



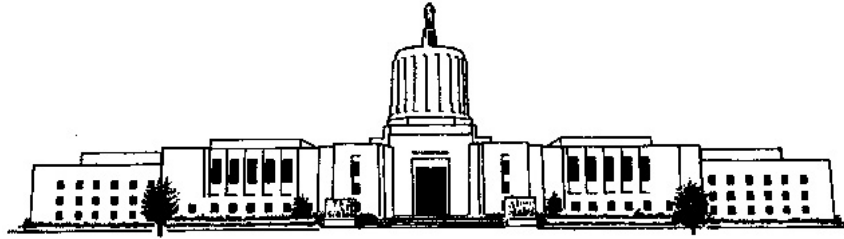
2021 LEGISLATIVE SUMMARY BRIEFS

81st Oregon Legislative Assembly

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LEGISLATIVE POLICY AND RESEARCH OFFICE





2021 LEGISLATIVE SUMMARY BRIEFS

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ABOUT THE LEGISLATIVE SUMMARY BRIEFS

The **Legislative Summary Briefs** highlight substantive changes to Oregon’s policy landscape based on measures considered during the 2021 legislative session. Each of the 18 individual briefs, organized by policy areas and subtopics, offers background information; describes measures’ intended effects, whether enacted or not; provides relevant legislative history; and relates measures, agencies, and programs by policy area.

Users may search the document for individual measures by keyword or measure number. For a complete list of measures that received a public hearing during the regular session, including bills, memorials, and resolutions, see LPRO’s 2021 Legislative [Summary](#) Reports.

The briefs focus on policy measures. Information on revenue measures is available on the Legislative Revenue Office [website](#). Information on the state budget is available on the Legislative Fiscal Office [website](#).

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BEHAVIORAL HEALTH



ACCESS TO SERVICES

Bills in the 2021 Legislative Session sought to increase consumer access to behavioral health services and access to prescription drugs.

In Medicaid, coordinated care organizations (CCOs) are required to provide and prioritize specified behavioral health services, however, mental health wellness appointments were not required by statute. [House Bill 2469](#) adds mental health wellness appointments to the list of behavioral health services a CCO must offer its members.

In 2020, the National Suicide Hotline Designation Act was signed into law to increase access to emergency mental health services. [House Bill 2417](#) establishes a program to provide grants to cities or funding to county community mental health programs to support mobile crisis intervention teams. The bill also requires the Oregon Health Authority (OHA) to report to the legislature its recommendations on policies and legislative changes needed to implement the National Suicide Hotline Designation Act of 2020 (also known as the 9-8-8 line) and establish a statewide coordinated crisis services system.

The Governor's Behavioral Health Advisory Council ([Council](#)) was established by Executive Order in October 2019 to develop recommendations aimed at improving access to effective behavioral health services and supports for all Oregon adults and transitional-aged youth with serious mental illness or co-occurring mental illness and substance use disorder. Based on the recommendations of the Council, [House Bill 2086](#) appropriates moneys to OHA programs that provide culturally specific services that are directly responsive to and driven by people of color, tribal communities, and people with lived experience.

Peer respite centers are voluntary, short-term programs where people seeking help for mental health struggles or substance use disorder can get

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See the **2021 Legislative Summary Report** for [Behavioral Health](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

help from trained peers who have lived experience with mental health and substance use disorder challenges. [House Bill 2980](#) requires OHA to provide funding to peer-run organizations in the Portland metropolitan area, southern Oregon, Oregon coast, and eastern and central Oregon regions to operate peer respite centers to provide services to individuals with mental illness or trauma response symptoms. The bill also requires that at least one peer respite center receiving funding participate in a pilot project designed specifically to provide culturally responsive services to historically underrepresented communities. Finally, the bill directs OHA to adopt criteria for operating peer respite centers that receive funding and to monitor compliance.

Consistent and affordable access to prescription mental health drugs for those who need them is recognized as an important piece of effective mental health treatment. The Mental Health Clinical Advisory Group was created in 2017 to "develop evidence-based algorithms for mental health treatments, including treatments with mental health drugs." [House Bill 3045](#) changes the sunset date requiring OHA to reimburse the cost of a mental health

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drug prescribed to a Medicaid enrollee from January 2022 to 2026. The measure prohibits OHA from requiring prior authorization for any mental health drug prescribed for a Medicaid enrollee if the claims history available to OHA shows the individual has been in a course of treatment with the drug during the last year.

CIVIL COMMITMENT AND JUDICIAL PROCEEDINGS

Civil commitment is a process in which a judge decides whether a person alleged to be mentally ill should be required to accept mental health treatment. Other judicial proceedings in behavioral health include a guilty except for insanity (GEI) verdict, and “aid and assist.” Aid and assist orders allow a judge to order a defendant who is not able to participate in their trial because of the severity of their mental illness to receive restoration treatment so that they can aid and assist in their own defense.

The “extremely dangerous person” standard is a specific classification for individuals subject to a civil commitment proceeding. The basis for the extremely dangerous person standard is a previously adjudicated or pending allegation of criminal conduct along with a “mental disorder that is resistant to treatment.” Under the previous law, [ORS 426.701](#) (2019), the courts did not have the authority to detain an individual who is alleged to be extremely dangerous while the civil commitment petition was pending. The Legislative Assembly changed this with the passage of [Senate Bill 205](#) which allows the court to order an individual to be committed to Oregon State Hospital or other secure mental health facility while a petition is pending.

In 2019, the Legislative Assembly passed [Senate Bill 24](#) (SB 24), which modified the fitness to proceed processes delineated in [ORS 161.365](#) (2019) and [ORS 161.370](#) (2019). Fitness to proceed is an examination of the defendant’s present capacity to understand the proceedings against them and their capacity to assist in their defense. Currently, courts are required to consider ordering rehabilitation services in the least restrictive setting possible or, when appropriate, find an alternative disposition for a defendant who does not require a hospital level of

care. On passage of SB 24, courts were also prohibited from committing to the state mental hospital individuals charged with violations, and individuals who committed misdemeanors to be admitted to a hospital level of care, only when necessary. The measure created the requirement for review hearings where the court must consider alternative placements and dispositions at seven-day intervals for any individual found to be unfit and placed in custody while awaiting services at the state mental hospital or in the community. In order to implement SB 24, the Legislative Assembly enacted [Senate Bill 295](#), which restructures the aid and assist statutes to effectuate the intent of SB 24, increasing the use of community-based services for competency restoration.

