

■ SUMMARY OF LEGISLATION ■
2012

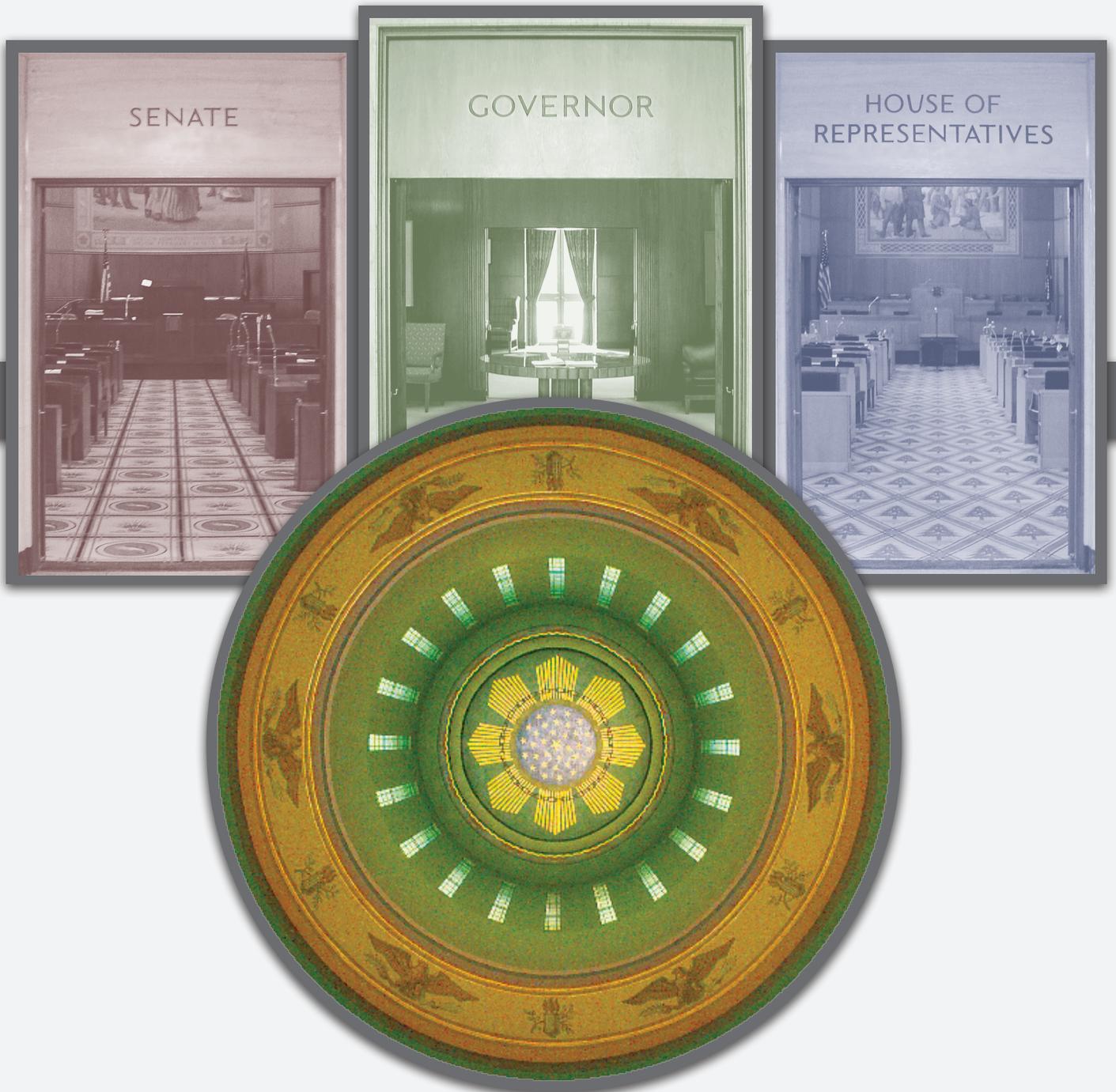


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Agriculture and Natural Resources

House Bill 4005

Income tax credit for livestock killed by a wolf

On May 5, 2011, the federal government delisted wolves from the Endangered Species Act in the easternmost portion of Oregon; the Oregon Wolf Conservation and Management Plan (OWP) was implemented in the delisted area. Wolves remain listed statewide as endangered under the Oregon Endangered Species Act. On December 31, 2001, there were 29 known wolves and one documented breeding pair in Oregon.

House Bill 4005 establishes a refundable credit against income taxes for the current market value of any livestock that belongs to taxpayer and killed by a wolf. In order to claim the tax credit the taxpayer must submit evidence that includes a finding by the Department of Fish and Wildlife or a peace officer that a wolf was the probable cause of the loss. The Act stipulates that the tax credit is to be reduced by any amount the taxpayer has already received as compensation for the killed livestock. The bill sunsets the tax credit, January 1, 2019.

Effective date: June 4, 2012

House Bill 4006

Consultation prior to listing species as threatened or endangered

The State of Oregon and the federal government maintain separate lists of threatened and endangered species. These are species whose status is such that they are at some degree of risk of becoming extinct. Under state law (ORS 496.171-496.192) the Oregon Fish and Wildlife Commission (Commission), through the Oregon

Department of Fish and Wildlife, maintains the list of native wildlife species in Oregon that have been determined to be either “threatened” or “endangered.” Current law requires the Commission to consult with federal agencies other interested state agencies other states with a common interest, and interested parties and organizations prior to making a determination that a species is threatened or endangered.

House Bill 4006 adds affected cities, counties, private landowners and local service districts to the list of parties that must be consulted prior to a determination, and requires the Commission to work with these entities to mitigate any adverse economic impact of such determinations.

Effective date: March 16, 2012

House Bill 4050

Ocean troll salmon fishery lottery

House Bill 4050 eliminates the lottery system for ocean troll salmon fishery permits and removes specific provisions limiting the transfer of permits to certain vessels. The Act does not affect the validity of permits issued or renewed prior to effective date.

Entry into the ocean troll salmon fishery was unrestricted until 1980 when a permit moratorium was adopted. Although 4,311 vessels already had Oregon troll permits, a goal of 2,400 vessels licensed to troll for salmon in Oregon was established. The 1993 Oregon Legislative Assembly lowered the ocean troll permit goal to 1,800 vessels, and following the recommendations of an industry panel that reviewed the troll permit status, the 1995 Legislature lowered the

permit cap even further to 1,200. As of 1999, the permit numbers had dropped below the 1,200 cap, and lottery proceedings took place in 2001 to issue available permits. In recent years, approximately one third of the issued permits are actually fished in any given season.

Effective date: March 5, 2012

House Bill 4068

Fish for food banks

House Bill 4068 authorizes a food bank to provide a portion of reclaimed fish to a processing business as payment for processing. Additionally, the bill exempts these processed fish from some labeling requirements and allows a processor to sell some of the retained fish. “Reclaimed fish” includes bycatch, hold fish or seized fish that a federal or state agency provides to a food bank.

Fish that are unintentionally caught while a commercial fisherman is targeting another species cannot be kept by the fisherman and are sometimes given to a food bank. Current law establishes processing limitations and labeling requirements on some of these fish.

Effective date: February 27, 2012

LEGISLATION NOT ENACTED

House Bill 4098

Managing state forestlands in a manner that produces a minimum harvest level of 85 percent

The Oregon Constitution provides management authority and policy direction for Common School Forest Lands (CSFL), which occur primarily in the Elliott State Forest. The Oregon Department of Forestry (ODF) manages CSFL under the 2005 CSFL Management Agreement with the State Land Board and the Department of State Lands. The State Forester manages other types of state-owned forestland under the authority and direction of the Board of Forestry (the Board) to secure the greatest permanent value of these lands to the State. In 1998, the Board defined the term “greatest permanent value” in administrative rule (OAR 629-035-0020). The Board approved a forest management plan, consistent with the rule, for northwest Oregon in 2001. In April 2010, the Board approved a revised forest management plan for the same planning area.

House Bill 4098 would have required that as part of managing state forestlands to secure the greatest permanent value, annual timber harvest must equal 85 percent of the annual amount of harvestable timber to be grown on state forestlands. The Act stipulated that if 85 percent of harvest level could not be conducted in the Astoria, Forest Grove, Klamath-Lake, North Cascade, Southwest Oregon, Tillamook, West Oregon or Western Lane districts, then the State Forester must manage the other districts in a manner that produces a total state harvest level that reaches a minimum of 85 percent.

House Bill 4119

Pilot program allowing for the use of dogs to hunt cougars

In 1994, Oregon voters passed Measure 18 prohibiting the use of dogs to hunt cougars except for cougar management by certain government employees. The Oregon Department of Fish and Wildlife (ODFW) updated its Cougar Management Plan in 2006 to guide management actions, through 2011, of the estimated 5,700 cougars in Oregon in accordance with the law. The plan included actions to reduce conflicts with humans, pets and livestock while maintaining recreational hunting and viewing opportunities.

House Bill 4119 would have authorized ODFW to adopt rules to create a pilot program allowing a person to use one or more dogs to hunt cougars. The measure stipulated rules be adopted to ensure that all hunts and pursuits are: designed to reduce cougar conflicts; reflective of cougar population data; and designed to generate data necessary for ODFW to satisfy reporting requirements. House Bill 4119 would have required that a person using dogs to hunt cougars have valid permits and tags. The Act would have allowed a county to request inclusion in the pilot program by: adopting a resolution requesting inclusion; documenting the need by identifying the extent of cougar conflicts; and demonstrating that existing cougar management actions had been insufficient.

House Bill 4158

Authority to kill wolves to address chronic depredation

In 2005, the Oregon Fish and Wildlife Commission (Commission) adopted a Wolf Conservation and Management Plan (Plan). The Plan includes provisions for monitoring and managing populations, developing education and communication programs, and responding to wolf interactions with wildlife, humans, and livestock. The Plan states that “in situations where chronic losses are occurring, lethal control actions may be employed to minimize livestock losses regardless of the wolf population status.” The Commission adopted rules (OAR 635-110-0010(6)) authorizing the lethal removal of wolves to address chronic depredation if the Department of Fish and Wildlife (Department) confirms two depredations by wolves on livestock in the area; or confirms one depredation followed by three attempted depredations.

The first confirmed livestock depredation by the Imnaha pack occurred on May 5, 2010. Since that time, the Department and the U.S. Fish and Wildlife Service have attributed a total of 20 livestock deaths to the Imnaha pack. The Department stated that the Imnaha pack met the criteria for chronic depredation status and in spring 2010 lethal removal was initiated and resulted in two wolves being killed by the Department. The Department initiated lethal removal efforts again on September 24, 2011, two days after another depredation from the Imnaha pack was confirmed. These lethal removal efforts were suspended on October 5, 2011 when a stay was issued by the Oregon Court of Appeals pending resolution of litigation challenging the Commission’s authority to authorize the killing of listed wolves under the Commission’s chronic depredation rules.

On November 15, 2011, the Oregon Court of Appeals extended the stay and further action is on hold pending the Court of Appeal's decision on the case.

House Bill 4158 would have clarified the authority of the Commission to adopt rules allowing the taking of a wolf to address chronic depredation of livestock. The Act also stipulated that the Commission's

authority is not limited by the statute on threatened or endangered species (ORS 496.171 to 496.182), or the statute on prohibiting transactions in threatened or endangered wildlife species (ORS 498.026).

Business and Consumer Protection

House Bill 4034

Prompt pay for subcontractors under a public improvement contract

Under the state's Public Contracting Code, every public improvement contract must include a clause or condition that if a contractor or first-tier subcontractor does not promptly pay a person that provides labor or materials in connection with the contract within 30 days after receiving payment from the contracting agency or a contractor, unless the payment is subject to dispute, that person is owed the amount due plus interest charges beginning at the end of the 10-day period in which the contractor is to pay a first-tier subcontractor out of amounts paid to the contractor by the contracting agency and ending upon final payment. However, as a method to avoid paying subcontractors in a timely fashion, statute allows a contractor to change the payment request process during the contract term without adequate notification to the subcontractor.

