays or participates in dividing, transferring or assigning an unearned fee or profits by a means of a credit or other valuable consideration such as an unearned commission, discount or gratuity in connection with the furnishing of physical therapy ser-
services. This paragraph does not prohibit the members of any regularly and properly organized business entity recognized by law and comprised of physical therapists from dividing fees received for professional services among themselves as they determine.

(m) Fails to adhere to the standards of ethics of the physical therapy profession established by board rule.

(n) Obtains or attempts to obtain a fee for physical therapy services by fraud or misrepresentation.

(o) Makes misleading, deceptive or fraudulent representations in the course of providing physical therapy services.

(p) Fails to report to the board, when the person has direct knowledge of an unprofessional, incompetent or illegal act that reasonably appears to be in violation of ORS 688.010 to 688.201 or any rules of the board.

(q) Interferes with an investigation or disciplinary proceeding of the board.

(r) Aids or abets a person who is not licensed in this state to practice physical therapy.

(s) Fails to maintain adequate patient records.

(t) Fails to maintain patient confidentiality.

(u) Provides treatment intervention that is not warranted by the patient’s condition or continues treatment beyond the point of reasonable benefit to the patient.

(v) Provides physical therapy services or participates in physical therapy services solely for reasons of personal or institutional financial gain.

(w) Aids or causes another person, directly or indirectly, to violate ORS 688.010 to 688.201 or rules of the board, fraudulently uses or permits the use of a license number in any way, or acts with the intent to violate ORS 688.010 to 688.201 or rules of the board.

(3) To enforce the provisions of this section, the board is authorized to initiate an investigation and take the following actions:

(a) Receive complaints filed against persons and conduct timely investi-
(b) Initiate its own investigation if the board has reason to believe that there may have been a violation of ORS 688.010 to 688.201.

(c) Issue a subpoena to compel the attendance of any witness or the production of any documentation relating to a matter under investigation. In addition to the board, the executive director or the executive director’s designee may issue a subpoena. When the board, in the course of an investigation, requires the production of patient records for inspection and copying by subpoena, or otherwise, the records shall be produced without regard to whether patient consent has been obtained and without regard to any claim of confidentiality or privilege.

(d) Take the deposition of a witness, including a physical therapist or physical therapist assistant being investigated, in the manner provided by law in civil cases.

(e) Take emergency action to suspend a person’s license or restrict the person’s practice or employment pending proceedings by the board.

(f) Report to the appropriate district attorney all cases that, in the judgment of the board, warrant prosecution.

(g) Require a person to undergo a mental, physical, chemical dependency or competency evaluation at the person’s expense when the board has objectively reasonable grounds to believe that the person is or may be unable to practice physical therapy with reasonable skill and safety, with the results being reported to the board. The report shall not be disclosed to the public but may be received into evidence in a proceeding between the board and the person when the mental, physical, chemical dependency or competency of the person is at issue, notwithstanding any claim of privilege by the person.

(4) If the board finds that the information received in a complaint or an investigation does not merit disciplinary action against a person, nondisciplinary actions may ensue. The board may then take the following actions:

(a) Dismiss the complaint.

(b) Issue a confidential advisory letter to the person that is nondiscipli-
nary and that notifies the physical therapist or physical therapist assistant that certain conduct or practices must be modified or eliminated.

(5) The board may apply for injunctive relief in any court of competent jurisdiction to enjoin any person from committing any act in violation of ORS 688.010 to 688.201. Injunction proceedings are in addition to, and not in lieu of, penalties or other sanctions prescribed in ORS 688.010 to 688.201.

SECTION 23. ORS 688.145 is amended to read:

688.145. (1) When the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy proposes to impose any of the sanctions authorized in ORS 688.140, opportunity for hearing shall be accorded as provided in ORS chapter 183.

(2) Judicial review of orders under subsection (1) of this section shall be as provided in ORS chapter 183.

(3) Information that the board obtains as part of an investigation into licensee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee or applicant conduct is confidential as provided under ORS 676.175.

SECTION 24. ORS 688.160 is amended to read:

688.160. (1) The [Physical Therapist Licensing Board] Oregon Board of Physical Therapy operates as a semi-independent state agency subject to ORS 182.456 to 182.472, for purposes of carrying out the provisions of ORS 688.010 to 688.201 and 688.990. The [Physical Therapist Licensing Board] board consists of eight members appointed by the Governor and subject to confirmation by the Senate in the manner provided in ORS 171.562 and 171.565. All members of the board must be residents of this state. Of the members of the board:

(a) Five must be physical therapists who are Oregon residents, possess unrestricted licenses to practice physical therapy in this state, have been practicing in this state for at least two years immediately preceding their appointments and have been practicing in the field of physical therapy for at least five years.
(b) One must be a licensed physical therapist assistant.
(c) Two must be public members who have an interest in consumer rights and who are not:
   (A) Otherwise eligible for appointment to the board; or
   (B) The spouse, domestic partner, child, parent or sibling of a physical therapist or physical therapist assistant.

(2)(a) Board members required to be physical therapists or physical therapist assistants may be selected by the Governor from a list of three to five nominees for each vacancy, submitted by the Oregon Physical Therapy Association.
   (b) In selecting the members of the board, the Governor shall strive to balance the representation on the board according to:
      (A) Geographic areas of this state; and
      (B) Ethnic group.

(3)(a) The term of office of each member is four years, but a member serves at the pleasure of the Governor. The terms must be staggered so that no more than three terms end each year. A member is eligible for reappointment.
   (b) In the event of a vacancy in the office of a member of the board other than by reason of the expiration of a term, the Governor, not later than 90 days after the occurrence of the vacancy, shall appoint a person to fill the vacancy for the unexpired term.
   (c) A board member shall be removed immediately from the board if, during the member’s term, the member:
      (A) Is not a resident of this state;
      (B) Has been absent from three consecutive board meetings, unless at least one absence is excused;
      (C) Is not a licensed physical therapist or a retired physical therapist who was a licensed physical therapist in good standing at the time of retirement, if the board member was appointed to serve on the board as a physical therapist; or
(D) Is not a licensed physical therapist assistant or a retired physical therapist assistant who was a licensed physical therapist assistant in good standing at the time of retirement, if the board member was appointed to serve on the board as a retired physical therapist assistant.

(4) Each member of the board is entitled to compensation and expenses as provided in ORS 292.495. The board may provide by rule for compensation to board members for the performance of official duties at a rate that is greater than the rate provided in ORS 292.495.

(5) A board member who acts within the scope of board duties, without malice and in reasonable belief that the member’s action is warranted by law, is immune from civil liability.

(6) The board shall have power to:

(a) Establish matters of policy affecting administration of ORS 688.010 to 688.201;

(b) Provide for examinations for physical therapists and physical therapist assistants and adopt passing scores for the examinations;

(c) Adopt rules necessary to carry out and enforce the provisions of ORS 688.010 to 688.201;

(d) Establish standards and tests to determine the qualifications of applicants for licenses to practice physical therapy in this state;

(e) Issue licenses to persons who meet the requirements of ORS 688.010 to 688.201;

(f) Adopt rules relating to the supervision and the duties of physical therapist aides who assist in performing routine work under supervision;

(g) Adopt rules establishing minimum continuing competency requirements for all licensees;

(h) Exercise general supervision over the practice of physical therapy within this state;

(i) Establish and collect fees for the application or examination for, or the renewal, reinstatement or duplication of, a license under ORS 688.040, 688.080 or 688.100 or for the issuance of a temporary permit under ORS 688.110; and

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(j) Establish and collect fees to carry out and enforce the provisions of
ORS 688.010 to 688.201.

(7) The board shall meet as determined by the board and at any other time
at the call of the board chairperson, who shall be elected by the members
of the board. All members have equal voting privileges.

(8) The board may appoint and fix the compensation of staff as necessary
to carry out the operations of the board.

(9) The board shall:

(a) Maintain a current list of all persons regulated under ORS 688.010 to
688.201, including the persons’ names, current business and residential ad-
dresses, telephone numbers, electronic mail addresses and license numbers.

(b) Provide information to the public regarding the procedure for filing
a complaint against a physical therapist or physical therapist assistant.

(c) Publish at least annually, and in a format or place determined by the
board, final disciplinary actions taken against physical therapists and phys-
ical therapist assistants and other information, including rules, in order to
guide physical therapists and physical therapist assistants regulated pursu-
ant to ORS 688.010 to 688.201.

SECTION 25. ORS 688.201 is amended to read:

ORS 688.201. (1) All moneys received under ORS 688.010 to 688.201 shall be paid
into an account established by the [Physical Therapist Licensing Board]
Oregon Board of Physical Therapy under ORS 182.470. The board may
establish an additional account under ORS 182.470 for the purpose of meeting
financial obligations imposed on the State of Oregon as a result of this
state’s participation in the Physical Therapy Licensure Compact established
under ORS 688.240.

(2) The moneys paid into the accounts established by the board under ORS
182.470 are continuously appropriated to the board and may be used only for
the administration and enforcement of ORS 676.850, 676.860 and 688.010 to
688.201 and for the purpose of meeting financial obligations imposed on the
State of Oregon as a result of this state’s participation in the Physical
Therapy Licensure Compact established under ORS 688.240.

**SECTION 26.** ORS 688.230 is amended to read:

688.230. (1) Any licensed health facility, licensed physical therapist, licensed physical therapist assistant, the Oregon Physical Therapy Association, physician licensed under ORS chapter 677 or dentist shall, and any other person may, report suspected violations of ORS 688.010 to 688.201 to the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy. The reports are confidential as provided under ORS 676.175.

(2) Any person who reports or provides information to the board under subsection (1) of this section and who provides information in good faith shall not be subject to an action for civil damages as a result thereof.

**SECTION 27.** ORS 688.240 is amended to read:

688.240. The provisions of the Physical Therapy Licensure Compact are as follows:

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**PHYSICAL THERAPY LICENSURE COMPACT**

**SECTION 1. PURPOSE**

The purpose of this Compact is to facilitate interstate practice of physical therapy with the goal of improving public access to physical therapy services. The practice of physical therapy occurs in the state where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of states to protect public health and safety through the current system of state licensure.

This Compact is designed to achieve the following objectives:

1. Increase public access to physical therapy services by providing for the mutual recognition of other member state licenses;

2. Enhance the states’ ability to protect the public’s health and safety;

3. Encourage the cooperation of member states in regulating multi-state physical therapy practice;

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4. Support spouses of relocating military members;
5. Enhance the exchange of licensure, investigative, and disciplinary in-
formation between member states; and
6. Allow a remote state to hold a provider of services with a compact
privilege in that state accountable to that state’s practice standards.

SECTION 2. DEFINITIONS
As used in this Compact, and except as otherwise provided, the following
definitions shall apply:
1. “Active Duty Military” means full-time duty status in the active uni-
formed service of the United States, including members of the National
Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
and 1211.
2. “Adverse Action” means disciplinary action taken by a physical therapy
licensing board based upon misconduct, unacceptable performance, or a
combination of both.
3. “Alternative Program” means a non-disciplinary monitoring or practice
remediation process approved by a physical therapy licensing board. This
includes, but is not limited to, substance abuse issues.
4. “Compact privilege” means the authorization granted by a remote state
to allow a licensee from another member state to practice as a physical
therapist or work as a physical therapist assistant in the remote state under
its laws and rules. The practice of physical therapy occurs in the member
state where the patient/client is located at the time of the patient/client
encounter.
5. “Continuing competence” means a requirement, as a condition of li-
cense renewal, to provide evidence of participation in, and/or completion of,
educational and professional activities relevant to practice or area of work.
6. “Data system” means a repository of information about licensees, in-
cluding examination, licensure, investigative, compact privilege, and adverse
action.
7. “Encumbered license” means a license that a physical therapy licensing
board has limited in any way.

8. “Executive Board” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

9. “Home state” means the member state that is the licensee’s primary state of residence.

10. “Investigative information” means information, records, and documents received or generated by a physical therapy licensing board pursuant to an investigation.

11. “Jurisprudence Requirement” means the assessment of an individual’s knowledge of the laws and rules governing the practice of physical therapy in a state.

12. “Licensee” means an individual who currently holds an authorization from the state to practice as a physical therapist or to work as a physical therapist assistant.

13. “Member state” means a state that has enacted the Compact.

14. “Party state” means any member state in which a licensee holds a current license or compact privilege or is applying for a license or compact privilege.

15. “Physical therapist” means an individual who is licensed by a state to practice physical therapy.

16. “Physical therapist assistant” means an individual who is licensed/certified by a state and who assists the physical therapist in selected components of physical therapy.

17. “Physical therapy,” “physical therapy practice,” and “the practice of physical therapy” mean the care and services provided by or under the direction and supervision of a licensed physical therapist. The “practice of physical therapy” also has the meaning given that term in ORS 688.010.

18. “Physical Therapy Compact Commission” or “Commission” means the national administrative body whose membership consists of all states that have enacted the Compact.

19. “Physical therapy licensing board” or “licensing board” means the

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agency of a state that is responsible for the licensing and regulation of
physical therapists and physical therapist assistants.

20. “Remote State” means a member state other than the home state,
where a licensee is exercising or seeking to exercise the compact privilege.

21. “Rule” means a regulation, principle, or directive promulgated by the
Commission that has the force of law.

22. “State” means any state, commonwealth, district, or territory of the
United States of America that regulates the practice of physical therapy.