A declaration for mental health treatment allows a person to express their preferences for mental health treatment should the person become unable to communicate or effectively understand information to the extent that the person is unable to consent or object to mental health treatment. A person executing a declaration for mental health treatment can also appoint a health care representative to make decisions for them.

Previously, a physician or mental health provider could act contrary to the instructions in the declaration if the person had been civilly committed and treatment was done in accordance with state law. However, Oregon law did not include a provision for this under the extremely dangerous person standard. [Senate Bill 72](#) expanded this ability to allow a physician or mental health provider to act contrary to the treatment indicated in a declaration of mental health treatment for a person committed under the extremely dangerous person standard. The act requires the same criteria be met as for treatment of a person civilly committed and includes the cost of outpatient services within the calculation of current cost of care for persons who are or were at the Oregon State Hospital.

Several bills looked at the process of exiting a court-ordered hold. [Senate Bill 206](#) modifies the court-conditional release process by increasing required communication between parties, agencies, and organizations involved in the process. The act modifies requirements for the court in determining whether a person should be conditionally released,

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specifying when mental health consults and evaluations must be ordered by the court, and directs the Psychiatric Security Review Board to establish, by rule, standards for mental health consultations and evaluations. In an effort to clarify the adjudication of GEI cases, [Senate Bill 200](#) requires the district attorney in each county to develop and adopt written policies regarding cases involving a GEI defense.

STATE SYSTEMS

Oregon's behavioral health system is housed across multiple agencies and boards: OHA, Oregon Housing and Community Services, Oregon Department of Human Services, and the Oregon Department of Education. A 2020 [audit](#) from the Secretary of State's office identified data limitations and system fragmentation as challenges facing Oregon's behavioral health system. Several bills in the 2021 session looked at statewide systems that impact behavioral health.

In 2017, the Legislative Assembly passed [Senate Bill 860](#) which required that the Oregon Department of Consumer and Business Services [report](#) on commercial insurance pay parity between physical and mental health care services. The report found many insurers were out of compliance with payment parity. [House Bill 3046](#) requires commercial insurers to report on mental health parity requirements and specifies the types of behavioral health services that must be provided by CCOs and covered by group health insurance and individual health plans.

The Oregon Consumer Advisory Council ([OCAC](#)), housed in OHA, is comprised of consumers of mental health care who advise the Director of OHA on the provision of behavioral health services. Currently, members are appointed by OHA. [Senate Bill 721](#) (*vetoed*) would have authorized existing members of OCAC to select new members or to convene a seven-member subcommittee of current members to select new members. This bill was [vetoed by Governor Brown](#) in August 2021.

SUBSTANCE USE DISORDER RECOVERY AND PREVENTION

Substance use disorders (SUD) are a major public health concern for Oregon, particularly SUD treatment and prevention. Opioid addiction is an SUD issue for seniors. [Senate Bill 698](#) conditions an opioid treatment center's ability to legally operate based on their acceptance of Medicare reimbursement via rules adopted by OHA. Previously, there was no requirement that opioid treatment centers accept Medicare reimbursement, which prevented many older adults from accessing treatment.

The Alcohol and Drug Policy Commission ([ADPC](#)) was created by the Legislative Assembly in 2009 and charged with planning to fund and deliver effective drug and alcohol treatment and prevention services. In 2020, the ADPC released its strategic [plan](#), which includes a goal of identifying processes and resources to create, track, fund, and report on strategies for systems integration, innovation, and policy development. [House Bill 2313](#) (*not enacted*) would have directed OHA and the ADPC to inventory statewide resources available to address the inadequate recovery support resources available to prevent and treat substance use disorders. [House Bill 3377 A](#) (*not enacted*) would have established the Task Force on Substance Use with the goal of fully funding the addiction, prevention, and recovery plan for the ADPC through new and existing revenues.

Recovery Community Organizations, which are peer-operated and governed by local community members, are another tool for substance use recovery and are non-medical services. [House Bill 3111](#) (*not enacted*) would have required OHA to contract with at least four Recovery Community Organizations in different counties.

SUICIDE PREVENTION

According to OHA, suicide was the second leading cause of death among Oregonians age 10-24 in 2018. Over the last several years there have been a number of reports of suicides in children under the age of 10, however, the law defined youth suicide to only include those 10-24 years of age. The legislature changed this with [Senate Bill 563](#), which modifies laws relating

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to youth suicide intervention and prevention to include children 5 to 10 years of age.

Oregon law allowed physical and behavioral health providers to disclose health information of youths to parents or guardians when the risk of harm was serious; however, the law did not specify the conditions under which a disclosure was allowable. [House Bill 3139](#) clarifies the conditions and imposes requirements on providers to disclose certain health information to parents or guardians without a minor's consent to engage in critical safety planning when the risk of harm is serious and imminent.

Historically, there were no statutory requirements for health care and behavioral health professionals to complete suicide prevention continuing education. To increase the amount of on-going training providers and other professionals receive in suicide prevention, [House Bill 2315](#) requires licensees of certain regulatory boards and OHA to complete continuing education in suicide prevention.

An important public health practice for communities who have experienced a youth suicide is post suicide interventions. Local mental health authorities (LMHAs) have been required to engage in post suicide interventions, including working with community partners for information sharing and response since 2015. [House Bill 3037](#) now requires medical examiners and death investigators to notify LMHAs of suicides involving individuals 24 years of age or younger. The measure also allows these individuals to identify a decedent's educational institution or extracurricular activities if necessary, to protect public health. Lastly, the bill clarifies that OHA is responsible for developing uniform, statewide post suicide response protocols to be implemented at the local level in the aftermath of a youth suicide.

also found that unlicensed providers are the most racially and ethnically diverse segment of the workforce as compared to licensed providers and licensed prescribers. More recently, a 2021 workforce [report](#) from OHA shows that people of color comprise 13 percent of the licensed behavioral health provider workforce, and clinical social work associates are the most racially or ethnically diverse, with 26 percent being people of color.

To increase the behavioral health workforce and improve workforce diversity, [House Bill 2949](#) establishes a number of funding opportunities including: (1) incentives to increase the recruitment and retention of providers in the behavioral health care workforce who can provide culturally competent services; (2) grants to licensed behavioral health providers to provide supervised clinical experience to associates; and (3) grants to public or private organizations that employ licensed behavioral health providers to provide supervised clinical experience to associates.