House Bill 4034 requires public improvement contracts to include clauses which require contractors to provide a first-tier contractor with either a standard form that can be used as an application for payment or as another method to claim a payment due from the contractor, and requires the contractor to use the same form and regular administrative procedures for processing payments during the term of the subcontract. The contractor can change the form or procedures used for processing payments if the subcontractor is notified in writing at least 45 days before the date in which the change is made, and a copy of the new or changed form or description of the new or changed procedure is included in the written notice.

The measure also changes the statutory formula by which interest charges are incurred for not paying subcontractors in a timely manner. Current statute provides a formula of how the interest rate is calculated, with a maximum rate of 30 percent. House Bill 4034 establishes the interest rate to be nine percent per annum.

Effective date: February 27, 2012

House Bill 4035

Clarifications to Uniform Commercial Code, Article 9

House Bill 4035 revises Article 9 of the Uniform Commercial Code (UCC), which provides the rules governing any transaction (other than a finance lease) that couples debt with a creditor's personal interest in a debtor's personal property. For instance, if the debtor defaults on their obligation, the creditor may repossess and sell the property (collateral) to satisfy the debt. Article 9 also covers certain kinds of sales that look like a grant of a security interest (interest of the creditor). The last major revision to Article 9 was in 1998, and is in effect in all 50 states and in Washington, D.C. The Uniform Law Commission and American Law Institute have drafted a uniform code for nationwide use in response to filing issues and other matters that have arisen since the revision was enacted, which is being implemented in Oregon via House Bill 4035.

Examples of amendments within House Bill 4035 include clarification regarding the name of a debtor to be provided on a financing statement, and issues arising on after-acquired property when a debtor (either individual or an organization) moves to a new jurisdiction. For instance, the measure establishes that a debtor that is an

individual can use their name as stated on a current drivers' license or identification card issued in Oregon (i.e., "Jones, Janet Ellen"), their individual name (i.e., "Jan Jones"), or their surname and first personal name (i.e., "Janet Jones").

The measure also clarifies the types of farm, forestry, lawn and grounds care, and construction vehicles that are not required to have a Department of Motor Vehicles title, which are those that are not designed primarily for transporting persons or property and are only incidentally operated on a highway.

Effective date: March 5, 2012

House Bill 4092

Special events distiller license privileges

One of the licenses issued by the Oregon Liquor Control Commission (OLCC) is a special events distillery license, which is within the privileges of a distillery license. Currently, a special events distillery license holder is permitted to provide tastings of distilled liquor manufactured by the distillery licensee, at a designated location other than the distillery licensee's set location for no more than five days.

House Bill 4092 maintains the same five-day maximum time period for an event, and extends the privileges of a special events distillery license to include sales by the drink of distilled liquor manufactured by the distillery. If the distillery licensee has been appointed as a distillery retail outlet agent for retailing only their manufactured liquor, as outlined in current statute, the special events distillery licensee can also sell factory-sealed containers of their own liquor products for consumption off the event's

licensed premises. The special events distillery licensee is required to purchase distilled liquor for tastings, sales by the drink, and factory-sealed container sales from the Commission.

The newly established privileges in the measure mirror similar privileges for special event winery, special event grower, and special event brewery public house licenses.

Effective date: March 5, 2012

House Bill 4093

Expansion of enterprise zones

Oregon's enterprise zone system provides an incentive for businesses to grow or relocate in the state via an exemption from local property taxes on new investments for an established time prior, depending on the type of enterprise zone. Enterprise zones are sponsored by a local government – city, county, tribe, or port – and the local government must demonstrate economic hardship to qualify for the enterprise zone designation.

House Bill 4093 increases the current statutory limitation of designated rural enterprise zones from 17 to 20 zones and the number of urban or rural enterprise zones from 15 to 20 zones. The measure also clarifies that the size of a rural enterprise zone can consist of a total area of no more than 15 square miles in size; and no more than 15 miles between any two points within the zone.

The measure also allows most sponsors of a terminated enterprise zone to reapply for a new zone 10 years after termination, if the termination was voluntary or due to the sponsor not meeting their statutory duties.

Sponsors of the newly designated zones created as a result of the enactment of House Bill 4093 enactment must produce a report regarding the measure's economic benefits, with the report to be submitted to interim legislative committees related to revenue on or before January 31, 2013.

Effective date: June 4, 2012

House Bill 4108

Record keeping and retention requirements for precious material secondhand dealers

House Bill 4108 establishes procedures for precious material secondhand dealers, such as businesses that purchase gold jewelry for cash, to follow in regards to specific sales record information that must be obtained. Upon a sale, information such as a seller's full name and current address and an identifying description or digital photograph of each item of precious metal that is subject to the transaction must be obtained. Records from each sale must be maintained for at least one year after the transaction date, and each acquired item of precious metal must be retained for at least seven days after the transaction date before the dealer can dispose of the item. Violations are established as a Class C violation, or as a Class A violation for between three to six subsequent violations, and a fine of no less than \$5,000 per subsequent violation for more than six subsequent violations.

An "item of precious metal" consists of or incorporates gold in at least eight karat purity, silver, platinum, or palladium, and exempts specific items such as gold or silver coins or bullion, electronic products, or any part of a motor vehicle's mechanical system. The measure exempts Oregon licensed pawnbrokers, a manufacturer of items of

precious metal, persons engaged in commercial or industrial scrap metal recycling operations, a person primarily engaged in business through the Internet, a motor vehicle dealer or certified motor vehicle dismantler, and a person that is primarily engaged in purchasing for resale newly manufactured items of precious metal.

Effective date: January 1, 2013

Senate Bill 1548

Discrimination against the unemployed in job vacancy advertisements

In early 2012, the unemployment rate in Oregon hovered around nine percent. With 190,000 unemployed workers, there were roughly six unemployed job seekers for every vacancy. Complaints that employers were only considering currently employed applicants led to a hearing on the matter in February 2011 by the U.S. Equal Employment Opportunity Commission. Two bills were introduced in Congress in 2011 to ban the practice of advertising job vacancies that discriminate against the unemployed. New Jersey passed a law in 2011 that prohibits discriminating against the unemployed in job vacancy advertisements. Illinois, Michigan, and New York introduced similar legislation in 2011.

Senate Bill 1548 prohibits the publication of a job vacancy in print or on line that limits applicants to those currently employed. While it does not create a private cause of action, it allows the Bureau of Labor and Industries to assess a civil penalty not to exceed \$1,000 per violation.

Effective date: March 27, 2012

Senate Bill 1552

Foreclosure of residential trust deed

Despite a nearly 40 percent drop in foreclosure filings in Oregon in 2011, more than 22,000 foreclosures were filed that year. News reports indicated that foreclosures were expected to increase in 2012 as lenders proceed with foreclosures that were stalled due to legal uncertainty in the non-judicial foreclosure process. At the end of January, 2012, roughly 42,000 Oregon homeowners were in foreclosure or seriously delinquent, representing one out of every eleven homeowners. At the close of 2011, Oregon ranked 14th nationwide in the percent of homeowners in foreclosure. Data suggests that 120,000 Oregon homeowners were \$4.7 billion underwater at that time.

In February of 2012, the Oregon Attorney General signed a multi-state agreement with five of the nation's largest banks that penalizes those engaged in wrongful foreclosure practices and offers relief to homeowners. The settlement is expected to provide \$30 million to the State of Oregon and as much as \$200 million in relief to Oregon homeowners.

Senate Bill 1552 includes two major provisions. The first is a requirement that lenders offer homeowners an opportunity to enter into mediation. The lender and homeowner share the cost of mediation, with the homeowner's portion not exceeding \$200. At the time a notice of default is recorded, the lender must pay \$100 into the Foreclosure Avoidance Mediation Fund. Prior to the mediation, the homeowner is directed to meet first with a HUD-approved housing counselor. Mediation can proceed if an appointment with a counselor cannot be made within 30 days of receipt of the mediation notice. A homeowner who is at

risk of default can request mediation and the lender must participate. The lender may not proceed with foreclosure until the lender files with the county clerk a certificate of compliance provided by the mediator. Lenders that have not commenced more than 250 foreclosures in the previous calendar year are exempt from the mediation requirement and from paying into the Foreclosure Mediation Avoidance Fund.

The second major provision is an end to the practice referred to as "dual track foreclosure" in which a lender works with a homeowner on modifying the terms of the loan while, at the same time, proceeding with the foreclosure. The lender must notify the homeowner at least 30 days before the foreclosure sale date that the lender has determined the homeowner is not eligible for any foreclosure avoidance measure.

Effective date: April 11, 2012

LEGISLATION NOT ENACTED

House Bill 4103

Tax credit for capital improvements

House Bill 4103 would have created an income tax credit for capital improvements to business facilities or homes that are commenced prior to the latter of May 30, 2012 or the measure's effective date. A "capital improvement" is a project that: raises the value of a business facility owned or operated by the taxpayer; raises the value of a home owned by the taxpayer; defined as a capital expenditure in section 263 of the Internal Revenue Code (i.e., development of mines or deposits, removal or architectural

and transportation barriers for the handicapped and elderly, and soil and water conservation); or involves a machinery or equipment purchase that becomes a permanent fixture of a business facility owned or operated by the taxpayer.

The tax credit amount was capped at \$50,000 for a capital improvement to a home or \$500,000 for a capital improvement to a business facility, and must have equaled either the certified cost of a capital improvement certified as energy efficient or ADA-compliant, or 50 percent of the certified cost for all other capital improvements. Under the measure's provisions, the certified cost must be at least \$5,000 for a home or at least \$25,000 for a business facility. A taxpayer must have met specific criteria to qualify for the tax credit (such as being the owner or lessee of the business facility or owner of the home that is the subject of the capital improvement) and timeframes for construction or implementation of the capital improvement to commence and be completed. The tax credit could not exceed the taxpayer's tax liability for the tax year and for the credit to be carried over to another tax year; if the certified cost exceeded \$100,000, the credit allowed in each of the four succeeding tax years was to be 25 percent of the total credit.

House Bill 4103 allowed a nonresident to claim the tax credit, but allowed the credit to be prorated using the proportion as provided under ORS 316.117.

House Bill 4142

Public contracting preferences – recycled materials manufactured at Oregon-based paper mills

The state's Public Contracting Code requires a contracting agency charged with goods procurement for any public use to give preference to goods manufactured from recycled materials. Specifically, the preference is to be made if the recycled product is available, meets applicable standards, and the product's costs do not exceed the costs of non-recycled products by more than five percent or a higher percentage if a written determination is made by the contracting agency.

House Bill 4142 would have expanded this requirement to give preference to paper made from recycled materials that is manufactured at an Oregon-based paper mill. The preference would be applicable if the costs of Oregon-produced paper manufactured from recycled materials did not exceed the costs of either paper manufactured from non-recycled materials or the costs of non-Oregon produced paper manufactured from recycled materials by more than 10 percent.

Senate Bill 1501

Central warehouse license for wine distribution

The Oregon Liquor Control Commission (OLCC), established in 1933, regulates the sale and service of alcoholic beverages in Oregon, ensuring that only qualified individuals and businesses are licensed to serve and sell alcoholic beverages. The OLCC offers liquor licenses for the sale, manufacture, import and distribution of

alcohol; licenses can be annual (and renewable) or temporary/special event licenses.