SECTION 3. STATE PARTICIPATION IN THE COMPACT

A. To participate in the Compact, a state must:

1. Participate fully in the Commission’s data system, including using the
Commission’s unique identifier as defined in rules;

2. Have a mechanism in place for receiving and investigating complaints
about licensees;

3. Notify the Commission, in compliance with the terms of the Compact
and rules, of any adverse action or the availability of investigative informa-
tion regarding a licensee;

4. Fully implement a criminal background check requirement, within a
time frame established by rule, by receiving the results of the Federal Bu-
reau of Investigation record search on criminal background checks and use
the results in making licensure decisions in accordance with Section
3.B.[4.];

5. Comply with the rules of the Commission;

6. Utilize a recognized national examination as a requirement for
licensure pursuant to the rules of the Commission; and

7. Have continuing competence requirements as a condition for license
renewal.

B. Upon adoption of this statute, the member state shall have the au-
thority to obtain biometric-based information from each physical therapy
licensure applicant and submit this information to the Federal Bureau of
Investigation for a criminal background check in accordance with 28 U.S.C.

C. A member state shall grant the compact privilege to a licensee holding a valid unencumbered license in another member state in accordance with the terms of the Compact and rules.

D. Member states may charge a fee for granting a compact privilege.

SECTION 4. COMPACT PRIVILEGE

A. To exercise the compact privilege under the terms and provisions of the Compact, the licensee shall:

1. Hold a license in the home state;

2. Have no encumbrance on any state license;

3. Be eligible for a compact privilege in any member state in accordance with Section 4D, G and H;

4. Have not had any adverse action against any license or compact privilege within the previous 2 years;

5. Notify the Commission that the licensee is seeking the compact privilege within a remote state(s);

6. Pay any applicable fees, including any state fee, for the compact privilege;

7. Meet any jurisprudence requirements established by the remote state(s) in which the licensee is seeking a compact privilege; and

8. Report to the Commission adverse action taken by any non-member state within 30 days from the date the adverse action is taken.

B. The compact privilege is valid until the expiration date of the home license. The licensee must comply with the requirements of Section 4A to maintain the compact privilege in the remote state.

C. A licensee providing physical therapy in a remote state under the compact privilege shall function within the laws and regulations of the remote state.

D. A licensee providing physical therapy in a remote state is subject to that state's regulatory authority. A remote state may, in accordance with due process and that state's laws, remove a licensee's compact privilege in the
remote state for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The licensee is not eligible for a compact privilege in any state until the specific time for removal has passed and all fines are paid.

E. If a home state license is encumbered, the licensee shall lose the compact privilege in any remote state until the following occur:
   1. The home state license is no longer encumbered; and
   2. Two years have elapsed from the date of the adverse action.

F. Once an encumbered license in the home state is restored to good standing, the licensee must meet the requirements of Section 4A to obtain a compact privilege in any remote state.

G. If a licensee’s compact privilege in any remote state is removed, the individual shall lose the compact privilege in any remote state until the following occur:
   1. The specific period of time for which the compact privilege was removed has ended;
   2. All fines have been paid; and
   3. Two years have elapsed from the date of the adverse action.

H. Once the requirements of Section 4G have been met, the license must meet the requirements in Section 4A to obtain a compact privilege in a remote state.

SECTION 5. ACTIVE DUTY MILITARY PERSONNEL OR THEIR SPOUSES

A licensee who is active duty military or is the spouse of an individual who is active duty military may designate one of the following as the home state:

A. Home of record;
B. Permanent Change of Station (PCS); or
C. State of current residence if it is different than the PCS state or home of record.

SECTION 6. ADVERSE ACTIONS
A. A home state shall have exclusive power to impose adverse action against a license issued by the home state.

B. A home state may take adverse action based on the investigative information of a remote state, so long as the home state follows its own procedures for imposing adverse action.

C. Nothing in this Compact shall override a member state’s decision that participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the member state’s laws. Member states must require licensees who enter any alternative programs in lieu of discipline to agree not to practice in any other member state during the term of the alternative program without prior authorization from such other member state.

D. Any member state may investigate actual or alleged violations of the statutes and rules authorizing the practice of physical therapy in any other member state in which a physical therapist or physical therapist assistant holds a license or compact privilege.

E. A remote state shall have the authority to:

1. Take adverse actions as set forth in Section 4D against a licensee’s compact privilege in the state;

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, and the production of evidence. Subpoenas issued by a physical therapy licensing board in a party state for the attendance and testimony of witnesses, and/or the production of evidence from another party state, shall be enforced in the latter state by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

3. If otherwise permitted by state law, recover from the licensee the costs of investigations and disposition of cases resulting from any adverse action.

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F. Joint Investigations

1. In addition to the authority granted to a member state by its respective physical therapy practice act or other applicable state law, a member state may participate with other member states in joint investigations of licensees.

2. Member states shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

SECTION 7. ESTABLISHMENT OF THE PHYSICAL THERAPY COMPACT COMMISSION

A. The Compact member states hereby create and establish a joint public agency known as the Physical Therapy Compact Commission:

1. The Commission is an instrumentality of the Compact states.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each member state shall have and be limited to one (1) delegate selected by that member state's licensing board.

2. The delegate shall be a current member of the licensing board, who is a physical therapist, physical therapist assistant, public member, or the board administrator.

3. Any delegate may be removed or suspended from office as provided by the law of the state from which the delegate is appointed.

4. The member state board shall fill any vacancy occurring in the Commission.

5. Each delegate shall be entitled to one (1) vote with regard to the
promulgation of rules and creation of bylaws and shall otherwise have an
opportunity to participate in the business and affairs of the Commission.
6. A delegate shall vote in person or by such other means as provided in
the bylaws. The bylaws may provide for delegates’ participation in meetings
by telephone or other means of communication.
7. The Commission shall meet at least once during each calendar year.
Additional meetings shall be held as set forth in the bylaws.
C. The Commission shall have the following powers and duties:
1. Establish the fiscal year of the Commission;
2. Establish bylaws;
3. Maintain its financial records in accordance with the bylaws;
4. Meet and take such actions as are consistent with the provisions of this
Compact and the bylaws;
5. Promulgate uniform rules to facilitate and coordinate implementation
and administration of this Compact. The rules shall have the force and effect
of law and shall be binding in all member states;
6. Bring and prosecute legal proceedings or actions in the name of the
Commission, provided that the standing of any state physical therapy li-
censing board to sue or be sued under applicable law shall not be affected;
7. Purchase and maintain insurance and bonds;
8. Borrow, accept, or contract for services of personnel, including, but not
limited to, employees of a member state;
9. Hire employees, elect or appoint officers, fix compensation, define du-
ties, grant such individuals appropriate authority to carry out the purposes
of the Compact, and to establish the Commission’s personnel policies and
programs relating to conflicts of interest, qualifications of personnel, and
other related personnel matters;
10. Accept any and all appropriate donations and grants of money,
equipment, supplies, materials and services, and to receive, utilize and dis-
pose of the same; provided that at all times the Commission shall avoid any
appearance of impropriety and/or conflict of interest;
11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees comprised of members, state regulators, state legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Board; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of physical therapy licensure and practice.

D. The Executive Board

The Executive Board shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of nine members:

   a. Seven voting members who are elected by the Commission from the current membership of the Commission;

   b. One ex-officio, nonvoting member from the recognized national physical therapy professional association; and

   c. One ex-officio, nonvoting member from the recognized membership organization of the physical therapy licensing boards.

2. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Board as provided in bylaws.
4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following Duties and responsibilities:
   a. Recommend to the entire Commission changes to the rules or bylaws, changes to this Compact legislation, fees paid by Compact member states such as annual dues, and any commission Compact fee charged to licensees for the compact privilege;
   b. Ensure Compact administration services are appropriately provided, contractual or otherwise;
   c. Prepare and recommend the budget;
   d. Maintain financial records on behalf of the Commission;
   e. Monitor Compact compliance of member states and provide compliance reports to the Commission;
   f. Establish additional committees as necessary; and
   g. Other duties as provided in rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Section 9.

2. The Commission or the Executive Board or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Board or other committees of the Commission must discuss:
   a. Non-compliance of a member state with its obligations under the Compact;
   b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission’s internal personnel practices and procedures;
   c. Current, threatened, or reasonably anticipated litigation;
   d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
   e. Accusing any person of a crime or formally censuring any person;
f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
h. Disclosure of investigative records compiled for law enforcement purposes;
i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
j. Matters specifically exempted from disclosure by federal or member state statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission’s legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.
3. The Commission may levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year
for which revenue is not provided by other sources. The aggregate annual
assessment amount shall be allocated based upon a formula to be determined
by the Commission, which shall promulgate a rule binding upon all member
states.

4. The Commission shall not incur obligations of any kind prior to se-
curing the funds adequate to meet the same; nor shall the Commission pledge
the credit of any of the member states, except by and with the authority of
the member state.

5. The Commission shall keep accurate accounts of all receipts and dis-
bursements. The receipts and disbursements of the Commission shall be sub-
ject to the audit and accounting procedures established under its bylaws.
However, all receipts and disbursements of funds handled by the Commission
shall be audited yearly by a certified or licensed public accountant, and the
report of the audit shall be included in and become part of the annual report
of the Commission.

6. An assessment levied, or any other financial obligation imposed, under
this Compact is effective against the State of Oregon only to the extent that
moneys necessary to pay the assessment or meet the financial obligations
have been deposited in an account established under ORS 182.470 by the
Oregon Board of Physical Therapy pursuant to ORS 688.201.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and represen-
tatives of the Commission shall be immune from suit and liability, either
personally or in their official capacity, for any claim for damage to or loss
of property or personal injury or other civil liability caused by or arising
out of any actual or alleged act, error or omission that occurred, or that the
person against whom the claim is made had a reasonable basis for believing
occurred within the scope of Commission employment, duties or responsibil-
ities; provided that nothing in this paragraph shall be construed to protect
any such person from suit and/or liability for any damage, loss, injury, or
liability caused by the intentional or willful or wanton misconduct of that
person.

2. The Commission shall defend any member, officer, executive director, 
employee or representative of the Commission in any civil action seeking to 
impose liability arising out of any actual or alleged act, error, or omission 
that occurred within the scope of Commission employment, duties, or re-
 sponsibilities, or that the person against whom the claim is made had a 
reasonable basis for believing occurred within the scope of Commission em-
ployment, duties, or responsibilities; provided that nothing herein shall be 
construed to prohibit that person from retaining his or her own counsel; and 
provided further, that the actual or alleged act, error, or omission did not 
result from that person’s intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, offi-
cer, executive director, employee, or representative of the Commission for the 
amount of any settlement or judgment obtained against that person arising 
out of any actual or alleged act, error or omission that occurred within the 
scope of Commission employment, duties, or responsibilities, or that such 
person had a reasonable basis for believing occurred within the scope of 
Commission employment, duties, or responsibilities, provided that the actual 
or alleged act, error, or omission did not result from the intentional or 
willful or wanton misconduct of that person.

SECTION 8. DATA SYSTEM
A. 1. The Commission shall provide for the development, maintenance, 
and utilization of a coordinated database and reporting system containing 
licensure, adverse action, and investigative information on all licensed indi-
viduals in member states.

2. Notwithstanding Section 9.A.1., the [Physical Therapist Licensing 
Board] Oregon Board of Physical Therapy shall review the rules of the 
Commission. The licensing board may approve and adopt the rules of the 
Commission as rules of the licensing board. The State of Oregon is subject 
to a rule of the Commission only if the rule of the Commission is adopted 

[44]
by the licensing board.

B. Notwithstanding any other provision of state law to the contrary, a member state shall submit a uniform data set to the data system on all individuals to whom this Compact is applicable as required by the rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse actions against a license or compact privilege;
4. Non-confidential information related to alternative program participation;
5. Any denial of application for licensure, and the reason(s) for such denial; and
6. Other information that may facilitate the administration of this Compact, as determined by the rules of the Commission.

C. Investigative information pertaining to a licensee in any member state will only be available to other party states.

D. The Commission shall promptly notify all member states of any adverse action taken against a licensee or an individual applying for a license. Adverse action information pertaining to a licensee in any member state will be available to any other member state.

E. Member states contributing information to the data system may designate information that may not be shared with the public without the express permission of the contributing state.

F. Any information submitted to the data system that is subsequently required to be expunged by the laws of the member state contributing the information shall be removed from the data system.

SECTION 9. RULEMAKING

A. 1. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Section and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.
2. Notwithstanding Section 9.A.1., the [Physical Therapist Licensing Board] Oregon Board of Physical Therapy shall review the rules of the Commission. The licensing board may approve and adopt the rules of the Commission as rules of the licensing board. The State of Oregon is subject to a rule of the Commission only if the rule of the Commission is adopted by the licensing board.

B. If a majority of the legislatures of the member states rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within 4 years of the date of adoption of the rule, then such rule shall have no further force and effect in any member state.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or rules by the Commission, and at least thirty (30) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each member state physical therapy licensing board or other publicly accessible platform or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.
F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;
2. A state or federal governmental subdivision or agency; or
3. An association having at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

K. The Commission shall, by majority vote of all members, take final
action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or member state funds;
3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or
4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

SECTION 10. OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this Compact and take all actions nec-
necessary and appropriate to effectuate the Compact’s purposes and intent. The provisions of this Compact and the rules promulgated hereunder and adopted by the [Physical Therapist Licensing Board] **Oregon Board of Physical Therapy** shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:
   a. Provide written notice to the defaulting state and other member states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and
   b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to cure the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the member states, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor,
the majority and minority leaders of the defaulting state’s legislature, and each of the member states.