[House Bill 2361](#) (*not enacted*) would have prioritized access to Oregon's health care provider incentive program for behavioral health providers serving Latino, Latina, and Latinx providers in Morrow, Malheur, Hood River, and Umatilla counties. [House Bill 2370](#) (*not enacted*) would have directed the Higher Education Coordinating Commission to assess mental health provider education programs in Oregon for the purpose of mapping the behavioral health programs in Oregon and identifying gaps in the workforce pipeline.

WORKFORCE

In 2018, OHA contracted with the Farley Health Policy Center to assess the behavioral health workforce in Oregon. They found that minority populations are underrepresented in all segments of the behavioral health workforce compared with the racial and ethnic demographics of the state's population. The [report](#)

Staff

Zoe Larmer, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro

BUSINESS AND CONSUMER PROTECTION



BUSINESS ASSISTANCE

The Legislative Assembly passed measures to focus business assistance and incentive programs on inclusivity. [House Bill 2266](#) creates two new programs that provide funding through Business Oregon to assist specified businesses: \$10 million for an award program to lending institutions for increasing lending to business owners who lack access to capital to start or grow their business, and \$10 million for a loan program to eligible businesses that are certified by the Certification Office for Business Inclusion and Diversity. [House Bill 3010](#) provides additional requirements for qualifying production companies to receive cash rebates through the Oregon Production Investment Fund (OPIF), including that the companies must have a written policy for diversity, equity, and inclusion, and must make a good faith effort to hire individuals from underrepresented groups. The OPIF offers qualifying film or television productions a 20 percent cash rebate on production-related goods and services paid to Oregon vendors and a 10 percent cash rebate of pay-rolled wages paid for work done in Oregon including both Oregon and non-Oregon residents.

COVID-19

Responses to the COVID-19 pandemic in 2020 included widespread closure of businesses, the imposition of capacity limits, and prohibitions on the on-premises consumption of food and drink. The ongoing impact of the pandemic on businesses drew the attention of the Legislative Assembly in 2021.

The Legislative Assembly extended both commercial and residential rent relief provided during the 2020 First Special Session by [House Bill 4213](#). [House Bill 2966](#) extended the grace period that was set to end on March 31, 2021 to September 30, 2021 for the repayment of any unpaid commercial rent that accrued during the declared emergency period in 2020.

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See the **2021 Legislative Summary Report** for [Business and Consumer Protection](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

With enactment of [House Bill 2009 \(HB 2009\)](#), homeowners were given an extension of the foreclosure moratorium and payment deferral protections that were provided in [House Bill 4204](#) enacted during the 2020 First Special Session. However, HB 2009 limited the protections to those who own five or fewer residential properties, with each property including no more than four residential dwellings. To receive the protections, homeowners must have notified their lender that they had lost income due to the COVID-19 pandemic. The emergency period for the extension initially ran from December 30, 2020, through June 30, 2021, with authority for the Governor to extend it twice in three-month increments. Governor Brown did extend the temporary protections twice, setting the final expiration date as December 31, 2021. The measure also lowered the threshold at which lenders are exempt from participating in the Foreclosure Avoidance Program. Prior to enactment of HB 2009, lenders who commenced fewer than 175 foreclosures in the prior year were exempt from participation. The

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threshold in 2021 and 2022 is now 30 foreclosures commenced in 2019; in 2023 and subsequent years, the threshold will be 30 foreclosures commenced in the prior year.

The Governor's authority to impose restrictions on eating and drinking establishments and indoor physical recreation and fitness establishments would have been limited by [House Bill 3177](#) (*not enacted*).

CONSUMER PROTECTION

Legislators considered several measures aimed at creating or strengthening consumer protections during the 2021 session. [Senate Bill 485](#) establishes licensure requirements through the Department of Consumer and Business Services (DCBS) for student loan servicers operating in Oregon. Beginning July 1, 2022, the measure creates duties and minimum service requirements for licensees, requires DCBS to establish an ombudsman to receive, review, and attempt to resolve borrower complaints, and grants DCBS broad authority to address violations, including denial or revocation of a license or the assessment of civil penalties.

The Legislative Assembly passed [House Bill 2646](#) (*vetoed*) which would have limited the sale of kratom products to individuals at least 21 years of age. The measure would have required all kratom products be registered with the Oregon Department of Agriculture and prohibited the sale of unregistered products. Governor Brown vetoed the measure, stating in a press release that she was concerned about the lack of an FDA-approved use for kratom products and that she "would entertain further legislation to limit youth access without the state agency regulatory function included in this bill."

"Right to Repair" consumer protections were contained in [House Bill 2698](#) (*not enacted*) (HB 2698). When certain home electronics break or malfunction, the consumer may face the choice of replacing it or paying for the repair services of a business authorized by the original manufacturer to make the repair. Attempting to repair the product at home or through a service not authorized by the original manufacturer may void the warranty, and the tools and instructions necessary to make the repair may not be available.

HB 2698 would have required original equipment manufacturers of consumer electronic equipment to make available to consumers and independent repair shops, at reasonable terms, access to the tools, parts, software, diagrams, and manuals needed to make repairs. The measure would have provided a private right of action, including class action, against original equipment manufacturers who failed to comply.

Oregon's Unlawful Trade Practices Act (UTPA) provides individuals with the right to sue for deceptive practices regarding the sale of real estate, goods, and services. Additional recovery powers are given to the Attorney General and district attorneys. The UTPA applies only to consumer purchases that are for the primary purpose of personal, family, or household use. In addition, the UTPA does not apply to insurance-related matters. [House Bill 3171](#) (*not enacted*) would have brought unfair insurance claims settlement practices under the UTPA. The measure would have allowed a prosecuting attorney to take action for violations of the UTPA only if the Director of DCBS first requested such action be taken.

Automobile insurance underwriters take into account information such as the applicant's age, vehicle, driving record, prior insurance coverage, credit history, and area of residence when preparing an insurance score used to help them decide whether to underwrite a policy and what premium to charge. Use of an applicant's or insured person's credit history is limited to specific circumstances. [House Bill 2043](#) (*not enacted*) would have limited the information motor vehicle liability insurers could use for setting rates to include only: safe driving history, miles driven, driving experience, and other information specified in rule. The measure would have prohibited the use of the following information when setting insurance rates: credit history, sex or gender, marital status, accidents in which applicant was not at fault, education, occupation, employment status, residential status, non-licensed household members, claims for personal injury protection benefits if applicant did not operate the vehicle, criminal history unless information was requested in the initial application, and certain license suspensions based on a nondriving offense.