One type of license offered by the OLCC is an off-premises sales license. This license allows the holder to sell factory-sealed containers of wine, cider and malt beverages (the latter in containers no larger than 2.5 gallons). The annual license fee is \$100. Senate Bill 1501 would have created a central warehouse license (\$1,000 fee) to allow the licensee to receive wine directly from a licensed wholesaler or winery or from a manufacturer with a wine self-distribution permit, to hold the wine in a storage facility, and to release it for transport to licensed premises. The measure would have allowed the OLCC to issue a central warehouse license to cooperatives of off-premise sales license holders, and imposed bonding requirements and taxation requirements.

Senate Bill 1521

Regulation of interior designers

Oregon does not regulate commercial or residential interior design professionals. The American Society of Interior Designers reports that six states or U.S. jurisdictions require interior designers to be licensed unless practicing under the supervision of a licensed designer. Interior designers can receive certification from the National Council of Interior Design Qualification (NCIDQ) if the education and experience requirements are met and the applicant receives a passing score on an examination. Approximately 300 interior designers in Oregon are NCIDQ-certified.

Senate Bill 1521 would have created a five-member Board of Commercial Interior Design (the Board). The measure would have prohibited persons from practicing commercial interior design or using the title “registered interior designer” unless they were registered with the Board. The registration requirements included at least a bachelor’s degree in interior design or interior architecture, 3,520 hours of supervised experience, passage of the NCIDQ or similar examination, and payment of fees. The Board would have been granted authority to impose civil penalties for violations.

Education

House Bill 4014

Eliminates mandates and obsolete or outdated rules or provisions in education statutes

The Oregon Department of Education in partnership with the Governor's Office, State Board of Education, education and school board organizations, has eliminated more than 150 state mandates and obsolete or outdated rules previously affecting the state's pre-kindergarten through grade 12 education system. This effort includes: 41 repealed statutes, 32 amended statutes, 73 repealed rules and four amended rules.

House Bill 4014 continues this effort with the elimination of additional educational mandates to streamline the education system and reduce costs and staff workload. The educational mandates removed include the abolishment of the District Best Business Practices Advisory Committee and best business practice audits; removal of the requirement for the State Board of Education to mediate resolution between school district board and an applicant for a public charter school; removal of the requirement for the observations of Arbor Week, History of Oregon Statehood Week and Women in History Week; and removal of the requirement for the Oregon Department of Education report to Legislative Assembly on implementation of courses on family life, human immunodeficiency virus and human sexuality. The measure allows a district school board to adopt a class schedule that operates throughout the year for all or any schools in the district, removing a provision that a district school board may not require a student to attend the entire year. The bill also removes a requirement specifying how school districts implement academic excellence recognition programs.

Effective date: April 11, 2012

House Bill 4015

Establishment of lead poisoning prevention clearinghouse

House Bill 4015 requires the Oregon Health Authority (OHA) to develop and maintain a lead poisoning prevention clearinghouse (clearinghouse) on its website. The measure stipulates that the clearinghouse must provide information for public and private schools, grades kindergarten through 12, about the dangers posed to students by exposure to lead and how best to protect students from hazards posed by lead-based paint. The clearinghouse must include information such as: common sources of exposure to lead, adverse health effects from exposure, tips on preventing exposure to lead and a list of the state's laws and rules relating to lead-based paint.

Currently, statute provides the OHA with authority to regulate lead-based paint activities. The OHA is responsible for certifying firms and individuals to perform lead-based paint activities including renovation; developing programs and accrediting training providers to provide lead-based paint activities and renovations; and developing and conducting programs to screen blood levels, identify hazards and educate the public about the dangers of lead-based paint and appropriate precautions to reduce the probability of childhood lead poisoning.

Within the OHA, the Public Health Division's Office of Environmental Public Health oversees Oregon's Childhood Lead Poisoning Prevention Program (OCLPPP). The objectives of OCLPPP are to increase awareness of lead poisoning; monitor blood

lead levels in children; identify children with lead poisoning and determine the source of exposure; ensure that children with elevated blood lead levels receive appropriate care; and develop strategies to prevent childhood exposure to lead.

Effective date: January 1, 2013

House Bill 4016

Expansion of mandatory reporting law

House Bill 4016 expands the list of public or private officials who are required to make a report to the Department of Human Services or law enforcement if they have reasonable cause to suspect abuse or neglect of a child. The measure adds to the list: employees of higher education institutions, community colleges, public or private universities and Oregon Health and Sciences University (OHSU); employees of public or private organizations providing child-related services or activities to youth; and a paid coach or trainer of an amateur, semiprofessional, or professional athlete if the athlete is a child. The measure does not exclude from reporting nonprofit organizations whose primary purpose is to provide confidential services to victims of domestic or sexual violence.

Oregon state law requires workers in certain professions to make reports if they have reasonable cause to suspect abuse or neglect of a child. These people are called mandatory reporters. Mandatory reporters must report suspected abuse or neglect of a child regardless of whether or not the knowledge of the abuse was gained in the reporter's official capacity. Professions that are mandatory reporters include: medical personnel; school and child care personnel; public employees including members of the

Legislative Assembly; law enforcement personnel; and other professions such as licensed clinical social workers, attorneys, firefighters, and court appointed special advocates.

Effective date: January 1, 2013

House Bill 4056

Task Force on STEM (Science, Technology, Engineering and Mathematics) Access and Success

House Bill 4056 establishes a 16-member Task Force on STEM Access and Success to develop strategies that encourage students to complete coursework in science, technology, engineering and mathematics. The Task Force is directed to report its recommendations, including suggestions for future legislation, to an interim legislative committee by October 1, 2012, and sunsets upon the convening of the 2013 Legislative Assembly. The measure also establishes a STEM Fund in the State Treasury to provide related scholarships through the Oregon Student Access Commission.

Science, technology, engineering and mathematics (STEM) education serves as the foundation for many high-wage careers. Local employers report they have found it necessary to recruit out-of-state due to the lack of Oregon candidates with adequate STEM skills. The Task Force on STEM Access and Success is directed to assess the current state of STEM education in Oregon, identify obstacles and opportunities for access and success to include previously underrepresented student populations, and identify strategies to encourage community engagement through partnerships, mentoring and funding support.

Effective date: April 11, 2012

House Bill 4058

Textbook affordability work group

House Bill 4058 directs the Higher Education Coordinating Commission to convene a work group to examine and recommend adoption of strategies for making textbooks more affordable for students at all post-secondary institutions in the state. The work group is also directed to analyze the success and shortcomings of current state and federal affordability initiatives. After receiving the work group's recommendations, the Commission will forward them to an interim committee of the Legislative Assembly before November 1, 2012.

In recent years, textbook prices have increased significantly, resulting in increased costs to students. A 2005 study by the Public Interest Research Group found that textbook prices increased at four times the rate of inflation, and revealed that students pay an average of \$900 per year on textbooks. A similar study conducted in 2007 by the Advisory Committee on Student Financial Assistance estimated that students spend between \$700 and \$1,000 each year on textbooks. Efforts to reduce the cost of textbooks include the Federal Higher Education Opportunity Act of 2008, which requires publishers to "unbundle" textbooks and supplemental materials, and to disclose pricing information. By reducing the cost of textbooks and increasing access to cost-saving strategies, supporters assert that students will experience an increase in access to higher education and a reduction in incurred debt.

Effective date: July 1, 2012

House Bill 4059

Credit for prior learning and proposed partnership with Western Governors University

House Bill 4059 directs the Higher Education Coordinating Commission to convene an advisory group to develop strategies that encourage the granting of credit for prior academic learning. The measure requires the Commission to report annually on progress made toward increasing the number of students receiving credit for prior learning and the number and type of credits accepted. House Bill 4059 also requires the Commission to submit a report to the Legislative Assembly by November 1, 2012, proposing a partnership with Western Governors University.

Granting credit for prior learning is widely recognized as an effective tool to increase completion of college degrees and certificates. House Bill 4059 directs the Higher Education Coordinating Commission to implement policies and practices to increase credit for prior learning while establishing guidelines to ensure that credit is granted only for high-quality, course-level competencies. Western Governors University (WGU) was founded by the Governors of 19 states, including Oregon, with a mission to expand access to higher education through online, competency-based degree programs. WGU currently serves over 30,000 students in 50 states. House Bill 4059 directs the Commission to investigate and report on the feasibility of an Oregon partnership with WGU that would allow for financial aid, data sharing, and outreach to students who have completed some post-secondary coursework but have not obtained a degree.

Effective date: July 1, 2012

House Bill 4061

Special Committee on University Governance

House Bill 4061 establishes the Special Committee on University Governance to recommend legislation for the establishment of independent boards for Oregon institutions of higher education that want independent boards. The Committee is directed to convene no later than April 15, 2012, and submit a draft report to an interim committee of the Legislative Assembly no later than August 15, 2012. Following a 30-day public comment period, the Committee will submit its recommendations to the Governor and the Legislative Assembly no later than November 1, 2012.

Although Senate Bill 242 (2011) redefined the Oregon University System (OUS) as a public university system and gave OUS greater authority and independence to manage affairs, operations and obligations, some in the higher education community would like to see the establishment of independent boards at state institutions. House Bill 4061 creates the Special Committee on University Governance, composed of four senators, four representatives, and two members of the Oregon Education Investment Board to study the issue and make recommendations for legislation to allow those institutions that want to establish independent governing boards to do so.

Effective date: March 27, 2012

Senate Bill 1538

Higher Education Coordinating Commission

Senate Bill 1538 expands and clarifies the duties of the Higher Education Coordinating

Commission (HECC). The measure specifies that HECC authority for issues transcending individual institutions of higher education is not subordinate to the Oregon Education Investment Board (OEIB).

The 2011 passage of Senate Bills 909 and 242 created the Oregon Education Investment Board (OEIB) and the Higher Education Coordinating Commission (HECC), respectively, but did not specify coordination between the two entities. A work group was convened during the 2011 interim to address implementation of the HECC and to clarify its relationship to the OEIB. Senate Bill 1538, containing the work group's recommendations, distinguishes the roles and duties of the HECC relative to those of the OEIB. The HECC is charged with developing state goals and a strategic plan for the Oregon University System (OUS) and community colleges, implementing accountability measures for achieving those goals, developing a finance model to guide development of a consolidated higher education budget to recommend to the Governor and Legislature, and administering the state's student financial assistance programs. The HECC will coordinate policy across OUS's seven universities, the Oregon Health and Science University (OHSU), and Oregon's community colleges. The measure includes technical amendments to ensure that OUS borrowing through the State Treasury is not impacted and to delay the transfer of career school oversight to the HECC from the Department of Education to July 1, 2013. Senate Bill 1538 also lays the groundwork for the 2016 sunset of the OEIB.

Effective date: April 11, 2012

Senate Bill 1555

Cyberbullying

Senate Bill 1555 requires school employees to report acts of harassment, intimidation, bullying and cyberbullying.

Harassment, intimidation and bullying are defined as instances of verbal abuse or physical altercations perpetrated against a person. Cyberbullying occurs when an individual is harassed, humiliated, embarrassed, threatened or tormented using digital technology. Senate Bill 1555 requires school employees to report acts of harassment, intimidation, bullying and cyberbullying according to school district policy and allows for remedial action against school employees who fail to report such acts of which they become aware. The measure also encourages students and volunteers who witness such acts to report them according to school district policy and allows the report to be submitted anonymously.

Effective date: July 1, 2012

Senate Bill 1563

Benefits of state law for all “uniformed services” and college tuition waivers for veterans’ dependents

There are seven “uniformed services” of the United States acknowledged at the federal level: the Army, the Marine Corps, the Navy, the Air Force, the Coast Guard, and both commissioned corps of the Public Health Service (USPHS) and the National Oceanic and Atmospheric Administration (NOAA). The general public is most familiar with the traditional armed services, and less so with

the commissioned corps of NOAA and USPHS.

