

## CHAPTER 17

AN ACT

HB 2601

Relating to correction of erroneous material in Oregon law; creating new provisions; and amending ORS 87.196, 110.675, 130.315, 130.805, 131.915, 171.580, 171.852, 173.191, 173.215, 173.730, 173.750, 174.020, 174.535, 203.075, 223.399, 223.401, 244.045, 286A.863, 291.055, 295.001, 295.048, 310.140, 327.011, 348.570, 358.505, 413.083, 414.685, 417.847, 430.256, 430.735, 451.435, 455.170, 466.605, 475.525, 475B.210, 477.580, 526.297, 634.306, 646A.801, 646A.810, 653.025, 660.310, 742.554, 743A.160, 743A.168, 744.362 and 758.235 and section 27, chapter 765, Oregon Laws 2015, and sections 3 and 4, chapter 88, Oregon Laws 2016, and ORCP 69 C.

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

**SECTION 1.** ORS 174.535 is amended to read:

174.535. It is the policy of the Legislative Assembly to revise sections from Oregon Revised Statutes and Oregon law periodically in order to maintain accuracy. However, nothing in chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001, chapter 14, Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71, Oregon Laws 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws 2011, chapter 1, Oregon Laws 2013, [or] chapter 27, Oregon Laws 2015, **or this 2017 Act** is intended to alter the legislative intent or purpose of statutory sections affected by chapter 740, Oregon Laws 1983, chapter 565, Oregon Laws 1985, chapter 158, Oregon Laws 1987, chapter 171, Oregon Laws 1989, chapters 67 and 927, Oregon Laws 1991, chapters 18 and 469, Oregon Laws 1993, chapter 79, Oregon Laws 1995, chapter 249, Oregon Laws 1997, chapter 59, Oregon Laws 1999, chapter 104, Oregon Laws 2001, chapter 14, Oregon Laws 2003, chapter 22, Oregon Laws 2005, chapter 71, Oregon Laws 2007, chapter 11, Oregon Laws 2009, chapter 9, Oregon Laws 2011, chapter 1, Oregon Laws 2013, [and] chapter 27, Oregon Laws 2015, **and this 2017 Act** except insofar as the amendments thereto, or repeals thereof, specifically require.

**NOTE:** Sets forth Reviser's Bill policy statement.

**SECTION 2.** ORCP 69 C is amended to read:

**C Motion for order of default.**

C(1) The party seeking default must file a motion for order of default. That motion must be accompanied by an affidavit or declaration to support that default is appropriate and contain facts sufficient to establish the following:

C(1)(a) that the party to be defaulted has been served with summons pursuant to Rule 7 or is otherwise subject to the jurisdiction of the court;

C(1)(b) that the party against whom the order of default is sought has failed to appear by filing a motion or answer, or otherwise to defend as provided by these rules or applicable statute;

C(1)(c) whether written notice of intent to appear has been received by the movant and, if so, whether written notice of intent to apply for an order of default was filed and served at least 10 days, or any shortened period of time ordered by the court, prior to filing the motion;

C(1)(d) whether, to the best knowledge and belief of the party seeking an order of default, the party against whom judgment is sought is or is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in ORS 125.005; and

C(1)(e) whether the party against whom the order is sought is or is not a person in the military service, or stating that the movant is unable to determine whether or not the party against whom the order is sought is in the military service as required by [Section] **section 201(b)(1)** of the Servicemembers Civil Relief Act, 50 [App. U.S.C. §521] **U.S.C. App. 521**, as amended.

C(2) If the party seeking default states in the affidavit or declaration that the party against whom the order is sought:

C(2)(a) is incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be entered against the party against whom the order is sought only if a guardian ad litem has been appointed or the party is represented by another person as described in Rule 27; **or**

C(2)(b) is a person in the military service, an order of default may be entered against the party against whom the order is sought only in accordance with the Servicemembers Civil Relief Act.

C(3) The court may grant an order of default if it appears the motion and affidavit or declaration have been filed in good faith and good cause is shown that entry of such an order is proper.

**NOTE:** Conforms citation of federal Act in C(1)(e) to legislative style; supplies missing connector between C(2)(a) and C(2)(b).

**SECTION 3.** ORS 87.196 is amended to read:

87.196. (1)(a) A lien claimant that forecloses by sale a lien created under ORS 87.152 to 87.162 shall give notice of the foreclosure sale by first class, registered or certified mail. The following apply:

(A) The lien claimant shall give notice to all persons that have filed a financing statement in the office of the Secretary of State, or in the office of the appropriate county officer of the county in which the sale is held, to perfect a security interest in the chattel to be sold.

(B) Notwithstanding subparagraph (A) of this paragraph, if the chattel to be sold at the foreclosure

sale is a chattel, other than part of the motor vehicle inventory of a dealer issued a vehicle dealer certificate under ORS 822.020, for which the Department of Transportation has issued a certificate of title under ORS 803.045, for which the State Marine Board requires a certificate of title under ORS 830.810 or for which the Oregon Department of Aviation requires a certificate of registration under ORS 837.040, the lien claimant needs to give notice only to persons that the certificate of title or certificate of registration indicates have a security interest or lien in the chattel.

(C) The lien claimant shall give notice under this paragraph at least 30 days before the foreclosure sale, but if the lien claimant claims a lien under ORS 87.152, the lien claimant shall give the notice required by this subsection:

(i) Not later than the 20th day after the date on which the storage charges begin;

(ii) Not later than the 30th day after the date on which the services provided are completed, if no storage charges are imposed; or

(iii) At least 15 days before the foreclosure sale if the lien is for the cost of removing, towing or storing a vehicle that a person who holds a certificate issued under ORS 819.480 has appraised at a value of \$1,000 or less.

(b) A lien claimant that gives notice of a foreclosure sale for chattel described in paragraph (a)(B) of this subsection shall include with the notice a copy of an invoice, work or repair order, authorization for towing, official form that authorizes a law enforcement agency to impound the chattel or any other record or document that is evidence of the basis for the lien.

(2) A person who is entitled to receive notice under subsection (1) of this section may discharge the lien and preserve the person's security interest in the chattel by paying the lien claimant the amount of the lien claim and reasonable expenses the [person] **lien claimant** actually incurs in foreclosing the lien claim. If the person does not discharge the lien before the day of the foreclosure sale, the foreclosure sale extinguishes the person's security interest in the chattel even if the person does not receive notice under subsection (1) of this section.

(3) If a lien claimant does not give notice in accordance with subsection (1) of this section to a person that claims a security interest or lien on the chattel sold at a foreclosure sale, the lien claimant is liable to the person for a sum equal to the fair market value of the chattel sold at the foreclosure sale or the amount due to the person under the security agreement or lien at the time of the foreclosure sale, whichever amount is less. The secured party or other lien claimant may recover the sum and reasonable attorney fees by an action at law.

**NOTE:** Corrects terminology in (2).

**SECTION 4.** ORS 110.675 is amended to read:  
110.675. In applying and construing this [uniform act] **chapter**, consideration must be given to the

need to promote uniformity of the law with respect to its subject matter among states that enact [it] **the Uniform Interstate Family Support Act.**

**NOTE:** Adjusts references in conformance with legislative style.

**SECTION 5.** ORS 130.315 is amended to read:

130.315. (1) Whether or not the terms of a trust contain a spendthrift provision:

(a) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(b) A creditor or assignee of the settlor of an irrevocable trust may reach the maximum amount that can be distributed to or for the settlor's benefit. If an irrevocable trust has more than one settlor, the amount the creditor or assignee of a particular settlor may reach may not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(c) If a trust was revocable at the settlor's death, the property of the trust becomes subject to creditors' claims as provided in ORS 130.350 to 130.450 when the settlor dies. The payment of claims is subject to the settlor's right to direct the priority of the sources from which liabilities of the settlor are to be paid.

(d) Notwithstanding the provisions of paragraph (b) of this subsection, the assets of an irrevocable trust may not be subject to the claims of an existing or subsequent creditor or assignee of the settlor, in whole or in part, solely because of the existence of a discretionary power granted to the trustee by the terms of the trust or any other provision of law to pay the amount of tax owed directly to the taxing authorities or to reimburse the settlor for any tax on trust income or principal that is payable or has been paid by the settlor under the law imposing the tax.

(2) For the purpose of creditors' claims, the holder of a power of withdrawal is treated in the same manner as the settlor of a revocable trust to the extent property of the trust is subject to the power. The provisions of this subsection apply to the holder of a power of withdrawal only during the period that the power may be exercised.

(3) Upon the lapse, release or waiver of a power of withdrawal, the property of the trust that is the subject of the lapse, release or waiver becomes subject to claims of creditors of the holder of the power only to the extent the value of the property exceeds the [greater] **greatest** of:

(a) The amount specified in section 2041(b)(2) or 2514(e) of the Internal Revenue Code, as in effect on December 31, 2012;

(b) The amount specified in section 2503(b) of the Internal Revenue Code, as in effect on December 31, 2012; or

(c) Twice the amount specified in section 2503(b) of the Internal Revenue Code, as in effect on December 31, 2012, if the donor was married at the time of the transfer to which the power of withdrawal applies.

(4) The assets of an irrevocable trust that are attributable to a contribution to an inter vivos marital deduction trust described in section 2523(e) or (f) of the Internal Revenue Code, as in effect on December 31, 2012, after the death of the spouse of the settlor of the inter vivos marital deduction trust shall be deemed to have been contributed by the settlor's spouse and not by the settlor.

(5) The assets of an irrevocable trust for the benefit of a person, including the settlor, are not subject to claims of creditors of the settlor to the extent that the property of the trust is subject to a presently exercisable general power of appointment held by a person other than the settlor.

(6) Subsections (2) and (3) of this section do not apply to a person other than a settlor who is a beneficiary of a revocable or irrevocable trust and who is also a trustee of the trust, if the power to withdraw for the person's own benefit is limited by an ascertainable standard.

**NOTE:** Corrects word choice in (3) lead-in.

**SECTION 6.** ORS 130.805 is amended to read:

130.805. (1) A trustee who commits a breach of trust is liable to the beneficiaries affected for the [greater] **greatest** of:

- (a) The amount of damages caused by the breach;
- (b) The amount required to restore the value of the trust property and trust distributions to what they would have been had the breach not occurred; or
- (c) The profit the trustee made by reason of the breach.

(2) Except as otherwise provided in this subsection, if more than one trustee is liable to the beneficiaries for a breach of trust, a trustee is entitled to contribution from the other trustee or trustees. In determining the amount of contribution, the court shall consider the degree of fault of each trustee and whether any trustee or trustees acted in bad faith or with reckless indifference to the purposes of the trust or the interests of the beneficiaries. A trustee who received a benefit from the breach of trust is not entitled to contribution from another trustee to the extent of the benefit received.

**NOTE:** Corrects word choice in (1) lead-in.

**SECTION 7.** ORS 131.915 is amended to read:

131.915. As used in ORS 131.915 to 131.925:

- (1) "Law enforcement agency" means:
  - (a) The Department of State Police;
  - (b) The Department of Justice;
  - (c) A district attorney's office; and
  - (d) Any of the following that maintains a law enforcement unit as defined in ORS 181A.355:
    - (A) A political subdivision or an instrumentality of the State of Oregon.
    - (B) A municipal corporation of the State of Oregon.
    - (C) A tribal government.
    - (D) A university.
- (2) "Law enforcement officer" means:
  - (a) A member of the Oregon State Police;

(b) A sheriff, constable, marshal, municipal police officer or reserve officer or a police officer commissioned by a university under ORS 352.121 or 353.125;

(c) An investigator of a district attorney's office if the investigator is or has been certified as a law enforcement officer in this or any other state;

(d) An investigator of the Criminal Justice Division of the Department of Justice;

(e) A humane special agent as defined in ORS 181A.345;

(f) A judicial marshal of the Security and Emergency Preparedness Office of the Judicial Department who is appointed under ORS 1.177 and trained pursuant to ORS 181A.540;

(g) A [*liquor enforcement inspector*] **regulatory specialist** exercising authority described in ORS 471.775 (2); or

(h) An authorized tribal police officer as defined in ORS 181A.680.

(3) "Profiling" means that a law enforcement agency or a law enforcement officer targets an individual for suspicion of violating a provision of law based solely on the real or perceived factor of the individual's age, race, ethnicity, color, national origin, language, gender, gender identity, sexual orientation, political affiliation, religion, homelessness or disability, unless the agency or officer is acting on a suspect description or information related to an identified or suspected violation of a provision of law.

(4) "Sexual orientation" has the meaning given that term in ORS 174.100.

**NOTE:** Updates terminology in (2)(g) to align with changes enacted in chapter 614, Oregon Laws 2015.

**SECTION 8.** ORS 171.580 is amended to read:

171.580. (1) There is created a Joint Legislative Audit Committee consisting of the cochairs of the Joint Committee on Ways and Means, members of the House of Representatives appointed by the Speaker and members of the Senate appointed by the President.

(2) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof and in the interim between sessions.

(3)(a) The term of a member shall expire upon **the earlier of:**

(A) The date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term[.]; or

(B) **The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term.**

(b) When a vacancy occurs in the membership of the committee in the interim between [*odd-numbered year regular sessions*] **an odd-numbered year regular session and the earlier of the date**

of the convening of the next following odd-numbered year regular session or the date of the convening of an organizational session of the next following odd-numbered year regular session, until such vacancy is filled, the membership of the committee shall be considered not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is a majority of the remaining members.

(4) Members of the committee shall receive an amount equal to that authorized under ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent in the performance of their duties as members of the committee or any subcommittee thereof in lieu of reimbursement for in-state travel expenses. However, when engaged in out-of-state travel, members shall be entitled to receive their actual and necessary expenses therefor in lieu of the amount authorized by this subsection. Payment shall be made from funds appropriated to the Legislative Assembly.

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

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

(7) The Legislative Fiscal Office shall furnish to the committee such services of personnel and such other facilities as are necessary to enable the committee to carry out its functions as directed by law, with such assistance as the Division of Audits and Oregon Department of Administrative Services can provide.

**NOTE:** Recognizes impact of organizational sessions on committee membership in (3).

**SECTION 9.** ORS 171.852 is amended to read:

171.852. (1) There is hereby created a Joint Legislative Committee on Information Management and Technology. The President of the Senate and the Speaker of the House of Representatives shall appoint the members of the committee.

(2) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim between sessions.

(3)(a) The term of a member shall expire upon **the earlier of:**

(A) The date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term[.]; or

(B) **The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term.**

(b) When a vacancy occurs in the membership of the committee in the interim between [odd-

numbered year regular sessions] **an odd-numbered year regular session and the earlier of the date of the convening of the next following odd-numbered year regular session or the date of the convening of an organizational session of the next following odd-numbered year regular session**, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining whether a quorum is present and a quorum is a majority of the remaining members.

(4) Members of the committee shall receive an amount equal to that authorized under ORS 171.072 from funds appropriated to the Legislative Assembly for each day spent in the performance of their duties as members of the committee or any subcommittee thereof in lieu of reimbursement for in-state travel expenses. However, when engaged in out-of-state travel, members shall be entitled to receive their actual and necessary expenses therefor in lieu of the amount authorized by this subsection. Payment shall be made from funds appropriated to the Legislative Fiscal Office.

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

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

(7) The Legislative Fiscal Office shall furnish to the committee such services of personnel and such other facilities as are necessary to enable the committee to carry out its functions as provided by law.

**NOTE:** Recognizes impact of organizational sessions on committee membership in (3).

**SECTION 10.** ORS 173.191 is amended to read:

173.191. (1)(a) The Legislative Counsel Committee shall consist of the Speaker of the House of Representatives, the President of the Senate, members of the House appointed by the Speaker and members of the Senate appointed by the President. The Speaker of the House of Representatives and the President of the Senate may each designate from among the members of the appropriate house an alternate to exercise powers as a member of the committee.