Oregon law currently prohibits three provisions in life insurance policies. A life insurance policy may not:

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shorten the time in which an action may be brought to less than three years; take effect or purport to be issued more than six months before the original application for insurance was made; or forfeit the policy for failure to repay a loan on the policy when the total indebtedness is less than the loan value. [Senate Bill 45](#) adds an additional exclusion by prohibiting a life insurance policy from excluding coverage for loss of life that results from another person's act of terrorism.

ECONOMIC DEVELOPMENT

To assist with economic development, the Legislative Assembly created programs aimed at specific areas in the state. [House Bill 2345](#) establishes the Oregon Rural Capacity Fund and requires the Oregon Business Develop Department to distribute funds to assist rural jurisdictions learn about, apply for, and manage funding opportunities that support workforce, infrastructure, economic development, and community development. [House Bill 2518](#) aims to facilitate the cleanup and development of areas burdened by contamination by establishing a forgivable loan program to reimburse certain costs incurred by a property owner related to the remediation of brownfields. Brownfields are defined by state and federal law and describe real property where expansion or development is complicated by the actual, potential, or perceived threat of environmental contamination.

FINANCE

[House Bill 2743](#) (*not enacted*) would have allowed municipalities to establish a municipal bank through the adoption of an ordinance or resolution. The local government would have been prohibited from becoming a stockholder in, or loan its credit to or in aid of, a municipal bank. The municipal bank would not be required to obtain deposit insurance from the Federal Deposit Insurance Corporation.

INSURANCE

[House Bill 2377](#) provides a process to claim the insurance assets held by or on behalf of a dissolved

corporation or limited liability company. Informed by the cleanup efforts at the Portland Harbor Superfund Site, the measure is intended to provide access to the insurance assets of entities that statutorily dissolved but were partly responsible for the pollution of a site so that remediation of the site can occur more quickly.

The personal injury protection (PIP) benefits of a motor vehicle liability policy provide payment for certain expenses, loss of income, and loss of essential services to the insured person, members of the person's family or household, passengers in the insured's vehicle, and pedestrians struck by the insured's motor vehicle. PIP benefits are required as part of the motor vehicle liability policy for private passenger motor vehicle policies; however, such requirements do not apply to vehicles used for "public or livery conveyance." [House Bill 2393](#) requires taxi companies and transportation network companies (e.g., Uber and Lyft) to provide a motor vehicle liability policy with PIP benefits to each driver who operates a taxi or personal motor vehicle in affiliation with the company and specifies that the coverage applies to the driver, any passengers, and any pedestrians struck by the vehicle or taxi.

The September 2020 wildfires destroyed more than 4,000 homes across eight counties, as reported by *The Oregonian*. Despite having insurance coverage, some homeowners found that they had purchased coverage that was insufficient or that required rebuilding on the same property and within a one-year timeframe. At least 28 insurers agreed to allow policyholders at least two years to rebuild or replace damaged property. [House Bill 3272](#) requires insurers to provide a minimum of 24 months of additional living expenses, subject to policy limits, and time to repair, rebuild, or replace property if the property is in a location that was subject to a declared state of emergency. The measure requires an additional 12 months if the policyholder encounters unavoidable delays and prohibits an insurer from denying or limiting payment if the policyholder rebuilds in a new location or purchases an existing structure when the insured structure was a total loss. Though the provisions will not help those who suffered losses during the September 2020 wildfires, they will apply to policies issued or renewed on or after June 11, 2021.

REAL ESTATE

The Legislative Assembly passed several measures related to fair housing law implementation. In real estate property transactions, [House Bill 2550](#) requires a seller's agent to reject non-customary communications (e.g., love letters), specifically those that reveal personal information about the prospective buyer. The measure seeks to avoid the potential for unlawful selection of a buyer based on race, color, religion, sex, sexual orientation, national origin, marital status, or familial status.

Two measures passed in the session that add education requirements for licenses involved in real estate transactions. [House Bill 2703](#) requires real estate licensees to complete at least three hours of real estate education on state and federal fair housing laws prior to renewing or reactivating a license. [House Bill 2007](#) expands continuing education requirements for mortgage loan originators to include information on implicit bias and racial bias.

GENERAL BUSINESS POLICY AND LICENSING

The Legislative Assembly considered establishing membership requirements for directors on the board of publicly traded corporations located in Oregon. [House Bill 3110 A](#) (*not enacted*) would have required the boards of publicly traded Oregon companies to have at least one female director and one director who is a member of an underrepresented community by January 1, 2024.

Entering into a franchise agreement is a common path to becoming a small business owner. While franchisors must make certain required disclosures to potential franchisees, current Oregon law does not otherwise regulate small business franchise agreements. This contrasts with areas such as motor vehicles, motor fuels, and recreational vehicles where statutory requirements address issues such as successor and transfer rights, rights upon termination or cancellation, and prohibited franchise conditions. [House Bill 2946](#) (*not enacted*) would have provided many similar conditions on all other types of franchise agreements to protect the investment made by the small business franchisees.

Oregon statutes generally sanction the disposition of human remains either through cremation or leaving the body whole for burial or entombment. Hydrolysis uses water, pressure, an alkaline agent, and relatively lower heat than cremation to reduce the human remains to bone fragments and essential elements. Natural organic reduction uses straw, wood chips, and other natural materials to convert the human remains to soil. [House Bill 2574](#) clarifies that disposition of remains may also occur through alternative authorized processes such as hydrolysis, natural organic reduction, and any other process approved by the Oregon Mortuary and Cemetery Board. The measure requires practitioners to obtain a certificate of authority from the Board to operate an alternative disposition facility.

UTILITIES

The Legislative Assembly considered multiple measures to encourage broadband access and affordability in the state. [House Bill 2411](#) allows telecommunications providers to coordinate with the Oregon Department of Transportation for the installation of broadband within specified Statewide Transportation Improvement projects. [House Bill 2654](#) provides a process by which an electric cooperative may use or allow for use certain existing electric easements by broadband service providers for broadband services.