Members of the commissioned corps of NOAA and USPHS are reassigned to different duty stations and must reestablish themselves in new locales just like any other member of a uniformed service. Prior to passage of Senate Bill 1563, Oregon offered some benefits and protections of state law to members of all the uniformed services *except* the commissioned corps of USPHS and NOAA. These benefits and protections help ease some of the difficulties associated with required relocation, such as permitting the service member to break a lease under certain circumstances. Senate Bill 1563 extends these existing state law benefits to members of all uniformed services, including the commissioned corps of USPHS and NOAA.

Separately, the bill also requires community colleges to waive tuition for spouses and other dependents of deceased veterans, following guidelines similar to universities. Both community colleges and universities provide such waivers to veterans’ dependents; however, universities also include eligible dependents of surviving, disabled veterans.

Effective date: April 11, 2012

Senate Bill 1566

Seismic risk of public school buildings

Senate Bill 1566 requires the State Department of Geology and Mineral Industries (DOGAMI) to maintain a website describing the seismic risks of public school buildings and the Oregon Department of Education to provide instructions for accessing the website in its annual school report cards.

Senate Bill 2 (2005) directed DOGAMI to develop a statewide seismic needs assessment that includes seismic safety surveys of K-12 public school and community college buildings, hospitals, fire stations and law enforcement agency buildings. The statewide needs assessment consists of rapid visual screenings (RVS) of these buildings; information gathered to supplement RVS; and ranking of RVS results into risk categories. The results are posted on DOGAMI's web site at: (<http://www.oregongeology.org/sub/projects/rvs/default.htm>). Senate Bill 3 (2005) directed the Oregon Emergency Management Office to create a grant program for local communities and schools and Senate Bill 4 (2005) and Senate Bill 5 (2005) directed the Oregon State Treasurer to issue voter-approved bonds. The seismic grant program has not been funded by the Legislature to the extent allowed. There is \$1.2 billion in bonding capacity, of which just over \$22 million has been allocated.

Effective date: July 1, 2012

Senate Bill 1581

Chief Education Officer and achievement compacts

Senate Bill 1581 identifies the positions that will be under the direction and control of the Chief Education Officer for matters related to the design and organization of the state's education system and defines the achievement compacts required of education entities as part of the budgeting process.

Senate Bill 909 (2011) created the Oregon Education Investment Board (OEIB) and the office of Chief Education Officer. Senate Bill 1581 identifies the following positions

that will be under the direction and control of the Chief Education Officer: Commissioner for Community College Services; Chancellor of Oregon University System; Executive Director of Oregon Student Access Commission; Early Childhood System Director; Executive Director of the Higher Education Coordinating Commission; and Deputy Superintendent of Public Instruction. Additionally, Senate Bill 1581 describes the achievement compacts required of education entities as part of the budgeting process. The measure further empowers OEIB to establish by rule forms, processes and timelines for submission of achievement compacts.

Effective date: March 6, 2012

LEGISLATION NOT ENACTED

House Bill 4086

University of Oregon and Portland State University independence

House Bill 4086 would have established the University of Oregon and Portland State University as independent universities governed by institutional boards of directors.

Although Senate Bill 242 (2011) redefined the Oregon University System (OUS) as a public university system with greater authority and independence to manage affairs, operations and obligations, some in the higher education community would like to see the establishment of independent boards at state institutions. Under House Bill 4086, the Oregon Education Investment Board established by Senate Bill 909 (2011)

and the Higher Education Coordinating Commission established by Senate Bill 242 (2011) would have maintained control over issues of statewide interest while delegating other governance functions to local boards. The issue will be considered by the Special Committee on University Governance established by House Bill 4061.

House Bill 4102

Establishes requirements for evaluation of teachers and administrators

The United States Department of Education is permitting states to apply for waivers from certain requirements of the federal No Child Left Behind law. A waiver application must contain certain criteria, including the adoption of higher academic standards, methods for identifying a state's highest and lowest performing schools, identification of at least four levels of performance for educators with clear criteria for each level and significant consideration of student growth, and achievement evaluations of teachers and administrators.

House Bill 4102 would have specified four performance levels for educators and administrators, as well as criteria for each level that included "significant consideration of student learning" and "school-wide student academic growth." The measure would have established requirements for the superintendents of school districts and education service districts to evaluate administrators, probationary teachers, contract teachers, and non-probationary and contract teachers on annual or biennial basis. The evaluation process would have included pre-evaluation conferences to establish performance goals, at least two classroom observations, observations of a teacher performing an element of job description

outside the classroom, and evaluations to determine teachers' performance levels.

It was believed that these provisions aligned with and strengthened the waiver application efforts of the Oregon Department of Education.

Senate Bill 1539

Task Force on Virtual School Governance

House Bill 1539 would have extended the Task Force on Virtual School Governance for the purpose of recommending governance structures for online educational courses that are offered statewide.

The Task Force on Virtual School Governance was created by Senate Bill 994 (2011), but members were not appointed until October. Senate Bill 1539 would have reestablished the Task Force to allow more time to complete its recommendations regarding virtual school governance. The measure also would have expanded Task Force membership to include a parent of a child enrolled in a virtual charter school and a parent of a child utilizing online learning in a traditional school setting.

Senate Bill 1540

Omnibus education bill

Senate Bill 1540, as amended and passed by the Senate Education and Workforce Development Committee, contained the following provisions related to K-12 education: allowed education service district (ESD) board members to complete their terms when resident districts withdraw from ESDs; required students age five and six years old enrolled in public schools to

maintain regular attendance; required State Board of Education to encourage increased learning time; resolved implementation date conflict regarding new teacher evaluation standards; removed sunset on Teacher Standards and Practices Commission (TSPC) “Letter of Reproval” program; reestablished Task Force on Accountable Schools; and delayed implementation of proficiency-based student assessments to July 1, 2013.

Senate Bill 250 (2011) allowed school districts to opt out of ESDs, but did not address provisions requiring ESD board members to reside within member school districts. Senate Bill 1540 would have allowed board members to complete their terms of service. Senate Bill 248 (2011) required continued provision of half-day kindergarten and full-funding weight for students in full-day kindergarten, but did not require children under the age of seven to attend. Senate Bill 1540 provided that if a student of five or six years of age is enrolled in school, that student must maintain regular attendance. Senate Bill 1540 also provided for the encouragement of increased learning time to allow Oregon to qualify for related federal funding. Additionally, the measure addressed an implementation date conflict for new teacher evaluation standards created by House Bill 3474 (2011) and Senate Bill 290 (2011) by moving implementation to the 2013-2014 school year. Senate Bill 1540 also allowed the TSPC’s “Letter of Reproval” program for minor disciplinary issues to continue by removing the legislatively established sunset and delayed to June 1, 2013 implementation of proficiency-based student assessments required by House Bill 2220 (2011). Finally, the measure extended the Task Force on Accountable Schools, which was established by House Bill 2289 (2011), but did not have sufficient time to complete its work.

Senate Bill 1554

Oregon studies

Senate Bill 1554 would have required at least two semesters of instruction in Oregon Studies in middle school.

ORS 329.007 defines Oregon Studies as history, geography, economics and civics specific to the State of Oregon. Oregon Studies instruction in Oregon government includes municipal, county, tribal and state government, as well as the electoral and legislative processes. Currently, Oregon history is taught in the fourth grade.

Senate Bill 1585

Minimum funding for education

Senate Bill 1585 would have required that the total amount of General Fund appropriations, special purpose appropriations to the Emergency Board, lottery fund allocations, appropriations from the Oregon Rainy Day Fund and appropriations from the Education Stability Fund made for public education purposes in a biennium be no less than 50 percent of the total amount of appropriations and allocations from those funds contained in the legislatively approved budget for a biennium.

In its constitutionally mandated Report on Adequacy of Public Education Funding, the Joint Special Committee on Education Appropriation indicated that the projected gap between Oregon public school funding and the funding level recommended in the Quality Education Model has reached \$2.35 billion. Senate Bill 1585 would have established a floor for education funding by requiring that at least 50 percent of General

Fund appropriations, special purpose appropriations to the Emergency Board, lottery fund allocations, appropriations from the Oregon Rainy Day Fund and

appropriations from the Education Stability Fund in a biennium be dedicated to funding education.

Elections and Ethics

LEGISLATION NOT ENACTED

Senate Bill 1517

Related to handling of unused ballots after 8:00 P.M. on Election Day

Senate Bill 1517 would have resolved a conflict in election statute relating to how county election officials handle unused ballots after 8:00 P.M. on Election Day. Current statute directs county election officials to destroy unused ballots and secure and account for unused ballots after 8:00 P.M. on Election Day. This statutory conflict creates challenges to county elections officials administering elections because they need to print adequate numbers of ballots to ensure every eligible voter will receive a ballot or be able to request a replacement ballot up to the deadline of 8:00 P.M. and they need unused ballots available throughout the process in the event they need to duplicate damaged or unreadable ballots throughout the tallying and certification processes.

Senate Bill 1517 would have resolved this conflict in the following manner:

- Required county clerks to file as part of the county elections security plan with the Secretary of State the number and location of all video surveillance cameras where ballots may be tallied;
- Required any ballot used for duplication purposes at any time during an election be marked and differentiated from live voted ballots;
- Required unused ballots be either sealed, secured, and an accounting maintained, or be visibly marked and differentiated from live voted ballots, after the last ballot has been issued on Election Day;
- Required an accounting of all ballots for each election be reported to the Secretary of State at time of election certification by compiling a record of:
 - The number of ballots: printed, mailed to voters, issued to voters at the office of the county clerk, returned undeliverable, tallied, used for duplication;
 - The number of rejected ballot envelopes; and
 - The number of test and archived ballots.
- Required any unused ballot be destroyed as soon as practicable after certification of an election.

Energy

House Bill 4079

BETC clean-up

House Bill 4079 makes technical clarifications to the energy tax credit programs, as well as the biomass tax credit.

House Bills 2523 and 3672 (2011) replaced the Business Energy Tax Credit (commonly known as the “BETC”) program with four separate credits: a conservation credit, a renewable energy contribution credit, a transportation credit, and a manufacturing credit.

Effective date: June 4, 2012

Senate Bill 1533

Green energy in public buildings

Senate Bill 1533 allows the use of geothermal energy to satisfy the existing statutory requirement that contracting agencies allocate at least 1.5 percent of the total contract price for the inclusion of solar technologies in the construction or renovation of public buildings. The measure defines “green energy technology” to include both solar and geothermal systems that reduce energy use from other sources by at least 20 percent from a level otherwise specified by law.

The Legislative Assembly adopted a requirement in 2007 that all public building

construction and reconstruction projects with a total contract price of at least \$1 million include a minimum investment in solar energy technologies. The solar energy requirement also applied to renovation projects that exceeded \$1 million and 50 percent of the total building value.

Effective date: January 1, 2013

LEGISLATION NOT ENACTED

House Bill 4078

Solar siting on farmland

House Bill 4078 would have allowed county governments to approve the siting of solar projects on farmland if certain conditions were met.

Solar power is the conversion of sunlight into electricity, either directly using photovoltaics, or indirectly using concentrated solar power. Oregon law requires some energy generation facilities to obtain a site certificate, which is an agreement between the State of Oregon and an applicant authorizing the construction or operation of the facility on an approved site. The state Energy Facility Siting Council reviews applications for site certificates.

Environment

Senate Bill 1508

Bottle distributors

Senate Bill 1508 allows two or more beverage distributors to establish a cooperative for the purpose of collecting the refund value of beverage containers and refunding to dealers the amount paid for the refund value of empty containers. If a cooperative is established, a participating dealer is not required to return containers to a non-participating distributor or importer if an accounting is provided to them. The Act requires a cooperative and any distributor or importer not participating in a cooperative to provide to the Oregon Liquor Control Commission (OLCC) a report of beverage container return data by July 1 of each year, calculated separately for metal, glass and plastic containers. The OLCC is prohibited from disclosing return data.