(b) The appointing authorities shall appoint members of a new committee within 30 days after **the earlier of:**

(A) The date of the convening of [each] an odd-numbered year regular session of the Legislative Assembly[.]; or

(B) **The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly.**

(2)(a) The term of a member of the committee shall expire upon **the earlier of:**

(A) The date of the convening of the odd-numbered year regular session of the Legislative

Assembly next following the member's appointment[.]; or

**(B) The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly next following the member's appointment.**

**(b)** Vacancies occurring in the membership of the committee shall be filled by the appointing authority.

(3) The committee has a continuing existence and may meet, act and conduct its business during the sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions but the committee has no authority to affect the rules of either house.

(4) The Legislative Counsel Committee may appoint advisory committees or subcommittees. Except as otherwise provided in this subsection, individuals other than members of the Legislative Assembly may serve on such advisory committees or subcommittees. A member of such committee or subcommittee who is not a member of the Legislative Assembly shall be compensated and reimbursed in the manner provided in ORS 292.495. An advisory committee or subcommittee appointed to assist the Legislative Counsel Committee in review of state agency rules may consist only of two or more members of the Legislative Assembly.

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

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

**NOTE:** Recognizes impact of organizational sessions on committee membership in (1) and (2).

**SECTION 11.** ORS 173.215 is amended to read:

173.215. (1) The expiration of the terms of members of the Legislative Counsel Committee, as provided by ORS 173.191, does not affect the employment of any individual filling a position previously approved by the committee.

(2) [After the convening of the Legislative Assembly in an odd-numbered year regular session] **Upon the expiration of the terms of members** and until the newly appointed Legislative Counsel Committee provides otherwise, the Legislative Counsel may employ and fix the compensation of individuals the Legislative Counsel considers necessary for the effective conduct of the work supervised or managed by the Legislative Counsel.

(3) Notwithstanding ORS 173.111 and 173.200, if a vacancy occurs in the position of Legislative Counsel after the [convening of the Legislative Assembly in an odd-numbered year regular session] **expiration of the terms of members** and before the appointment of **members of a new** Legislative Counsel Committee, the President of the Senate and the Speaker of the House of Representatives may

jointly select a Legislative Counsel who has the qualifications set forth in ORS 173.200. The Legislative Counsel selected by the President and the Speaker serves at their pleasure at a salary jointly fixed by the President and the Speaker that does not exceed the salary last fixed by the committee. The President and Speaker may act in lieu of the Legislative Counsel Committee under ORS 293.335 in designating the Legislative Counsel they select to approve disbursements and in filing the statement of designation. After appointment of a Legislative Counsel Committee, the Legislative Counsel selected under this subsection serves at the pleasure of the committee and the committee may exercise power and authority over the Legislative Counsel as if the Legislative Counsel had been selected by the committee.

**NOTE:** Recognizes impact of organizational sessions on committee membership in (2) and (3).

**SECTION 12.** ORS 173.730 is amended to read:

173.730. (1) The Legislative Administration Committee shall consist of the Speaker of the House of Representatives, the President of the Senate, members of the House appointed by the Speaker and members of the Senate appointed by the President. The Speaker of the House of Representatives and the President of the Senate may each designate an alternate from time to time from among the members of [the house over which that person presides] **their respective chambers** to exercise the powers, except as cochairperson, as a member of the committee. No more than three House members of the committee shall be of the same political party. No more than three Senate members of the committee shall be of the same political party.

(2) The committee has a continuing existence and may meet, act and conduct its business during sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions.

(3)(a) The term of a member shall expire upon **the earlier of:**

**(A)** The date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term[.]; or

**(B) The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly next following the commencement of the member's term.**

**(b)** When a vacancy occurs in the membership of the committee in the interim between [odd-numbered year regular sessions] **an odd-numbered year regular session and the earlier of the date of the convening of the next following odd-numbered year regular session or the date of the convening of an organizational session of the next following odd-numbered year regular session**, until such vacancy is filled, the membership of the committee shall be deemed not to include the vacant position for the purpose of determining

whether a quorum is present and a quorum is a majority of the remaining members.

(4) The presiding officers shall act as cochairpersons and may alternate at succeeding meetings as presiding chairperson of the committee and vice chairperson thereof. The cochairpersons, jointly or singly, may, in addition to other acts authorized, approve voucher claims.

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

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

**NOTE:** Modestly untangles sentence in (1); recognizes impact of organizational sessions on committee membership in (3).

**SECTION 13.** ORS 173.750 is amended to read:

173.750. The expiration of the terms of members of the Legislative Administration Committee [upon the convening of the Legislative Assembly in the odd-numbered year regular session next following the commencement of their terms], as provided in ORS 173.730, does not affect the employment of any individual filling a position previously approved by the committee. [After the convening of the odd-numbered year regular session of the Legislative Assembly] **Upon the expiration of the terms of members** and until [such time as] the newly appointed committee provides otherwise, the Legislative Administrator may employ and fix the compensation of individuals the Legislative Administrator deems necessary for the effective conduct of the work under the charge of the Legislative Administrator.

**NOTE:** Recognizes impact of organizational sessions on committee membership; updates syntax.

**SECTION 14.** Section 3, chapter 88, Oregon Laws 2016, is amended to read:

**Sec. 3.** (1)(a) The Legislative Policy and Research Committee shall consist of the Speaker of the House of Representatives, the President of the Senate, members of the House appointed by the Speaker so that there is an equal number of majority party and minority party members of the House including the Speaker, and members of the Senate appointed by the President so that there is an equal number of majority party and minority party members of the Senate including the President. The Speaker of the House of Representatives and the President of the Senate may each designate, from among the members of the appropriate house, majority party and minority party alternates to exercise powers as members of the committee.

(b) The appointing authorities shall appoint members of a new committee within 30 days after **the earlier of:**

(A) The date of the convening of [each] an odd-numbered year regular session of the Legislative Assembly[.]; **or**

(B) **The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly.**

(2)(a) The term of a member of the committee shall expire upon **the earlier of:**

(A) The date of the convening of the odd-numbered year regular session of the Legislative Assembly next following the member's appointment[.]; **or**

(B) **The date of the convening of an organizational session of the odd-numbered year regular session of the Legislative Assembly next following the member's appointment.**

(b) Vacancies occurring in the membership of the committee shall be filled by the appointing authority so as to ensure an equal number of majority party and minority party members from the appropriate house.

(3) The committee has a continuing existence and may meet, act and conduct its business during the sessions of the Legislative Assembly or any recess thereof, and in the interim period between sessions, but the committee has no authority to affect the rules of either house.

(4) The committee may appoint advisory committees or subcommittees. Except as otherwise provided in this subsection, individuals other than members of the Legislative Assembly may serve on such advisory committees or subcommittees. A member of [such] an advisory committee or subcommittee who is not a member of the Legislative Assembly shall be compensated and reimbursed in the manner provided in ORS 292.495.

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

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

**NOTE:** Recognizes impact of organizational sessions on committee membership in (1) and (2); revises word choice in (4).

**SECTION 15.** Section 4, chapter 88, Oregon Laws 2016, is amended to read:

**Sec. 4.** (1) The expiration of the terms of members of the Legislative Policy and Research Committee, as provided in section 3, **chapter 88, Oregon Laws 2016** [of this 2016 Act], does not affect the employment of any individual filling a position previously approved by the committee.

(2) [After the convening of the Legislative Assembly in an odd-numbered year regular session] **Upon the expiration of the terms of members** and until the newly appointed Legislative Policy and Research Committee provides otherwise, the Legislative Policy and Research Director may employ and fix the com-

compensation of individuals the director considers necessary for the effective conduct of the work supervised or managed by the director.

(3) Notwithstanding sections 1 and 3, **chapter 88, Oregon Laws 2016** [of this 2016 Act], if a vacancy occurs in the position of director after the [convening of the Legislative Assembly in an odd-numbered year regular session] **expiration of the terms of members** and before the appointment of **members of a new** Legislative Policy and Research Committee, the President of the Senate and the Speaker of the House of Representatives may jointly select a director. The director selected by the President and the Speaker serves at their pleasure at a salary jointly fixed by the President and the Speaker that does not exceed the salary last fixed by the committee. The President and Speaker may act in lieu of the committee under ORS 293.335 in designating the director they select to approve disbursements and in filing the statement of designation. After appointment of a Legislative Policy and Research Committee, the director selected under this subsection serves at the pleasure of the committee and the committee may exercise power and authority over the director as if the director had been selected by the committee.

**NOTE:** Recognizes impact of organizational sessions on committee membership in (2) and (3); updates references to Oregon Laws.

**SECTION 16.** ORS 174.020 is amended to read:

174.020. (1)(a) In the construction of a statute, a court shall pursue the intention of the legislature if possible.

(b) To assist a court in its construction of a statute, a party may offer the legislative history of the statute.

(2) When a general **provision** and a particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent.

(3) A court may limit its consideration of legislative history to the information that the parties provide to the court. A court shall give the weight to the legislative history that the court considers to be appropriate.

**NOTE:** Corrects syntax in (2).

**SECTION 17.** Notwithstanding any other provision of law, **ORS 181A.895 shall not be considered to have been added to or made a part of ORS chapter 203 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.**

**NOTE:** Removes statute from inappropriate series.

**SECTION 18.** ORS 203.075 is amended to read:

203.075. When a county governing body orders the construction of a local improvement and levies an assessment for all or part of the cost of the im-

provement against property benefited by the improvement, if there is a conflict between ORS 223.205 to 223.295, 223.387 to 223.399, 223.405 to 223.485[ 223.680] and 223.770 and a county charter, county ordinance or another statute, the charter, ordinance or other statute shall prevail.

**NOTE:** Deletes unnecessary reference to statute allowing local governments to assist owners in financing energy improvements to real property.

**SECTION 19.** ORS 223.399 is amended to read:

223.399. The governing body of a local government may impose additional procedural requirements. The procedural provisions of ORS 223.387 to 223.399 [and 223.680 shall] apply only where the charter or an ordinance of a local government does not specify otherwise and the charter or ordinance provisions comply and are consistent with the requirements of the Oregon Constitution. The charter or ordinance provisions shall apply to local improvements permitted by law. A local government may not authorize a local improvement prohibited by percentage of remonstrance or otherwise under the charter of the local government.

**NOTE:** Deletes unnecessary reference to statute allowing local governments to assist owners in financing energy improvements to real property; updates word choice.

**SECTION 20.** ORS 223.401 is amended to read:

223.401. Notwithstanding any of the provisions of ORS 223.387 to 223.399 [and 223.680], owners of any property against which an assessment for local improvements has been imposed may seek a review [thereof] **of the assessment** under the provisions of ORS 34.010 to 34.100.

**NOTE:** Deletes unnecessary reference to statute allowing local governments to assist owners in financing energy improvements to real property; updates word choice.

**SECTION 21.** ORS 244.045 is amended to read:

244.045. (1) A person who has been a Public Utility Commissioner, the Director of the Department of Consumer and Business Services, the Administrator of the Division of [Finance and Corporate Securities, the Administrator of the Insurance Division] **Financial Regulation**, the Administrator of the Oregon Liquor Control Commission or the Director of the Oregon State Lottery [shall] **may not:**

(a) Within one year after the public official ceases to hold the position become an employee of or receive any financial gain, other than reimbursement of expenses, from any private employer engaged in the activity, occupation or industry over which the former public official had authority; or

(b) Within two years after the public official ceases to hold the position:

(A) Be a lobbyist for or appear as a representative before the agency over which the person exercised authority as a public official;

(B) Influence or try to influence the actions of the agency; or

(C) Disclose any confidential information gained as a public official.

(2) A person who has been a Deputy Attorney General or an assistant attorney general *[shall]* **may** not, within two years after the person ceases to hold the position, lobby or appear before an agency that the person represented while employed by the Department of Justice.

(3) A person who has been the State Treasurer or the Deputy State Treasurer *[shall]* **may** not, within one year after ceasing to hold office:

(a) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council negotiated or to whom either awarded a contract providing for payment by the state of at least \$25,000 in any single year during the term of office of the treasurer;

(b) Accept employment from or be retained by any private entity with whom the office of the State Treasurer or the Oregon Investment Council placed at least \$50,000 of investment moneys in any single year during the term of office of the treasurer; or

(c) Be a lobbyist for an investment institution, manager or consultant, or appear before the office of the State Treasurer or Oregon Investment Council as a representative of an investment institution, manager or consultant.

(4) A public official who as part of the official's duties invested public funds *[shall]* **may** not within two years after the public official ceases to hold the position:

(a) Be a lobbyist or appear as a representative before the agency, board or commission for which the former public official invested public funds;

(b) Influence or try to influence the agency, board or commission; or

(c) Disclose any confidential information gained as a public official.

(5)(a) A person who has been a member of the Department of State Police, who has held a position with the department with the responsibility for supervising, directing or administering programs relating to gaming by a Native American tribe or the Oregon State Lottery and who has been designated by the Superintendent of State Police by rule *[shall]* **may** not, within one year after the member of the Department of State Police ceases to hold the position:

(A) Accept employment from or be retained by or receive any financial gain related to gaming from the Oregon State Lottery or any Native American tribe;

(B) Accept employment from or be retained by or receive any financial gain from any private employer selling or offering to sell gaming products or services;

(C) Influence or try to influence the actions of the Department of State Police; or

(D) Disclose any confidential information gained as a member of the Department of State Police.

(b) This subsection does not apply to:

(A) Appointment or employment of a person as an Oregon State Lottery Commissioner or as a Tribal Gaming Commissioner or regulatory agent thereof;

(B) Contracting with the Oregon State Lottery as a lottery game retailer;

(C) Financial gain received from personal gaming activities conducted as a private citizen; or

(D) Subsequent employment in any capacity by the Department of State Police.

(c) As used in this subsection, "Native American tribe" means any recognized Native American tribe or band of tribes authorized by the Indian Gaming Regulatory Act of October 17, 1988 (Public Law 100-497), 25 U.S.C. 2701 et seq., to conduct gambling operations on tribal land.

(6) A person who has been a member of the Legislative Assembly may not receive money or any other consideration for lobbying as defined in ORS 171.725 performed during the period beginning on the date the person ceases to be a member of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly that begins after the date the person ceases to be a member of the Legislative Assembly.

**NOTE:** Reflects merging of Insurance Division and Division of Finance and Corporate Securities by Department of Consumer and Business Services in (1) lead-in; updates word choice in (1) lead-in, (2), (3) lead-in, (4) lead-in and (5)(a) lead-in.

**SECTION 22.** ORS 286A.863 is amended to read: 286A.863. (1) The Oregon Department of Administrative Services may, in consultation with the Higher Education Coordinating Commission, adopt rules for the purpose of carrying out ORS 286A.830 to ~~[286A.860]~~ **286A.863**, including, but not limited to, establishing:

(a) Fees and costs to be paid by public universities for administration of higher education bonds, including reasonable fees and expenses of the State Treasurer as provided in ORS 286A.014;

(b) The form, content and timing of information to be submitted by public universities to be used by the commission and the State Treasurer to evaluate revenue sufficiency for Article XI-F(1) bonds and availability and sufficiency of matching amounts for Article XI-G bonds; and

(c) Standards, terms and conditions for maintaining federal tax benefits related to higher education bonds.

(2) The department or the commission, or both, may periodically bill a public university, without duplicating costs billed by contract, for the public university's proportional share of costs incurred by the department, or the commission, in connection with higher education bonds, including, but not limited to:

(a) Bond-related costs of higher education bonds issued or proposed to be issued to finance or refinance projects of the public university; and



(b) Costs of legal or financial consultants or advisors, including, without limitation, bond counsel to the State of Oregon, for services that are provided at the request of a public university in connection with higher education bonds that are issued or proposed to be issued.

(3) The department and the commission may each bill at such intervals as may be established in the department's or commission's own procedures and shall deposit the moneys paid by the public university in the applicable bond fund, bond administration fund or other fund relating to higher education bonds, as the department or commission determines is appropriate. A public university that receives a bill for bond-related costs shall pay the amount billed by the time and in the manner designated in the billing statement.

(4)(a) The department may enter into agreements with Oregon Health and Science University to:

(A) Receive payments from Oregon Health and Science University of amounts used to pay debt service on bonds issued by the State Treasurer to finance joint projects of Oregon Health and Science University and one or more public universities; or

(B) Administer tax compliance obligations of Oregon Health and Science University pursuant to agreements between Oregon Health and Science University and the Oregon University System.