4. A state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

5. The Commission shall not bear any costs related to a state that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney’s fees.

C. Dispute Resolution

1. Upon request by a member state, the Commission shall attempt to resolve disputes related to the Compact that arise among member states and between member and non-member states.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a member state in default to enforce compliance with the provisions of the Compact and its promulgated rules and bylaws. The relief sought may include injunctive relief. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney’s fees.

3. The remedies herein shall not be the exclusive remedies of the Com-
mission. The Commission may pursue any other remedies available under federal or state law.

SECTION 11. DATE OF IMPLEMENTATION OF THE INTERSTATE COMMISSION FOR PHYSICAL THERAPY PRACTICE AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENT

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth member state. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state that joins the Compact subsequent to the Commission’s initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any member state may withdraw from this Compact by enacting a statute repealing the same.

1. A member state’s withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing state’s physical therapy licensing board to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any physical therapy licensure agreement or other cooperative arrangement between a member state and a non-member state that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the member states. No amendment to this Compact shall become effective and binding upon any member state until it is enacted into the laws of all member states.
SECTION 12. CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any party state, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

SECTION 28. (1) The amendments to ORS 182.454, 182.460, 182.462, 445.010, 676.150, 676.160, 676.177, 676.410, 676.440, 676.802, 676.850, 676.860, 688.010, 688.015, 688.040, 688.050, 688.055, 688.080, 688.090, 688.100, 688.110, 688.140, 688.145, 688.160, 688.201, 688.230 and 688.240 by sections 1 to 27 of this 2019 Act are intended to change the name of the “Physical Therapist Licensing Board” to the “Oregon Board of Physical Therapy.”

(2) For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the “Physical Therapist Licensing Board,” wherever they occur in statutory law, other words designating the “Oregon Board of Physical Therapy.”
SUMMARY

Increases annual fee imposed on public utilities and telecommunications providers for purpose of defraying costs of Public Utility Commission. Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to fees imposed by the Public Utility Commission; creating new provisions; amending ORS 756.310; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 756.310 is amended to read:

ORS 756.310. (1) Subject to the provisions of subsections (3) and (4) of this section, each public utility and telecommunications provider shall pay a fee to the Public Utility Commission in each calendar year. The amount of the fee shall equal the amount that the commission finds and determines to be necessary, together with the amount of all other fees paid or payable to the commission by such public utilities and telecommunications providers in the current calendar year, to defray the costs of performing the duties imposed by law upon the commission with respect to the public utilities and telecommunications providers.

(2) In each calendar year the percentage rate of the fee required to be paid by public utilities shall be determined by orders entered by the commission on or after March 1 of each year. Notice of the orders shall be given to each utility. The utility shall pay to the commission the fee or portion thereof so computed upon the date specified in the notice. The date of payment shall be at least 15 days after the date of mailing of the notice.

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
(3) The fee payable under subsection (1) of this section by each public utility may not be less than $10, or more than \([\text{three-tenths} \text{ forty-five hundredths}]\) of one percent of the utility's gross operating revenues derived within this state in the preceding calendar year. For the purpose of this subsection, the gross operating revenues of an electric company do not include revenues from sales of power for resale to the extent that the revenues from those sales exceed an amount equal to 25 percent of the total revenues received by the electric company from sales of electricity to end users in the preceding calendar year.

(4)(a) For a telecommunications provider, the fee payable under subsection (1) of this section shall be a percentage amount not to exceed \([\text{three-tenths} \text{ thirty-five hundredths}]\) of one percent of the provider's gross retail intrastate revenue for each calendar year, but may not be less than $100. The percentage amount shall be determined by order of the commission not less than 60 days prior to the calendar year upon which the fee is based. The fee shall be payable to the commission not later than April 1 of the year following that calendar year.

(b) A telecommunications provider shall collect the fee payable under subsection (1) of this section by charging an apportioned amount to each of the provider's retail customers. The amount of the charge shall be described on the retail customer's bill in a manner determined by the provider.

(c) In the event a telecommunications utility has an approved rate that includes the fee required under subsection (1) of this section and separately charges retail customers for the fee described in this section, at the time the utility begins collecting the charge the utility shall file with the commission a rate schedule reducing rates in an amount projected to equal the amount separately charged to customers.

(5) The commission may use any of its investigatory and enforcement powers provided under this chapter for the purpose of administering and enforcing the provisions of this section.

(6) As used in this section:
(a) “Electric company” means any entity that is a public utility under ORS 757.005 that is engaged in the business of distributing electricity to retail electric customers in Oregon.

(b) “Retail customer” does not include a purchaser of intrastate telecommunications services who is a telecommunications provider, telecommunications cooperative, interexchange carrier or radio common carrier.

(c) “Telecommunications provider” means any entity that is a telecommunications utility or a competitive telecommunications provider as defined in ORS 759.005.

SECTION 2. The amendments to ORS 756.310 by section 1 of this 2019 Act apply to fees imposed by the Public Utility Commission on or after the effective date of this 2019 Act.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
Expands purposes of plan of assistance established by Public Utility Commission under Oregon Telephone Assistance Program to include supporting broadband internet access service.

A BILL FOR AN ACT

Relating to broadband internet access service; amending section 6, chapter 290, Oregon Laws 1987.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 6, chapter 290, Oregon Laws 1987, as amended by section 1, chapter 622, Oregon Laws 1991, section 1, chapter 29, Oregon Laws 2007, section 25, chapter 599, Oregon Laws 2009, section 1, chapter 77, Oregon Laws 2011, and section 1, chapter 29, Oregon Laws 2013, is amended to read:

Sec. 6. (1) In carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, and to support broadband internet access service, the Public Utility Commission shall establish a plan to provide assistance to low income customers through differential rates or otherwise. The plan of assistance is in addition to the available funding offered by the Federal Communications Commission. The plan established by the Public Utility Commission shall prescribe the amount of assistance to be provided and the time and manner of payment.

(2) For the purpose of establishing a plan to provide assistance to low income customers under this section, the commission shall require all public utilities, cooperative corporations and unincorporated associations providing local exchange telecommunication service to participate in the plan, except

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
as provided in subsection (3) of this section.

(3) In lieu of participation in the commission’s plan to assist low income customers, a public utility, cooperative corporation or unincorporated association providing local exchange telecommunication service may apply to the commission to establish an alternative plan for the purposes of carrying out the provisions of section 2, chapter 290, Oregon Laws 1987, and supporting broadband internet access service for its own customers. The commission shall adopt standards for determining the adequacy of alternative plans.

(4) The commission may contract with any governmental agency to assist the commission in the administration of any assistance plan adopted pursuant to this section.

(5) As used in sections 2 to 6, chapter 290, Oregon Laws 1987, “low income customer” has the meaning given that term by the commission by rule.
SUMMARY

Adds certain individuals to list of persons exempt from real estate licensing law.

A BILL FOR AN ACT

Relating to persons exempt from real estate licensing law; amending ORS 696.030.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 696.030 is amended to read:

696.030. ORS 696.010 to 696.375, 696.392, 696.395 to 696.430, 696.490, 696.600 to 696.785, 696.990 and 696.995 do not apply to:

(1)(a) A nonlicensed individual who is a full-time employee of an owner of real estate and whose real estate activity:

(A) Involves only the real estate of the employer; and

(B)(i) Is incidental to the employee’s normal, nonreal estate activities; or
(ii) Is the employee’s principal activity, but the employer’s principal activity or business is not the sale, exchange, lease option or acquisition of real estate.

(b) For the purpose of this subsection, “owner of real estate” means:

(A) A person who has a sole ownership interest in the real estate; or

(B) More than one person, each of whom has an ownership interest in the real estate, if the ownership interest is by survivorship, tenancy in common or tenancy by the entirety.

(2) A nonlicensed individual who acts as attorney in fact under a duly
executed power of attorney from the owner or purchaser authorizing the
supervision of the closing of or supervision of the performance of a contract
for the sale, leasing or exchanging of real estate if the power of attorney
was executed prior to July 1, 2002, in compliance with the requirements of
law at the time of execution or if:

(a) The power of attorney is recorded in the office of the recording officer
for the county in which the real estate is located;

(b) The power of attorney specifically describes the real estate; and

(c) The nonlicensed individual does not use the power of attorney as a
device to engage in professional real estate activity without obtaining the
necessary real estate license.

(3) A nonlicensed individual who acts as attorney in fact under a duly
executed power of attorney in which the authorized agent is the spouse of
the principal, or the child, grandchild, parent, grandparent, sibling, aunt,
uncle, niece or nephew of the principal or of the spouse of the principal,
authorizing real estate activity if the power of attorney is recorded in the
office of the recording officer for the county in which the real estate to be
sold, leased or exchanged is located.

(4) A nonlicensed individual who is an attorney at law rendering services
in the performance of duties as an attorney at law.

(5) A nonlicensed individual who acts in the nonlicensed individual's of-
ficial capacity as a receiver, a conservator, a trustee in bankruptcy, a per-
sonal representative or a trustee, or a regular salaried employee of the
trustee, acting under a trust agreement, deed of trust or will.

(6) A nonlicensed individual who performs an act of professional real es-
tate activity under order of a court.

(7) A nonlicensed individual who is a regular full-time employee of a
single corporation, partnership, association, limited liability company or
nonlicensed individual owner of real property acting for the corporation,
partnership, association, limited liability company or nonlicensed individual
owner in the rental or management of the real property, but not in the sale,
(8) A nonlicensed individual who is a registered professional engineer or architect rendering services in performance of duties as a professional engineer or architect.

(9) A nonlicensed individual who is employed by a principal real estate broker engaged in the management of rental real estate or by a licensed real estate property manager and who acts on behalf of the principal real estate broker or licensed real estate property manager pursuant to a written delegation of the principal real estate broker’s or licensed real estate property manager’s authority, as provided by the agency by rule, if the real estate activity of the nonlicensed individual is limited to:

(a) Negotiating rental or lease agreements;
(b) Checking tenant and credit references;
(c) Physically maintaining the real estate;
(d) Conducting tenant relations;
(e) Collecting the rent;
(f) Supervising the premises’ managers;
(g) Discussing financial matters relating to the management of the real estate with the owner; and
(h) Receiving and disbursing trust funds in a clients’ trust account under ORS 696.241.

(10) A nonlicensed individual who sells or leases cemetery lots, parcels or units while engaged in the disposition of human bodies under ORS 97.010 to 97.040, 97.110 to 97.450, 97.510 to 97.730, 97.810 to 97.920 and 97.990 or an employee of the nonlicensed individual performing similar activities.

(11) A nonlicensed individual who is a salaried employee of the State of Oregon, or any of its political subdivisions, engaging in professional real estate activity as a part of such employment.

(12) A nonlicensed individual who analyzes or provides advice regarding permissible land use alternatives, environmental impact, building and use permit procedures, development alternatives or demographic market studies
or who performs development management, or a regular full-time employee 
of the nonlicensed individual performing similar activities. This exclusion 
does not apply to marketing, procuring prospects, leasing or the handling of 
transactional negotiations for transfer of an interest in real estate.

(13) A nonlicensed individual who is a hotelkeeper or innkeeper as 
defined by ORS 699.005 arranging the rental of transient lodging at a hotel 
or inn in the course of business as a hotelkeeper or innkeeper.

(14) A nonlicensed individual who is a travel agent arranging the rental 
of transient lodging at a hotel or inn as defined in ORS 699.005 in the course 
of business as a travel agent for compensation. For the purpose of this sub-
section, “travel agent” means a person, and employees of the person, regu-
larly representing and selling travel services to the public directly or 
through other travel agents.

(15) A nonlicensed individual who is a common carrier arranging the 
rental of transient lodging at a hotel or inn as defined in ORS 699.005 in the 
course of business as a common carrier. For the purpose of this subsection, 
“common carrier” means a person that transports or purports to be willing 
to transport individuals from place to place by rail, motor vehicle, boat or 
aircraft for hire, compensation or consideration.

(16) A nonlicensed individual who is a hotel representative arranging the 
rental of transient lodging at a hotel or inn as defined in ORS 699.005 in the 
course of business as a hotel representative. For the purpose of this sub-
section, “hotel representative” means a person that provides reservations or 
sale services to independent hotels, airlines, steamship companies and gov-
ernment tourist agencies.

(17) A nonlicensed individual transferring or acquiring an interest in real 
estate owned or to be owned by the nonlicensed individual.

(18) A nonlicensed individual who is a general partner for a domestic or 
foreign limited partnership duly registered and operating within this state 
under ORS chapter 70 engaging in the sale of limited partnership interests 
and the acquisition, sale, exchange, lease, transfer or management of the real
estate of the limited partnership.

(19) A nonlicensed individual who is a membership camping contract broker or salesperson registered with the Real Estate Agency selling membership camping contracts.

(20) A nonlicensed individual who is a professional forester or farm manager engaging in property management activity on forestland or farmland when the activity is incidental to the nonreal estate duties involving overall management of forest or farm resources.

(21) A nonlicensed individual who is a registered investment adviser under the Investment Advisers Act of 1940, 15 U.S.C. 80b-1 et seq., rendering real estate investment services for the office of the State Treasurer or the Oregon Investment Council.