The Oregon Bottle Bill was passed in 1971 with the goal of reducing litter and increasing recycling. The 2007 Legislative Assembly expanded coverage of the five-cent beverage container deposit to include water and flavored water beverage containers and created a nine-member Bottle Bill Task Force to study issues associated with beverage container collection and refund. In 2011, the Legislative Assembly passed House Bill 3145, which expanded the types of beverage containers subject to the deposit, set a trigger for the deposit to increase to 10 cents if the recycling rate falls below 80 percent for two consecutive years, but not before 2017, and set up a redemption center pilot project.

Effective date: April 11, 2012

Senate Bill 1510

Marine reserves

Senate Bill 1510 directs the Oregon Department of Fish and Wildlife (ODFW), its Commission, and the State Land Board to adopt rules to establish, evaluate and enforce a marine reserve and two marine protected areas at Cape Falcon; a marine reserve and three marine protected areas at Cascade Head; and a marine reserve, two marine protected areas and seabird protection area at Cape Perpetua. The Act requires the collection of baseline data prior to the implementation of any prohibitions on fishing in these areas. The measure also directs ODFW and the Scientific and Technical Committee of the Ocean Policy Advisory Council to report to the Legislative Assembly regarding the designations.

In 2009, the Oregon Legislature passed House Bill 3013, establishing a process for evaluation and implementation of marine reserves within Oregon's Territorial Sea. Marine reserves are areas within the Territorial Sea or adjacent rocky intertidal area that are protected from all extractive and development activities, except as necessary for monitoring or research or to aid in the research and management of ocean habitats and marine plants and animals.

Effective date: March 5, 2012

Senate Bill 1512

Lighting containing mercury

Senate Bill 1512 prohibits the sale or distribution of any lighting that contains mercury in amounts exceeding specified

standards. The Act directs the Department of Environmental Quality (DEQ) to report to the Legislative Assembly if it is determined that California has adopted the mercury content standards adopted by the European Union in 2011. The Department of Administrative Services is directed to consult with DEQ, request information from lighting suppliers, and make procurement decisions that favor lighting that meets the measure's mercury content standards.

Mercury is used in many types of light bulbs because it contributes to the bulbs' energy efficiency and life expectancy. Mercury is a naturally occurring element that is found in air, water and soil, but it can also be toxic to humans. While a bulb is being used, no mercury is released and the bulb poses no health risk. If a compact fluorescent lamp is dropped or handled improperly, the glass tubing in the bulb may break and release mercury.

Effective date: January 1, 2013

Senate Bill 1582

Wetland delineations

Senate Bill 1582 authorizes a landowner to request the appointment of an independent panel to review wetland delineation determinations made by the Department of State Lands (DSL) and establishes that such determinations expire after 10 years. The measure repeals provisions related to independent reviews on January 2, 2022. All delineations are to comport with United States Army Corps of Engineers Wetland

Delineation Manual of 1987 and any subsequent federal supplements.

Oregon's removal-fill law (ORS 196.795-990) requires people who plan to remove or fill material in waters of the state, as defined in statute, to apply for and obtain a permit from the DSL. The purpose of the 1967 law is to protect public navigation, fishery and recreational uses of the waters.

Effective date: January 1, 2013

LEGISLATION NOT ENACTED

House Bill 4081

Waste plastics

House Bill 4081 would have provided that the use of pyrolysis to convert waste plastics to oil is considered as recycling under certain state laws.

Pyrolysis is a process by which organic compounds, including some plastics, are broken down into smaller molecules. Depending on the technology employed, the end result of the process can be synthetic crude oil. In 1991, the Legislative Assembly expanded Oregon's recycling laws to include a number of requirements relating to rigid plastic containers. The current law does not explicitly address whether converting waste plastic to synthetic crude oil qualifies as "recycling."

Government

House Bill 4040

Economic development investment

House Bill 4040 creates a new entity, the Oregon Growth Board, to coordinate the state's economic development efforts under a single umbrella. Currently, the state's economic development resources are spread throughout multiple agencies without a single source to determine the efficacy of those resources. The Oregon Growth Board is charged with identifying and consolidating the state's economic development resources into a single fund, the Oregon Growth Fund. The Board consists of seven voting members and one to three nonvoting members including the State Treasurer and Director of the Oregon Business Development Department. Voting members will include persons with expertise in banking, credit union operation, investment management and small business.

House Bill 4040 also abolishes the Oregon Growth Account Board, which was created in 1995 to oversee the Oregon Growth Account and inject seed capital to launch and expand new and emerging Oregon companies. Funds are provided to the Oregon Growth Account from the Oregon Lottery, while returns from investments go to the Education Stability Fund. House Bill 4040 transfers oversight of the Oregon Growth Account to the Oregon Growth Board.

Effective date: April 6, 2012

House Bill 4131

State agency staffing ratios

Service Employees International Union Local 503 issued a report in March 2011 that

outlined how the state could use operational efficiencies and savings to redirect \$1 billion into direct services. One proposal was to increase the ratio of staff-to-supervisors. With the passage of House Bill 2020 (2011), the Department of Administrative Services was directed to develop a plan for each state agency with more than 100 employees to attain a ratio of 11-to-1 employees to supervisors and managers acting in a supervisory capacity. The staffing plans are to be used to develop the legislatively adopted budget in the odd-numbered year regular sessions.

House Bill 4131 sets timelines and procedures for how the 11-to-1 ratio is to be attained. The measure directs agencies with more than 100 employees that have not attained the 11-to-1 ratio of non-supervisory employees to supervisory employees by the legislation's effective date not to fill any supervisory positions until the ratio is increased by at least one. If attrition has not increased the ratio by one, agencies are directed to layoff or reclassify supervisory employees so that the ratio is increased by one by October 31, 2012. In subsequent years, the same procedures and October 31 date apply until the ratio of 11-to-1 is attained. The Department may grant an exception to the requirements due to emergency or unique circumstances. Layoffs and reclassifications must be made in accordance with the terms of the collective bargaining agreement. Supervisory employees who are reclassified are to be compensated in the classified position's salary range.

Effective date: April 11, 2012

House Bill 4176

Process for counties to request state intervention during fiscal emergency

In 2007, Governor Kulongoski issued an executive order that established the Governor's Task Force on Federal Forest Payments and County Services (Task Force). The Task Force's final report, issued in January 2009, included a recommendation for legislation to create a financial control board (FCB). The recommendations describe the FCB as consisting of financial, legal and accounting experts who are appointed by the Governor and legislative leadership. The Task Force recommended that a separate FCB be assigned to each county to review financial reports and budgets in order to understand the county's financial position and aid elected officials in developing and adhering to recovery plans. In 2009, the Legislative Assembly responded to these recommendations by passing Senate Bill 77, which established a process for the Governor to declare a public safety services emergency and to appoint FCB in counties failing to provide minimally-adequate levels of public safety services.

House Bill 4176 changes the name of the financial control board to "fiscal assistance board" (Board) and changes the scope of the declaration of emergency from being focused solely on public safety services to include a broader fiscal emergency. It expands Board membership to include the subject county's governing body, and authorizes a county to request that the Governor declare a fiscal emergency to establish a Board if the county believes that they are not providing, or within the next fiscal year will not be able to provide, any service that is required by state law.

Effective date: March 27, 2012

Senate Bill 1518

Public contracting by the state

Recent complaints made by the media, labor unions, and citizen advocates indicate that Oregon needs to improve the transparency of state public contracting. Current statutes allow contracting agencies, under certain conditions, to award contracts without adhering to the competitive bidding requirements. Critics of the practice have called for greater transparency of these non-competitive contracts.

Senate Bill 1518 prohibits state contracting agencies from accepting a bid from a contractor who assisted the agency in preparing the solicitation materials for non-construction goods and services if the contractor would appear to have an advantage. A process is established that gives the Director of the Department of Administrative Services authority to grant an exception after preparing written findings and justifications. The measure directs the Department to provide the appropriate legislative committee before every odd-numbered regular session with information about special procurements for non-construction goods and services. Special procurements, in general, are exempt from competitive bidding requirements. The measure also allows a bidder to submit a personnel deployment disclosure that states the number of workers expected to perform the contract work, the number of workers who will be employed within Oregon, and the number of jobs that will be newly created. The contracting agency is allowed to give preference to a bidder who plans to employ more workers within Oregon than a competing bid if the bids are otherwise equal.

Effective date: March 16, 2012, with provisions operative on January 1, 2013

LEGISLATION NOT ENACTED

House Bill 4033

Public Employees Retirement System public records exemption

In 2010, two Oregon newspapers requested from the Public Employees Retirement System (PERS), among other things, the names and benefit amounts for all PERS benefit recipients. Initially, the Attorney General's Office advised PERS not to provide the newspapers with the requested information. However, after further review, the Attorney General decided the release of the requested information was in the public interest and this interest outweighed retirees' privacy expectations. PERS sought court review of the Attorney General's order. The court ordered PERS to disclose the names of every retiree receiving a PERS retirement benefit and the benefit amount, with the disclosure date set for November 21, 2011. The court also ordered PERS to disclose by March 2, 2012 the retirement plan and calculation method for determining the benefit for all retirees, as well as the member's years of service and final salary, as well as the dollar amounts of benefits paid to survivor beneficiaries and alternative payees (i.e., former spouses). However, the names of these classes of recipients are not to be disclosed.

The state's public records law currently exempts from public disclosure PERS employee and retirees' addresses, telephone numbers, and other nonfinancial

membership records and employee financial records. House Bill 4033 would have expanded the public records disclosure exemptions to include employee and retirees' names. The measure also would have established that if PERS intends to disclose employee or retiree information, a notice must be posted on its website at least 14 days before the disclosure's intended date. The notice would have included the information requested, a description of the information to be disclosed and the category of employee or retiree who would have been impacted by the disclosure. Furthermore, if PERS was to disclose all or a portion of records subject to a public records petition, as directed by an Attorney General issued order, PERS must have posted on the PERS website a copy of the public records request and notice of its intention to institute proceedings for injunctive or declaratory relief to prevent disclosure of the requested information. This posting must be made within the seven-day time period after the order's issuance.

House Bill 4130

Public contracting

Recent complaints made by the media, labor unions and citizen advocates indicate that Oregon needs to improve the transparency of public contracting. Legislation in 2009 (House Bill 2500) created the Oregon Transparency Website, which includes data on past and current state contracts and procurements. Users of the website have questioned the accuracy and completeness of the data. The practice of agencies contracting with former employees has also been called into question. In 2011, a highly-publicized firing of one manager and the reassignment of another over an inappropriate contract with a former

employee also created interest in amending public contracting statutes.

House Bill 4130 included numerous provisions addressing public contracting practices. It would have required former state employees to wait at least one year before working for a contractor if the employee worked on matters directly related to the contract or in a field closely related to the contract. Contracting agencies would have been prohibited from awarding a contract for services if the services would be performed at or from a location outside the United States. Contracting agencies would have been prohibited from accepting a bid from someone who advised or assisted the agency in developing the solicitation materials. Bidders would have been required to disclose the price, rate, and total cost of

similar goods and services that they provide to other federal, state, or local governments. House Bill 4130 would have allowed employees or labor organizations to seek judicial review under specified conditions if they had alleged that the contracting agency violated procurement requirements. Other provisions would have expanded the content available on the transparency website and required the information to be updated more frequently and checked for accuracy. The bill would have required the Oregon University System to make contract solicitation materials available through the Oregon Procurement Information Network, the electronic system used by most state agencies and many local governments.

Health Care

House Bill 4027

Immunity from civil liability for volunteers providing free health care

The liability of health care providers and clinics for free or volunteer services provided to charitable corporations is described at ORS 30.792. Insulation from liability exists at ORS 676.340 for some professionals who register with the appropriate licensing board, for “injuries, death or other losses arising out of [the] provision of services for which they are not compensated;” however, not all volunteers or activities are included.