(b) Solely for the purposes of receiving payments of amounts used to pay debt service and administering tax compliance obligations related to the bonds, the department may be a successor to, or an assignee of, the Oregon University System under agreements between Oregon Health and Science University and the Oregon University System.

(c) The department may not assume any obligations or liability as the successor to, or assignee of, the Oregon University System under any agreements between Oregon Health and Science University and the Oregon University System, except for obligations or liability relating to the receipt of amounts used to pay debt service and the administration of tax compliance obligations.

**NOTE:** Expands series cited in (1) lead-in, allowing adoption of rules for purposes of statute; adds comma in (1) lead-in in conformance with comma style used throughout statute.

**SECTION 23.** ORS 291.055 is amended to read:

291.055. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by a public university listed in ORS 352.002.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

(B) Assessments imposed by the Oregon Medical Insurance Pool Board under section 2, chapter 698, Oregon Laws 2013.

(C) Copayments and premiums paid to the Oregon medical assistance program.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

(e) State agency charges on employees for benefits and services.

(f) Any intergovernmental charges.

(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.

(h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.

(i) Assessments on premiums charged by the **Director of the** Department of Consumer and Business Services pursuant to ORS 731.804 or fees charged by the [*Division of Finance and Corporate Securities of the Department of Consumer and Business Services*] **director** to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.

(j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

(k) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.

(L) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget or the legislatively approved budget for the agency.

(m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(n) Convenience fees as defined in ORS 182.126 and established by the State Chief Information Officer under ORS 182.132 (3) and recommended by the Electronic Government Portal Advisory Board.

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

**NOTE:** Modifies references in (2)(i) to conform with statutes cited and legislative style.

**SECTION 24.** ORS 291.055, as amended by section 36, chapter 698, Oregon Laws 2013, section 20, chapter 70, Oregon Laws 2015, and section 44b, chapter 807, Oregon Laws 2015, is amended to read:

291.055. (1) Notwithstanding any other law that grants to a state agency the authority to establish fees, all new state agency fees or fee increases adopted during the period beginning on the date of adjournment sine die of a regular session of the Legislative Assembly and ending on the date of adjournment sine die of the next regular session of the Legislative Assembly:

(a) Are not effective for agencies in the executive department of government unless approved in writing by the Director of the Oregon Department of Administrative Services;

(b) Are not effective for agencies in the judicial department of government unless approved in writing by the Chief Justice of the Supreme Court;

(c) Are not effective for agencies in the legislative department of government unless approved in writing by the President of the Senate and the Speaker of the House of Representatives;

(d) Shall be reported by the state agency to the Oregon Department of Administrative Services within 10 days of their adoption; and

(e) Are rescinded on adjournment sine die of the next regular session of the Legislative Assembly as described in this subsection, unless otherwise authorized by enabling legislation setting forth the approved fees.

(2) This section does not apply to:

(a) Any tuition or fees charged by a public university listed in ORS 352.002.

(b) Taxes or other payments made or collected from employers for unemployment insurance required by ORS chapter 657 or premium assessments required by ORS 656.612 and 656.614 or contributions and assessments calculated by cents per hour for workers' compensation coverage required by ORS 656.506.

(c) Fees or payments required for:

(A) Health care services provided by the Oregon Health and Science University, by the Oregon Veterans' Homes and by other state agencies and institutions pursuant to ORS 179.610 to 179.770.

(B) Copayments and premiums paid to the Oregon medical assistance program.

(d) Fees created or authorized by statute that have no established rate or amount but are calculated for each separate instance for each fee payer and are based on actual cost of services provided.

(e) State agency charges on employees for benefits and services.

(f) Any intergovernmental charges.

(g) Forest protection district assessment rates established by ORS 477.210 to 477.265 and the Oregon Forest Land Protection Fund fees established by ORS 477.760.

(h) State Department of Energy assessments required by ORS 469.421 (8) and 469.681.

(i) Assessments on premiums charged by the **Director of the Department of Consumer and Business Services** pursuant to ORS 731.804 or fees charged by the [*Division of Finance and Corporate Securities of the Department of Consumer and Business Services*] **director** to banks, trusts and credit unions pursuant to ORS 706.530 and 723.114.

(j) Public Utility Commission operating assessments required by ORS 756.310 or charges paid to the Residential Service Protection Fund required by chapter 290, Oregon Laws 1987.

(k) Fees charged by the Housing and Community Services Department for intellectual property pursuant to ORS 456.562.

(L) New or increased fees that are anticipated in the legislative budgeting process for an agency, revenues from which are included, explicitly or implicitly, in the legislatively adopted budget or the legislatively approved budget for the agency.

(m) Tolls approved by the Oregon Transportation Commission pursuant to ORS 383.004.

(n) Convenience fees as defined in ORS 182.126 and established by the State Chief Information Officer under ORS 182.132 (3) and recommended by the Electronic Government Portal Advisory Board.

(3)(a) Fees temporarily decreased for competitive or promotional reasons or because of unexpected and temporary revenue surpluses may be increased to not more than their prior level without compliance with subsection (1) of this section if, at the time the fee is decreased, the state agency specifies the following:

(A) The reason for the fee decrease; and

(B) The conditions under which the fee will be increased to not more than its prior level.

(b) Fees that are decreased for reasons other than those described in paragraph (a) of this subsection may not be subsequently increased except as allowed by ORS 291.050 to 291.060 and 294.160.

**NOTE:** Modifies references in (2)(i) to conform with statutes cited and legislative style.

**SECTION 25.** ORS 295.001 is amended to read:

295.001. As used in ORS 295.001 to 295.108, unless the context requires otherwise:

(1) "Adequately capitalized" means a depository that is classified as adequately capitalized by the depository's primary federal regulatory authority.

(2) "Bank depository" means an insured institution or trust company that:

(a) Maintains a head office or branch in this state in the capacity of an insured institution or trust company; and

(b) Complies with ORS 295.008.

(3) "Business day" means a day other than a federal or State of Oregon legal holiday or a day other than a day on which offices of the State of Oregon are otherwise authorized by law to remain closed.

(4) "Closed depository" means a depository that is subject to a loss.

(5) "Credit union depository" means a credit union as defined in ORS 723.006 or a federal credit union if:

(a) The shares and deposits of the credit union or federal credit union are insured by the National Credit Union Share Insurance Fund;

(b) The credit union or federal credit union maintains a head office or branch in this state in the capacity of a credit union or federal credit union; and

(c) The credit union or federal credit union complies with ORS 295.008.

(6) "Custodian" means one of the following institutions that a depository designates for the depository's own account:

(a) The Federal Home Loan Bank designated to serve this state, or a branch of the Federal Home Loan Bank; or

(b) An insured institution, trust company or credit union that:

(A) Is authorized to accept deposits or transact trust business in this state;

(B) Complies with ORS 295.008; and

(C) Has been approved by the State Treasurer to serve as a custodian, if the State Treasurer has approved custodians under ORS 295.008.

(7) "Custodian's receipt" or "receipt" means a document issued by a custodian that describes the securities that a depository deposited with the custodian to secure public fund deposits.

(8) "Depository" means a bank depository or a credit union depository.

(9) "Financial institution outside this state" means a financial institution, as defined in ORS 706.008, that is not an extranational institution, as defined in ORS 706.008, and is not a bank depository or credit union depository, as defined in this section.

(10) "Insured institution" means an insured institution as defined in ORS 706.008.

(11) "Loss" means the issuance of an order by a regulatory or supervisory authority or a court of competent jurisdiction that:

(a) Restrains a depository from making payments of deposit liabilities; or

(b) Appoints a receiver for a depository.

(12) "Maximum liability" means a sum equal to 10 percent of the greater of:

(a) All uninsured public funds deposits held by a depository, as shown on the date of the depository's most recent treasurer report; or

(b) The average of the balances of uninsured public funds deposits on the last two immediately preceding treasurer reports.

(13) "Minimum collateral requirement" for a depository on any given date means a sum equal to:

(a) For a well capitalized depository that the State Treasurer has not required to increase the depository's collateral pursuant to ORS 295.018, 10 percent of the [greater] **greatest** of:

(A) All uninsured public funds held by the depository, as shown on the most recent treasurer report;

(B) The average of the balances of uninsured public funds held by the depository, as shown on the last two immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(b) For a well capitalized depository that the State Treasurer required to increase the depository's collateral pursuant to ORS 295.018, the percentage the State Treasurer required pursuant to ORS 295.018 multiplied by the [greater] **greatest** of:

(A) All uninsured public funds held by the depository, as shown on the most recent treasurer report;

(B) The average of the balances of uninsured public funds held by the depository, as shown on the last two immediately preceding treasurer reports; or

(C) An amount otherwise prescribed in ORS 295.001 to 295.108.

(c) For an adequately capitalized depository or an undercapitalized depository, 110 percent of the greater of:

(A) All uninsured public funds held by the depository; or

(B) The average of the balances of uninsured public funds held by the depository, as shown on the last two immediately preceding treasurer reports.

(14) "Net worth" means a depository's total risk-based capital, as shown on the immediately preceding report of condition and income, and may include capital notes and debentures that are subordinate to the interests of depositors.

(15) "Pledge agreement" means a written agreement among an insured institution, trust company or credit union, the State Treasurer and a custodian that pledges the securities the insured institution, trust company or credit union deposits with the custodian as collateral for deposits of uninsured public funds that the insured institution, trust com-

pany or credit union holds. The board of directors or loan committee of the insured institution, trust company or credit union must approve the agreement and must continuously maintain the agreement as a written record of the insured institution, trust company or credit union.

(16) "Public funds" or "funds" means funds that a public official has custody of or controls by virtue of office.

(17) "Public official" means an officer or employee of this state or an agency, political subdivision or public or municipal corporation of this state, or a housing authority, that by law is the custodian of or has control of public funds.

(18) "Report of condition and income" means the quarterly report a depository submits to the depository's primary federal regulatory authority.

(19) "Security" or "securities" means:

(a) Obligations of the United States, including those of agencies and instrumentalities of the United States, and of government sponsored enterprises;

(b) Obligations of the International Bank for Reconstruction and Development;

(c) Bonds of a state of the United States that:

(A) Are rated in one of the four highest grades by a recognized investment service organization that has engaged regularly and continuously for a period of not less than 10 years in rating state and municipal bonds; or

(B) Having once been rated in accordance with subparagraph (A) of this paragraph, are ruled to be eligible securities for the purposes of ORS 295.001 to 295.108, notwithstanding the loss of the rating;

(d) Bonds of a county, city, school district, port district or other public body in the United States that are payable from or secured by ad valorem taxes and that meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(e) Bonds of a county, city, school district, port district or other public body that are issued pursuant to the Constitution or statutes of the State of Oregon or the charter or ordinances of a county or city within the State of Oregon, if the bonds meet the rating requirement or are ruled to be eligible securities as provided in paragraph (c) of this subsection;

(f) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, loans made to a county, city, school district, port district or other public body in the State of Oregon, if the borrower has not defaulted with respect to the payment of principal or interest on any of the borrower's loans within the preceding 10 years or during the period of the borrower's existence if the borrower has existed for less than 10 years;

(g) With the permission of the State Treasurer and in accordance with rules the State Treasurer adopts, bond anticipation notes that an authority issues, sells or assumes under ORS 441.560;

(h) Bonds, notes, letters of credit or other securities or evidence of indebtedness constituting the

direct and general obligation of a federal home loan bank or Federal Reserve bank;

(i) Debt obligations of domestic corporations that are rated in one of the three highest grades by a recognized investment service organization that has engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations; and

(j) Collateralized mortgage obligations and real estate mortgage investment conduits that are rated in one of the two highest grades by a recognized investment service organization that has engaged regularly and continuously for a period of not less than 10 years in rating corporate debt obligations.

(20) "Treasurer report" means a written report that an officer of a depository that holds uninsured public funds deposits has signed or authenticated and that sets forth as of the close of business on a specified date:

(a) The total amount of uninsured public funds on deposit with the depository;

(b) The total amount of public funds on deposit with the depository;

(c) The net worth of the depository;

(d) The amount and nature of eligible collateral then on deposit with the depository's custodian to collateralize the depository's public funds deposits; and

(e) The identity of the depository's custodian.

(21) "Treasurer report due date" means a date not less than 10 business days after the date a depository's report of condition and income is due to be submitted.

(22) "Trust company" means a trust company as defined in ORS 706.008.

(23) "Undercapitalized" means a depository that the depository's primary federal regulatory authority has classified as undercapitalized, significantly undercapitalized or critically undercapitalized.

(24)(a) "Uninsured public funds" or "uninsured public funds deposits" means public funds deposited in a depository that exceed the amounts insured or guaranteed as described in ORS 295.002 (1)(a) and (b).

(b) "Uninsured public funds" or "uninsured public funds deposits" does not include public funds deposited in a certificate of deposit or time deposit under ORS 295.004 (1) or public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

(25) "Value" means the current market value of securities.

(26) "Well capitalized" means a depository that the depository's primary federal regulatory authority has classified as well capitalized.

**NOTE:** Corrects word choice in (13)(a) and (b) lead-ins.

**SECTION 26.** ORS 295.048 is amended to read: 295.048. (1) Notwithstanding ORS 295.046, a depository may not permit the aggregate of uninsured public funds deposits on deposit with the depository

from all public officials to exceed at any time the [lesser] **least** of:

(a) 100 percent of the value of the depository's net worth, if the depository is an undercapitalized depository;

(b) 150 percent of the value of the depository's net worth, if the depository is an adequately capitalized depository;

(c) 200 percent of the value of the depository's net worth, if the depository is a well capitalized depository;

(d) For a bank depository, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all bank depositories as reported in the most recent notice the bank depository received from the State Treasurer; or

(e) For a credit union depository, 30 percent of the total aggregate uninsured public funds deposits of all public officials in all credit union depositories as reported in the most recent notice the credit union depository received from the State Treasurer.

(2) The State Treasurer shall notify each bank depository or credit union depository and the depository's custodian of the total aggregate uninsured public funds deposits of all public officials in all bank depositories or credit union depositories, as appropriate, based on the most recently submitted treasurer reports. The State Treasurer shall give the notification required by this subsection by the last day of the month in which the depositories are required to submit a treasurer report.

(3) If a depository's aggregate of uninsured public funds deposits exceeds the amount set forth in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of uninsured public funds.

(4) Notwithstanding subsections (1) and (3) of this section:

(a) A depository may accept and hold uninsured public funds deposits in excess of the limits specified in subsection (1) of this section if the State Treasurer, upon good cause shown, approves the depository's request to hold uninsured public funds in excess of the limits specified in subsection (1) of this section for a period not exceeding 90 days and eligible securities are deposited with the depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits that exceeds the limits specified in subsection (1) of this section. Upon the expiration of the 90-day period, if the depository does not comply with the limits specified in subsection (1) of this section, the depository shall, within three business days after receiving notice from the State Treasurer, cease accepting deposits of public funds.

(b) The limits specified in subsection (1) of this section do not apply to public funds deposits a depository holds in a certificate of deposit or time deposit under ORS 295.004 (1) or public funds that an Oregon depository arranges to deposit into an insured deposit account under ORS 295.004 (2).

(c) A well capitalized depository or an adequately capitalized depository may accept and hold uninsured public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section if eligible securities are deposited with the depository's custodian as collateral in an amount at least equal to the amount of the uninsured public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section.

(5) If the State Treasurer notifies a depository that it must cease accepting deposits of public funds under subsection (3) or (4) of this section, the State Treasurer may also notify public officials who have deposited public funds in the depository that within 15 business days after the public official receives the notice from the State Treasurer, the public official must withdraw from the depository to which the notice applies all public funds deposits that exceed the limit specified in subsection (1)(d) or (e) of this section. A public official who is notified by the State Treasurer under this subsection must begin to withdraw funds as specified in the notice. Except as required by any applicable law or regulation, a depository may not impose an early withdrawal penalty or a forfeiture of interest with respect to a withdrawal made pursuant to this subsection.