(22) A nonlicensed individual who refers a new tenant for compensation to a real estate licensee acting as the property manager for a residential building or facility while the nonlicensed individual resides in the building or facility or within six months after termination of the nonlicensed individual’s tenancy.

(23) A nonlicensed individual who gives an opinion in an administrative or judicial proceeding regarding the value of real estate for taxation or representing a taxpayer under ORS 305.230 or 309.100.

(24) A nonlicensed individual acting as a paid fiduciary whose real estate activity is limited to negotiating a contract to obtain the services of a real estate licensee.

(25) A nonlicensed individual who is acting as a fiduciary under a court order, without regard to whether the court order specifically authorizes real estate activity.

(26) A nonlicensed individual who is a representative of a financial institution or trust company, as those terms are defined in ORS 706.008, that is attorney in fact under a duly executed power of attorney from the owner or purchaser authorizing real estate activity, if the power of attorney is recorded in the office of the county clerk for the county in which the real es-
tate to be sold, leased or exchanged is located.

(27) A nonlicensed individual who is a member of a domestic or foreign limited liability company duly registered and operating within this state under ORS chapter 63 and who is engaging in the acquisition, sale, exchange, lease, transfer or management of the real estate of the limited liability company if:

(a) The limited liability company is member-managed; or

(b) The limited liability company is manager-managed, and the nonlicensed individual is a manager.

(28) A nonlicensed individual who is a partner in a partnership as defined in ORS 67.005 and who is engaging in the acquisition, sale, exchange, lease, transfer or management of the real estate of the partnership.

(29) A nonlicensed individual who is an officer or director of a domestic or foreign corporation duly registered and operating within this state under ORS chapter 60 and who is engaging in the acquisition, sale, exchange, lease, transfer or management of the real estate of the corporation.

[6]
SUMMARY

Allows Teacher Standards and Practices Commission to discipline administrator who fails to make report, follow specified procedures or provide written notification related to suspected abuse or sexual conduct of child by educator.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to grounds for discipline by the Teacher Standards and Practices Commission; creating new provisions; amending ORS 342.127, 342.143, 342.175, 342.553 and 670.280; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 342.175 is amended to read:

342.175. (1) The Teacher Standards and Practices Commission may suspend or revoke the license or registration of a teacher or administrator, discipline a teacher or administrator, or suspend or revoke the right of any person to apply for a license or registration, if the licensee, registrant or applicant has held a license or registration at any time within five years prior to issuance of the notice of charges under ORS 342.176 based on the following:

(a) Conviction of a crime not listed in ORS 342.143 (3);
(b) Gross neglect of duty;
(c) Any gross unfitness;
(d) Conviction of a crime for violating any law of this state or any state or of the United States involving the illegal use, sale or possession of con-
trolled substances;
(e) Conviction of a crime described in ORS 475B.010 to 475B.545;
(f) Any false statement knowingly made in an application for issuance,
renewal or reinstatement of a license or registration; or
(g) Failure to comply with any condition of reinstatement under sub-
section (4) of this section or any condition of probation under ORS 342.177
(3)(b).

(2) The commission may suspend or revoke the license of an ad-
ministrator or discipline an administrator if the administrator held an
administrative license at any time within five years prior to issuance
of the notice of charges under ORS 342.176 based on the following:
(a) Failure to make a report as required under ORS 339.388 (1);
(b) Failure to follow the procedures specified by the policy of the
school board adopted under ORS 339.372 (4) to be taken upon the re-
ceipt of a report made under ORS 339.388 (1);
(c) Failure to provide written notification of an ongoing investi-
gation to the principal of the school to which an investigated person
is transferred if:
(A) The investigated person is licensed, registered or certified by
the commission;
(B) The investigation is related to a report of suspected abuse or
sexual conduct; and
(C) The administrator:
(i) Had direct responsibilities related to the transfer of licensed,
registered or certified persons to other schools within the school dis-
trict; or
(ii) Was the superintendent of a school district in which the person
who had direct responsibilities related to the transfer of licensed,
registered or certified persons to other schools within the school dis-
trict was not a licensed administrator; or
(d) Failure to provide written notification of an ongoing investi-
gation to the superintendent of a school district in this state that
employs an investigated person if:

(A) The investigated person is licensed, registered or certified by
the commission;

(B) The investigation is related to a report of suspected abuse or
sexual conduct; and

(C) The administrator:

(i) Had direct supervision of the investigated person; and

(ii) Had knowledge of the employment of the investigated person
by another school district in this state.

[(2) (3) If a person is enrolled in an approved educator preparation pro-
gram under ORS 342.147, the commission may issue a public reprimand or
may suspend or revoke the right to apply for a license or registration based
on the following:

(a) Conviction of a crime listed in ORS 342.143 (3) or a crime described
by the commission by rule;

(b) Conviction of a crime for violating any law of this state or any state
or of the United States involving the illegal use, sale or possession of con-
trolled substances; or

(c) Any conduct that may cause the commission to issue a public
reprimand for a teacher or to suspend or revoke the license or registration
of a teacher.

[(3)] (4) The commission shall revoke any license or registration and shall
revoke the right of any person to apply for a license or registration if the
person has been convicted of any crime listed in ORS 342.143 (3).

[(4)(a)] (5)(a) Except for convictions for crimes listed in ORS 342.143 (3)
and subject to subsection [(5) (6) of this section, any person whose license
or registration has been revoked, or whose right to apply for a license or
registration has been revoked, may apply to the commission for rein-
statement of the license or registration after one year from the date of the
revocation.

[3]
(b) Any person whose license or registration has been suspended, or whose right to apply for a license or registration has been suspended, may apply to the commission for reinstatement of the license or registration.

(c) The commission may require an applicant for reinstatement to furnish evidence satisfactory to the commission of good moral character, mental and physical health and such other evidence as the commission may consider necessary to establish the applicant's fitness. The commission may impose a probationary period and such conditions as the commission considers necessary upon approving an application for reinstatement.

[(5)] (6) The commission shall reconsider immediately a license or registration suspension or revocation or the situation of a person whose right to apply for a license or registration has been revoked, upon application therefor, when the license or registration suspension or revocation or the right revocation is based on a criminal conviction that is reversed on appeal.

[(6)] (7) Violation of rules adopted by the commission relating to competent and ethical performance of professional duties shall be admissible as evidence of gross neglect of duty or gross unfitness.

[(7)] (8) A copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of a conviction described in this section.

SECTION 2. ORS 342.127, as amended by section 3, chapter 72, Oregon Laws 2018, is amended to read:

342.127. (1) The Teacher Standards and Practices Commission shall establish and collect:

(a) A fee not to exceed $350 for evaluation of the initial application for each educator license for which application is made. If the applicant is eligible for the educator license for which application is made, the commission shall issue the license without additional charge.

(b) A fee not to exceed $350 for the renewal of each educator license and a fee not to exceed $50 for each official paper license. If the educator is certified by a national professional organization for teaching standards re-
cognized by the commission, the commission shall renew the license without charge.

(c) A fee not to exceed $800 for a beginning educator assessment conducted in lieu of an approved preparation program required for licensure.

(d) A fee not to exceed $350 for registration as a public charter school teacher or administrator that includes any fee charged pursuant to rules adopted under ORS 181A.195.

(e) A fee not to exceed $350 for renewal of a registration as a public charter school teacher or administrator that includes any fee charged pursuant to rules adopted under ORS 181A.195.

(2) In addition to the fee required by subsection (1) of this section for the issuance of an educator license, the commission shall collect a fee not to exceed $150 for the evaluation of an applicant requesting licensing based upon completion of an educator preparation program other than an Oregon approved educator preparation program.

(3) In addition to the fees required by subsection (1) of this section, the commission shall collect a late application fee not to exceed $40 per month up to a maximum of $200 from an applicant who fails to make timely application for renewal of the license or registration. The actual amount of the fee shall be determined in accordance with rules of the commission.

(4) In addition to the fees required by subsection (1) of this section, the commission shall collect a late application fee not to exceed $350 for the reinstatement of an expired license. The requirements for reinstatement and the actual amount of the fee shall be determined in accordance with rules of the commission.

(5) Notwithstanding the expiration date posted on the license, the license shall continue to be valid for an additional 120 days, provided the educator has made a timely application, as determined by the commission, for renewal prior to the expiration date on the license.

(6) In addition to the fee required by subsection (1) of this section for the issuance of an educator license, the commission shall collect a fee not to
exceed $300 for the reinstatement of a license that has been suspended or
revoked by the commission for gross neglect of duty or gross unfitness under
ORS 342.175 or for failure to act under ORS 342.175 (2).

(7) In addition to the fee required by subsection (1) of this section for the
issuance of an educator license, the commission shall collect a fee not to
exceed $200 for the issuance of any license through an expedited process
under ORS 342.125 (6) at the request of any school district, public charter
school or education service district that seeks to employ the applicant. The
fee shall be paid by the school district, public charter school or education
service district.

(8) Fees established under this section shall cover, but not exceed, the full
cost of administrative expenses incurred by the commission during any
biennium.

SECTION 3. ORS 342.143 is amended to read:

342.143. (1) A teaching, personnel service or administrative license, or
public charter school registration, may not be issued to any person until the
person has attained the age of 18 years and has furnished satisfactory evi-
dence of proper educational training.

(2) The Teacher Standards and Practices Commission may require an ap-
plicant for a teaching, personnel service or administrative license or for
registration as a public charter school teacher or administrator to furnish
evidence satisfactory to the commission of good moral character, mental and
physical health, and such other evidence as the commission may deem nec-
essary to establish the applicant’s fitness to serve as a teacher or adminis-
trator.

(3) Without limiting the powers of the Teacher Standards and Practices
Commission under subsection (2) of this section:

(a) A teaching, personnel service or administrative license, or a public
charter school registration, may not be issued to any person who:

(A) Has been convicted of a crime listed in ORS 163.095, 163.115, 163.185,
163.235, 163.355, 163.365, 163.375, 163.385, 163.395, 163.405, 163.408, 163.411,
163.415, 163.425, 163.427, 163.432, 163.433, 163.435, 163.445, 163.465, 163.515,
163.525, 163.547, 163.575, 163.670, 163.675 (1985 Replacement Part), 163.680
(1993 Edition), 163.684, 163.686, 163.687, 163.688, 163.689, 164.325, 164.415,
166.005, 166.087, 167.007, 167.008, 167.012, 167.017, 167.057, 167.062, 167.075,
167.080, 167.090, 475.808, 475.810, 475.812, 475.818, 475.820, 475.822, 475.828,
475.830, 475.832, 475.848, 475.852, 475.868, 475.872, 475.878, 475.880, 475.882,
475.888, 475.890, 475.892, 475.904 or 475.906.

(B) Has been convicted under ORS 161.405 of an attempt to commit any
of the crimes listed in subparagraph (A) of this paragraph.

(C) Has been convicted in another jurisdiction of a crime that is sub-
stantially equivalent, as defined by rule, to any of the crimes listed in sub-
paragraphs (A) and (B) of this paragraph.

(D) Has had a teaching, personnel service or administrative license, or a
public charter school registration, revoked in another jurisdiction for a rea-
son that is substantially equivalent, as defined by rule, to a reason described
in ORS 342.175 and the revocation is not subject to further appeal. A person
whose right to apply for a license or registration is denied under this sub-
paragraph may apply for reinstatement of the right as provided in ORS
342.175 [(4)] (5).

(b) The Teacher Standards and Practices Commission may refuse to issue
a license or registration to any person who has been convicted of:

(A) A crime involving the illegal use, sale or possession of controlled
substances; or

(B) A crime described in ORS 475B.010 to 475B.545.

(4) In denying the issuance of a license or registration under this section,
the commission shall follow the procedure set forth in ORS 342.176 and
342.177.

SECTION 4. ORS 342.553 is amended to read:

342.553. (1) Upon notice from a district school board of the resignation
of a person who is licensed by or registered with the Teacher Standards and
Practices Commission, the commission may discipline the person if the per-
son entered into a written contract to work in a public school and resigned
the position without first providing 60 days’ written notice, or the notice
required in the applicable collective bargaining agreement, to the district
superintendent or the school board.

(2) In disciplining a person as provided under this section, the commission
shall follow the procedure set forth in ORS 342.175 [(4)] (5), 342.176 and
342.177.

SECTION 5. ORS 670.280 is amended to read:
670.280. (1) As used in this section:
(a) “License” includes a registration, certification or permit.
(b) “Licensee” includes a registrant or a holder of a certification or per-
mit.
(2) Except as provided in ORS 342.143 (3) or 342.175 [(3)] (4), a licensing
board, commission or agency may not deny, suspend or revoke an occupa-
tional or professional license solely for the reason that the applicant or
licensee has been convicted of a crime, but it may consider the relationship
of the facts which support the conviction and all intervening circumstances
to the specific occupational or professional standards in determining the
fitness of the person to receive or hold the license.
(3) Except as provided in ORS 342.143 (3) and 342.175 [(3)] (4), a licensing
board, commission or agency may deny an occupational or professional li-
cense or impose discipline on a licensee based on conduct that is not
undertaken directly in the course of the licensed activity, but that is sub-
stantially related to the fitness and ability of the applicant or licensee to
engage in the activity for which the license is required. In determining
whether the conduct is substantially related to the fitness and ability of the
applicant or licensee to engage in the activity for which the license is re-
quired, the licensing board, commission or agency shall consider the re-
lationship of the facts with respect to the conduct and all intervening
circumstances to the specific occupational or professional standards.