House Bill 4027 extends immunity from civil liability to medical and dental services provided to homeless persons or persons at risk of becoming homeless by practitioners who are registered volunteers with nonprofit corporations organized under the laws of Oregon, unless the provision of services constitutes an intentional tort or is grossly negligent.

Effective date: March 16, 2012

House Bill 4046

Exemption from the one-percent assessment for specific accident-only insurance policies

In 2009, the Oregon Legislature passed House Bill 2116 creating the Health System Fund. It is an account funded by a one percent assessment on health insurance premiums, which may be used by the Oregon Health Authority for medical assistance programs. Several types of insurance policies were excluded from having to contribute to the Health System Fund, such as vision-only and dental-only

policies, and Medicare advantage plans. The assessment is currently scheduled to sunset September 30, 2013.

Beginning September 29, 2013, House Bill 4046 will also exempt accident-only insurance policies and specified policies that pay benefits on an indemnity basis, from having to pay the assessment.

Effective date: September 29, 2013

House Bill 4164

Operation of the Oregon Health Insurance Exchange

In 2011, the Oregon Legislature enacted Senate Bill 99, which established the public corporation needed to administer the Oregon Health Insurance Exchange (ORHIX). The measure required the corporation to submit a formal business plan for legislative approval, and such plan was presented in January of 2012.

House Bill 4164 acknowledges receipt of the ORHIX business plan and provides legislative approval. It also includes technical and conforming language to create the financial infrastructure needed for the corporation to become operational.

Effective date: March 8, 2012

Senate Bill 1509

Temporary licenses for out-of-state dentists and hygienists to provide charitable care

Each year the Oregon Dental Association (ODA) hosts the Mission of Mercy event providing over a million dollars of free

dental care to thousands of people. In 2012, the Oregon Board of Dentistry, with the Attorney General's guidance, informed ODA that there was not currently an exception to Oregon's licensing requirements that would permit out-of-state dentists and hygienists to participate, nor was there means to provide them with temporary licenses.

Senate Bill 1509 allows dentists and dental hygienists who are not licensed in Oregon, to apply for permission to provide charitable care on a limited basis, so long as they are licensed in good standing in another state.

Effective date: March 27, 2012

Senate Bill 1565

Prescription drug dispensing authority for physician assistants

Currently, physicians, nurse practitioners, and physician assistants are authorized to prescribe medication; however, only physicians have dispensing authority. Physician assistants may be granted emergency dispensing authority for drugs prepared or prepackaged by a licensed pharmacist, manufacturing drug outlet or wholesale drug outlet.

Senate Bill 1565 permits supervising physicians or supervising physician organizations to apply to the Oregon Medical Board for dispensing authority for physician assistants. Additionally, the bill requires the supervising physician or supervising physician organization to register the facility in which the physician assistants will be dispensing as a drug outlet with the State Board of Pharmacy.

Neighborhood clinics, such as ZoomCare Clinics, are increasingly becoming an alternative to urgent care and physician office visits. These types of clinics utilize physician assistants to deliver primary care to their patients and are often required to dispense prescription drugs. Senate Bill 1565 continues to increase access to care while decreasing costs to patients.

Effective date: March 5, 2012

Senate Bill 1580

Establishment of Coordinated Care Organizations

Senate Bill 1580 provides legislative approval to the Oregon Health Authority (OHA) to implement the Oregon Integrated and Coordinated Care Delivery System (CCOs) created by House Bill 3650 during the 2011 legislative session. The CCO system integrates and replaces the existing system of managed care organizations, mental health organizations, and dental care organizations for Medicaid and Oregon Health Plan patients. Additionally, the bill authorizes the Department of Consumer and Business Services and OHA to enter into agreements governing the disclosure of information and requires OHA to report to an appropriate legislative committee on a quarterly basis.

Effective date: March 2, 2012

LEGISLATION NOT ENACTED

House Bill 4010

Payment parity for Nurse Practitioners

Since 2009, insurers have been reducing reimbursement rates for nurse practitioners (NPs), beginning with those in psychiatric and mental health fields and progressing to primary care NPs.

House Bill 4010 would have required the same reimbursement rate for the same services, regardless of who was providing the service.

House Bill 4109

Competitive bidding process for purchase of generic drugs for medical assistance recipients

Oregon currently reimburses pharmacies for Medicaid prescriptions based on the Average Actual Acquisition Cost of a specific generic drug, which is determined by averaging actual invoice costs that participating pharmacies are required to submit. Pharmacies currently negotiate lowest prices directly with drug manufacturers or through wholesaler purchasing programs. Non-Medicaid generic prescriptions are generally paid based on the Maximum Allowable Cost (MAC), defined by the Prescription Benefit Manager processing the prescription. The MAC price is used as the cost basis for every generic prescription drug regardless of what a pharmacy actually pays.

House Bill 4109 would have required the Oregon Health Authority to use a competitive bidding process for the purchase of generic drugs prescribed for Medicaid recipients.

House Bill 4122

Licensing pharmacy benefit managers

Pharmacy Benefit Managers (PBMs) play a critical role in managing both patient access to prescription drugs, and costs to insurers who offer prescription drug coverage. PBMs are hired by insurance companies to negotiate independently with pharmacies to set drug reimbursement rates using the insurer's drug formulary. Insurance companies rarely know the reimbursement rate paid to the pharmacy and the pharmacy rarely knows how much the PBM is paid by the insurance company. PBMs may also benefit from rebates received directly from drug manufacturers which may not be passed on to insurers to reduce their reimbursement costs. It can result in decreased access for consumers and higher drug prices when pharmacies have to cover the difference between their actual costs and an insurer's reimbursement rates.

House Bill 4122 would have provided for greater transparency with regard to these practices by requiring PBMs to be licensed by the State Board of Pharmacy.

Senate Bill 1503

Health care workers' influenza vaccination

Individual health care facilities implement a wide variety of policies and procedures related to influenza vaccinations for health

care workers. Senate Bill 1503 would have established a uniform requirement, that health care workers provide evidence of an annual seasonal influenza vaccination to their employing health care facility, or that they decline such vaccination in writing.

Senate Bill 1570

Medical assistance coverage of prescription drugs that are immunosuppressant drugs or drugs for treatment of seizures, cancer, HIV or AIDS

In 2001, the Legislative Assembly established the Medicaid preferred drug list (PDL). These drugs are part of the legislative carve out that protects patient access to mental health medications. Currently, prior authorization of certain Medicaid prescriptions is subject to the final word of the prescribing practitioner.

Senate Bill 1570 would have expanded the statutory prohibition on the Oregon Health Authority's Medical Assistance Program using Prior Authorization to include drugs used to treat seizures, cancer, HIV or AIDS, and immunosuppressant drugs used for transplant recipients.

Senate Bill 1577

State agency participation in the Oregon Prescription Drug Program (OPDP)

In 2003, the Legislature authorized the formation of the Oregon Prescription Drug Program (OPDP), which is a prescription drug purchasing pool intended to increase access to prescription drugs by the uninsured and lower prescription drug costs for state agencies and local governments. Participation in OPDP is optional for state agencies. As of 2011, some of the state's largest agencies (Department of Corrections, the Oregon Youth Authority and the Public Employees' Benefit Board) did not participate in OPDP.

Senate Bill 1577 would have required state agencies to participate in the OPDP and would have exempted any agency that could demonstrate that its purchasing arrangements would result in greater discounts and aggregate cost savings than it would have realized through OPDP.

Human Services

House Bill 4077

Teen dating violence policy

The Centers for Disease Control and Prevention reports that one in 11 adolescents say they have been the victim of physical dating violence. Up to 40 percent of teens have been in abusive relationships and 43 percent of teens in such relationships experienced abuse while at school. At least 14 states have laws that urge or require school districts to adopt policies on dating abuse among students, which include providing education to students and/or protecting targets of dating abuse while they are on campus.

House Bill 4077 directs each school district to adopt a teen dating violence policy that states that teen dating violence is unacceptable and prohibited; incorporates age appropriate education for students in grade seven through 12; establishes response procedures for school employees; and identifies school officials who are responsible for receiving reports. The Act expands the allowable uses of the Oregon Domestic and Sexual Violence Services Fund to include services, programs and curricula to educate students in grade seven through 12 about teen dating violence; assistance to victims of teen dating violence; and the prevention and reduction of teen dating violence incidents.

Effective date: January 1, 2013

House Bill 4082

Transferring authority of CASA program to Oregon Volunteers Commission for Voluntary Action and Service

Federal and state laws mandate that the court shall appoint a court appointed special advocate (CASA) for every abused and neglected child involved in a dependency case. In 1987, the Oregon Legislative Assembly enacted what is now ORS 419A.170, mandating the appointment of a CASA for each of these children. The CASA volunteers are trained, supported and supervised by local programs in each of Oregon's 36 counties. The CASA Volunteer Program (CASA Program) is currently located within the State Commission on Children and Families.

House Bill 4082 transfers the authority over CASA and CASA Programs from the State Commission on Children and Families to the Oregon Volunteers Commission for Voluntary Action and Service (Commission). The transfer of authority becomes operative on May 1, 2012. Each CASA Program is required to report biannually to the Legislative Assembly on their status with respect to statewide outcomes or performance measures. The Act requires the Judicial Department, Housing and Community Services Department, and the Commission to study and make recommendations on the appropriate structure and operation for funding and administration of CASA Programs to the Legislative Assembly no later than September 30, 2014.

Effective date: April 11, 2012

House Bill 4084

Crimes against a victim that is 65 years of age or older

Oregon law defines an elderly person as any person 65 years of age or older and elder abuse as neglect leading to harm; abandonment; willful infliction of physical pain or injury; unwanted sexual contact or the inability to consent to sexual contact; or financial exploitation. According to the Department of Human Services (DHS), state and local offices investigate more than 11,000 complaints of elder abuse or neglect each year. This abuse can occur both in care facilities and in the home. The 2011 Oregon Legislature passed House Bill 2325 which created the Elder Abuse Work Group (Work Group) to study and make recommendations on elder abuse issues. House Bill 4084 integrates multiple recommendations from the Work Group.

House Bill 4084 extends the statute of limitations for certain crimes when the victim is 65 years of age or older. The Act requires health care providers and financial institutions to allow law enforcement agencies access to certain records if an investigation of abuse of an elderly person is being conducted. The Act authorizes DHS to make certain reports and records available to law enforcement, administrative law judges in administrative proceedings, and specified agencies providing protective services for the elderly. House Bill 4084 establishes a six-member Resident Safety Review Council. The Act directs the Department to report to the Legislature regarding the reporting of abuse and the implementation of a statewide call system and 2-1-1 system. DHS is also required to develop and implement a training program for persons required to investigate abuse of elderly

persons. The Act also recreates the Oregon Elder Abuse Work Group.

Effective date: March 27, 2012

House Bill 4165

Consolidate early childhood programs under the Early Learning Council

Every year, approximately 45,000 children are born in Oregon. Roughly 40 percent of these children are exposed to a well-recognized set of socio-economic, physical or relational risk factors that adversely impact their ability to develop the foundations of school success. Examples include poverty, unstable family backgrounds, substance abuse, criminal records and negative peer associations. Senate Bill 909 (2011) created the Early Learning Council (ELC) and charged the ELC with formulating recommendations for the Oregon Education Investment Board to merge, redesign or improve the coordination of early childhood services and align early childhood services with child-centered outcomes. The ELC put forward proposals to consolidate entities that serve young children to better coordinate services and prioritize measurable outcomes. House Bill 4165 reflects those recommendations.