**NOTE:** Corrects word choice in (1) lead-in.

**SECTION 27.** ORS 310.140 is amended to read:

310.140. (1) The Legislative Assembly finds that Article XI, section 11b, of the Oregon Constitution, was drafted by citizens and placed before the voters of the State of Oregon by initiative petition. Article XI, section 11b, of the Oregon Constitution, uses terms that do not have established legal meanings and require definition by the Legislative Assembly. Article XI, section 11b, of the Oregon Constitution, was amended by Article XI, section 11 (11), of the Oregon Constitution. This section is intended to interpret the terms of Article XI, section 11b, of the Oregon Constitution, as originally adopted and as amended by Article XI, section 11 (11), of the Oregon Constitution, consistent with the intent of the people in adopting these provisions, so that the provisions of Article XI, section 11b, of the Oregon Constitution, may be given effect uniformly throughout the State of Oregon, with minimal confusion and misunderstanding by citizens and affected units of government. As used in the revenue and tax laws of this state, and for purposes of Article XI, section 11b, of the Oregon Constitution:

(a)(A) "Actual cost" means all direct or indirect costs incurred by a government unit in order to deliver goods or services or to undertake a capital construction project. The "actual cost" of providing goods or services to a property or property owner includes the average cost or an allocated portion of the total amount of the actual cost of making a good or service available to the property or property owner, whether stated as a minimum, fixed or variable amount.

(B) "Actual cost" includes, but is not limited to, the costs of labor, materials, supplies, equipment

rental, property acquisition, permits, engineering, financing, reasonable program delinquencies, return on investment, required fees, insurance, administration, accounting, depreciation, amortization, operation, maintenance, repair or replacement and debt service, including debt service payments or payments into reserve accounts for debt service and payment of amounts necessary to meet debt service coverage requirements.

(b) "Assessment for local improvement" means any tax, fee, charge or assessment that does not exceed the actual cost incurred by a unit of government for design, construction and financing of a local improvement.

(c) "Bonded indebtedness" means any formally executed written agreement representing a promise by a unit of government to pay to another a specified sum of money, at a specified date or dates at least one year in the future.

(d)(A) "Capital construction" means, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent prior to June 20, 1997, the construction, modification, replacement, repair, remodeling or renovation of a structure, or addition to a structure, that is expected to have a useful life of more than one year, and includes, but is not limited to:

(i) Acquisition of land, or a legal interest in land, in conjunction with the capital construction of a structure.

(ii) Acquisition, installation of machinery or equipment, furnishings or materials that will become an integral part of a structure.

(iii) Activities related to the capital construction, including planning, design, authorizing, issuing, carrying or repaying interim or permanent financing, research, land use and environmental impact studies, acquisition of permits or licenses or other services connected with the construction.

(iv) Acquisition of existing structures, or legal interests in structures, in conjunction with the capital construction.

(B) "Capital construction," for bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in subparagraph (A) of this paragraph except as provided in subparagraphs (C) and (D) of this paragraph.

(C) "Capital construction" includes public safety and law enforcement vehicles with a projected useful life of five years or more.

(D) "Capital construction" does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construc-

tion, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(e)(A) "Capital costs" means costs of land and of other assets having a useful life of more than one year, including costs associated with acquisition, construction, improvement, remodeling, furnishing, equipping, maintenance or repair.

(B) "Capital costs" does not include costs of routine maintenance or supplies.

(f)(A) "Capital improvements" means, for bonded indebtedness issued prior to December 5, 1996, and for the proceeds of any bonded indebtedness approved by electors before December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, land, structures, facilities, personal property that is functionally related and subordinate to real property, machinery, equipment or furnishings having a useful life longer than one year.

(B) "Capital improvements," for bonded indebtedness issued on or after December 5, 1996, except for the proceeds of any bonded indebtedness approved by electors prior to December 5, 1996, that were spent or contractually obligated to be spent before June 20, 1997, has the meaning given that term in subparagraph (A) of this paragraph except as provided in subparagraphs (C) and (D) of this paragraph.

(C) "Capital improvements" includes public safety and law enforcement vehicles with a projected useful life of five years or more.

(D) "Capital improvements" does not include:

(i) Maintenance and repairs, the need for which could be reasonably anticipated;

(ii) Supplies and equipment that are not intrinsic to the structure; or

(iii) Furnishings, unless the furnishings are acquired in connection with the acquisition, construction, remodeling or renovation of a structure, or the repair of a structure that is required because of damage or destruction of the structure.

(g) "Direct consequence of ownership" means that the obligation of the owner of property to pay a tax arises solely because that person is the owner of the property, and the obligation to pay the tax arises as an immediate and necessary result of that ownership without respect to any other intervening transaction, condition or event.

(h)(A) "Exempt bonded indebtedness" means:

(i) Bonded indebtedness authorized by a specific provision of the Oregon Constitution;

(ii) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit on or before November 6, 1990;

(iii) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements that was issued as a general obligation of the issuing governmental unit after November 6, 1990, with the approval of the electors of the issuing governmental unit prior to December 5, 1996;

(iv) Bonded indebtedness incurred or to be incurred for capital construction or capital improvements if the issuance of the bonds is approved by voters on or after December 5, 1996, in an election that is in compliance with the voter participation requirements of Article XI, section 11 (8), of the Oregon Constitution, or if the issuance of the bonds is approved by voters on or after December 4, 2008, in an election that is in compliance with the voter participation requirements of Article XI, section 11 (8), of the Oregon Constitution, as limited by Article XI, section 11k, of the Oregon Constitution; or

(v) Bonded indebtedness incurred or to be incurred for capital costs on or after January 1, 2011, if the issuance of the bonds is approved by voters in an election that is in compliance with the voter participation requirements of Article XI, section 11 (8), of the Oregon Constitution, as limited by Article XI, section 11k, of the Oregon Constitution.

(B) "Exempt bonded indebtedness" includes bonded indebtedness issued to refund or refinance any bonded indebtedness described in subparagraph (A) of this paragraph.

(i) "Incurred charge" means a charge imposed by a unit of government on property or upon a property owner that does not exceed the actual cost of providing goods or services and that can be controlled or avoided by the property owner because:

(A) The charge is based on the quantity of the goods or services used, and the owner has direct control over the quantity;

(B) The goods or services are provided only on the specific request of the property owner; or

(C) The goods or services are provided by the government unit only after the individual property owner has failed to meet routine obligations of ownership of the affected property, and such action is deemed necessary by an appropriate government unit to enforce regulations pertaining to health or safety.

(j) "Local improvement" means a capital construction project, or part thereof, undertaken by a local government, pursuant to ORS 223.387 to 223.399 [and 223.680], or pursuant to a local ordinance or resolution prescribing the procedure to be followed in making local assessments for benefits from a local improvement upon the lots that have been benefited by all or a part of the improvement:

(A) That provides a special benefit only to specific properties or rectifies a problem caused by specific properties;

(B) The costs of which are assessed against those properties in a single assessment upon the completion of the project; and

(C) For which the property owner may elect to make payment of the assessment plus appropriate interest over a period of at least 10 years.

(k)(A) "Maintenance and repairs, the need for which could be reasonably anticipated" means activities, the type of which may be deducted as an expense under the provisions of the federal Internal Revenue Code, as defined in ORS 305.842, that keep the property in ordinarily efficient operating condition and that do not add materially to the value of

the property nor appreciably prolong the life of the property.

(B) "Maintenance and repairs, the need for which could be reasonably anticipated" does not include:

(i) Maintenance and repair of property that is required by damage, destruction or defect in design, or that was otherwise not reasonably expected at the time the property was constructed or acquired, or the addition of material that is in the nature of the replacement of property and that arrests the deterioration or appreciably prolongs the useful life of the property; and

(ii) Street and highway construction, overlay and reconstruction.

(L) "Projected useful life" means the useful life, as reasonably estimated by the unit of government undertaking the capital construction or capital improvement project, beginning with the date the property was acquired, constructed or reconstructed and based on the property's condition at the time the property was acquired, constructed or reconstructed.

(m) "Routine obligations of ownership" means a standard of operation, maintenance, use or care of property established by law, or if established by custom or common law, a standard that is reasonable for the type of property affected.

(n) "Single assessment" means the complete assessment process, including preassessment, assessment or reassessment, for any local improvement authorized by ORS 223.387 to 223.399 [and 223.680], or a local ordinance or resolution that provides the procedure to be followed in making local assessments for benefits from a local improvement upon lots that have been benefited by all or part of the improvement.

(o) "Special benefit only to specific properties" shall have the same meaning as "special and peculiar benefit" as that term is used in ORS 223.389.

(p) "Specific request" means:

(A) An affirmative act by a property owner to seek or obtain delivery of goods or services;

(B) An affirmative act by a property owner, the legal consequence of which is to cause the delivery of goods or services to the property owner; or

(C) Failure of an owner of property to change a request for goods or services made by a prior owner of the property.

(q) "Structure" means any temporary or permanent building or improvement to real property of any kind that is constructed on or attached to real property, whether above, on or beneath the surface.

(r) "Supplies and equipment intrinsic to a structure" means the supplies and equipment that are necessary to permit a structure to perform the functions for which the structure was constructed, or that will, upon installation, constitute fixtures considered to be part of the real property that is [comprised] **composed**, in whole or part, of the structure and land supporting the structure.

(s) "Tax on property" means any tax, fee, charge or assessment imposed by any government unit upon property or upon a property owner as a direct con-

sequence of ownership of that property, but does not include incurred charges or assessments for local improvements. As used in this paragraph, "property" means real or tangible personal property, and intangible property that is part of a unit of real or tangible personal property to the extent that such intangible property is subject to a tax on property.

(2) For purposes of subsection (1)(i) of this section, an owner of property may control or avoid an incurred charge if the owner is capable of taking action to affect the amount of a charge that is or will be imposed or to avoid imposition of a charge even if the owner must incur expense in so doing.

(3) For purposes of subsection (1)(i)(A) of this section, an owner of property has direct control over the quantity of goods or services if the owner of property has the ability, whether or not that ability is exercised, to determine the quantity of goods or services provided or to be provided.

(4) For purposes of subsection (1)(j) of this section, the status of a capital construction project as a local improvement is not affected by the accrual of a general benefit to property other than the property receiving the special benefit.

**NOTE:** Deletes unnecessary references in (1)(j) and (n) to statute allowing local governments to assist owners in financing energy improvements to real property; corrects word choice in (1)(r).

**SECTION 28.** ORS 327.011 is amended to read: 327.011. For the purpose of State School Fund distributions for school districts:

(1) Local Revenues are the total of the following:

(a) The amount of revenue offset against local property taxes as determined by the Department of Revenue under ORS 311.175 (3)(a)(A).

(b) The amount of property taxes actually received by the district, including penalties and interest on taxes.

(c) The amount of revenue received by the district from the Common School Fund under ORS 327.403 to 327.410.

(d) The amount of revenue received by the district from the county school fund.

(e) The amount of revenue received by the district from the 25 percent of federal forest reserve revenues required to be distributed to schools by ORS 294.060 (1).

(f) The amount of revenue received by the district from state managed forestlands under ORS 530.115 (1)(b) and (c).

(g) Moneys received in lieu of property taxes.

(h) Federal funds received without specific application by the school district and that are not deemed under federal law to be nonsupplantable.

(i) Any positive amount obtained by subtracting the operating property taxes actually imposed by the district, based on the rate certified pursuant to ORS 310.060, from the amount that would have been imposed by the district if the district had certified the maximum rate of operating property taxes allowed by law.

(j) Any amount distributed to the district in the prior fiscal year under ORS 327.019 (8).

(2) Local Revenues do not include:

(a) If a school district imposes local option taxes pursuant to ORS 280.040 to 280.145, an amount equal to the [lesser] **least** of:

(A) The amount of revenue actually received by the district from local option taxes imposed pursuant to ORS 280.040 to 280.145;

(B) Twenty percent of the total received by the school district from the general purpose grant, the transportation grant, the facility grant and the high cost disabilities grant of the district, as those grants are calculated under ORS 327.013; or

(C) \$1,000 per district extended ADMw, as calculated under ORS 327.013, increased each fiscal year by three percent above the amount allowed per district extended ADMw for the prior fiscal year.

(b) For a school district with a statutory rate limit on July 1, 2003, that is greater than \$4.50 per \$1,000 of assessed value, the amount of property taxes actually received by the district, including penalties and interest on taxes, that results from an increase in the rate of ad valorem property tax of the district allowed under section 11 (5)(d), Article XI of the Oregon Constitution.

**NOTE:** Corrects word choice in (2)(a) lead-in.

**SECTION 29.** ORS 348.570 is amended to read: 348.570. (1)(a) There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the Oregon Student Assistance Fund. Interest earned by the fund shall be credited to the fund.

(b) The fund shall consist of moneys appropriated to the Higher Education Coordinating Commission for deposit into the fund, collections and penalties received by the Executive Director of the Office of Student Access and Completion under ORS 442.545 and any donations or grants received by the commission for a purpose of the fund.

(c) Moneys in the fund are continuously appropriated to the commission for:

(A) Investments as provided by ORS 293.701 to 293.857;

(B) The payment of expenses of the commission in carrying out the purposes of ORS 348.250, 348.285, 348.505 to 348.615, 348.625 to 348.695, 348.696 and 348.992; **and**

*[(C) The payment of expenses of the Nursing Services Program created in ORS 442.540; and]*

*[(D)]* (C) The purpose of carrying out the provisions of ORS 348.272.

(d) The commission shall use moneys in the fund for those purposes for which the moneys were provided to or received or collected by the commission.

(2) There is established in the State Treasury a fund, separate and distinct from the General Fund, to be known as the ASPIRE Program Fund. Moneys received from donations and grants shall be credited to the ASPIRE Program Fund. Moneys in the fund are continuously appropriated to the commission for the purposes of investment, as provided by ORS



293.701 to 293.857, and for carrying out the provisions of ORS 348.500. Interest earned by the fund shall be credited to the fund.

(3)(a) There is established in the State Treasury the Nursing Faculty Loan Repayment Fund, separate and distinct from the General Fund. Interest earned on the Nursing Faculty Loan Repayment Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the commission for carrying out ORS 348.440 to 348.448. The Nursing Faculty Loan Repayment Fund consists of:

(A) Moneys appropriated to the commission for the Nursing Faculty Loan Repayment Program created in ORS 348.444; and

(B) Grants, gifts or donations received by the commission for the program.

(b) Any unexpended funds in the fund at the end of a biennium shall be retained in the fund and may be expended in subsequent biennia.

**NOTE:** Removes reference in (1)(c) to program and statute eliminated by chapter 829, Oregon Laws 2015.

**SECTION 30.** ORS 358.505 is amended to read:

358.505. (1)(a) Except as provided in paragraphs (b) and (c) of this subsection, for property certified for special assessment as historic property under ORS 358.490, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the assessed value of the property at the time application was made under ORS 358.487.

(b) If the property certified for special assessment as historic property was exempt or specially assessed at the time the application was made, the county assessor shall for 10 consecutive tax years list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax year in which the application was made multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(c) If the property certified for special assessment as historic property is a condominium unit being assessed upon initial sale by the developer, the county assessor shall for the tax years of the remaining term of historic property special assessment list on the assessment and tax roll a specially assessed value that equals the product of the real market value of the property for the tax year in which the initial sale took place multiplied by the ratio of the average maximum assessed value over the average real market value for that tax year of property in the same area and property class.

(d) For property certified under ORS 358.490 for a second term of special assessment as historic property under ORS 358.540, the county assessor shall, for 10 consecutive tax years after the date of the filing of the application under ORS 358.487 for the second term, list on the assessment and tax roll a specially assessed value that equals the real mar-

ket value of the property for the assessment year in which the application is made.

(2)(a) Notwithstanding ORS 308.149 (2), for the first tax year of an initial or second 10-year period of historic property special assessment, the maximum assessed value of property subject to historic property special assessment shall equal the specially assessed value of the property under subsection (1) of this section multiplied by the ratio, not greater than 1.00, of the maximum assessed value the property would have had if the property were not specially assessed over the real market value of the property.

(b) For each tax year after the first tax year during which the property is subject to special assessment as historic property, the property's maximum assessed value equals 103 percent of the property's assessed value from the prior year or 100 percent of the property's maximum assessed value from the prior year, whichever is greater.