SECTION 6. (1) The amendments to ORS 342.127, 342.143, 342.175,
342.553 and 670.280 by sections 1 to 5 of this 2019 Act become operative
on August 1, 2019.

(2) The amendments to ORS 342.127 and 342.175 by sections 1 and 2
of this 2019 Act apply to failures to act as described in ORS 342.175 (2)
that occur on or after August 1, 2019.

(3) The Teacher Standards and Practices Commission may adopt
rules and take any other actions before the operative date specified in
subsection (1) of this section that are necessary to enable the com-
mission to exercise, on and after the operative date specified in sub-
section (1) of this section, all of the duties, functions and powers that
the amendments to ORS 342.127 and 342.175 by sections 1 and 2 of this
2019 Act confer on the commission.

SECTION 7. This 2019 Act being necessary for the immediate pres-
ervation of the public peace, health and safety, an emergency is de-
clared to exist, and this 2019 Act takes effect on its passage.

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SUMMARY

Requires that educator who is certified by national professional organization for teaching standards be teaching in public school in state in order to qualify to have educator license renewal fee waived.

A BILL FOR AN ACT

Relating to fees for educator licenses; creating new provisions; and amending ORS 342.127.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 342.127, as amended by section 3, chapter 72, Oregon Laws 2018, is amended to read:

342.127. (1) The Teacher Standards and Practices Commission shall establish and collect:

(a) A fee not to exceed $350 for evaluation of the initial application for each educator license for which application is made. If the applicant is eligible for the educator license for which application is made, the commission shall issue the license without additional charge.

(b) A fee not to exceed $350 for the renewal of each educator license and a fee not to exceed $50 for each official paper license. If the educator is certified by a national professional organization for teaching standards recognized by the commission and is teaching in a public school in this state, the commission shall renew the license without charge.

(c) A fee not to exceed $800 for a beginning educator assessment conducted in lieu of an approved preparation program required for licensure.

(d) A fee not to exceed $350 for registration as a public charter school

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
teacher or administrator that includes any fee charged pursuant to rules adopted under ORS 181A.195.

(e) A fee not to exceed $350 for renewal of a registration as a public charter school teacher or administrator that includes any fee charged pursuant to rules adopted under ORS 181A.195.

(2) In addition to the fee required by subsection (1) of this section for the issuance of an educator license, the commission shall collect a fee not to exceed $150 for the evaluation of an applicant requesting licensing based upon completion of an educator preparation program other than an Oregon approved educator preparation program.

(3) In addition to the fees required by subsection (1) of this section, the commission shall collect a late application fee not to exceed $40 per month up to a maximum of $200 from an applicant who fails to make timely application for renewal of the license or registration. The actual amount of the fee shall be determined in accordance with rules of the commission.

(4) In addition to the fees required by subsection (1) of this section, the commission shall collect a late application fee not to exceed $350 for the reinstatement of an expired license. The requirements for reinstatement and the actual amount of the fee shall be determined in accordance with rules of the commission.

(5) Notwithstanding the expiration date posted on the license, the license shall continue to be valid for an additional 120 days, provided the educator has made a timely application, as determined by the commission, for renewal prior to the expiration date on the license.

(6) In addition to the fee required by subsection (1) of this section for the issuance of an educator license, the commission shall collect a fee not to exceed $300 for the reinstatement of a license that has been suspended or revoked by the commission for gross neglect of duty or gross unfitness under ORS 342.175.

(7) In addition to the fee required by subsection (1) of this section for the issuance of an educator license, the commission shall collect a fee not to
exceed $200 for the issuance of any license through an expedited process under ORS 342.125 (6) at the request of any school district, public charter school or education service district that seeks to employ the applicant. The fee shall be paid by the school district, public charter school or education service district.

(8) Fees established under this section shall cover, but not exceed, the full cost of administrative expenses incurred by the commission during any biennium.

SECTION 2. The amendments to ORS 342.127 by section 1 of this 2019 Act apply to educator licenses renewed on or after the effective date of this 2019 Act.
SUMMARY

Allows person to be employed in public schools for 90 calendar days after date of submission of pending application for licensure only if person had not been employed during previous 12 months with pending application for same license.

A BILL FOR AN ACT

Relating to teaching without a license; creating new provisions; and amending ORS 342.125.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 342.125, as amended by section 1, chapter 72, Oregon Laws 2018, is amended to read:

342.125. (1) Teaching licenses shall be issued and renewed by the Teacher Standards and Practices Commission by the authority of the State of Oregon, subject to ORS 342.120 to 342.430 and the rules of the commission.

(2) Notwithstanding any requirements prescribed for issuance of a license, a person whose application for a license is pending may be employed in the public schools of this state for 90 calendar days after the date of submission of the application if:

(a) The person is not ineligible for a license following background checks conducted by the Teacher Standards and Practices Commission, including a criminal records check as provided in ORS 181A.195 and a background check through an interstate clearinghouse of revoked and suspended licenses;

(b) The school district has completed the review of the employment history of the person as required by ORS 339.374; [and]
(c) The person had not been employed as provided by this sub-
section during the previous 12 months with a pending application for
the same license; and

[(c)] (d) The person and the school district have complied with any other
requirements established by the commission by rule.

(3) Subject to ORS 342.130 and to subsection (4) of this section, licenses
shall be of the following types:

(a) Preliminary teaching license.
(b) Professional teaching license.
(c) Distinguished teacher leader license.
(d) Preliminary personnel service license.
(e) Professional personnel service license.
(f) Preliminary administrative license.
(g) Professional administrative license.
(h) Reciprocal license.
(i) Legacy license.

(4) The Teacher Standards and Practices Commission may establish other
types of teaching licenses as the commission considers necessary for opera-
tion of the public schools of the state and may prescribe the qualifications
for the licenses. However, no license established under the authority of this
subsection is required for a regular classroom teaching position in the public
schools.

(5)(a) The Teacher Standards and Practices Commission shall establish a
public charter school teacher and administrator registry. The commission
shall require the applicant and the public charter school to jointly submit
an application requesting registration as a public charter school teacher or
administrator. The application shall include:

(A) A description of the specific teaching or administrator position the
applicant will fill;

(B) A description of the background of the applicant that is relevant to
the teaching or administrator position, including any post-secondary educa-

[2]
tion or other experience; and

(C) Documentation as required by the commission for the purposes of conducting a criminal records check as provided in ORS 181A.195 and a background check through an interstate clearinghouse of revoked and suspended licenses.

(b) Subject to the results of the criminal records check and background check and to information received under ORS 342.143 (2), the commission shall approve the application for registration. The commission may deny a request for registration only on the basis of the criminal records check, the background check through an interstate clearinghouse of revoked and suspended licenses or the information received under ORS 342.143 (2). The registration is valid for a term established by the commission and, subject to information received under ORS 342.143 (2), may be renewed upon joint application from the teacher or administrator and the public charter school.

(c) A registration as a public charter school teacher qualifies its holder to accept the teaching position described in the application in the public charter school that submitted the application with the holder of the registration.

(d) A registration as a public charter school administrator qualifies its holder to accept the administrator position described in the application in the public charter school that submitted the application with the holder of the registration.

(6)(a) The Teacher Standards and Practices Commission shall adopt an expedited process for the issuance of any license established pursuant to this section. The expedited process may require the following:

(A) The showing of an urgent situation; and

(B) The joint request for the expedited process from the applicant for the license and:

(i) The school district superintendent or school district board;

(ii) The public charter school governing body; or

(iii) The education service district superintendent or board of directors
of the education service district.

(b) Except as provided by paragraph (c) of this subsection, the commission shall issue a license as provided by this subsection within two working days after receiving a completed application.

(c) The commission may limit the number of applications the commission will accept under this subsection from a school district or an education service district to not more than 100 applications in a period of two working days.

(d) For purposes of this subsection, the commission may not distinguish between a school district or an education service district involved in a labor dispute and any other school district or education service district.

SECTION 2. The amendments to ORS 342.125 by section 1 of this 2019 Act apply to persons who begin employment in the public schools of this state as provided by ORS 342.125 (2) on or after the effective date of this 2019 Act.
SUMMARY

Modifies law related to exemption from requirement to have veterinarian’s license to practice veterinary medicine, surgery or dentistry.

A BILL FOR AN ACT

Relating to animals; amending ORS 686.040.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 686.040 is amended to read:

686.040. (1) ORS 686.020 (1)(a) does not apply to commissioned veterinary officers of the United States Army, or those in the employ of other United States Government agencies while engaged in their official capacity, unless they enter into a private practice.

(2) [Nothing in] ORS 686.020 (1)(a) [shall be so construed as] does not apply to any of the following:

(a) [to prevent any person or the agent] Any owner or employee of the person from practicing owner who practices veterinary medicine, [and] surgery or dentistry in a humane manner on any animal belonging to the person, agent or employee or for gratuitous services or from dehorning and vaccinating cattle for the person, agent or employee owner.

(b) Any person who is performing as a gratuitous service one or more actions listed in ORS 686.030.

(c) Any person who is performing animal husbandry or artificial insemination on an animal. As used in this paragraph, “animal husbandry” includes dehorning and vaccination but does not include

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
embryo transfer or pregnancy, sterility or fertility evaluation.

(d) Any person responsible for nonmedical services, such as feeding, housing or exercising an animal, and who is authorized by the owner to administer medical services that are prescribed or directed by a licensed veterinarian, unless the primary purpose in caring for the animal is to practice veterinary medicine, surgery or dentistry on the animal.

(3) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent the selling of veterinary remedies and instruments by a licensed pharmacist at the regular place of business of the licensed pharmacist.

(4) A practitioner of allied health methods may practice that method on animals without violating ORS 686.020 (1)(a), as long as the practice is in conformance with laws and rules governing the practitioner’s practice and the practice is upon referral from a licensed veterinarian for treatment or therapy specified by the veterinarian.

(5) ORS 686.020 (1)(a) does not apply to the lay testing of poultry by the whole blood agglutination test.

(6) A certified euthanasia technician holding an active, current certificate may inject sodium pentobarbital, and any other euthanasia substance approved by the Oregon State Veterinary Medical Examining Board without violating ORS 686.020 (1)(a).

(7) The board by rule may specify circumstances under which unlicensed persons may give vaccinations, administer an anesthetic or otherwise assist in the practice of veterinary medicine.

(8) Any individual licensed as a veterinarian in another state may be used in consultation in this state with a person licensed to practice veterinary medicine in this state provided the consultation does not exceed 30 days in any 365 consecutive days.

(9) ORS 686.020 (1)(a) does not apply to authorized representatives of the State Department of Agriculture in the discharge of any duty authorized by the department.
(10) ORS 686.020 (1)(a) does not apply to an unlicensed representative of a livestock association, cow-testing association, or poultry association who, for the benefit of the association, takes blood samples for laboratory tests for the diagnosis of livestock or poultry diseases, but only if this person has received authorization from the State Department of Agriculture following a written request to the department.

(11) ORS 686.020 (1)(a) does not apply to persons permitted by the State Department of Fish and Wildlife to rehabilitate orphaned, sick or injured wildlife, as defined in ORS 496.004, for the purpose of restoring the animals to the wild.

(12) ORS 686.020 (1)(a) does not apply to students, agents or employees of public or private educational or medical research institutions involved in educational or research activities under the auspices of those institutions.

(13) ORS 686.020 (1)(a) does not apply to:

(a) Veterinarians employed by Oregon State University;

(b) Instructors of veterinary courses; or

(c) Students of veterinary science who participate in the diagnosis and treatment of animals if the students:

(A) Are participating in the diagnosis and treatment of animals while engaged in an educational program approved by the board or a college of veterinary medicine accredited by the American Veterinary Medical Association; and

(B) Are under the direct supervision of an Oregon licensed veterinarian or a veterinarian approved by the board or Oregon State University to supervise students in the educational program.
SUMMARY

Allows use of sedative and analgesic medications when euthanizing animals.

A BILL FOR AN ACT

Relating to animal euthanasia; amending ORS 475.190 and 686.040.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 475.190 is amended to read:

475.190. (1) Notwithstanding the provisions of ORS 475.185, upon registration with the State Board of Pharmacy, a humane society or animal control agency may purchase, possess and, subject to subsection (4) of this section, administer sodium pentobarbital and sedative and analgesic medications to euthanize injured, sick, homeless or unwanted domestic pets and other animals.

(2) The State Board of Pharmacy, after consultation with the Oregon State Veterinary Medical Examining Board, shall adopt rules according to ORS 183.325 to 183.410 establishing requirements for registration, renewal of registration and revocation or suspension of registration under subsection (1) of this section. Those rules shall include a provision that the State Board of Pharmacy will suspend or revoke the registration of any humane society or animal control agency that allows a person who is not certified under subsection (4) of this section to administer sodium pentobarbital and sedative and analgesic medications.

(3) Any person who is registered under ORS 475.005 to 475.285 and 475.752

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to 475.980 to deliver or dispense controlled substances may deliver or dis-
perse sodium pentobarbital \textbf{and sedative and analgesic medications} to a
humane society or animal control agency registered under subsections (1)
and (2) of this section.

(4) The Oregon State Veterinary Medical Examining Board, after consul-
tation with the State Board of Pharmacy, shall adopt rules establishing re-
quirements for certification of persons to administer sodium pentobarbital
\textbf{and sedative and analgesic medications}. Those rules may require that a
person complete certain educational or training programs in order to be
certified. [No person shall] A person may not administer sodium
pentobarbital \textbf{or sedative or analgesic medications} unless the person is
certified by the Oregon State Veterinary Medical Examining Board.