House Bill 4165 removes the sunset date of March 15, 2016 on the ELC. The Act expands the oversight of the ELC to include overseeing a unified system of early learning services for purposes of ensuring that children enter school ready to learn. House Bill 4165 establishes goals and timelines for the ELC to complete specific projects, establishes the Youth Development Council (Council), and establishes goals and timelines for the Council to complete specified projects. The Act abolishes the

State Commission on Children and Families effective July 1, 2012 and transfers all duties, functions and powers to the ELC and January 1, 2014. The Act also abolishes the Commission for Child Care within the Employment Department effective July 1, 2012 and transfers the duties functions and powers to the ELC. The measure abolishes the Juvenile Crime Prevention Advisory

the Council. The Act stipulates that community-based coordinators of early learning services are to be functioning by Committee effective July 1, 2013 and transfers the functions of the committee to the Council.

Effective date: March 6, 2012

Insurance

Senate Bill 1547

Captive Insurance

A captive insurance company primarily insures the risks of businesses that are related to it through common ownership. For example, a business or group of businesses can form a wholly owned captive insurance company for the purpose of insuring their related companies, paying premiums to the insurer in exchange for insurance coverage. Captive insurance differs from self insurance in that the latter arrangement involves a company itself setting money aside to compensate for potential future losses by paying claims directly; in comparison, a captive insurance company is an entity owned by the insured company.

Vermont was the first state to authorize captive insurance in 1981; there are currently 29 states that authorize some form of captive insurance. Worldwide, approximately 10 percent of commercial insurance premiums are paid to captive insurers. A primary driver of the development of captive insurers has been the expense or lack of availability of certain types of insurance companies on the commercial market.

Senate Bill 1547 authorizes captive insurers to operate in Oregon, setting standards for captive insurers in terms of formation, licensing, classes of insurance that may be transacted and reporting requirements.

Effective Date: March 27, 2012

Judiciary

House Bill 4017

Ignition Interlock Devices

An ignition interlock device is a mechanism installed in a vehicle that requires the driver to breath into the device before the engine can be started; if the device detects alcohol in the breath, the engine will not start. Prior to the passage of House Bill 4017, ORS 813.602 required persons convicted of driving under the influence of intoxicants (DUII) to install an ignition interlock device for a period of two years after driving privileges are restored after suspension, or revocation. Persons seeking a reinstatement of driving privileges after a 10-year revocation, or permanent license revocation, were also required to install the ignition interlock device for a two-year period.

House Bill 4017 extends the length of time that a person convicted of certain crimes must have an ignition interlock device installed on any vehicle that person drives. The length of time is extended from two years to five years after the person's driving privileges are restored following suspension or revocation of driving privileges. The crimes that are affected by House Bill 4017 are both a conviction of DUII and any degree of murder; first or second degree manslaughter, criminally negligent homicide or first degree assault; aggravated vehicular homicide; or conviction of driving under the influence of intoxicants after restoration of permanently revoked driving privileges after a finding of rehabilitation under ORS 809.235.

Effective date: January 1, 2013

House Bill 4023

Community Guardian

House Bill 4023 creates a "community guardian" provision for a child who is sixteen, seventeen or eighteen years old. The bill allows a "child-caring agency" licensed under ORS 418.205 to 418.310 to petition a court for appointment as guardian. It allows a court to appoint a community guardian if: (1) the juvenile has spent more than three years in substitute care; (2) the proposed community guardian has provided care services to the juvenile in the immediate 12 months preceding the filing of the petition for guardianship; (3) there is no other appropriate permanency plan for the ward; (4) the proposed guardianship would include planning and guidance for the juvenile's successful transition to independent living; (5) the juvenile has access to court-appointed counsel and, (6) the juvenile consents. The objective of the measure is to allow a "child-caring agency" to act as guardian for a juvenile transitioning from a juvenile to a "legal" adult.

The measure requires that the juvenile has access to court-appointed counsel. It requires that the juvenile state in writing that he or she knows that he or she cannot be placed in the legal custody of the Department of Human Services (DHS) after reaching eighteen years of age. It requires a court to conduct a review hearing no later than sixty days before the ward reaches age eighteen, and at this hearing inform the juvenile that, after reaching eighteen, the ward may not be placed in DHS substitute care.

If a child is in danger because of abuse or neglect, the State will step in to protect the child. The process and procedure for doing this is set forth in ORS Chapter 419B. If a child is in danger because of abuse or

neglect, the child will be placed under the jurisdiction of the Juvenile Court. Among other things, the Juvenile Court may appoint a guardian for the child.

A “child-caring agency” is any licensed private school, private agency or private organization providing: (1) day treatment for children with emotional disturbances; (2) adoption placement services; (3) residential care, including but not limited to foster care or residential treatment for children; (4) residential care in combination with academic education and therapeutic care, including but not limited to treatment for emotional, behavioral or mental health disturbances; (5) outdoor youth programs; or (6) other similar services for children.

Effective date: March 27, 2012

House Bill 4026

Court of Appeals judges

House Bill 4026 increases the number of judges on the Oregon Court of Appeals from ten judges, to thirteen judges on October 1, 2013.

The Oregon Court of Appeals is one of the busiest appellate courts in the nation. Last year the court had 3000 cases on appeal before it. Currently the Oregon Court of Appeals consists of ten judges. These ten judges sit in panels of three and hear oral arguments, and write decisions addressing the legal issues contained in these cases. No new judicial positions have been added in over thirty years.

Effective date: January 1, 2013

House Bill 4045

Public disclosure of concealed handgun license information

House Bill 4045 prohibits disclosure of records or identifying information about persons applying for, or licensed to carry concealed handguns pursuant to a public records request. It permits disclosure with the applicant’s or licensee’s consent, between public bodies when necessary for a criminal justice purpose, or pursuant to court order.

The measure does provide for disclosure of specific information about a person licensed to carry a concealed handgun under specific conditions: if public body determines compelling public interest exists; upon receipt of written proof of conviction of person crime, or existence of protective order from named victim of crime, or subject of protective order; or upon receipt of written proof that request is from bona fide member of press. The Office of Attorney General is responsible for determining procedures of what constitutes “compelling public interest.”

House Bill 4045 was introduced in response to an Oregon Court of Appeals’ decision in *Mail Tribune v. Winters*, 236 Or App 91 (2010), which required the Sheriff of Jackson County to provide a local newspaper with the identities of all persons licensed to carry concealed handguns and all persons who had applied for such licenses over a two-year period.

Effective date: April 11, 2012

House Bill 4146

Expunction of juvenile prostitution charge

Current practice in many counties is to refrain from charging juveniles with prostitution in recognition that the minor is unable to consent to sex, and may be a victim of sex trafficking. Under current Oregon law, persons must wait five years from the time of conviction to apply for an expunction of their record.

House Bill 4146 allows the expunction of a juvenile charge, or adjudication for the crime of prostitution when the person charged was less than 18 years of age at the time of the offense. It allows the expunction to happen at any time after the charge and without hearing, absent objection.

Effective date: March 5, 2012

Senate Bill 1524

Private security professionals

Senate Bill 1524 redefines “private security services” to include within the definition individuals controlling access to premises that the Oregon Liquor Control Commission (OLCC) licenses, if minors are prohibited from entering the premises. The measure requires that those controlling access must be certified by the Department of Public Safety Standards and Training (DPSST) as “private security providers.” The bill excludes from the definition of “private security provider” a person with a valid alcohol server’s permit when the person is performing age verification and controlling access to premises if the person is: (1) not armed; (2) not permitted to initiate confrontation or to seize property; or, (c) not hired with the

primary responsibility of being a bouncer. Senate Bill 1524 excludes from exemption an organized event that is on a scale substantially outside the ordinary course of the bar, restaurant, or nightclub’s business.

ORS 181.871 provides exemptions to the licensing requirements generally required of individuals working in private security. Individuals working in private security are subject to training, licensing and a range of other requirements. The existing statutory structure provides for a range of exempted classes, including a person performing crowd management or guest services, including but not limited to a ticket taker, usher, parking attendant, event staff or person employed for the purpose of age verification by a licensee of the OLCC, who is not armed and not hired primarily for law enforcement actions.

In 2011, the Legislative Assembly passed Senate Bill 878 that, amongst other things, attempted to clarify that individuals with an OLCC servers license could ask (at the entrance to a bar, restaurant or nightclub) prospective patrons for identification, proving the prospective patron was at least twenty-one years old. The server could do this so long as it was not part of his or her primary responsibilities. If it were, the server would have to be certified by the DPSST as a “private security professional.” After the 2011 session, the cities of Portland and Eugene had concerns as to when a server could and could not check identifications. Senate Bill 1524 is intended to address these concerns.

Effective date: March 5, 2012

Senate Bill 1527

Maximum Fine in Reduction of Charges

A recent Multnomah County Circuit Court decision found that persons charged with violations were entitled to, among other things, jury trials and appointed counsel. Originally, these persons were charged with misdemeanors, but the Multnomah County District Attorney's Office reduced the charges to violations. The penalty associated with a misdemeanor conviction includes up to a year in jail and a fine. The penalties for violations are fines only. A person charged with a violation is not entitled to a court-appointed attorney. Since the charges started out as misdemeanors, the maximum fine that could be imposed was based on the original misdemeanor charge. The fines associated with a misdemeanor conviction can be as high as \$6,250. The Multnomah County Circuit Court decision pointed to the possible \$6,250 fine as one factor in determining that those charged with a misdemeanor later reduced to a violation were entitled to jury trials and appointed counsel.

Senate Bill 1527 states that the maximum fine associated with a misdemeanor charge reduced to a violation may not exceed that of a Class A violation. The maximum fine for a Class A violation under ORS 153.018 is \$2,000.

Effective date: March 27, 2012

Senate Bill 1528

Police Powers – Oregon Liquor Enforcement Inspectors

Senate Bill 1528 defines "liquor inspector" as a full-time employee of the Oregon Liquor Control Commission (OLCC), who is authorized to act as an agent of the OLCC by conducting inspections or investigations, making arrests and seizures, aiding prosecutions for offenses, and issuing citations for violations of Oregon's liquor control laws including commission rules. The measure clarifies that "liquor inspectors" have the same powers as "peace officers" in order to enforce Oregon's liquor control laws.

Senate Bill 1528 requires "liquor inspectors" to be certified by the Department of Public Safety Standards and Training (DPSST) and that DPSST issue certificates to those the commission employs who qualify as liquor enforcement inspectors. The measure allows OLCC to employ a person as a liquor enforcement inspector for not more than 18 months if the person has not been DPSST trained. Inspectors are required to be U.S. citizens.

ORS 471.775(2) states that "inspectors and investigators" employed by the OLCC shall have the authority given by statute to peace officers of this state, including authority to serve and execute warrants of arrest and warrants of search and seizure. It is generally understood that these powers are limited to the enforcement of Oregon's liquor control laws. However, the powers of "peace officers" are broader than this. Senate Bill 1528 is intended to better define the law enforcement powers of a "liquor enforcement inspector."

Effective date: March 16, 2012

Senate Bill 1575

Disorderly Conduct – Funerals

Senate Bill 1575 increases the penalty for disorderly conduct from a class B to a class A misdemeanor when a person commits disorderly conduct within 200 feet of real property on which the person knows a funeral service is being conducted. Senate Bill 1575 removes from the disorderly conduct statute, ORS 166.025(1)(e), a provision that the Oregon Supreme Court found unconstitutional in *State v. Ausmus* (2004).

A person commits the crime of disorderly conduct in the second degree if, with the intent to cause public inconvenience, annoyance, or alarm, or recklessly creating risk thereof, the person: (a) Engages in fighting or in violent, tumultuous or threatening behavior; (b) Makes unreasonable noise; (c) Disturbs any lawful assembly of persons without lawful authority; (d) Obstructs vehicular or pedestrian traffic on a public way; (e) Congregates with other person in a public place and refuses to comply with a lawful order of the police to disperse; (f) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or (g) Creates a hazardous or physically offensive condition by any act which the person is not licensed or privileged to do.