(3) The assessed value of property that is classified as historic property for the tax year shall equal the [lesser] **least** of:

(a) The property's specially assessed value as determined under subsection (1) of this section;

(b) The property's maximum assessed value as determined under subsection (2) of this section; or

(c) The property's real market value as of the assessment date for the tax year.

(4) The entitlement of property to the special assessment provisions of this section shall be determined as of July 1. If the property becomes disqualified on or after July 1, its assessment for that year shall continue as provided in this section.

(5) Assessed value, as defined and determined under ORS 308.146, shall be determined for property classified as historic property by the county assessor each year. The assessed value so determined for any year shall be subject to appeal to the county board of property tax appeals within the time and in the manner provided in ORS chapter 309 and shall be subject to appeal thereafter to the Oregon Tax Court and to the Oregon Supreme Court within the time and in the manner provided for appeals of value determination for purposes of ad valorem property taxation.

**NOTE:** Corrects word choice in (3) lead-in.

**SECTION 31. Notwithstanding any other provision of law, ORS 368.717 shall not be considered to have been added to or made a part of ORS chapter 294 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.**

**NOTE:** Removes statute from inappropriate series.

**SECTION 32.** Section 27, chapter 765, Oregon Laws 2015, is amended to read:

**Sec. 27.** [Sections 1, 2 and 5 of this 2015 Act and] ORS 412.002, 412.007, 412.011, 412.016 and

412.017 are added to and made a part of ORS [*chapter 412*] **412.001 to 412.161**.

**NOTE:** Corrects series to which TANF provisions are added; includes section 4 of 2015 Act in lieu of section 5.

**SECTION 33.** ORS 413.083 is amended to read:

413.083. (1) The Oregon Health Authority shall appoint a dental director who serves at the pleasure of the authority. The authority may establish by rule additional qualifications for the dental director. The dental director:

(a) Must be a dentist licensed to practice under ORS chapter 679;

(b) Must be in good standing with the Oregon Board of Dentistry or with the dental licensing board of another state if the dental director is not licensed by the board; and

(c) Shall oversee programs operated by the authority that increase access to oral health services, preventative oral health activities and other authority initiatives that address oral health disparities in this state.

(2) The dental director shall:

(a) Provide recommendations and guidance to the authority and other state agencies, individuals and community providers on how to prevent oral diseases and measures to take to improve, promote and protect the oral health of the residents of this state, with a focus on reducing oral health disparities among underserved populations;

[(b) *Make recommendations and submit a report on the topics listed in paragraph (a) of this subsection to the appropriate committees of the Legislative Assembly in the manner provided in ORS 192.245 not later than March 15, 2016;*]

[(c)] (b) Monitor, study and appraise the oral health needs and resources of residents of this state;

[(d)] (c) Foster the development, expansion and evaluation of oral health services for residents of this state;

[(e)] (d) Provide information concerning oral health to the dental and health communities and the public;

[(f)] (e) Develop policies to promote oral health in this state; and

[(g)] (f) Develop programs, policies and preventive measures to positively impact oral health in this state.

**NOTE:** Removes temporary provisions in (2)(b).

**SECTION 34.** ORS 414.685 is amended to read:

414.685. (1) The Oregon Health Authority and the Department of Human Services shall cooperate with each other by coordinating actions and responsibilities necessary to implement the Oregon Integrated and Coordinated Health Care Delivery System established in ORS 414.620.

(2) The authority and the department may delegate to each other any duties, functions or powers that the authority or department are authorized to perform if necessary to carry out ORS 414.625, 414.632, 414.635, 414.638, 414.653, 414.654, 414.655,

414.665, 414.679 and 414.685 [*and sections 13 and 17, chapter 602, Oregon Laws 2011*].

**NOTE:** Eliminates references to repealed session law sections in (2).

**SECTION 35.** ORS 417.847 is amended to read:  
417.847. (1) The Youth Development Council is established.

(2) The council is established for the purpose of overseeing a unified system that provides services to school-age children through youth 24 years of age in a manner that supports educational success, focuses on crime prevention, reduces high risk behaviors and is integrated, measurable and accountable. The council shall provide direction to the Youth Development Division.

(3) The council consists of no fewer than 15 members who are appointed by the Governor. The Governor shall ensure that membership of the council satisfies any federal requirements for membership of a state advisory committee on juvenile justice, **and shall include tribal representation in the membership of the council.**

(4) The council shall:

(a) Determine the availability of funding to support community-based youth development programs, services and initiatives with demonstrated outcomes and strategic objectives established by the council by rule.

(b) Prioritize funding for services related to:

(A) The prevention of and intervention in the risk factors that lead to juvenile delinquency and the promotion of protective factors that improve the health and well-being of children and youth, as supported by evidence-based program models and other research-based models; and

(B) The prevention of and intervention in gang violence and gang involvement.

(5) The council may:

(a) Enter into performance-based intergovernmental agreements with regional and county entities, and tribal governments, to contract for the provision of youth development programs, services and initiatives that will achieve demonstrated outcomes and strategic objectives established by the council by rule.

(b) Determine the means by which services to children and youth may be provided effectively and efficiently across multiple programs to improve the academic and social outcomes of children and youth.

(c) Assess state programs and services related to youth development and training, and identify methods by which programs and services may be coordinated or consolidated.

(d) Establish common academic and social indicators to support attainment of goals established by the council.

(e) Establish common program outcome measurements and coordinate data collection across multiple programs and services.

(f) Ensure implementation of best practices that:

(A) Are evidence based;

(B) Are culturally, gender and age appropriate;

- (C) Address individual risk factors;
  - (D) Build upon factors that improve the health and well-being of children and youth; and
  - (E) Include tribal best practices.
- (6) The Governor may designate one member of the council to serve as the chairperson or, if the Governor chooses not to designate a chairperson, the council may elect one of its members to serve as chairperson.

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

(8) The council shall coordinate and collaborate with the Chief Education Office as provided by section 1, chapter 519, Oregon Laws 2011.

**NOTE:** Restores in (3) language inadvertently omitted in amendments to enacting legislation (see sections 21 and 23, chapter 37, Oregon Laws 2012).

**SECTION 36.** ORS 417.847, as amended by section 63, chapter 774, Oregon Laws 2015, is amended to read:

417.847. (1) The Youth Development Council is established.

(2) The council is established for the purpose of overseeing a unified system that provides services to school-age children through youth 24 years of age in a manner that supports educational success, focuses on crime prevention, reduces high risk behaviors and is integrated, measurable and accountable. The council shall provide direction to the Youth Development Division.

(3) The council consists of no fewer than 15 members who are appointed by the Governor. The Governor shall ensure that membership of the council satisfies any federal requirements for membership of a state advisory committee on juvenile justice, **and shall include tribal representation in the membership of the council.**

(4) The council shall:

(a) Determine the availability of funding to support community-based youth development programs, services and initiatives with demonstrated outcomes and strategic objectives established by the council by rule.

(b) Prioritize funding for services related to:

(A) The prevention of and intervention in the risk factors that lead to juvenile delinquency and the promotion of protective factors that improve the health and well-being of children and youth, as supported by evidence-based program models and other research-based models; and

(B) The prevention of and intervention in gang violence and gang involvement.

(5) The council may:

(a) Enter into performance-based intergovernmental agreements with regional and county entities, and tribal governments, to contract for the provision of youth development programs, services and initiatives that will achieve demonstrated outcomes and strategic objectives established by the council by rule.

(b) Determine the means by which services to children and youth may be provided effectively and efficiently across multiple programs to improve the academic and social outcomes of children and youth.

(c) Assess state programs and services related to youth development and training, and identify methods by which programs and services may be coordinated or consolidated.

(d) Establish common academic and social indicators to support attainment of goals established by the council.

(e) Establish common program outcome measurements and coordinate data collection across multiple programs and services.

(f) Ensure implementation of best practices that:

- (A) Are evidence based;
- (B) Are culturally, gender and age appropriate;
- (C) Address individual risk factors;
- (D) Build upon factors that improve the health and well-being of children and youth; and
- (E) Include tribal best practices.

(6) The Governor may designate one member of the council to serve as the chairperson or, if the Governor chooses not to designate a chairperson, the council may elect one of its members to serve as chairperson.

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

**NOTE:** Restores in (3) language inadvertently omitted in amendments to enacting legislation (see sections 21 and 23, chapter 37, Oregon Laws 2012).

**SECTION 37.** ORS 430.256 is amended to read:

430.256. (1) The Director of the Oregon Health Authority shall administer alcohol and drug abuse programs, including but not limited to programs or components of programs described in ORS 430.397 to 430.401[,] and 475.225[, 743.557 and 743.558] and ORS chapters 430 and 801 to 822.

(2) Subject to ORS 417.300 and 417.305, the director shall:

(a) Report to the Alcohol and Drug Policy Commission on accomplishments and issues occurring during each biennium, and report on a new biennial plan describing resources, needs and priorities for all alcohol and drug abuse programs.

(b) Develop within the Oregon Health Authority priorities for alcohol and drug abuse programs and activities.

(c) Conduct statewide and special planning processes [which] **that** provide for participation from state and local agencies, groups and individuals.

(d) Identify the needs of special populations including minorities, elderly, youth, women and individuals with disabilities.

(e) Subject to ORS chapter 183, adopt such rules as are necessary for the performance of the duties and functions specified by this section.

(3) The director may apply for, receive and administer funds, including federal funds and grants, from sources other than the state. Subject to ex-

penditure limitation set by the Legislative Assembly, funds received under this subsection may be expended by the director:

(a) For the study, prevention or treatment of alcohol and drug abuse and dependence in this state.

(b) To provide training, both within this state and in other states, in the prevention and treatment of alcohol and drug abuse and dependence.

(4) The director shall, in consultation with state agencies and counties, establish guidelines to coordinate program review and audit activities by state agencies and counties that provide funds to alcohol and drug prevention and treatment programs. The purpose of the guidelines is to minimize duplication of auditing and program review requirements imposed by state agencies and counties on alcohol and drug prevention and treatment programs that receive state funds, including programs that receive beer and wine tax revenues under ORS 430.380 and 471.810.

**NOTE:** Deletes references to repealed statutes in (1); updates word choice in (2)(c).

**SECTION 38.** ORS 430.735 is amended to read: 430.735. As used in ORS 430.735 to 430.765:

(1) "Abuse" means one or more of the following:

(a) Abandonment, including desertion or willful forsaking of a person with a developmental disability or the withdrawal or neglect of duties and obligations owed a person with a developmental disability by a caregiver or other person.

(b) Any physical injury to an adult caused by other than accidental means, or that appears to be at variance with the explanation given of the injury.

(c) Willful infliction of physical pain or injury upon an adult.

(d) Sexual abuse of an adult.

(e) Neglect.

(f) Verbal abuse of a person with a developmental disability.

(g) Financial exploitation of a person with a developmental disability.

(h) Involuntary seclusion of a person with a developmental disability for the convenience of the caregiver or to discipline the person.

(i) A wrongful use of a physical or chemical restraint upon a person with a developmental disability, excluding an act of restraint prescribed by a physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525 or nurse practitioner licensed under ORS [678.373] **678.375** to 678.390 and any treatment activities that are consistent with an approved treatment plan or in connection with a court order.

(j) An act that constitutes a crime under ORS 163.375, 163.405, 163.411, 163.415, 163.425, 163.427, 163.465 or 163.467.

(k) Any death of an adult caused by other than accidental or natural means.

(2) "Adult" means a person 18 years of age or older with:

(a) A developmental disability who is currently receiving services from a community program or fa-

cility or was previously determined eligible for services as an adult by a community program or facility; or

(b) A mental illness who is receiving services from a community program or facility.

(3) "Adult protective services" means the necessary actions taken to prevent abuse or exploitation of an adult, to prevent self-destructive acts and to safeguard an adult's person, property and funds, including petitioning for a protective order as defined in ORS 125.005. Any actions taken to protect an adult shall be undertaken in a manner that is least intrusive to the adult and provides for the greatest degree of independence.

(4) "Caregiver" means an individual, whether paid or unpaid, or a facility that has assumed responsibility for all or a portion of the care of an adult as a result of a contract or agreement.

(5) "Community program" means a community mental health program or a community developmental disabilities program as established in ORS 430.610 to 430.695.

(6) "Facility" means a residential treatment home or facility, residential care facility, adult foster home, residential training home or facility or crisis respite facility.

(7) "Financial exploitation" means:

(a) Wrongfully taking the assets, funds or property belonging to or intended for the use of a person with a developmental disability.

(b) Alarming a person with a developmental disability by conveying a threat to wrongfully take or appropriate money or property of the person if the person would reasonably believe that the threat conveyed would be carried out.

(c) Misappropriating, misusing or transferring without authorization any money from any account held jointly or singly by a person with a developmental disability.

(d) Failing to use the income or assets of a person with a developmental disability effectively for the support and maintenance of the person.

(8) "Intimidation" means compelling or deterring conduct by threat.

(9) "Law enforcement agency" means:

(a) Any city or municipal police department;

(b) A police department established by a university under ORS 352.121 or 353.125;

(c) Any county sheriff's office;

(d) The Oregon State Police; or

(e) Any district attorney.

(10) "Neglect" means:

(a) Failure to provide the care, supervision or services necessary to maintain the physical and mental health of a person with a developmental disability that may result in physical harm or significant emotional harm to the person;

(b) The failure of a caregiver to make a reasonable effort to protect a person with a developmental disability from abuse; or

(c) Withholding of services necessary to maintain the health and well-being of an adult *[which]* **that** leads to physical harm of an adult.

(11) “Person with a developmental disability” means a person described in subsection (2)(a) of this section.

(12) “Public or private official” means:

(a) Physician licensed under ORS chapter 677, physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician, psychologist or chiropractor, including any intern or resident;

(b) Licensed practical nurse, registered nurse, nurse’s aide, home health aide or employee of an in-home health service;

(c) Employee of the Department of Human Services or Oregon Health Authority, local health department, community mental health program or community developmental disabilities program or private agency contracting with a public body to provide any community mental health service;

(d) Peace officer;

(e) Member of the clergy;

(f) Regulated social worker;

(g) Physical, speech or occupational therapist;

(h) Information and referral, outreach or crisis worker;

(i) Attorney;

(j) Licensed professional counselor or licensed marriage and family therapist;

(k) Any public official;

(L) Firefighter or emergency medical services provider;

(m) Member of the Legislative Assembly;

(n) Personal support worker, as defined by rule adopted by the Home Care Commission; or

(o) Home care worker, as defined in ORS 410.600.

(13) “Services” includes but is not limited to the provision of food, clothing, medicine, housing, medical services, assistance with bathing or personal hygiene or any other service essential to the well-being of an adult.

(14)(a) “Sexual abuse” means:

(A) Sexual contact with a nonconsenting adult or with an adult considered incapable of consenting to a sexual act under ORS 163.315;

(B) Sexual harassment, sexual exploitation or inappropriate exposure to sexually explicit material or language;

(C) Any sexual contact between an employee of a facility or paid caregiver and an adult served by the facility or caregiver;

(D) Any sexual contact between a person with a developmental disability and a relative of the person with a developmental disability other than a spouse; or

(E) Any sexual contact that is achieved through force, trickery, threat or coercion.

(b) “Sexual abuse” does not mean consensual sexual contact between an adult and a paid caregiver who is the spouse of the adult.

(15) “Sexual contact” has the meaning given that term in ORS 163.305.

(16) “Verbal abuse” means to threaten significant physical or emotional harm to a person with a developmental disability through the use of:

(a) Derogatory or inappropriate names, insults, verbal assaults, profanity or ridicule; or

(b) Harassment, coercion, threats, intimidation, humiliation, mental cruelty or inappropriate sexual comments.

**NOTE:** Corrects series citation in (1)(i); updates word choice in (10)(c).

**SECTION 39.** ORS 451.435 is amended to read:

451.435. (1) All district formation and change of organization proceedings shall be initiated, conducted and completed as provided by ORS 198.705 to 198.955. Except for an order allowing an existing district established to provide sewage works to also provide drainage works, no county or portion thereof shall be included within a district *[which]* **that** is to provide services in more than one county without the consent of the governing body of the affected county.