Broadband bill payment assistance of up to \$16.25 per month is currently available to low-income Oregon households through a joint state and federal program administered by the Oregon Public Utility Commission. The Legislative Assembly considered establishing a Low Income Broadband Bill Payment Assistance Fund to provide additional broadband bill payment assistance to low income households in [Senate Bill 615](#) (*not enacted*).

Staff

W. Cummings, T. Larson, J. Nordland
Legislative Analysts

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

CIVIL LAW



CIVIL ACTIONS

Civil Liability

Private schools in Oregon are subject to some, but not all, of the student safety-related statutes required for public schools. Public school districts must have a policy on sexual harassment that applies to the district's students and staff. Private schools are not required to have a policy or follow procedures for sexual harassment of students or staff. However, educators in private schools are mandatory reporters of abuse and must follow statutes outlining reporting and investigation of sexual conduct of an adult towards a child. [Senate Bill 197](#) allows a person to bring an action in court seeking to compel a private school to comply with the statutory requirements on teen dating violence, sexual harassment, and reporting of suspected child abuse or sexual conduct. The court order may specify requirements for showing compliance. If the school did not meet those requirements, the measure allows a student or parent to bring a private right of action against the private school for its failure to comply with the court order.

The Oregon Tort Claims Act makes public bodies liable for the torts of its officers, agents, and employees acting within the scope of their duties but limits the amount of damages that can be awarded against the public body. Claims against a state body, for claims arising between July 1, 2020 and July 1, 2021, are currently capped at \$2.3 million for single claimants and \$4.6 million for all claims arising out of an occurrence. Claims against local governments are capped at approximately \$770,000 for single claimants and \$1.5 million for all claims arising out of an occurrence. The caps increase each year based on changes to the Consumer Price Index. In its original form, [House Bill 2204](#) (HB 2204) would have increased the cap for damages against state and local governments for claims against public safety officers to \$5 million for single claimants and unlimited for all claims arising out of an occurrence and would have allowed an award of attorney fees to prevailing plaintiffs.

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See the **2021 Legislative Summary Report** for [Civil Law](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

The enrolled version of HB 2204 is described in the Civil Rights and Reparations section of this brief on [pg. 3](#).

The Legislative Assembly considered enacting a version of a Private Attorneys General Act (PAGA). The state of California enacted a PAGA in 2004, which allows an employee to file a claim with a state alleging violation of labor laws, and if the state does not provide notice that it will undertake an investigation, the individual may bring a claim against the employer directly on behalf of themselves or others. [House Bill 2205](#) (*not enacted*) would have created a process for private individuals and organizations to bring public enforcement actions on behalf of and in the name of the State of Oregon for violations of statute or rule for which a state official has the power to enforce.

On March 8, 2020, Governor Brown declared a state of emergency due to COVID-19 infections. In response to the COVID-19 emergency, various government entities at state, local, and federal levels, issued guidance and orders directing social distancing and methods for slowing the spread of coronavirus infections. [House Bill 2638](#) (*not enacted*), would have offered liability protection for damages caused by a person acting in reasonable compliance with the COVID-19 guidance applicable to the person's

business or professional services, but not for actions unrelated to COVID-19 or for those taken in gross negligence, recklessly, wantonly, or intentionally. The measure also did not provide liability protection for workers' compensation claims, fraud, or false claims brought on behalf of the state.

[House Bill 2571](#) requires the Oregon Department of Consumer and Business Services, in consultation with industry groups, to study liability for prescribed fires and report by July 1, 2022. The study must examine the accessibility of insurance coverage for prescribed fires and barriers to increasing accessibility to insurance coverage. The study must also examine the standards for liability, whether negligence or gross negligence, and whether states that have shifted from one standard to another observed a shift in the use of prescribed fire.

Immigration

Respondents appearing in Immigration Court do not have a right to counsel, as it is categorized as a civil process. Unrepresented respondents are almost five-and-a-half times more likely to lose their deportation case than those who have an attorney. [House Bill 3230](#) (*not enacted*) would have created a statewide universal representation program to provide for specified immigration services, including legal services.

Oregon law prohibits any law enforcement agency of the State of Oregon or any political subdivision of the state from using agency moneys, equipment, or personnel for the purpose of detecting or apprehending persons whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws. This prohibition is frequently referred to as Oregon's Sanctuary law and was signed into law in July of 1987. [House Bill 3265](#) creates additional restrictions and clarifies certain existing restrictions on the use of public resources to assist in the enforcement of federal immigration laws and arrests of individuals based on violations of immigration laws.

Other Civil Actions

Federal law requires that protection orders issued by other states, Indian tribes, or territories be given full faith and credit, meaning they must be recognized and enforced as though the order had been issued in the

enforcing jurisdiction. In Oregon, these orders are called "foreign restraining orders" ([ORS 24.190 \(2019\)](#)). U.S. Attorney for the District of Oregon, Billy J. Williams, and Oregon Attorney General Ellen Rosenblum, jointly issued Official Guidance for Enforcement of Tribal Protection Orders/"Foreign Restraining Orders" in January 2020, concluding that it was critical that "any gaps or obstacles that prevent adequate and appropriate enforcement [of tribal protection orders] from happening across the state or in individual jurisdictions be addressed and resolved." [Senate Bill 183](#) is the Legislative Assembly's response, establishing a statewide process for a party seeking enforcement of an order or judgment of a tribal court of record or a federally recognized Indian tribe and includes any judgment, decree, or order of those courts as a "foreign judgment."

CIVIL RIGHTS AND REPARATIONS

The Create a Respectful and Open World for Natural Hair (CROWN) Act prohibits discrimination based on hairstyle and texture and was first enacted in California in 2019. Oregon prohibits school and workplace discrimination based on race, but the applicable definitions did not explicitly include hair type, texture, or style. The Legislative Assembly clarified that with [House Bill 2935](#), which prohibits discrimination based on physical characteristics including hair type, texture, and style within the definition of race in school discrimination policies, interscholastic organization activities, and in unlawful employment practices. The measure also prohibits school or employer dress codes or policies from disproportionately impacting members of a protected class.

[Senate Joint Memorial 4](#) urges Congress to pass [House Resolution 40](#), which establishes the Federal Commission to Study and Develop Reparation Proposals for African-Americans Act. Under the Act, the commission would examine slavery and discrimination in the colonies and the United States from 1619 to the present and recommend appropriate remedies. The Legislative Assembly considered two measures focused on state reparations. [Senate Bill 618](#) (*not enacted*) would have directed the Department of Administrative Services to study methods of providing reparations for slavery to Black

Oregonians while [Senate Bill 619](#) (*not enacted*) would have directed the Department of Revenue to establish a program to pay reparations to Black Oregonians who can demonstrate heritage in slavery.