\textbf{SECTION 2.} ORS 686.040 is amended to read:

686.040. (1) ORS 686.020 (1)(a) does not apply to commissioned veterinary
officers of the United States Army, or those in the employ of other United
States Government agencies while engaged in their official capacity, unless
they enter into a private practice.

(2) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent any
person or the agent or employee of the person from practicing veterinary
medicine and surgery or dentistry in a humane manner on any animal be-
longing to the person, agent or employee or for gratuitous services or from
dehorning and vaccinating cattle for the person, agent or employee.

(3) Nothing in ORS 686.020 (1)(a) shall be so construed as to prevent the
selling of veterinary remedies and instruments by a licensed pharmacist at
the regular place of business of the licensed pharmacist.

(4) A practitioner of allied health methods may practice that method on
animals without violating ORS 686.020 (1)(a), as long as the practice is in
conformance with laws and rules governing the practitioner's practice and
the practice is upon referral from a licensed veterinarian for treatment or
therapy specified by the veterinarian.

(5) ORS 686.020 (1)(a) does not apply to the lay testing of poultry by the
whole blood agglutination test.

(6) A certified euthanasia technician holding an active, current certificate may inject sodium pentobarbital, **sedative and analgesic medications** and any other euthanasia substance approved by the Oregon State Veterinary Medical Examining Board without violating ORS 686.020 (1)(a).

(7) The board by rule may specify circumstances under which unlicensed persons may give vaccinations, administer an anesthetic or otherwise assist in the practice of veterinary medicine.

(8) Any individual licensed as a veterinarian in another state may be used in consultation in this state with a person licensed to practice veterinary medicine in this state provided the consultation does not exceed 30 days in any 365 consecutive days.

(9) ORS 686.020 (1)(a) does not apply to authorized representatives of the State Department of Agriculture in the discharge of any duty authorized by the department.

(10) ORS 686.020 (1)(a) does not apply to an unlicensed representative of a livestock association, cow-testing association, or poultry association who, for the benefit of the association, takes blood samples for laboratory tests for the diagnosis of livestock or poultry diseases, but only if this person has received authorization from the State Department of Agriculture following a written request to the department.

(11) ORS 686.020 (1)(a) does not apply to persons permitted by the State Department of Fish and Wildlife to rehabilitate orphaned, sick or injured wildlife, as defined in ORS 496.004, for the purpose of restoring the animals to the wild.

(12) ORS 686.020 (1)(a) does not apply to students, agents or employees of public or private educational or medical research institutions involved in educational or research activities under the auspices of those institutions.

(13) ORS 686.020 (1)(a) does not apply to:

(a) Veterinarians employed by Oregon State University;

(b) Instructors of veterinary courses; or
(c) Students of veterinary science who participate in the diagnosis and treatment of animals if the students:

(A) Are participating in the diagnosis and treatment of animals while engaged in an educational program approved by the board or a college of veterinary medicine accredited by the American Veterinary Medical Association; and

(B) Are under the direct supervision of an Oregon licensed veterinarian or a veterinarian approved by the board or Oregon State University to supervise students in the educational program.
SUMMARY

Extends sunset date for Water Resources Department grant program for place-based integrated water resources strategies. Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to place-based integrated water resources strategies; creating new provisions; amending section 3, chapter 780, Oregon Laws 2015; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 3, chapter 780, Oregon Laws 2015, is amended to read:

Sec. 3. (1) Section 2, chapter 780, Oregon Laws 2015, [of this 2015 Act] is repealed July 1, [2019] 2023.

(2) The repeal of section 2, chapter 780, Oregon Laws 2015, [of this 2015 Act] does not affect any rights or responsibilities established in a grant, contract or agreement made under section 2, chapter 780, Oregon Laws 2015, [of this 2015 Act] prior to July 1, [2019] 2023.

SECTION 2. If this 2019 Act does not become effective until after June 30, 2019, the amendments to section 3, chapter 780, Oregon Laws 2015, by section 1 of this 2019 Act revive section 2, chapter 780, Oregon Laws 2015. If this 2019 Act does not become effective until after June 30, 2019, this 2019 Act shall operate retroactively to June 30, 2019, and section 2, chapter 780, Oregon Laws 2015, shall continue unaffected from June 30, 2019, and thereafter. Any otherwise lawful action taken

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or otherwise lawful obligation incurred under authority of section 2, chapter 780, Oregon Laws 2015, after June 30, 2019, and before the effective date of this 2019 Act is ratified and approved.

SECTION 3. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.
SUMMARY

Regulates construction and removal of dams.

Provides for Water Resources Department inspection of dams, appurtenant structures and related information.

Requires department to notify dam owner if inspection or analysis finds that dam having significant hazard rating or high hazard rating, or appurtenant structure to dam, is unsafe or potentially unsafe. Requires informing dam owner of maintenance action need disclosed by inspection. Establishes processes for stimulating corrective action or maintenance action by dam owner.

Sets forth department, Water Resources Commission and Water Resources Director enforcement authority regarding dams.

Allows inspection request by person residing near dam. Assigns responsibility for cost of requested inspection.

Requires dam owner to supply department with certain contact information. Requires dam owner to periodically review and evaluate condition of dam. Establishes duties of dam owner regarding emergency planning and emergency response. Establishes department authority regarding dam emergency planning and emergency response.

Allows department to inspect, evaluate and access additional forms of hydraulic structure with permission of owner. Allows department to provide recommendations, technical assistance, advice and emergency plan assistance regarding hydraulic structure.

Authorizes commission to impose civil penalty for certain violations under dam regulation program, not to exceed $5,000. Authorizes director to impose civil penalty for violation of certain orders related to dam regulatory program, not to exceed $5,000 per day.

Makes violation of certain director or appellate court orders misdemeanor punishable by maximum of six months’ incarceration, $2,500 fine, or both.

Becomes operative July 1, 2020.

Takes effect on 91st day following adjournment sine die.

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A BILL FOR AN ACT

Relating to water impoundment safety; creating new provisions; amending ORS 517.971, 537.010, 537.400, 540.355 and 540.990; repealing ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 and 540.400; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

INCORPORATION INTO CHAPTER

SECTION 1. Sections 2 to 22 of this 2019 Act are added to and made a part of ORS chapter 540.

DEFINITIONS

SECTION 2. As used in sections 2 to 21 of this 2019 Act:

(1) “Appurtenant structure” means a feature that:
(a) Must be functional in order to allow the safe flow of water away from, over or through a dam; or
(b) Directly affects the stability of a dam.

(2) “Construct” means:
(a) To build a new dam or appurtenant structures; or
(b) To modify dam height or otherwise modify an existing dam or appurtenant structures:
(A) Through actions other than the exercise of routine maintenance;
(B) In a manner that has a potential impact on the safe functioning of the dam or appurtenant structures; and
(C) To an extent that the modified dam or appurtenant structures no longer conform to the original design.

(3) “Dam failure” means an uncontrolled release of water or wastewater due to movement, erosion, damage or improper operation
of a dam or appurtenant structure.

(4) “Emergency action plan” means a plan that assists a dam owner, other dam personnel, state and local emergency management personnel or others to perform actions to ensure human safety in the event of a potential or actual dam failure.

(5) “High hazard rating” means that the Water Resources Department expects loss of human life to occur if a dam fails.

(6) “Maintenance action” means measures that the department believes necessary to address a condition that, if left unaddressed, may cause a dam or appurtenant structures of a dam to become unsafe or potentially unsafe.

(7) “Potentially unsafe” means that, based on an inspection or analysis:

(a) It is probable that a dam or an appurtenant structure cannot withstand an extreme flood, earthquake or other catastrophic event; or

(b) The dam has a high risk of internal erosion.

(8) “Significant hazard rating” means the department does not expect loss of life to occur if a dam or an appurtenant structure fails, but does expect extensive damage to property or infrastructure.

(9) “Unsafe” means that, based on an inspection or analysis:

(a) It is probable that a dam or an appurtenant structure cannot be depended upon to retain or pass water or wastewater as designed; and

(b) Inability of the dam or appurtenant structure to retain or pass water or wastewater as designed could result in dam failure.

POLICY

SECTION 3. It is the policy of this state to protect public health, safety and welfare through the administration of a program to review
and evaluate the safety of dams that might pose a risk to life, property or infrastructure in the event of dam failure.

SCOPE OF DEPARTMENT PROGRAM

SECTION 4. (1) An exemption from water right requirements does not exempt a dam from sections 2 to 21 of this 2019 Act.

(2) Sections 2 to 21 of this 2019 Act do not apply to:

(a) A dam that is less than 10 feet in height;

(b) A dam that impounds less than 3 million gallons of water or wastewater; or

(c) The appurtenant structures of a dam described in this subsection.

(3) Except as provided in this subsection, sections 2 to 21 of this 2019 Act do not apply to dams or appurtenant structures regulated under a federal dam safety program. If there is a potential or actual risk of dam failure at a dam regulated under a federal dam safety program, the Water Resources Department may aid in the inspection of the dam and appurtenant structures and may provide advice and assistance to prevent, mitigate or respond to a potential or actual dam failure.

CONSTRUCTION PLAN APPROVAL

SECTION 5. (1) A person may not construct a dam unless the Water Resources Department has examined the site, plans and specifications, features and other supporting information regarding the construction and operation of the dam and appurtenant structures and has approved them in writing.

(2) Except as provided in this subsection, a dam or appurtenant structure may not be used to impound water or wastewater until final documentation for the site, plans and specifications, features and
other supporting information of the dam and appurtenant structure has been submitted to and accepted by the department after completion of construction. The Water Resources Commission may adopt rules to allow all or a portion of a previously authorized impoundment during construction described in section 2 (2)(b) of this 2019 Act.

(3) The department may charge a fee for an examination under this section. The fee may not exceed the lesser of the costs of providing the examination or:

(a) $1,750 for a dam that has a low hazard rating;
(b) $3,500 for a dam that has a significant hazard rating; or
(c) $8,500 for a dam that has a high hazard rating.

(4) Except as provided under subsection (5) of this section, if a person seeks department approval in writing under subsection (1) of this section for the site, plans and specifications, features and other supporting information regarding a new dam more than 25 feet in height at a site where there is an average annual flow exceeding two cubic feet per second, the person must demonstrate that the dam includes measures that make it readily adaptable to hydroelectric generation in a manner meeting statutory requirements for the safe passage of fish. The measures must include the installation of a pressure conduit, penstock, drain or similar water diversion system at the time the dam is constructed.

(5) A person is not required to make the demonstration described under subsection (4) of this section if the person demonstrates to the satisfaction of the department that:
(a) It is not likely that the installation of hydroelectric generating facilities at the proposed site would be feasible anytime during the life of the proposed dam; or
(b) It would be more feasible to install hydroelectric facilities after construction of the proposed dam.
REMOVAL PLAN APPROVAL

SECTION 6. (1) An owner seeking to remove a dam that has a significant hazard rating or high hazard rating must obtain Water Resources Department approval of a removal plan for the dam. The department shall review the plan to ensure that the plan includes appropriate safety precautions to protect life, property and infrastructure in the area downstream from the dam. The department may require that work performed under the plan be supervised by an engineer to the extent the department believes necessary to protect life, property or infrastructure.

(2) A person may not perform removal work on a dam that has a significant hazard rating or high hazard rating, or on appurtenant structures to the dam, except as provided in a removal plan approved by the department.

INSPECTIONS

SECTION 7. The Water Resources Department or its agents or representatives may enter upon property for the purpose of carrying out actions under sections 2 to 21 of this 2019 Act. The department shall make reasonable efforts to obtain consent prior to the department or its agents or representatives entering upon property under this section. If the owner or operator does not respond to a request to enter a property or denies entry upon a property, in addition to any other available remedies, the department may apply for a warrant allowing the department or its agents or representatives to enter upon the property and conduct an inspection. This section does not prohibit the issuance of an ex parte warrant based on probable cause.

SECTION 8. (1) The Water Resources Department, or agents or representatives of the department, may periodically inspect a dam and
appurtenant structures, and the site, plans and specifications, features and other supporting information regarding the construction, maintenance and operation of a dam and appurtenant structures. If a dam has a high hazard rating, the department shall ensure that the dam and appurtenant structures are inspected annually unless the department determines that a different inspection schedule is appropriate.

(2) The department shall provide the owner with an inspection summary.

CORRECTIVE ACTION FOR UNSAFE OR POTENTIALLY UNSAFE CONDITIONS

SECTION 9. (1) If, as the result of an inspection or analysis of a dam that has a significant hazard rating or high hazard rating, or of its appurtenant structures, the Water Resources Department believes that corrective action is necessary to address a condition rendering the dam or appurtenant structure unsafe or potentially unsafe, the department shall notify the dam owner regarding:

(a) The information and conditions that cause the department to believe the dam or appurtenant structure is unsafe or potentially unsafe;

(b) The action the department believes is necessary to address the unsafe or potentially unsafe condition; and

(c) Whether the dam owner may request a meeting with the department to cooperatively develop a plan and timeframe for remedying the unsafe or potentially unsafe condition.

(2) Except as provided in subsection (3) of this section, the department shall notify a dam owner under subsection (1) of this section by:

(a) Registered mail; or

(b) Certified mail with return receipt requested.