(2) In the case of sewage works, upon certification to the county court by the Environmental Quality Commission or the local health officer that an emergency exists, the county court shall initiate the formation of a district in the manner specified in ORS 198.835, or annexation to an existing district in the manner specified in ORS 198.850 (3), whichever is most appropriate.

(3) A petition or order initiating the formation or change *[or]* of organization of a district shall, in addition to the requirement specified by ORS 198.705 to 198.955, state which of the service facilities specified by ORS 451.010 the district shall be authorized to construct, maintain and operate.

(4) A final order in a formation or change of organization proceeding of a district shall, in addition to the requirements specified by ORS 198.705 to 198.955, state which of the service facilities specified by ORS 451.010 the district shall be authorized to construct, maintain and operate.

**NOTE:** Updates word choice in (1); supplies missing punctuation in (2); corrects word choice in (3).

**SECTION 40.** ORS 455.170 is amended to read:

455.170. (1) The Director of the Department of Consumer and Business Services shall delegate to any municipality *[which]* **that** requests any of the authority, responsibilities and functions of the director relating to *[recreational]* **recreation** parks, organizational camps and picnic parks as defined in ORS 446.310, including but not limited to plan review and inspections, if the director determines that the municipality is willing and able to carry out the rules of the director relating to such authority, responsibilities and functions. The director shall review and monitor each municipality’s performance under this subsection. In accordance with ORS chapter 183, the director may suspend or rescind a delegation under this subsection. If it is determined that a municipality is not carrying out such rules or the delegation is suspended, the unexpended portion of the fees collected under subsection (2) of this section shall be available to the director for carrying

out the authority, responsibility and functions under this section.

(2) The director shall determine, by administrative rule, the amount of fee *[which]* **that** the municipality may charge and retain for any function undertaken pursuant to subsection (1) of this section. The amount of the fees *[shall]* **may** not exceed the costs of administering the delegated functions. The municipality, quarterly, shall remit 15 percent of the collected fees to the director for monitoring municipal programs and for providing informational material necessary to maintain a uniform state program.

(3) In any action, suit or proceeding arising out of municipal administration of functions pursuant to subsection (1) of this section and involving the validity of a rule adopted by the director, the director shall be made a party to the action, suit or proceeding.

**NOTE:** Updates word choice in (1) and (2); corrects defined term in (1).

**SECTION 41.** ORS 466.605 is amended to read: 466.605. As used in ORS 466.605 to 466.680 and 466.990 (3) and (4):

(1) "Barrel" means 42 U.S. gallons at 60 degrees Fahrenheit.

(2) "Cleanup" means the containment, collection, removal, treatment or disposal of oil or hazardous material[;], site restoration[;] and any investigations, monitoring, surveys, testing and other information gathering required or conducted by the Department of Environmental Quality.

(3) "Cleanup costs" means all costs associated with the cleanup of a spill or release incurred by the state, its political subdivision or any person with written approval from the department when implementing ORS 466.205, 466.605 to 466.680, 466.990 (3) and (4) and 466.995 (2) or 468B.320.

(4) "Commission" means the Environmental Quality Commission.

(5) "Department" means the Department of Environmental Quality.

(6) "Director" means the Director of the Department of Environmental Quality.

(7) "Hazardous material" means one of the following:

(a) A material designated by the commission under ORS 466.630.

(b) Hazardous waste as defined in ORS 466.005.

(c) Radioactive waste as defined in ORS 469.300, radioactive material identified by the Energy Facility Siting Council under ORS 469.605 and radioactive substances as defined in ORS 453.005.

(d) Communicable disease agents as regulated by the Oregon Health Authority under ORS 431.001 to 431.550, 431.990, 431A.005 to 431A.020, 433.001 to 433.045 and 433.110 to 433.770.

(e) Hazardous substances designated by the United States Environmental Protection Agency under section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended.

(8) "Oils" or "oil" includes gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse and any other petroleum related product.

(9) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, municipal corporation, political subdivision, interstate body, the state and any agency or commission thereof and the federal government and any agency thereof.

(10) "Reportable quantity" means one of the following:

(a) A quantity designated by the commission under ORS 466.625.

(b) The *[lesser]* **least** of:

(A) The quantity designated for hazardous substances by the United States Environmental Protection Agency pursuant to section 311 of the Federal Water Pollution Control Act, P.L. 92-500, as amended;

(B) The quantity designated for hazardous waste under ORS 466.005 to 466.385, 466.990 (1) and (2) and 466.992;

(C) Any quantity of radioactive material, radioactive substance or radioactive waste;

(D) If spilled into waters of the state, or escape into waters of the state is likely, any quantity of oil that would produce a visible oily slick, oily solids, or coat aquatic life, habitat or property with oil, but excluding normal discharges from properly operating marine engines; or

(E) If spilled on land, any quantity of oil over one barrel.

(c) Ten pounds unless otherwise designated by the commission under ORS 466.625.

(11) "Respond" or "response" means:

(a) Actions taken to monitor, assess and evaluate a spill or release or threatened spill or release of oil or hazardous material;

(b) First aid, rescue or medical services, and fire suppression; or

(c) Containment or other actions appropriate to prevent, minimize or mitigate damage to the public health, safety, welfare or the environment *[which]* **that** may result from a spill or release or threatened spill or release if action is not taken.

(12) "Spill or release" means the discharge, deposit, injection, dumping, spilling, emitting, releasing, leaking or placing of any oil or hazardous material into the air or into or on any land or waters of the state, as defined in ORS 468B.005, except as authorized by a permit issued under ORS chapter 454, 459, 459A, 468, 468A, 468B or 469, ORS 466.005 to 466.385, 466.990 (1) and (2) or 466.992 or federal law or while being stored or used for its intended purpose.

(13) "Threatened spill or release" means oil or hazardous material is likely to escape or be carried into the air or into or on any land or waters of the state, including from a ship as defined in ORS 468B.300 that is in imminent danger of sinking.

**NOTE:** Standardizes punctuation in (2); corrects word choice in (10)(b); updates word choice in (11)(c).

**SECTION 42.** ORS 475.525 is amended to read:

475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver or manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance as defined by ORS 475.005.

(2) For the purposes of this section, “drug paraphernalia” means all equipment, products and materials of any kind *[which]* **that** are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of ORS ~~[475.840]~~ **475.752** to 475.980. Drug paraphernalia includes, but is not limited to:

(a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating, growing or harvesting of any species of plant *[which]* **that** is a controlled substance or from which a controlled substance can be derived;

(b) Kits marketed for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices marketed for use or designed for use in increasing the potency of any species of plant *[which]* **that** is a controlled substance;

(d) Testing equipment marketed for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;

(g) Separation gins and sifters marketed for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

(h) Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

(i) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens or hashish heads;

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand, such as a marijuana cigarette;

(F) Miniature cocaine spoons and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driven pipes;

(K) Chillums;

(L) Bongos;

(M) Ice pipes or chillers; and

(N) Lighting equipment specifically designed for the growing of controlled substances.

(3) “Drug paraphernalia” does not include hypodermic syringes or needles.

(4) For the purposes of this section, “marijuana paraphernalia” means all equipment, products and materials of any kind which are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marijuana in violation of ORS ~~[475.840]~~ **475.752** to 475.980.

(5) In determining whether an object is drug paraphernalia or marijuana paraphernalia, a trier of fact should consider, in addition to all other relevant factors, the following:

(a) Instructions, oral or written, provided with the object concerning its use;

(b) Descriptive materials accompanying the object *[which]* **that** explain or depict its use;

(c) National and local advertising concerning its use;

(d) The manner in which the object is displayed for sale;

(e) The existence and scope of legitimate uses for the object in the community; and

(f) Any expert testimony *[which]* **that** may be introduced concerning its use.

(6) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute.

(7) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers marijuana paraphernalia to a person 21 years of age or older.

**NOTE:** Updates word choice in (2) lead-in, (2)(a) and (c) and (5)(b) and (f); corrects series citation in (2) lead-in and (4).

**SECTION 42a. If Senate Bill 302 becomes law, section 42 of this 2017 Act (amending ORS 475.525) is repealed and ORS 475.525, as amended by section 25, chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302), is amended to read:**

475.525. (1) It is unlawful for any person to sell or deliver, possess with intent to sell or deliver or

manufacture with intent to sell or deliver drug paraphernalia, knowing that it will be used to unlawfully plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance as defined by ORS 475.005.

(2) For the purposes of this section, “drug paraphernalia” means all equipment, products and materials of any kind that are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of ORS [475.840] **475.752** to 475.980. Drug paraphernalia includes, but is not limited to:

(a) Kits marketed for use or designed for use in unlawfully planting, propagating, cultivating, growing or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived;

(b) Kits marketed for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

(c) Isomerization devices marketed for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(d) Testing equipment marketed for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

(e) Scales and balances marketed for use or designed for use in weighing or measuring controlled substances;

(f) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, marketed for use or designed for use in cutting controlled substances;

(g) Lighting equipment specifically designed for growing controlled substances;

(h) Containers and other objects marketed for use or designed for use in storing or concealing controlled substances; and

(i) Objects marketed for use or designed specifically for use in ingesting, inhaling or otherwise introducing a controlled substance into the human body, such as:

(A) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens;

(B) Water pipes;

(C) Carburetion tubes and devices;

(D) Smoking and carburetion masks;

(E) Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand;

(F) Miniature cocaine spoons and cocaine vials;

(G) Chamber pipes;

(H) Carburetor pipes;

(I) Electric pipes;

(J) Air-driven pipes;

(K) Chillums;

(L) Bonges; and

(M) Ice pipes or chillers.

(3) For purposes of this section, “drug paraphernalia” does not include hypodermic syringes or needles.

(4) The provisions of ORS 475.525 to 475.565 do not apply to persons registered under the provisions of ORS 475.125 or to persons specified as exempt from registration under the provisions of that statute.

(5)(a) The provisions of ORS 475.525 to 475.565 do not apply to a person who sells or delivers marijuana paraphernalia as defined in section 14 [of this 2017 Act], **chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302)**, to a person 21 years of age or older.

(b) In determining whether an object is drug paraphernalia under this section or marijuana paraphernalia under section 14 [of this 2017 Act], **chapter 21, Oregon Laws 2017 (Enrolled Senate Bill 302)**, a trier of fact shall consider, in addition to any other relevant factor, the following:

(A) Any oral or written instruction provided with the object related to the object’s use;

(B) Any descriptive material packaged with the object that explains or depicts the object’s use;

(C) Any national or local advertising related to the object’s use;

(D) Any proffered expert testimony related to the object’s use;

(E) The manner in which the object is displayed for sale, if applicable; and

(F) Any other proffered evidence substantiating the object’s intended use.

**NOTE:** Corrects series citation in (2) lead-in.

**SECTION 43.** ORS 475B.210 is amended to read: 475B.210. The Oregon Liquor Control Commission may revoke or suspend a license issued under ORS 475B.010 to 475B.395 if the commission finds or has reasonable ground to believe any of the following to be true:

(1) That the licensee:

(a) Has violated a provision of ORS 475B.010 to 475B.395 or a rule of the commission adopted under ORS 475B.010 to 475B.395.

(b) Has made any false representation or statement to the commission in order to induce or prevent action by the commission.

(c) Is insolvent or incompetent or physically unable to carry on the management of the establishment of the licensee.

(d) Is in the habit of using alcoholic liquor, habit-forming drugs, marijuana or controlled substances to excess.

(e) Has misrepresented to a customer or the public any marijuana items sold by the licensee.

(f) Since the granting of the license, has been convicted of a felony, of violating any of the marijuana laws of this state, general or local, or of



any misdemeanor or violation of any municipal ordinance committed on the licensed premises.

(2) That there is any other reason that, in the opinion of the commission, based on public convenience or necessity, warrants [*canceling*] **revoking** or suspending the license.

**NOTE:** Corrects terminology in (2).

**SECTION 44.** ORS 477.580 is amended to read:

477.580. (1) Following the issuance of a permit pursuant to ORS 477.625, and after slashing has been created in an operation area inside or within one-eighth of one mile of a forest protection district, the forester may make a determination if such slashing and debris exists on the operation area in sufficient quantity and arrangement as to constitute an additional fire hazard that endangers life, forest resources or property, and if such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard. Whenever practical, the forester shall make the determination referred to in this subsection during the administration and enforcement of the Oregon Forest Practices Act.

(2) If the forester determines that an additional fire hazard exists on the operation area sufficient to endanger life, forest resources or property, and that such area is in need of additional work or protection to reduce, abate or offset the additional fire hazard, the forester shall so notify the landowner and operator or their representatives in writing of such determination. Pursuant to rules promulgated by the State Forester, the notice to the landowner or operator shall contain provisions for offsetting the additional fire hazard by burning, improvements, extra protection or other means. The notice shall also specify a reasonable time for completion of the provisions contained therein.

(3) When the forester finds that the provisions set forth in subsection (2) of this section have been complied with or that the additional hazard has been, in the opinion of the forester, sufficiently reduced by other means to offset the hazard, the forester shall immediately issue to the operator or landowner a release from all obligations imposed by ORS 477.120 (2)(c).

(4) If the forester determines that an additional fire hazard exists, the forester shall, at the request of the owner or operator, with the approval of the owner, grant a release upon payment by the owner or operator of such sum of money as the forester finds necessary to provide additional protection or means necessary to reduce or offset the additional hazard created by such slashing and other debris. In no event may this sum exceed the [*lesser*] **least** of:

(a) \$6 for each 1,000 board feet of timber harvested in an operation;

(b) The forester's estimated cost of reducing or providing other means to offset the additional hazard; or

(c) \$10 for each acre in a stand improvement operation where no timber is harvested.

(5) Moneys received under subsection (4) of this section shall be placed in the State Treasury, cred-

ited to the State Forestry Department Account and used exclusively for the purposes of forest protection within the district.

(6) Any owner of forestland may make written request to the forester to assume all obligations for the disposal or reduction of any additional fire hazard determined to exist thereon. If the forester then determines that the owner can comply with such obligation, the forester shall immediately issue to all other persons involved a written release of such obligations.

(7) Any order or determination made by the forester pursuant to this section is final unless modified or vacated in an appeal to the State Board of Forestry taken within 30 days after issuance of the order.

**NOTE:** Corrects word choice in (4) lead-in.

**SECTION 45.** ORS 526.297 is amended to read:

526.297. The **State Forestry** Department may suspend or revoke a large commercial event permit if:

(1) An emergency, significant law enforcement problem, substantial threat to public safety or welfare or substantial threat to public property arises from, or is likely to affect, event activities; or

(2) The department discovers that a violation of permit terms and conditions has occurred.

**NOTE:** Sets out full agency name in lead-in.

**SECTION 46.** ORS 634.306 is amended to read:

634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agriculture may adopt rules to carry out the purposes and intent of this chapter, including but not limited to rules that:

(1) Establish and maintain a program required for an individual to work or engage in the application or spraying of pesticides as a pesticide trainee. In this regard, the department may take into consideration:

(a) Requirements for submission of applications by pesticide trainees.

(b) Minimum and maximum periods of work or experience required for pesticide trainees.

(c) Work performance records or reports to be maintained by pesticide trainees or their employers.

(d) Acceptance of educational qualifications, applicable work or experience in similar or other fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.

(e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing trainees to apply pesticides in all or part of the classes of operations or businesses set forth in subsection (2) of this section.

(f) Laws and requirements relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.

(g) Special requirements if the pesticide trainee is to assist a pesticide applicator in the spraying or other application of pesticides by aircraft, and the advisability of allowing participation in federal flight

training programs to be substituted, all or in part, for training requirements under this chapter.

(2) Establish and maintain classifications of the various pesticides and of the various pest control or pesticide application businesses in order to facilitate the licensing or certification and regulation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard the department may take into consideration:

(a) Various types, formulations and characteristics of pesticides used and their purposes.

(b) Various methods of application of such pesticides.

(c) Precautions required for safe and effective application of such pesticides.

(3) Designate pesticides authorized to be used or applied, or prohibited from use or application, by persons in order to qualify for an exemption under ORS 634.106.