Restorative Justice programs are an alternative approach to the traditional criminal justice processes. Restorative Justice is a community response to crime and other misconduct that focuses on addressing the harms done to victims and communities by holding offenders meaningfully accountable for their offenses. Examples of restorative justice practices include victim and offender dialogue meetings, restorative community service, and restorative community panels or boards.

The Justice Reinvestment Program is one approach Oregon has taken to spending resources with the goals of reducing recidivism while also decreasing prison use, protecting the public, and holding offenders accountable. [House Bill 2204](#), as adopted by the Legislative Assembly, directs the Oregon Criminal Justice Commission to establish a program to award grants to public and private entities for restorative justice programs and to adopt rules and convene an advisory committee to administer the grant program.

The Legislative Assembly considered [Senate Bill 499](#) (*not enacted*), which would have allowed a person to recover financial compensation if convicted of a felony and imprisoned, and later the conviction was reversed or vacated or the person received a grant of pardon on the grounds of innocence. Thirty-five states, the federal government, and Washington, D.C. allow for compensation for those who have been wrongfully convicted.

While Oregon has a variety of organizations and services for its immigrant communities, there is currently no statewide strategy. According to the American Immigration Council, one out of every 10 Oregonians is foreign-born, and one of every nine Oregon residents is a native-born American who has at least one immigrant parent. [Senate Bill 778](#) establishes the Office of Immigrant and Refugee Advancement to operate a statewide immigration and refugee integration strategy, which includes partnering with existing immigrant and refugee programs, collecting data on immigrant and refugee

populations in Oregon and their needs and being involved in the legislative process at the state and federal levels.

In February 2006, the Governor's Taskforce on Equality in Oregon was established by Executive Order No. 06-03 to study whether changes to Oregon law were necessary to guarantee that Oregonians are protected from discrimination in employment, housing, public accommodations, and other opportunities, regardless of sexual orientation or gender identity. Based on the Taskforce's recommendations, the Legislative Assembly enacted the Oregon Equality Act (also known as [Senate Bill 2](#)) in 2007, a law to protect lesbian, gay, bisexual and transgender (LGBT) people from discrimination. [House Bill 3041](#) builds on this and adds "gender identity" to all statutes that reference "sexual orientation," and expands certain protections relating to real property to include gender identity.

Constitutional Law

The 13th amendment to the United States Constitution provides that "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction." Although slavery was formally abolished in the United States in 1865 after the Civil War, new criminal offenses known as "Black codes," were created to criminalize formerly enslaved Blacks, thereby ensuring their freedom would be limited and they could continue to be used as cheap labor.

The 13th amendment also allows companies to use prison labor programs for free or cheap labor, which are considered by some as a means of promoting trade skills and rehabilitation. Lawmakers in Washington, D.C. and in several states have pushed to remove what is known as the slavery loophole. [Senate Joint Memorial 2](#) urges Congress to remove the "punishment" clause from the 13th amendment which allows slavery or involuntary servitude to be punishment for a crime.

Similarly, Section 34, Article I of the [Oregon Constitution](#) states, "There shall be neither slavery, nor involuntary servitude in the State, otherwise than as a punishment for crime, where of the party shall

have been duly convicted.” Several states have removed or have begun the process to remove similar language from their constitutions, including Colorado, Nebraska, and Utah. The Legislative Assembly adopted [Senate Joint Resolution 10](#), which proposes to voters an amendment to the Oregon Constitution to remove language allowing slavery and involuntary servitude in all circumstances, including as punishment for a crime, while clarifying that a convicted person may still be ordered by a court or probation or parole agency to engage in alternatives to incarceration as a part of their sentencing.

Rights of Homeless Persons

In 2019, the Circuit Court of Appeals in *Martin v. Boise* (920 F. 3d 584) held that the government cannot criminalize certain conduct, such as lying, sitting, or sleeping on the streets, that is unavoidable as a result of homelessness. Some localities in Oregon have enacted regulations for managing the use of public spaces. [House Bill 3115](#) requires local laws on outdoor public spaces to be reasonable with regards to persons experiencing homelessness and creates an affirmative defense to an alleged violation of a local law that the law is not objectively reasonable. The measure also allows persons experiencing homelessness to file suit for relief to challenge the objective reasonableness of local laws. It does not create a right of action for monetary damages; however, it does authorize the court, under certain circumstances, to award attorney fees to a prevailing plaintiff.

A related homelessness bill, [House Bill 2367](#) (*not enacted*) would have established the Oregon Right to Rest Act, giving homeless persons specific rights and aiming to decriminalize homelessness. It would also have created an affirmative defense to certain civil and criminal charges related to occupying public spaces and would have allowed a complaint alleging unlawful practice to be filed with the Bureau of Labor and Industry.

EMPLOYMENT, BUSINESS, AND LABOR REGULATION

The Legislative Assembly passed [Senate Bill 576](#) (Kaylee’s Law) during the 2019 legislative session to distinguish the appearance, equipment, and

authorities of campus public safety providers and certified law enforcement and private security providers. [Senate Bill 116](#) makes it unlawful for a private security provider or an entity that employs private security providers to possess or use equipment, vehicles, uniforms, or titles that imply that the provider or entity is affiliated with a public or private safety agency as defined in [ORS 181A.355](#) (2019).

Judicial marshals have the authority of police officers and are certified by the Department of Public Safety Standards and Training (DPSST). However, prior to the enactment of [Senate Bill 297](#) (SB 297), judicial marshals were not considered police officers for purposes of the Public Employees Retirement System (PERS). SB 297 includes certified judicial marshals within the definition of police officer in PERS.

The DPSST, in consultation with the Board on Public Safety Standards and Training, currently regulates just over 20,000 providers of private security services through the issuance and removal of licensure. [House Bill 2527](#) amends the licensure requirements of private security entities and provides a process for obtaining licensure, including an investigation by DPSST into the character, competency, and reliability of the applicant.

[Senate Bill 768](#) (SB 768) updates the statutes governing attorneys, the practice of law, and the Oregon State Bar. Prior to enactment of SB 768, a person seeking to lawfully practice law in Oregon was required to pass the Oregon Bar exam. SB 768 authorizes the Supreme Court to adopt rules on admission of individuals with substantial legal education as associate members of the Bar without taking the exam.