Effective date: March 5, 2012

LEGISLATION NOT ENACTED

Senate Bill 1594

Related to weapons on school grounds

Senate Bill 1594 would have made it a Class C felony to intentionally possess a loaded or unloaded firearm, or any other instrument used as a dangerous weapon in a public building including a building on school grounds. The measure would have eliminated as an affirmative defense exempting concealed handgun licensees from crime applicable to possession of firearm or other instrument used as dangerous weapon, while on school grounds. The measure would have permitted school districts, community colleges, or the Oregon University System to adopt rules or written policies that authorized persons with a concealed handgun license to possess the firearm on school grounds under control of the school districts, or the Oregon University System.

The measure would not have applied to: (1) Law enforcement when acting within scope of employment; (2) A person summoned by a law enforcement officer to assist in making an arrest or preserving the peace; (3) A member of the military when engaged in the performance of duty; (4) A person authorized by the person in control of the public building to possess a firearm; (5) An employee of the U.S. Department of Agriculture in the course of taking wildlife; (6) Possession of a firearm on school property if the firearm is possessed by a person who has the right to possess a firearm, and the firearm is unloaded and locked in a motor vehicle; or, (7) A person licensed to carry a concealed weapon.

Land Use

LEGISLATION NOT ENACTED

House Bill 4090

Providing services to property owners

Current law (ORS 190.003 to 190.130) authorizes a unit of local government to enter into a written agreement with any other unit of local government to perform functions that a party to the agreement has the authority to perform. These statutes are generally known as Oregon's Intergovernmental Cooperation Statutes. Urban service agreements, including those to provide water and sewer service, are one type of an intergovernmental agreement. House Bill 4090 was intended to address conflicts that result from there not being an agreed-upon urban service agreement to provide services to a property owner. The Act would have authorized an owner of property located within the metropolitan service district's urban growth boundary and, due to certain impediments, not provided with sanitary sewer or water services to cause a public or private provider of sanitary sewer and water services to connect service and serve the property. House Bill 4090 would have authorized the service provider to charge the owner all costs incurred to connect and deliver the services.

The City of Keizer does not have its own fire department, but it is served by Keizer Fire District and Marion County Fire District 1. The Keizer City Council recently voted to annex an area of Keizer, known as Clear Lake, into the Keizer Rural Fire Protection District. House Bill 4090 would have stipulated that for the purpose of annexation by a service provider providing

sanitary sewer or water service, the governing body of the district may declare the annexation approved by a resolution or an ordinance without submitting the annexation plan to the electors of a district or to the electors of the territory proposed to be annexed. The Act would have stipulated that if a portion of a district becomes incorporated or annexed to a city, and the city will provide services previously provided by the district, the portion being incorporated will continue to receive the service from the district until the portion is withdrawn. This annexation issue was eventually considered by Keizer voters on March 13, 2012.

House Bill 4095

Regional definition of resource lands

House Bill 4095 would have allowed Jackson, Josephine and Douglas Counties to enter into an intergovernmental agreement and petition the Department of Land Conservation and Development (DLCD) to establish a regional definition for "agricultural land" and "forestland" for the purposes of land use planning in those counties. The measure directed DLCD to coordinate with the local governments, as well as other state agencies, and to hold at least one public hearing in each county where the regional definition would apply.

In 1973, the Legislature created the Land Conservation and Development Commission (LCDC) to adopt statewide land use goals and created the Department of Land Conservation and Development to assist the Commission and local governments with goal implementation. The Legislature also directed local governments to adopt and implement comprehensive plans in accordance with the statewide goals. Comprehensive plans include various land

inventories and technical information, along with plan policies and implementation measures.

Transportation

Senate Bill 1543

Transportation project reallocation; pilotage restrictions

House Bill 2001 (2009), also known as the Jobs and Transportation Act, instituted increases in motor vehicle fuel taxes (and corresponding weight-mile taxes) and vehicle title and registration fees to pay for state highway modernization and maintenance. The measure provided for the bonding of expected future revenues from these increases, and section 64 of the measure made specific allocations to 37 separate projects throughout the state. However, because these allocated amounts are statutory, there is currently no way to reallocate excess funds from a project that, upon completion, comes in under budget. Senate Bill 1543 requires that the Oregon Transportation Commission provide an annual report to the Legislative Assembly outlining the moneys available for reallocation and a prioritized list of projects that require additional funding for completion. The measure also specifies that, upon completion, any unspent balance from the Interstate 5/Interstate 205 interchange project be reallocated to the Interstate 84 interchange project at 257th Avenue, and that any unspent balance from the U.S. Highway 26 project at 185th Avenue to Cornell Road be reallocated to the U.S. 26 and Shute Road interchange project.

In addition, Senate Bill 1543 allocates \$5 million from the State Bridge Program to Multnomah County to be expended for reconstruction of the Sellwood Bridge on Highway 43. An additional \$9.5 million is allocated from the State Highway Modernization Program to Multnomah County for development and construction on Cornelius Pass Road.

Finally, Senate Bill 1543 prohibits licensees and trainees of the Oregon Board of Maritime Pilots who hold a financial interest in a boat or equipment assisting vessels entering or exiting Coos Bay or Yaquina Bay from piloting a vessel on the Coos Bay or Yaquina Bay pilotage grounds. The measure makes an exception to this prohibition in emergency situations.

Effective date: March 16, 2012

Senate Bill 1544

Relating to economic development

Central Oregon has experienced an extended period of high unemployment, between 12 and 15 percent, during the recent economic downturn. Access to additional developable industrial land would benefit communities by providing an opportunity to attract jobs and economic development to the region. The City of Redmond has identified a 465-acre tract of land within its urban growth boundary as a potential developable property, having been previously zoned industrial before being rezoned as open space park reserve in 1980. Rezoning the property for development is complicated by State Land Use Goal 12, also known as the Transportation Planning Rule (TPR), which requires that a zone change must account for any potential impacts on nearby transportation facilities (typically state highways). In order to make the zone change under current law, the City of Redmond would be responsible for constructing a \$250 million bypass project for U.S. Highway 97 to account for anticipated increases in traffic loads to that highway.

Senate Bill 1544 specifies that the 465-acre site within the City of Redmond's urban

growth boundary may be subject to a revision of the Redmond Comprehensive Plan and Zone Map without determining whether the change will have a significant effect on existing or planned transportation facilities. The measure outlines requirements for the zoning designation of the site if the changes to the Comprehensive Plan are adopted and directs the city to enter into an agreement with the Oregon Department of Transportation to address transportation impacts. The measure sunsets on January 2, 2015.

Effective date: April 11, 2012

Senate Bill 1591

Roadside rest areas overseen by the Travel Information Council

The Oregon Travel Information Council (TIC), now known as the Oregon Travel Experience (OTE), was created by the Legislative Assembly in 1972 and is a semi-independent state agency that connects motorists with businesses through highway signs, rest area information kiosks, and business listings on Oregon's TripCheck website and on the Statewide Interactive Heritage Map. TIC assumed management of nine rest areas in five locations in Oregon in 2010: I-5 at Wilsonville (both directions); I-5 south of Salem at Santiam (both directions); I-5 at Manzanita north of Grants Pass (both directions); I-84 at Boardman (both directions); and westbound on I-84 near Ontario.

Senate Bill 1591 repeals the scheduled sunset of the Travel Information Council's rest area authority and expands that authority to additional rest areas on I-5, I-84 and U.S. Highway 101 over a two-year period. The Oregon Department of

Transportation maintains ownership of these rest areas. The measure allocates moneys to TIC from the State Highway Fund for rest area management, with a financial review and audit requirements. The measure also makes changes to the Council's membership.

Effective date: March 16, 2012

LEGISLATION NOT ENACTED

House Bill 4028

Lottery Bonds for infrastructure

House Bill 4028 would have authorized the issuance of an additional \$30 million in lottery bonds to finance three separate programs: \$10 million to finance grants and loans for non-highway transportation projects under the ConnectOregon IV program, \$10 million to finance water and sewer infrastructure projects through the Special Public Works Fund, and \$10 million to finance capital construction projects at community colleges.

The Legislative Assembly created the ConnectOregon program in 2005 to provide funding in the form of grants and loans for non-highway transportation projects, including aviation, marine, passenger and freight rail and public transportation. The initial program provided \$100 million in lottery-backed bonds, which provided funding for 38 projects. It was followed by an additional \$100 million in 2007 (30 projects) and 2009 (40 projects). The Legislative Assembly approved \$40 million for ConnectOregon IV in 2011. To date, the

Oregon Department of Transportation has received 70 applications totaling \$84 million for the \$40 million available. House Bill 4028 would have provided an additional \$10 million to distribute to these projects, bringing the total for ConnectOregon IV to \$50 million.

House Bill 4028 would also have provided \$10 million to the Special Public Works Fund to help provide lower interest loans to local governments seeking to build, improve, or replace water or sewer infrastructure facilities. The Fund, which is administered by the Oregon Business Development Department's Infrastructure

Finance Authority, provides funds in the form of grants and loans for publicly owned facilities that support economic and community development. Funds can be used for planning, design, purchasing, improving and constructing facilities, replacing publicly-owned essential facilities, and for emergency projects.

House Bill 4028 would also have provided \$10 million to the Oregon Department of Community Colleges and Workforce Development to finance one capital project related to workforce development at each of Oregon's 17 community colleges.

Veterans

Senate Bill 1563

Benefits of state law for all “uniformed services” and college tuition waivers for veterans’ dependents

There are seven “uniformed services” of the United States acknowledged at the federal level: the Army, the Marine Corps, the Navy, the Air Force, the Coast Guard, and both commissioned corps of the Public Health Service (USPHS) and the National Oceanic and Atmospheric Administration (NOAA). The general public is most familiar with the traditional armed services, and less so with the commissioned corps of the NOAA and the USPHS.

Members of the commissioned corps of the NOAA and the USPHS are reassigned to different duty stations and must reestablish themselves in new locales just like any other member of a uniformed service. Prior to passage of Senate Bill 1563, Oregon offered

some benefits and protections of state law to members of all the uniformed services *except* the commissioned corps of the USPHS and the NOAA. These benefits and protections help ease some of the difficulties associated with required relocation, such as permitting the service member to break a lease under certain circumstances. Senate Bill 1563 extends these existing state law benefits to members of all uniformed services, including the commissioned corps of the USPHS and the NOAA.

Separately, the bill also requires community colleges to waive tuition for spouses and other dependents of deceased veterans, following guidelines similar to those used by universities. Both community colleges and universities provide such waivers to veterans’ dependents; however, universities also include eligible dependents of surviving, disabled veterans.

Effective date: April 11, 2012

Water

LEGISLATION NOT ENACTED

House Bill 4101

Columbia River water appropriation

House Bill 4101 would have directed the Water Resources Department, in cooperation with other state agencies, to aggressively pursue the development of new water supplies for consumptive and instream uses by storage, conservation and reuse of Columbia River water, including an increase in the amount of water available for agricultural uses by a minimum of 100,000 acre feet above 2011 levels.

In most areas of Oregon, surface water is no longer available for new uses on a year-round basis. Ground water is also limited in some areas. New water appropriations from

the Columbia River during the summer months are limited by water availability calculations and flow requirements for federally listed fish species.

Senate Bill 1513

Split season water right leases

In Oregon, most water rights may be leased for instream use, provided the lease arrangement does not injure other existing water rights. A “split season” lease is allowed if a water right is to be used for both the existing authorized purpose and for instream use during the same year. A water right holder with a split season lease must measure and report to the Water Resources Department the water used for both purposes. The statutory authority for split season leases is set to sunset on January 2, 2014. Senate Bill 1513 would have removed this sunset provision.