(4) Establish and maintain classifications of pesticides and devices that are deemed to be highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide Control Act.

(b) Laws and regulations of other states.

(c) Advice and counsel of experts in pesticides from industry, universities and colleges and other governmental agencies or bodies.

(5) Establish and maintain types of pesticide consultant or applicator examinations and reexaminations, schedules for required reexaminations and other measures deemed necessary for fair and reasonable testing of applicants as provided in ORS 634.122 (5).

(6) Designate the conditions under which pesticide operators that are or that employ pesticide applicators to spray or otherwise apply pesticides by aircraft may reduce, suspend or terminate the liability insurance required by ORS 634.116, and the periods of time for a reduction, suspension or termination. In this regard, the department may take into consideration:

(a) Changes in climate or seasons.

(b) Periods when certain crops are or have been harvested.

(c) Restricted or limited use of various types or classes of pesticides.

(d) Possibilities of injury or death to humans and loss or damage to real or personal property.

(7) Establish the conditions and amounts allowed for deductible classes in the liability insurance required by ORS 634.116.

(8) Establish and maintain programs of instruction or educational courses for pesticide consultants, operators, applicators and private applicators in cooperation with Oregon State University or others, wherein, as far as is practicable, provisions are made so as to allow such pesticide operators and

applicators to participate only in the instruction or courses directly or indirectly related to their particular activities. Attendance of licensees may be required.

(9) Prepare and distribute a manual, or other form of publication, containing information helpful and beneficial to individuals engaged in pesticide application or use or to persons preparing to qualify for licensing as a pesticide operator, consultant or applicator and establish charges therefor.

(10) Establish, from time to time, advisory groups or committees to assist the department in formulation of policies, plans or regulations under this chapter. Each member of any such group or committee so established shall be entitled to compensation and expenses as provided in ORS 292.495, to be charged to the department.

(11) Establish registration fees for pesticide brands and formulae or formulations under those pesticide brands.

(12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, applied or added to fertilizers, seed or grains.

(13) Establish restrictions, methods and procedures in the storage, transportation, use or application of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating insects, bees, animals, crops, wildlife, land or environment.

(14) Establish and maintain a system for certification of private applicators. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. [135] 136 et seq., as amended thereby, and regulations thereunder.

(b) Minimum periods of experience required and types of experience, education or work acceptable.

(c) Forms and types of private applicator certificates to be issued by the department, authorizing private applicators to apply pesticides in all or part of the classifications of pesticides set forth in subsection (4) of this section.

(15) Establish requirements for the reporting of pesticide sales, distribution or use by any person.

**NOTE:** Corrects federal Act citation in (14)(a).

**SECTION 47.** ORS 634.306, as amended by section 17, chapter 1059, Oregon Laws 1999, and section 8, chapter 833, Oregon Laws 2015, is amended to read:

634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agriculture may adopt rules to carry out the purposes and intent of this chapter, including but not limited to rules that:

(1) Establish and maintain a program required for an individual to work or engage in the application or spraying of pesticides as a pesticide trainee. In this regard, the department may take into consideration:

(a) Requirements for submission of applications by pesticide trainees.

(b) Minimum and maximum periods of work or experience required for pesticide trainees.

(c) Work performance records or reports to be maintained by pesticide trainees or their employers.

(d) Acceptance of educational qualifications, applicable work or experience in similar or other fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.

(e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing trainees to apply pesticides in all or part of the classes of operations or businesses set forth in subsection (2) of this section.

(f) Laws and requirements relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.

(g) Special requirements if the pesticide trainee is to assist a pesticide applicator in the spraying or other application of pesticides by aircraft, and the advisability of allowing participation in federal flight training programs to be substituted, all or in part, for training requirements under this chapter.

(2) Establish and maintain classifications of the various pesticides and of the various pest control or pesticide application businesses in order to facilitate the licensing or certification and regulation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard the department may take into consideration:

(a) Various types, formulations and characteristics of pesticides used and their purposes.

(b) Various methods of application of such pesticides.

(c) Precautions required for safe and effective application of such pesticides.

(3) Designate pesticides authorized to be used or applied, or prohibited from use or application, by persons in order to qualify for an exemption under ORS 634.106.

(4) Establish and maintain classifications of pesticides and devices that are deemed to be highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide Control Act.

(b) Laws and regulations of other states.

(c) Advice and counsel of experts in pesticides from industry, universities and colleges and other governmental agencies or bodies.

(5) Establish and maintain types of pesticide consultant or applicator examinations and reexaminations, schedules for required reexaminations and other measures deemed necessary for fair and reasonable testing of applicants as provided in ORS 634.122 (5).

(6) Designate the conditions under which pesticide operators that are or that employ pesticide applicators to spray or otherwise apply pesticides by

aircraft may reduce, suspend or terminate the liability insurance required by ORS 634.116, and the periods of time for a reduction, suspension or termination. In this regard, the department may take into consideration:

(a) Changes in climate or seasons.

(b) Periods when certain crops are or have been harvested.

(c) Restricted or limited use of various types or classes of pesticides.

(d) Possibilities of injury or death to humans and loss or damage to real or personal property.

(7) Establish the conditions and amounts allowed for deductible classes in the liability insurance required by ORS 634.116.

(8) Establish and maintain programs of instruction or educational courses for pesticide consultants, operators, applicators and private applicators in cooperation with Oregon State University or others, wherein, as far as is practicable, provisions are made so as to allow such pesticide operators and applicators to participate only in the instruction or courses directly or indirectly related to their particular activities. Attendance of licensees may be required.

(9) Prepare and distribute a manual, or other form of publication, containing information helpful and beneficial to individuals engaged in pesticide application or use or to persons preparing to qualify for licensing as a pesticide operator, consultant or applicator and establish charges therefor.

(10) Establish, from time to time, advisory groups or committees to assist the department in formulation of policies, plans or regulations under this chapter. Each member of any such group or committee so established shall be entitled to compensation and expenses as provided in ORS 292.495, to be charged to the department.

(11) Establish registration fees for pesticide brands and formulae or formulations under those pesticide brands.

(12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, applied or added to fertilizers, seed or grains.

(13) Establish restrictions, methods and procedures in the storage, transportation, use or application of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating insects, bees, animals, crops, wildlife, land or environment.

(14) Establish and maintain a system for certification of private applicators. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. [135] 136 et seq., as amended thereby, and regulations thereunder.

(b) Minimum periods of experience required and types of experience, education or work acceptable.

(c) Forms and types of private applicator certificates to be issued by the department, authorizing

private applicators to apply pesticides in all or part of the classifications of pesticides set forth in subsection (4) of this section.

**NOTE:** Corrects federal Act citation in (14)(a).

**SECTION 48.** Notwithstanding any other provision of law, ORS 646A.801 shall not be considered to have been added to or made a part of ORS 443.850 to 443.869 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that series.

**NOTE:** Removes statute from inappropriate series.

**SECTION 49.** ORS 646A.801 is amended to read: 646A.801. (1) As used in this section:

(a) **“Hospice program” has the meaning given that term in ORS 443.850.**

[(a)] (b) “Personal representative” has the meaning given that term in ORS 111.005.

[(b)] (c) “Residential cable service” means the transmission of any communication to a residential customer of the service for the purpose of delivering video content to the customer.

[(c)] (d) “Residential telecommunications service” means the transmission of any communication between a residential customer of the service and any other individual through the use of a communication system established and maintained by a radio common carrier or a telecommunications utility, both as defined in ORS 759.005.

(2) An individual in a hospice program, or the next of kin or personal representative of an individual who has died, may terminate, without penalty, a residential cable service or a residential telecommunications service provided pursuant to an existing contract.

(3) For purposes described in subsection (2) of this section, a provider of a residential cable service or a residential telecommunications service may require an individual in a hospice program or the next of kin or personal representative of an individual who has died to submit a document establishing that the individual is in a hospice program or has died.

(4) A termination of service under subsection (2) of this section is effective on the date on which the provider of the service first receives notice that the individual is in a hospice program or has died.

(5) The Oregon Health Authority may impose a civil penalty, not to exceed \$1,000, for violation of this section. Civil penalties imposed under this section shall be imposed in the manner provided by ORS 183.745. All moneys recovered under this section shall be paid into the State Treasury and credited to the General Fund.

**(6) The authority may adopt rules to carry out the provisions of this section.**

**NOTE:** Supplies definition and rulemaking authority lost when statute was removed from series (see section 48 and ORS 443.850 and 443.860).

**SECTION 50.** Notwithstanding any other provision of law, ORS 646A.810 shall not be considered to have been added to or made a part of ORS 646.605 to 646.652 for the purpose of statutory compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that series.

**NOTE:** Removes statute from inappropriate series.

**SECTION 51.** ORS 646A.810 is amended to read: 646A.810. (1) As used in this section:

(a) “Affiliate” means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(b) “Complaint” means a document or a copy of a document that a person or the person’s affiliate:

(A) Files with a court, an arbitration panel or another body with power to adjudicate a dispute over patent rights; and

(B) Serves, sends or otherwise communicates to a recipient in order to commence a judicial, arbitration or administrative proceeding for patent infringement against the recipient.

(c) “Demand” means an oral or written communication that alleges, asserts or claims that a recipient has infringed or has contributed to infringing a patent or the rights that a patentee has under a patent or has granted to an assignee or a licensee.

(d) “Patentee” has the meaning given that term in 35 U.S.C. 100, as in effect on March 3, 2014.

**(e) “Person” has the meaning given that term in ORS 646.605.**

**(f) “Prosecuting attorney” means the Attorney General or the district attorney of any county in which a violation of this section is alleged to have occurred.**

[(e)] (g) “Recipient” means a person that receives a demand and:

(A) Resides in this state;

(B) Maintains a place of business or transacts business within this state; or

(C) Is a body, officer or agency acting under the statutory authority of this state or under the legal authority of a political subdivision of this state.

(2) A person or the person’s affiliate may not communicate a demand, or cause another person to communicate a demand, to a recipient if in the demand the person or the person’s affiliate alleges, asserts or claims in bad faith that the recipient has infringed or contributed to infringing a patent or the rights that a patentee has, or has granted to an assignee or licensee, under the patent.

(3) If a prosecuting attorney receives one or more accusations from a recipient or recipients that a person or the person’s affiliate has violated subsection (2) of this section, the prosecuting attorney may execute and serve an investigative demand on the person or the person’s affiliate under ORS 646.618 and may take action against the person or the person’s affiliate under ORS 646.632 for engaging in an unlawful trade practice.

(4) A court may consider one or more of the following conditions as evidence that a person or the person's affiliate has, in bad faith, alleged, asserted or claimed an infringement of a patent or rights that a patentee, assignee or licensee has under a patent:

(a) The demand required the recipient to respond or to pay a license or other fee within a period of time that a reasonable person would consider to be unreasonably short.

(b) The demand did not include:

(A) The patent number for the patent that the person or the person's affiliate alleges, asserts or claims that the recipient infringed;

(B) Current and accurate contact information for the patentee, assignee or licensee, including a name, address and phone number or other contact information that would enable the recipient to identify and communicate with the patentee, assignee or licensee; and

(C) A statement of facts, together with an explanation or a description of the facts that would enable a reasonable person to understand the basis of the allegation or claim that the recipient has infringed the patent or the rights of the patentee, assignee or licensee under the patent.

(c) The person or the person's affiliate failed to provide the information described in paragraph (b) of this subsection to the recipient within a reasonable time after the recipient requested the information.

(d) The person or the person's affiliate, before communicating the demand:

(A) Failed to compare the claims in the patent to the features or specifications of the recipient's product, service or technology that the person or the person's affiliate alleges, asserts or claims is an infringement of the patent or the rights of the patentee, assignee or licensee under the patent; or

(B) Conducted the comparison described in subparagraph (A) of this paragraph, but in a way that did not enable the person or the person's affiliate to specifically identify the infringing features or specifications of the recipient's product, service or technology.

(e) The person or the person's affiliate offered to license the patent for an amount that a reasonable person with knowledge of the market value of a license for the invention that is covered by the patent would consider unreasonable.

(f) The person or the person's affiliate knew or should have known at the time the person or the person's affiliate communicated the demand that the allegation, assertion or claim of infringement was without merit or was deceptive.

(g) The person or the person's affiliate previously communicated a demand or filed a complaint based on the same or a similar allegation, assertion or claim and:

(A) The demand did not include the information described in paragraph (b) of this subsection; or

(B) A court, an arbitration panel or another body with power to adjudicate a patent dispute dismissed the complaint as frivolous or without merit at any

point during a proceeding before the court, the panel or the body.

(h) The person or the person's affiliate engaged in other conduct that the Attorney General by rule identifies as evidence of alleging, asserting or claiming an infringement in bad faith.

(5) A court may consider one or more of the following conditions as evidence that a person or the person's affiliate has, in good faith, alleged, asserted or claimed an infringement of a patent or rights that a patentee, assignee or licensee has under a patent:

(a) The demand does include the information described in subsection (4)(b) of this section.

(b) The person or the person's affiliate provided the information described in subsection (4)(b) of this section to the recipient within a reasonable time after the recipient requested the information, if the demand did not include the information.

(c) The person or the person's affiliate, before communicating the demand, attempted to establish that an infringement had occurred by comparing the claims in the patent to the features or specifications of the recipient's product, service or technology that the person or the person's affiliate believes is an infringement of the patent, or the rights of the patentee, assignee or licensee under the patent, and specifically identifying the infringing features or specifications of the recipient's product, service or technology.

(d) The person or the person's affiliate, after conducting the comparison described in paragraph (c) of this subsection, attempted in good faith to negotiate a settlement or a license for the patent with the recipient.

(e) The person or the person's affiliate has made a substantial investment in using or prosecuting the patent or in producing or selling a product, service or technology covered by the patent.

(f) The person or the person's affiliate is:

(A) Named in the patent as an inventor or an assignee of the inventor;

(B) An institution of higher education; or

(C) An organization that an institution of higher education owns or is affiliated with and that has as the organization's principal purpose the transfer of technology from the institute of higher education.

(g) The person or the person's affiliate has:

(A) Previously and successfully enforced the patent, or the rights the patentee, an affiliate or a licensee has under the patent, before a court, an arbitration panel or another body with power to adjudicate a patent dispute; and

(B) Otherwise demonstrated integrity and good faith in business practices related to the patent or previous attempts to enforce the patent or the rights the patentee, an assignee or a licensee has under the patent.

(h) The person or the person's affiliate engaged in other conduct that the Attorney General by rule identifies as evidence of alleging, asserting or claiming an infringement in good faith.

(6) A violation of subsection (2) of this section is an unlawful practice under ORS 646.608 that is sub-

ject to an action under ORS 646.638. Notwithstanding the definition of “person” in ORS 646.605, a recipient is a person for the purpose of bringing an action as a plaintiff under ORS 646.638.

(7) This section does not limit or affect:

(a) A right that this state, a political subdivision of this state, an agency, officer, employee or agent of this state or a political subdivision of this state or any other person may have with respect to a patent or rights granted under a patent; or

(b) Any remedy for patent infringement that a court, an arbitration panel or another body with power to adjudicate a dispute over patent rights may grant to this state, a political subdivision of this state or an agency, officer, employee or agent of this state or a political subdivision of this state or any other person.

(8) The Attorney General may adopt rules necessary to implement the provisions of this section.

**NOTE:** Supplies definitions lost when statute was removed from series (see section 50 and ORS 646.605).

**SECTION 52.** ORS 653.025, as amended by section 1, chapter 12, Oregon Laws 2016, is amended to read:

653.025. (1) Except as provided in subsections (2) and (3) of this section, ORS 652.020 and the rules of the Commissioner of the Bureau of Labor and Industries issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(a) For calendar year 2003, \$6.90.

(b) From January 1, 2004, to June 30, 2016, a rate adjusted for inflation as calculated by the commissioner.

(c) From July 1, 2016, to June 30, 2017, \$9.75.

(d) From July 1, 2017, to June 30, 2018, \$10.25.

(e) From July 1, 2018, to June 30, 2019, \$10.75.