[House Bill 3284](#) (HB 3284) provides protection for consumer data gathered by applications designed to trace the spread of COVID-19. HB 3284 prohibits covered entities from collecting, using, or disclosing a person's data related to exposure, infection, or other information related to COVID-19 without the individual's affirmative express consent.

FIDUCIARY AND PROTECTIVE PROCEEDINGS

Legislation passed during the 2021 regular session related to fiduciary and protective proceedings include measures concerning the appointment of guardians and other representatives.

[Senate Bill 182](#) provides that a petition for dissolution, separation, or annulment of a marriage by one partner prohibits the other partner from acting under authority of a power of attorney, health care representative under an advance directive, or attorney-in-fact under a declaration for mental health treatment and revokes the authority under those documents when the dissolution or annulment is complete. The measure also clarifies liability protection for spouses when property is held in certain trusts and specifies the process an attorney must use when destroying wills.

In 2019, the Legislative Assembly required notice of the appointment of a guardian to be sent by the newly appointed guardian to a list of interested persons, including the protected person. [Senate Bill 190](#) specifies the process for notice in these cases, including requiring the notice to be delivered in a manner reasonably calculated to be understood by the protected person. The guardian must then report back to the court, within 30 days, on the date, time, and method of giving notice to the protected person.

Prior to enactment of [Senate Bill 418](#) (SB 418), Oregon statutes did not limit a law enforcement officer's authority to use false information during the custodial interview of a minor. SB 418 establishes that a statement made by a minor during a custodial interview conducted by a peace officer, related to a misdemeanor or felony crime, is presumed to be involuntary if the peace officer intentionally used information known by the officer to be false to elicit the statement.

Special Immigrant Juvenile (SIJ) status is a type of lawful permanent residency for persons who meet the federal statutory requirements, which includes that the person be under age 21, not married, currently living in the U.S., and have a valid state court order that finds the person is a dependent of the court or in the custody of a state agency, department, or individual or entity appointed by the court; who cannot be reunified with one or both parents because of abuse,

abandonment, or neglect; and that it is not in the best interest of the person to be returned to the country of nationality or last residence. [Senate Bill 572](#) creates a new category of persons for whom a guardian may be appointed, called a "vulnerable youth," which is a person between the ages of 18 and 21 who is eligible for classification as a special immigrant juvenile and who cannot be reunified with one or more parent due to abuse, neglect, or abandonment that occurred when the person was a minor. Additionally, the youth must consent to the guardianship and it must be designed to encourage the youth's self-reliance and independence.

[Senate Bill 578](#) creates a three-county pilot program to provide counsel for proposed protected persons or persons already under guardianship when the person requests counsel, an objection is made or filed, the court visitor recommends counsel, or the court deems the person needs counsel. If the estate of the person cannot pay the attorney fees for representation, then costs of representation shall be at state expense through the Office of Public Defense Services.

PROBATE AND ESTATES

Oregon law requires several forms or documents to be executed or acknowledged in the presence of a witness to be effective. [Senate Bill 220](#) provides that remote attestation of documents and forms may be allowed if the person's identification is provided to a satisfactory level and all requirements are followed. The requirements include that the parties be in electronic communication in real time, and they complete a declaration of remote attestation under penalty of perjury. Remote attestation under this measure cannot be used for execution of wills, documents requiring notarial acts, or the witnessing of signatures on petitions.

Staff

A. Fender-Sosa, G. Fischer, M. Lantz
Legislative Analysts

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

CONTROLLED SUBSTANCES



ALCOHOL

The legislature enacted measures designed to support Oregon's alcohol industry. [Senate Bill 317](#) combined with [Senate Bill 806](#) allows full on-premises sales liquor license holders to sell and deliver mixed drinks and single servings of wine in a sealed container for off-premises consumption. The measure permanently codifies the temporary authorization adopted in [Senate Bill 1801](#) (2020 Third Special Session). [Senate Bill 406](#) expands the amount of wine that a direct shipment permit holder may ship to an Oregon resident from two to five cases per month.

[House Bill 2740](#) creates a compensation schedule for Oregon Liquor Control Commission (OLCC) retail sales agents that calculates compensation based on annual sales, location, and other defined wage increases. [House Bill 2742](#) allows the holders of off-premises sales licenses to sell kegs beginning January 1, 2022. Holders of a temporary sales license can now serve and sell regulated beverages at up to three separate premises and more than one location at each licensed premise under a single permit for up to 30 days with the enactment of [House Bill 2363](#).

[House Bill 2264](#) makes several changes to the state's regulation of alcohol. The measure subjects hard seltzers to the state's malt beverage privilege tax of \$.08 per gallon, a significant reduction from the current wine privilege tax of \$.67 per gallon. It increases the threshold for the additional \$.10 per gallon dessert wine tax from 14 percent alcohol by volume (ABV) to 16 percent ABV. For individuals purchasing alcoholic beverages, identification issued by a Canadian territory or province is now an acceptable form of identification. Nonprofits and charitable organizations registered in the state can sell alcoholic beverages for up to 45 days in a calendar year without a license, and certain license holders can sell or deliver factory-sealed containers of malt beverages, wine, and cider without requiring a direct shipper permit.

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- [Recreational Cannabis](#)
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- [Ballot Measure 110 Implementation](#)
- [Kratom](#)

See the **2021 Legislative Summary Report** for [Controlled Substances](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

OREGON MEDICAL MARIJUANA PROGRAM

The 2021 Legislative Assembly enacted several measures designed to reduce barriers to participation in the Oregon Medical Marijuana Program (OMMP). Effective January 1, 2022, [Senate Bill 307](#) waives the annual OMMP registration fee for veterans with a total disability rating of at least 50 percent as result of injury or illness incurred or aggravated during active military service and who received discharge or release under other than dishonorable conditions.

Beginning in 2022, [House Bill 3369](#) (HB 3369) expands the list of medical providers who can discuss the use of medical cannabis with patients and provide the medical documentation required for OMMP participation. HB 3369 also prohibits regulatory boards from taking discipline against a licensed provider for advising on the medical use of cannabis or issuing documentation for OMMP applications.

The Legislative Assembly also considered, but declined to enact, [Senate Bill 758](#) (*not enacted*), a measure brought on behalf of patient advocates which would have granted OMMP member benefits to patients with out-of-state medical marijuana patient

Cards. The measure also would have required retailers and dispensaries to publish terpene testing results for products, and established cybersecurity protection requirements for the Oregon Health Authority to protect patient information.