(3) If the department believes that the dam or appurtenant struc-
ture is unsafe, department notification to a dam owner under subsection (1) of this section shall be accomplished by inclusion in a proposed final order issued by the Water Resources Director under section 10 (3) of this 2019 Act.

SECTION 10. (1) The Water Resources Department may at any time use informal or alternative means to resolve a matter for which the department has provided a dam owner with notification under section 9 of this 2019 Act. Informal or alternative means may include, but are not limited to, stipulation, agreed settlement, consent order or order of default.

(2) If the department provides notification to a dam owner under section 9 of this 2019 Act stating that the department believes a dam that has a significant hazard rating or high hazard rating, or its appurtenant structures, to be unsafe or potentially unsafe, the department may act cooperatively with the dam owner to develop and agree to a reasonable plan and timeframe for corrective action. When developing a plan and timeframe under this subsection, the department may consider any relevant information, including, but not limited to, information regarding:

(a) The specific dam or its appurtenant structures;
(b) The efforts and resources of the dam owner; and
(c) The impacts associated with dam failure.

(3) In addition to any other available remedies, the Water Resources Director may issue a proposed final order containing one or more of the provisions described in subsection (4) of this section if:

(a) The department and the dam owner do not agree under subsection (2) of this section to a plan and timeframe for corrective action to resolve a condition identified in a notification that was sent by mail under section 9 (2) of this 2019 Act and have not resolved the matter through informal or alternative means;

(b) The dam owner has failed to comply with a plan and timeframe
developed and agreed to under subsection (2) of this section or with a
resolution reached through informal or alternative means under sub-
section (1) of this section; or
(c) The department believes, based on inspection or analysis, that
the dam or an appurtenant structure is unsafe.
(4) If the director issues a proposed final order under subsection (3)
of this section, the director shall provide the dam owner with notice
and opportunity for hearing under ORS 183.413 to 183.470. The proposed
final order may include, but need not be limited to, provisions:
(a) Notifying the dam owner as described in section 9 of this 2019
Act that the department believes the dam or appurtenant structure is
unsafe.
(b) Requiring that the dam owner consult with an engineer to de-
termine the nature and extent of any condition indicating that the
dam or appurtenant structure is unsafe or potentially unsafe.
(c) Specifying commencement and completion dates for any cor-
corrective action the department deems necessary to remedy the unsafe
or potentially unsafe condition.
(d) Restricting the maximum reservoir level.
(e) Directing that the gates of the dam be kept open until corrective
action has been completed to the satisfaction of the department.
(f) Directing that an opening in the dam be made and maintained
until corrective action is completed to the satisfaction of the depart-
ment.
(g) Directing that the dam and appurtenant structures may not be
used for the storage, restraint or conveyance of water until corrective
action has been completed to the satisfaction of the department.
(h) Requiring the installation of monitoring equipment at a dam.
If the department believes that monitoring is necessary to protect life,
property or infrastructure, the proposed final order may require use
of the equipment to monitor any unsafe or potentially unsafe condi-
[9]
tion.

(5) If the dam owner does not timely request a hearing regarding the proposed final order, the director may issue a final order.

SECTION 11. The Water Resources Department may accept the reports of consulting engineers, geologists or other specialists employed by the dam owner. If the department believes the reports insufficient, the department may employ consulting engineers, geologists or other specialists as agents or representatives of the department to make special examinations and inspections and to prepare reports for the department. The cost of such special examinations, inspections and reports shall be paid by the department or, upon mutual agreement, may be divided between the department and the dam owner.

MAINTENANCE ACTIONS

SECTION 12. (1) If, as the result of an inspection under section 8 of this 2019 Act of a dam that has a significant hazard rating or high hazard rating, or its appurtenant structures, the Water Resources Department believes that maintenance actions are needed, the department shall inform the dam owner of the need for maintenance actions. The department shall provide the information by inclusion in the inspection summary.

(2) If the department or its agent or representative conducts a periodic inspection and the department determines that the dam owner has failed to take needed maintenance actions identified in a prior inspection summary, in addition to any other available remedies, the Water Resources Director may issue a proposed final order under subsection (3) of this section. If the director issues a proposed final order under this subsection, the director shall provide the dam owner with notice and opportunity for hearing under ORS 183.413 to 183.470.

(3) Subject to subsection (2) of this section, the director may issue
a proposed final order that includes, but need not be limited to, provisions:

(a) Requiring the dam owner to perform the needed maintenance actions by a specified date; and

(b) Imposing a civil penalty under section 22 of this 2019 Act, not to exceed an amount established by the Water Resources Commission by rule, for failing to address the needed maintenance condition identified in the proposed final order or failing to comply with a resolution reached through informal or alternative means under subsection (5) of this section.

(4) If the dam owner performs needed maintenance actions required by a proposed final order issued under subsection (3) of this section to the satisfaction of the department by the date specified in the proposed final order, the director may not impose any civil penalty that was described in the proposed final order.

(5) The department may at any time use informal or alternative means to resolve a matter involving needed maintenance actions. Informal or alternative means may include, but are not limited to, stipulation, agreed settlement, consent order or order of default.

(6) If the dam owner does not timely request a hearing regarding the proposed final order, the director may issue a final order.

ENFORCEMENT

SECTION 13. Except as provided in this section, if the Water Resources Director sends a dam owner a notice under ORS 183.415, the director shall require that any request for a contested case hearing be delivered no later than 30 days after the date that the director sends the notice. If the Water Resources Department believes that a dam is unsafe, or poses an imminent risk to life, property or infrastructure, the director may require that any request for a contested case hearing
be delivered to the director no later than 10 days after the director
sends the dam owner notice under ORS 183.415. If the director requires
that a request for a contested case hearing be delivered within 10 days,
the Office of Administrative Hearings shall expedite the contested case
hearing to the extent the office considers practicable.

SECTION 14. In addition to any other available remedies, if the
Water Resources Department has reason to believe that a person is
violating or intends to violate a final order issued under section 10 of
this 2019 Act, or believes that a dam or appurtenant structure poses
an imminent risk to life, property or infrastructure, the department
may apply to the circuit court for Marion County or to the circuit
court for any county where all or part of the dam or appurtenant
structures are located for a temporary or permanent injunction re-
quiring the person to:

(1) Refrain from violation of the order; or
(2) Take any actions necessary to remedy an imminent risk to life,
property or infrastructure.

SECTION 15. (1) Notwithstanding ORS 536.075 (5), the filing of a
petition in circuit court or the Court of Appeals does not stay the
enforcement of an order issued by the Water Resources Director under
section 10 (5) of this 2019 Act.

(2) In addition to any other available remedies, if a director order
issued under section 10 (5) of this 2019 Act becomes final by operation
of law or on appeal, and the dam owner fails to comply with the order,
the Water Resources Department may request that the Attorney
General or the district attorney of any county where all or part of the
dam or appurtenant structures are located bring an action to have the
dam and appurtenant structures declared a public nuisance that must
be removed at the dam owner’s expense.

RESIDENT REQUESTS FOR INSPECTION
SECTION 16. (1) The Water Resources Department may, upon a written request from a person residing near a dam, or upon its own motion, conduct or order an inspection of a dam and appurtenant structures during or after completion of construction. Before conducting an inspection requested by a person, the department may require the person to deposit a sum of money sufficient to pay the cost of the inspection. If, after department inspection of the dam and appurtenant structures, the Water Resources Commission believes that the inspection request was not warranted, the commission may order the whole or part of the cost of the inspection to be paid out of the deposit. If, after department inspection, the commission believes the inspection request was warranted, the commission may order the dam owner to pay the whole or any part of the expenses of the inspection.

(2) If an inspection under this section of a dam that has a significant hazard rating or high hazard rating discloses an unsafe or potentially unsafe condition, the department shall give notification to the dam owner under section 9 of this 2019 Act. If an inspection under this section of a dam that has a significant hazard rating or high hazard rating discloses a need for maintenance action, the department shall inform the dam owner as provided under section 12 of this 2019 Act.

EMERGENCY PLANNING; EMERGENCIES

SECTION 17. (1) The owner of record of a dam that is subject to periodic inspection under section 8 of this 2019 Act shall:

(a) Provide the Water Resources Department with contact information, in a form acceptable to the department, for:

(A) The dam owner;

(B) The operator of the dam, if other than the owner; and
(C) The individual in immediate charge of the dam and appurtenant structures;
(b) Notify the department of any changes in the contact information provided under this subsection; and
(c) Provide the department with notice, in a form acceptable to the department, no later than the next business day after completing a transfer of title for the dam.

(2) The dam owner shall review and evaluate the conditions at the dam on a regular basis to:
(a) Keep the dam and appurtenant structures in good repair and properly maintained; and
(b) Address any detected conditions that may pose a risk of dam failure.

SECTION 18. (1) The Water Resources Department shall require the owner of a dam that has a high hazard rating to develop an emergency action plan for the dam.

(2) An emergency action plan required under this section must include, but need not be limited to:
(a) Means for emergency condition detection;
(b) Means for emergency level determination;
(c) Identification of, and information necessary for, notifications and communications to be made at each level of emergency condition;
(d) A description of actions expected to be undertaken to prevent dam failure or reduce the effects of dam failure;
(e) A map of dam failure inundation zones for varying conditions, including, but not limited to, dry weather conditions and high flood conditions; and
(f) Procedures to be followed at the termination of an emergency.

(3) A dam owner that develops an emergency action plan required under this section shall file copies of the plan with the department, the Office of Emergency Management and the local emergency ser-
vices agency for the county where the dam is located. The depart-
ment, in consultation with the office and local emergency services
agency, shall periodically review the emergency action plan and may
require updates to the plan.

(4) The department, in consultation with the office and local emer-
gency services agency, shall determine the appropriate frequency for
conducting emergency response exercises at a dam that has a high
hazard rating.

SECTION 19. (1) If a condition threatens the safety of a dam or
appurtenant structures, and the potential for dam failure creates an
imminent risk to life, property or infrastructure, the dam owner shall
immediately:

(a) If an emergency action plan exists for the dam, implement the
actions specified in the plan;
(b) Notify by telephone or other method that ensures immediate
notification:
(A) The local emergency services agency;
(B) The Office of Emergency Management;
(C) Any other state and local agencies identified in an emergency
action plan for the dam; and
(D) The Water Resources Department;
(c) To the greatest extent practicable, notify persons in areas where
the potential for dam failure creates a risk to life, property or
infrastructure; and
(d) Take all practicable actions to prevent dam failure.

(2) If the department is aware of conditions that indicate the need
for immediate action to prevent dam failure, the department may ad-
vise the owner or operator or individual in immediate charge of the
dam or appurtenant structures regarding the actions necessary to
prevent the dam failure.

(3) The department may communicate and coordinate actions nec-
essary to reduce the risk of dam failure. If there is a rapidly increasing
leakage or overtopping at a dam that has a significant hazard rating
or high hazard rating, the department may take any practicable
actions to reduce the water level in the reservoir or to reduce leakage
or overtopping. Activities under this subsection by the department do
not relieve the owner, the operator or an individual in charge of a dam
from the responsibility to prevent the dam failure.

(4) If a dam that has a significant hazard rating or high hazard
rating presents an imminent risk of dam failure, the department or its
agent or representative may enter without notice or permission upon
any property that affords access to the dam or to any appurtenant
structure for the dam to the extent entry is reasonable or necessary
to allow evaluation or addressing of the condition or risk.

RULES; POWERS

SECTION 20. (1) The Water Resources Commission may adopt rules
the commission deems necessary or convenient for the administration
and enforcement of sections 2 to 21 of this 2019 Act.

(2) Notwithstanding subsection (1) of this section, the commission
shall adopt rules that, at a minimum, establish:

(a) A schedule of civil penalty amounts for purposes of section 22
of this 2019 Act; and

(b) The conditions under which the Water Resources Department
may remit a civil penalty.

(3) In addition to any other powers of the department, in carrying
out department duties, functions and powers under sections 2 to 21 of
this 2019 Act, the department may:

(a) Enter into contracts, memorandums of understanding and
intergovernmental agreements for:

(A) The inspection, evaluation or study of dams or appurtenant
structures; or
(B) The response to dam failure or potential dam failure;
(b) Accept moneys from any public or private source for the ad-
ministration and enforcement of sections 2 to 21 of this 2019 Act or for
enhancing the safety of dams or the protection of life, property or
infrastructure in areas below dams;
(c) Coordinate with federal, tribal, state, local and private entities
to enhance the safety of dams or the protection of life, property or
infrastructure below dams; and
(d) Waive or reduce fees for dams and appurtenant structures in-
spected by another state agency under a memorandum of under-
standing with the department.

EFFECT ON RESPONSIBILITIES AND LIABILITY

SECTION 21. (1) Compliance with sections 2 to 21 of this 2019 Act
does not relieve the owner or operator of a dam and appurtenant
structures or an individual in immediate charge of a dam and
appurtenant structures from any duty, obligation or liability regarding
the ownership, maintenance or operation of the dam or appurtenant
structures.
(2) Water Resources Department actions and services under
sections 2 to 21 of this 2019 Act do not relieve the owner or operator
or individual in immediate charge of a dam from any duty, obligation
or liability regarding the ownership or operation of the dam or
appurtenant structures.

CIVIL PENALTIES

SECTION 22. (1) The Water Resources Commission may impose a
civil penalty of not more than $5,000 per occurrence for a violation of
sections 5, 6 or 19 of this 2019 Act.