(f) From July 1, 2019, to June 30, 2020, \$11.25.

(g) From July 1, 2020, to June 30, 2021, \$12.

(h) From July 1, 2021, to June 30, 2022, \$12.75.

(i) From July 1, 2022, to June 30, 2023, \$13.50.

(j) After June 30, 2023, beginning on July 1 of each year, a rate adjusted annually for inflation as described in subsection (5) of this section.

(2) If the employer is located within the urban growth boundary of a metropolitan service district organized under ORS chapter 268, except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(a) From July 1, 2016, to June 30, 2017, \$9.75.

(b) From July 1, 2017, to June 30, 2018, \$11.25.

(c) From July 1, 2018, to June 30, 2019, \$12.

(d) From July 1, 2019, to June 30, 2020, \$12.50.

(e) From July 1, 2020, to June 30, 2021, \$13.25.

(f) From July 1, 2021, to June 30, 2022, \$14.

(g) From July 1, 2022, to June 30, 2023, \$14.75.

(h) After June 30, 2023, [an employer described in this subsection shall pay an employee no less than] \$1.25 per hour more than the minimum wage determined under subsection (1)(j) of this section.

(3) If the employer is located within a nonurban county as described in section 2, chapter 12, Oregon Laws 2016, except as provided by ORS 652.020 and the rules of the commissioner issued under ORS 653.030 and 653.261, for each hour of work time that the employee is gainfully employed, no employer shall employ or agree to employ any employee at wages computed at a rate lower than:

(a) From July 1, 2016, to June 30, 2017, \$9.50.

(b) From July 1, 2017, to June 30, 2018, \$10.

(c) From July 1, 2018, to June 30, 2019, \$10.50.

(d) From July 1, 2019, to June 30, 2020, \$11.

(e) From July 1, 2020, to June 30, 2021, \$11.50.

(f) From July 1, 2021, to June 30, 2022, \$12.

(g) From July 1, 2022, to June 30, 2023, \$12.50.

(h) After June 30, 2023, [an employer described in this subsection shall pay an employee no less than] \$1 per hour less than the minimum wage determined under subsection (1)(j) of this section.

(4) The commissioner shall adopt rules for determining an employer’s location under subsection (2) of this section.

(5)(a) The Oregon minimum wage shall be adjusted for inflation as provided in paragraph (b) of this subsection.

(b) No later than April 30 of each year, beginning in 2023, the commissioner shall calculate an adjustment of the wage amount specified in subsection (1)(j) of this section based upon the increase, if any, from March of the preceding year to March of the year in which the calculation is made in the U.S. City Average Consumer Price Index for All Urban Consumers for All Items as prepared by the Bureau of Labor Statistics of the United States Department of Labor or its successor.

(c) The wage amount as adjusted under this subsection shall be rounded to the nearest five cents.

(d) The wage amount as adjusted under this subsection becomes effective as the new Oregon minimum wage amount, replacing the minimum wage amount specified in subsection (1)(j) of this section, on July 1 of the year in which the calculation is made.

**NOTE:** Deletes redundancies in (2)(h) and (3)(h).

**SECTION 53.** ORS 660.310 is amended to read:

660.310. For the purposes of the Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128), an individual enrolled in an alternative education program as provided by ORS 336.615 to [336.675] **336.665** may be considered to be an out-of-school youth.

**NOTE:** Corrects series citation.

**SECTION 54.** Notwithstanding any other provision of law, ORS 692.415 shall not be considered to have been added to or made a part of ORS chapter 413 for the purpose of statutory

**compilation or for the application of definitions, penalties or administrative provisions applicable to statute sections in that chapter.**

**NOTE:** Removes statute from inappropriate series.

**SECTION 55.** ORS 742.554 is amended to read:

742.554. When an insurer declares a motor vehicle a total loss and offers to make a cash settlement to an insured or third-party owner of the motor vehicle, the insurer shall provide the insured or third-party owner:

(1) Any valuation or appraisal reports relied upon by the insurer to determine value; and

(2) A written statement in a form provided by the Director of the Department of Consumer and Business Services that includes:

(a) Information about total loss, vehicle valuation and the duties of the insurer; and

(b) The manner in which and under what circumstances the insured may contact the [Insurance] Division of Financial Regulation of the Department of Consumer and Business Services.

**NOTE:** Updates name of division in (2)(b).

**SECTION 56.** ORS 743A.160, as amended by section 6, chapter 11, Oregon Laws 2016, is amended to read:

743A.160. A health insurance policy providing coverage for hospital or medical expenses, other than limited benefit coverage, shall provide, at the request of the applicant, coverage for expenses arising from treatment for alcoholism. The following conditions apply to the requirement for such coverage:

(1) The applicant shall be informed of the applicant's option to request this coverage.

(2) The inclusion of the coverage may be made subject to the insurer's usual underwriting requirements.

(3) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance.

(4) The policy may limit hospital expense coverage to treatment provided by the following facilities:

(a) A health care facility licensed as required by ORS 441.015.

(b) A health care facility accredited by the Joint Commission [on Accreditation of Hospitals].

(5) Except as permitted by subsection (3) of this section, the policy [shall] **may** not limit payments thereunder for alcoholism to an amount less than \$4,500 in any 24-consecutive month period and the policy shall provide coverage, within the limits of this subsection, of not less than 80 percent of the hospital and medical expenses for treatment for alcoholism.

**NOTE:** Corrects name of entity in (4)(b); updates word choice in (5).

**SECTION 57.** ORS 743A.168, as amended by section 7, chapter 11, Oregon Laws 2016, is amended to read:

743A.168. A group health insurance policy providing coverage for hospital or medical expenses, other than limited benefit coverage, shall provide coverage for expenses arising from treatment for chemical dependency, including alcoholism, and for mental or nervous conditions at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising from treatment for other medical conditions. The following apply to coverage for chemical dependency and for mental or nervous conditions:

(1) As used in this section:

(a) "Chemical dependency" means the addictive relationship with any drug or alcohol characterized by a physical or psychological relationship, or both, that interferes on a recurring basis with the individual's social, psychological or physical adjustment to common problems. For purposes of this section, "chemical dependency" does not include addiction to, or dependency on, tobacco, tobacco products or foods.

(b) "Facility" means a corporate or governmental entity or other provider of services for the treatment of chemical dependency or for the treatment of mental or nervous conditions.

(c) "Group health insurer" means an insurer, a health maintenance organization or a health care service contractor.

(d) "Program" means a particular type or level of service that is organizationally distinct within a facility.

(e) "Provider" means a person that:

(A) Has met the credentialing requirement of a group health insurer, is otherwise eligible to receive reimbursement for coverage under the policy and is:

(i) A health facility as defined in ORS 430.010;

(ii) A residential facility as defined in ORS 430.010;

(iii) A day or partial hospitalization program as defined in ORS 430.010;

(iv) An outpatient service as defined in ORS 430.010; or

(v) An individual behavioral health or medical professional licensed or certified under Oregon law; or

(B) Is a provider organization certified by the Oregon Health Authority under subsection (13) of this section.

(2) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance. Deductibles and coinsurance for treatment in health facilities or residential facilities may not be greater than those under the policy for expenses of hospitalization in the treatment of other medical conditions. Deductibles and coinsurance for outpatient treatment may not be greater than those under the

policy for expenses of outpatient treatment of other medical conditions.

(3) The coverage may not be made subject to treatment limitations, limits on total payments for treatment, limits on duration of treatment or financial requirements unless similar limitations or requirements are imposed on coverage of other medical conditions. The coverage of eligible expenses may be limited to treatment that is medically necessary as determined under the policy for other medical conditions.

(4)(a) Nothing in this section requires coverage for:

(A) Educational or correctional services or sheltered living provided by a school or halfway house;

(B) A long-term residential mental health program that lasts longer than 45 days;

(C) Psychoanalysis or psychotherapy received as part of an educational or training program, regardless of diagnosis or symptoms that may be present; or

(D) A court-ordered sex offender treatment program.

(b) Notwithstanding paragraph (a)(A) of this subsection, an insured may receive covered outpatient services under the terms of the insured's policy while the insured is living temporarily in a sheltered living situation.

(5) A provider is eligible for reimbursement under this section if:

(a) The provider is approved or certified by the Oregon Health Authority;

(b) The provider is accredited for the particular level of care for which reimbursement is being requested by the Joint Commission [*on Accreditation of Hospitals*] or the Commission on Accreditation of Rehabilitation Facilities;

(c) The patient is staying overnight at the facility and is involved in a structured program at least eight hours per day, five days per week; or

(d) The provider is providing a covered benefit under the policy.

(6) Payments may not be made under this section for support groups.

(7) If specified in the policy, outpatient coverage may include follow-up in-home service or outpatient services. The policy may limit coverage for in-home service to persons who are homebound under the care of a physician.

(8) Nothing in this section prohibits a group health insurer from managing the provision of benefits through common methods, including but not limited to selectively contracted panels, health plan benefit differential designs, preadmission screening, prior authorization of services, utilization review or other mechanisms designed to limit eligible expenses to those described in subsection (3) of this section.

(9) The Legislative Assembly has found that health care cost containment is necessary and intends to encourage insurance policies designed to achieve cost containment by ensuring that reimbursement is limited to appropriate utilization

under criteria incorporated into such policies, either directly or by reference.

(10)(a) Subject to the patient or client confidentiality provisions of ORS 40.235 relating to physicians, ORS 40.240 relating to nurse practitioners, ORS 40.230 relating to psychologists, ORS 40.250 and 675.580 relating to licensed clinical social workers and ORS 40.262 relating to licensed professional counselors and licensed marriage and family therapists, a group health insurer may provide for review for level of treatment of admissions and continued stays for treatment in health facilities, residential facilities, day or partial hospitalization programs and outpatient services by either group health insurer staff or personnel under contract to the group health insurer, or by a utilization review contractor, who shall have the authority to certify for or deny level of payment.

(b) Review shall be made according to criteria made available to providers in advance upon request.

(c) Review shall be performed by or under the direction of a medical or osteopathic physician licensed by the Oregon Medical Board, a psychologist licensed by the State Board of Psychologist Examiners, a clinical social worker licensed by the State Board of Licensed Social Workers or a professional counselor or marriage and family therapist licensed by the Oregon Board of Licensed Professional Counselors and Therapists, in accordance with standards of the National Committee for Quality Assurance or Medicare review standards of the Centers for Medicare and Medicaid Services.

(d) Review may involve prior approval, concurrent review of the continuation of treatment, post-treatment review or any combination of these. However, if prior approval is required, provision shall be made to allow for payment of urgent or emergency admissions, subject to subsequent review. If prior approval is not required, group health insurers shall permit providers, policyholders or persons acting on their behalf to make advance inquiries regarding the appropriateness of a particular admission to a treatment program. Group health insurers shall provide a timely response to such inquiries. Noncontracting providers must cooperate with these procedures to the same extent as contracting providers to be eligible for reimbursement.

(11) Health maintenance organizations may limit the receipt of covered services by enrollees to services provided by or upon referral by providers contracting with the health maintenance organization. Health maintenance organizations and health care service contractors may create substantive plan benefit and reimbursement differentials at the same level as, and subject to limitations no more restrictive than, those imposed on coverage or reimbursement of expenses arising out of other medical conditions and apply them to contracting and noncontracting providers.

(12) Nothing in this section prevents a group health insurer from contracting with providers of health care services to furnish services to policyholders or certificate holders according to ORS



743B.460 or 750.005, subject to the following conditions:

(a) A group health insurer is not required to contract with all providers that are eligible for reimbursement under this section.

(b) An insurer or health care service contractor shall, subject to subsections (2) and (3) of this section, pay benefits toward the covered charges of noncontracting providers of services for the treatment of chemical dependency or mental or nervous conditions. The insured shall, subject to subsections (2) and (3) of this section, have the right to use the services of a noncontracting provider of services for the treatment of chemical dependency or mental or nervous conditions, whether or not the services for chemical dependency or mental or nervous conditions are provided by contracting or noncontracting providers.

(13) The Oregon Health Authority shall establish a process for the certification of an organization described in subsection (1)(e)(B) of this section that:

(a) Is not otherwise subject to licensing or certification by the authority; and

(b) Does not contract with the authority, a subcontractor of the authority or a community mental health program.

(14) The Oregon Health Authority shall adopt by rule standards for the certification provided under subsection (13) of this section to ensure that a certified provider organization offers a distinct and specialized program for the treatment of mental or nervous conditions.

(15) The Oregon Health Authority may adopt by rule an application fee or a certification fee, or both, to be imposed on any provider organization that applies for certification under subsection (13) of this section. Any fees collected shall be paid into the Oregon Health Authority Fund established in ORS 413.101 and shall be used only for carrying out the provisions of subsection (13) of this section.

(16) The intent of the Legislative Assembly in adopting this section is to reserve benefits for different types of care to encourage cost effective care and to ensure continuing access to levels of care most appropriate for the insured's condition and progress. This section does not prohibit an insurer from requiring a provider organization certified by the Oregon Health Authority under subsection (13) of this section to meet the insurer's credentialing requirements as a condition of entering into a contract.

(17) The Director of the Department of Consumer and Business Services and the Oregon Health Authority, after notice and hearing, may adopt reasonable rules not inconsistent with this section that are considered necessary for the proper administration of this section.

**NOTE:** Corrects name of entity in (5)(b).

**SECTION 58. ORS 743B.120 is added to and made a part of ORS chapter 743A.**

**NOTE:** Adds statute to appropriate series.

**SECTION 59.** ORS 744.362 is amended to read:  
744.362. (1) With respect to each policy issued by an insurance company, the insurance company shall provide notice to the owner of an individual life insurance policy when the insured person under such a policy is 60 years of age or older and:

(a) The life insurance company receives notice from such an owner of a request to surrender, in whole or in part, an individual policy;

(b) The life insurance company receives notice from such an owner of a request to receive an accelerated death benefit under an individual policy; or

(c) The life insurance company sends to such an owner all notices of lapse of an individual policy, other than a term policy.

(2)(a) The notice must consist of the following statement in large, bold or otherwise conspicuous typeface calculated to draw the eye: "Life insurance is a critical part of a broader financial plan. There are many options available, and you have the right to shop around and seek advice from different financial advisers in order to find the option best suited to your needs."

(b) The communication of the notice must also contain a statement advising the recipient that the recipient may contact the [Insurance] Division of **Financial Regulation** of the Department of Consumer and Business Services for more information, and must include an address or other location or manner by which the recipient may contact the [Insurance] Division of **Financial Regulation**.

(c) The department shall adopt by rule the appropriate address or other location or manner of contact to be included in the required notice.

(3)(a) The Director of the Department of Consumer and Business Services shall make available to the public information designed to educate the consumer about the consumer's rights as an owner of a life insurance policy. The information must be written in lay terms and must advise the consumer:

(A) That life insurance is a critical part of a broader financial plan, and that the consumer is encouraged, and has a right, to seek additional financial advice and opinions;

(B) That possible alternatives to lapse exist; and

(C) Of the definitions of common industry terms.

(b) The information described in paragraph (a) of this subsection may include brief descriptions of common products available from licensees. These products must be discussed in general terms for informative purposes only, and not be identifiable to any specific licensee.

**NOTE:** Updates name of division in (2)(b).

**SECTION 60.** ORS 758.235 is amended to read:  
758.235. Unless otherwise provided by ORS 758.210 to 758.270, the provisions relating to the procedure for local improvements in cities, as set forth in ORS 223.205, 223.210 to 223.295, 223.387 to 223.399, 223.401, 223.405 to 223.485, 223.505 to 223.595, 223.610, 223.615 to 223.650[, 223.680] and 223.770, apply to proceedings for a conversion by a

city or county under ORS 758.210 to 758.270. In a proceeding conducted by a county, where the statutes referred to in this section refer to officials of cities, the corresponding officials of the county shall perform the required functions, unless otherwise provided by order of the county court or board of county commissioners. Cities and counties may, as provided by ORS 223.205 and 223.210 to 223.295, issue improvement bonds in the total amount of the

valid applications received to pay assessments in installments.

**NOTE:** Deletes unnecessary reference to statute allowing local governments to assist owners in financing energy improvements to real property.

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