(2) The Water Resources Director may impose a civil penalty, not to exceed $5,000, by order as provided under section 12 of this 2019 Act. If a violation of a director order under section 12 of this 2019 Act is a continuing condition, each day that the condition continues is a separate violation subject to imposition of a civil penalty.

(3) Moneys recovered from civil penalties imposed under this section shall be deposited in the State Treasury and credited to an account of the Water Resources Department. Moneys described in this section are continuously appropriated to the department for the administration and enforcement of sections 2 to 21 of this 2019 Act.

HYDRAULIC STRUCTURES

SECTION 23. ORS 540.355 is amended to read:

540.355. (1) [In lieu of the authority granted to the Water Resources Commission under ORS 540.350 (5),] The Water Resources Department may inspect, evaluate and assess the condition of a levee, dike, ditch or other hydraulic structure with the permission of the owner [of the levee].

(2) In performing the actions under subsection (1) of this section, the department may:

(a) Provide recommendations and technical assistance;
(b) Advise on necessary maintenance and repairs;
(c) [Require or] Assist with the development of emergency action plans to ensure the safety of life, [and] property or infrastructure;
(d) Undertake activities necessary to identify the owner [of a levee] or operator of the hydraulic structure or the individual in immediate charge of the hydraulic structure;
(e) Assist with mapping the locations of [levees] hydraulic structures;
(f) Enter into contracts, memorandums of understanding and inter-governmental agreements;
(g) Accept and receive moneys from any public or private source;
(h) Accept and receive payment for services performed; and
(i) Exchange information and perform other actions as necessary to co-
operate with private, local, state and federal entities.

[(3) The department's actions under this section shall not relieve the owners
of levees of their legal liabilities and responsibilities.]

(3) If the department is aware of conditions that indicate the need
for immediate action to prevent the failure of a hydraulic structure,
the department may:

(a) Advise the owner or operator or the individual in immediate
charge of the hydraulic structure regarding the actions necessary to
prevent the failure; and

(b) If the conditions create a risk to life, property or infrastructure,
notify emergency managers.

(4) The acceptance of department services under this section does
not relieve the owner or operator or individual in immediate charge
of a hydraulic structure from any duty, obligation or liability regard-
ing the ownership, maintenance or operation of the hydraulic struc-
ture.

(5) The Water Resources Commission may adopt rules for the ad-
ministration of this section.

CONFORMING AMENDMENTS

SECTION 24. ORS 517.971 is amended to read:

517.971. Each applicant for a permit to operate a mining operation shall
submit a consolidated application to the State Department of Geology and
Mineral Industries. The department and the permitting and cooperating
agencies shall not begin deliberating on whether to issue a permit until the
department receives an application fee and a complete consolidated applica-
tion that includes but is not limited to:
(1) Name and location of the proposed facility.

(2) Name, mailing address and phone number of the applicant and a registered agent for the applicant.

(3) The legal structure of the applicant as filed in the business registry with the Secretary of State and the legal residence of the applicant.

(4) Mineral and surface ownership status of the proposed facility.

(5) Baseline data, including but not limited to environmental, socioeconomic, historical, archaeological conditions, land use designations and special use designations in the area of the state in which the proposed mining operation is located.

(6) Appropriate maps, aerial photos, cross sections, plans and documentation.

(7) A proposed:

(a) Mine plan;

(b) Processing plan;

(c) Water budget;

(d) Fish and wildlife protection and mitigation plan;

(e) Operational monitoring and reporting plan;

(f) Reclamation and closure plan;

(g) Plan for controlling water runoff and run on;

(h) Operating plan;

(i) Solid and hazardous waste management plan;

(j) Plan for transporting and storing toxic chemicals;

(k) Employee training plan as required by agency rule;

(L) Seasonal or short term closure plan;

(m) Spill prevention and credible accident contingency plan;

(n) Post-closure monitoring and reporting plan; and

(o) Identification of special natural areas, including but not limited to areas designated as areas of critical environmental concern, research natural areas, outstanding natural areas and areas designated by the Oregon Natural Areas Plan, as defined in state rules and federal regulations.
(8) All information required by the permitting agencies to determine whether to issue or deny the following permits as applicable to the proposed operation:

(a) Surface mining operating permits required under ORS 517.790 and 517.915;
(b) Fill and removal permits required under ORS 196.600 to 196.905;
(c) Permits to appropriate surface water or ground water under ORS 537.130 and 537.615, to store water under ORS 537.400 and impoundment structure approval under [ORS 540.350 to 540.390] section 5 of this 2019 Act;
(d) National Pollutant Discharge Elimination System permit under ORS 468B.050;
(e) Water pollution control facility permit under ORS 468B.050;
(f) Air contaminant discharge permit under ORS 468A.040 to 468A.060;
(g) Solid waste disposal permit under ORS 459.205;
(h) Permit for use of power driven machinery on forestland under ORS 477.625;
(i) Permit for placing explosives or harmful substances in waters of the state under ORS 509.140;
(j) Hazardous waste storage permit under ORS 466.005 to 466.385;
(k) Local land use permits; and
(L) Any other state permit required for the mining operation.

(9) All other information required by the department, a permitting agency, a cooperating agency or the technical review team.

SECTION 25. ORS 537.010 is amended to read:

537.010. As used in this chapter, “Water Rights Act” means and embraces ORS 536.050, 537.120, 537.130, 537.140 to 537.252, 537.390 to 537.400, 538.420, 540.010 to 540.120, 540.210 to 540.230, 540.310 to 540.430, 540.505 to 540.585 and 540.710 to 540.750 and sections 2 to 21 of this 2019 Act.

SECTION 26. ORS 537.400 is amended to read:

537.400. (1) All applications for reservoir permits shall be subject to the
provisions of ORS 537.130, 537.140, 537.142 and 537.145 to 537.240, except that an enumeration of any lands proposed to be irrigated under the Water Rights Act shall not be required in the primary permit. But the party proposing to apply to a beneficial use the water stored in any such reservoir shall file an application for permit, to be known as the secondary permit, in compliance with the provisions of ORS 537.130, 537.140, 537.142 and 537.145 to 537.240. The application shall refer to the reservoir for a supply of water and shall show by documentary evidence that an agreement has been entered into with the owners of the reservoir for a sufficient interest in the reservoir to impound enough water for the purposes set forth in the application, that the applicant has provided notice of the application to the operator of the reservoir and, if applicable, that an agreement has been entered into with the entity delivering the stored water. When beneficial use has been completed and perfected under the secondary permit, the Water Resources Department shall take the proof of the water user under the permit. The final certificate of appropriation shall refer to both the ditch described in the secondary permit and the reservoir described in the primary permit.

(2) Whenever application is made for permit to store water in a reservoir or pond for any beneficial use which does not contemplate future diversion of the stored water except by livestock drinking from stock water ponds, the extent of utilization thereof may be included in the reservoir permit and no secondary permit shall be required. However, in cases where water from a stream is required to maintain a reservoir or pond by replacing evaporation and seepage losses, or is required to maintain suitable fresh water conditions for the proposed use and to prevent stagnation, the applicant for permit to store water in such reservoir or pond shall also file an application for permit to appropriate the waters of the stream.

(3) An application submitted to construct a reservoir storing less than 9.2 acre-feet of water or with a dam less than 10 feet in height need not be accompanied by a map prepared by a water right examiner certified under ORS 537.798 as required by ORS 537.140 (4). The map submitted with the applic-
tion shall comply with standards established by the Water Resources Commission. The survey required under ORS 537.230 shall be prepared by a water right examiner certified under ORS 537.798 and shall be submitted to the department before the department issues the water right certificate.

(4) If a dam [safety review is required under ORS 540.350] is subject to approval under section 5 of this 2019 Act, the department may issue a final order approving an application on the basis of preliminary [plans, specifications and] examination of the site, plans and specifications, features and other supporting information if the approval includes a condition requiring [the commission's] department approval of final [plans, specifications and] documentation for the site, plans and specifications, features and other supporting information under [ORS 540.350] section 5 of this 2019 Act before the permit is issued.

(5) Notwithstanding the provisions of ORS 537.211 (2), the department may approve an application for a reservoir permit for [which a dam safety review is required under ORS 540.350] a dam that is subject to construction plan approval under section 5 of this 2019 Act and issue a permit, subject to the condition that before the reservoir may be filled, the permittee shall submit to the department evidence that the permittee owns, or has written authorization or an easement permitting access to, all lands to be inundated by the reservoir.

SECTION 27. ORS 540.990 is amended to read:

540.990. (1) Violation of any provision of ORS 540.440 is a Class C misdemeanor.

(2) Violation of any provision of ORS [540.370 (2),] 540.570 (5), 540.710, 540.720 or 540.730 is a Class B misdemeanor.

(3) Failure to comply with an order issued under section 10 (5) of this 2019 Act, or with an order issued by an appellate court on appeal from an order under section 10 (5) of this 2019 Act, is a Class B misdemeanor.
TRANSITIONAL PROVISIONS

SECTION 28. The repeal of ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 and 540.400 by section 30 of this 2019 Act:

(1) Does not excuse any violation of ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 or 540.400 prior to the operative date described in section 31 of this 2019 Act. Any such violation is subject to the penalties established for that violation under the provisions of ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 or 540.400 in effect at the time of the violation.

(2) Does not affect the validity of any order of the Water Resources Commission, the Water Resources Director, the State Engineer or a circuit or appellate court issued under ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 or 540.400 that was in effect immediately prior to the operative date described in section 31 of this 2019 Act. Any such order remains enforceable as provided under the provisions of ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 or 540.400 in effect at the time the order was issued.

CAPTIONS

SECTION 29. The unit captions used in this 2019 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2019 Act.

REPEALS

SECTION 30. ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 and 540.400 are repealed.
OPERATIVE DATE

SECTION 31. Sections 1 to 19, 21 and 22 of this 2019 Act, the amendments to ORS 517.971, 537.010, 537.400, 540.355 and 540.990 by sections 23 to 27 of this 2019 Act and the repeal of ORS 540.350, 540.353, 540.360, 540.370, 540.380, 540.390 and 540.400 by section 30 of this 2019 Act become operative July 1, 2020.

EFFECTIVE DATE

SECTION 32. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.
SUMMARY

Establishes process for holder of qualifying storage right to change type of use for which water is stored. Ratifies and declares valid past changes in type of use for stored water approved by Water Resources Department that have become final.

A BILL FOR AN ACT
Relating to changes in the type of use of stored water.

Be It Enacted by the People of the State of Oregon:

SECTION 1. (1) As used in this section, “storage right subject to transfer” means a right to store water that is evidenced by:
(a) An adjudication under ORS chapter 539 as evidenced by a court decree;
(b) A water right certificate;
(c) A storage permit for which a request for issuance of a water right certificate under ORS 537.250 has been approved by the Water Resources Commission under ORS 537.250; or
(d) A transfer application for which:
(A) An order approving the change has been issued under ORS 540.530; and
(B) Proper proof that the change has been completed has been filed with the commission.

(2) Except as provided in ORS 540.570, if the holder of a storage right subject to transfer desires to change all or a portion of the type of use identified in the storage right subject to transfer, the holder

NOTE: Matter in boldfaced type in an amended section is new; matter [italic and bracketed] is existing law to be omitted. New sections are in boldfaced type.
shall file an application for the change with the Water Resources Department. The application must contain:

(a) The name of the holder of the storage right;
(b) The previous type of use and proposed type of use for which the water is stored;
(c) A description of the reservoir location and storage capacity;
(d) Evidence as required by commission rule that the water has been stored in the reservoir at least once during the preceding five years in accordance with the terms and conditions of the storage right;
(e) The applicable fee under ORS 536.050; and
(f) Any other information required by the department by rule.

(3) The department and a holder applying under this section shall comply with the requirements for transfer under ORS 540.520 (5) to (7) and 540.530.

(4) If the holder of a storage right subject to transfer applies to change all or a portion of the types of use allowed under the permit, the holder shall identify in the application any water rights subject to transfer established under secondary permits for the stored water. If the holder of the storage right intends to also change the type of use under all or a portion of one or more secondary permit rights held by the storage right holder, the holder may file a combined application to change the type of use for both the storage right and secondary permit rights. If the holder of the storage right intends that the type of use under secondary permit rights held by another be changed, the holder of the storage right and the holder of the secondary permit right may jointly file applications to change the type of use for the storage right and the secondary permit right. The holder of the secondary permit right shall make the jointly filed application to change the type of use under the secondary permit right as provided under ORS 540.510.

(5) If the holder of a storage right subject to transfer applies to
change the type of use under the permit to a use that is inconsistent
with water rights subject to transfer established under secondary per-
mits for the stored water, the department shall deny the application
to change the type of use for the storage right unless:
   (a) The holder of the storage right modifies the types of use sought
for the storage right in the application to be consistent with existing
types of use for the secondary permit rights;
   (b) The secondary permit right holder applies to change the types
of use allowed under the secondary permit to be consistent with the
types of use sought for the storage right in the application; or
   (c) The secondary permit right holder voluntarily cancels the sec-
ondary permit right that has types of use inconsistent with the types
of use sought for the storage right in the application.

SECTION 2. The Legislative Assembly hereby ratifies and declares
valid any change in type of use for a storage right subject to transfer,
as defined in section 1 of this 2019 Act, that was approved by Water
Resources Department final order and became final by operation of
law or on appeal prior to the effective date of this 2019 Act.

[3]