RECREATIONAL CANNABIS

The recreational cannabis industry also underwent changes, starting with the name of its primary regulatory agency. [House Bill 2111](#) changes the agency's name (but not acronym) from the "Oregon Liquor Control Commission" to the "Oregon Liquor and Cannabis Commission" (OLCC). Agency staff who enforce the state's regulatory marijuana laws are now also included in the definition of "peace officer" for the purpose of administering the state's criminal laws under [Senate Bill 808](#). The measure expanded an existing definition which was limited to agency staff who enforce the state's regulatory alcohol laws.

[Senate Bill 408](#) enacted a series of regulatory reforms developed by industry stakeholders in conjunction with the OLCC. The measure makes several regulatory changes to support Oregon's cannabis industry, including:

- limiting the conditions under which the OLCC may take action against a licensee;
- allowing for easier transfer of product between licensees with common ownership, reduced requirements for marijuana delivery manifests, agency rulemaking to allow for greater plant diversity through the delivery and receipt of seeds;
- doubling the concentration limit of tetrahydrocannabinol (THC) in cannabinoid products, concentrates, or extracts to 100 milligrams;
- doubling the possession limit for adults from one to two ounces of usable marijuana in a public place; and
- reducing the use of plastics by removing usable marijuana from the list of regulated products that must be packaged in child-resistant safety packaging--a requirement which has resulted in wide-scale use of plastics in Oregon's cannabis industry.

Home deliveries might become more competitive for consumers and available to Oregonians in amenable "dry" cities and counties under [House Bill 2519](#). Effective September 25, licensed retailers may make deliveries into an adjacent city or county if allowed by that jurisdiction.

HEMP

The Legislative Assembly was introduced to a new cannabinoid during the 2021 session now regulated after the enactment of [House Bill 3000 \(HB 3000\)](#). Delta-9 THC has properties similar to Delta-8 THC, the primary intoxicant in cannabis. Because Delta-9 can be extracted from hemp, it currently falls outside the regulatory framework for cannabis. The popularity of a non-regulated THC has led hemp growers to begin operation in Southern Oregon. HB 3000 now defines Delta-9 as an adult-use cannabinoid and may only be sold by licensed retailers to adults at least 21 years of age. The Oregon Department of Agriculture (ODA) and OLCC are currently inspecting hemp operations in the state to verify compliance with the THC concentration requirements, and state tracking requirements apply to a wider range of cannabinoid products intended for human consumption. HB 3000 also created the Task Force on Cannabis-Derived Intoxicants, which must provide recommendations on regulations for intoxicating cannabis items no later than December 31, 2021.

BALLOT MEASURE 110 IMPLEMENTATION

Oregon voters enacted [Ballot Measure 110](#) in 2020, decriminalizing the possession of small amounts of controlled substances, financing a Treatment and Recovery Services Fund primarily using recreational marijuana tax revenues, and establishing the Oversight and Accountability Council (OAC), under the auspices of the Oregon Health Authority (OHA), to oversee administration of the fund and disbursement of grants to increase access to behavioral health care. [Senate Bill 755](#) modified the implementation of Ballot Measure 110 by clarifying the administration of criminal provisions, requiring each county to establish a Behavioral Resource Network to provide specified

treatment services and clarifying the role and duties of the OAC and OHA in administering treatment and recovery programs.

KRATOM

Processed from trees native to Southeast Asia, kratom can produce stimulant effects in low doses and sedative effects in high doses. While the U.S. Drug Enforcement Administration (DEA) warns kratom users are at risk of addiction, abuse, and dependence, the substance is not currently regulated by state or federal government. The Legislative Assembly enacted [House Bill 2646](#) (*vetoed*) which would have limited the sale of kratom products to individuals at least 21 years of age. The measure would have required all kratom products be registered with the Oregon Department of Agriculture and prohibited the sale of unregistered products. On August 6, 2021, Governor Brown vetoed the measure stating in a [press release](#) that she was concerned about the lack of an approved use for kratom products by the United States Food and Drug Administration (FDA).

Staff

Tyler Larson, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro

COURTS



In 2020, the Supreme Court of the United States in [Ramos v. Louisiana](#), 140 U.S. 1390 (2020), found that guilty verdicts in criminal cases must be a unanimous jury verdict. Separately, the Oregon Supreme Court found in [Busch v. McInnis Waste Systems, Inc.](#), 366 Or. App. 628 (2020) that the statutory cap on the amount of noneconomic damages that could be awarded to an injured party in a bodily injury case deprived the party of their right to a remedy under Article I, Section 10 of the Oregon Constitution. [Senate Bill 193](#) makes statutory revisions in response to these two court decisions. First, it updates [ORS 136.450](#) (2019) to require the unanimous agreement of jurors for a verdict of guilty and the concurrence of at least 10 of 12 jurors for a verdict of not guilty. The measure also removes the statutory cap on noneconomic damages for claims for bodily injury but retains the cap on noneconomic damages for wrongful death claims.

The Legislative Assembly separately considered what factors a court must weigh when awarding attorney fees for a case. Currently a court must consider several factors, including the time required for the representation and the novelty and difficulty of the questions involved, the likelihood that the representation would keep the attorney from taking other cases, the customary fee in the geographic area for similar legal services, and several other factors. [Senate Bill 181](#) requires courts to also consider whether an attorney provided legal services on a pro bono basis or whether the award of attorney fees promotes access to justice.

[Senate Bill 218](#) expands the types of cases for which a court may defer further proceedings and places the person on probation, upon motion of the district attorney and without entering a judgment of guilt, to include any misdemeanors previously prohibited by statute and Class C felonies, if the defendant has been accepted into specialty court.

Currently, implied consent hearings are conducted by telephone or other electronic communication, unless a person or police officer requests that the hearing be conducted in person. In addition, unless there is an agreement between the person and the Oregon Department of Transportation (ODOT) that the hearing be held elsewhere, the hearing must be held either in the county where the alleged offense occurred or within 100 miles of where the alleged offense occurred, as determined by ODOT in rule. These limitations became highlighted because of COVID-19. In response, the Legislative Assembly passed [House Bill 3176](#), which allows the chief administrative law judge to require an implied consent hearing be conducted by telephone or other electronic communication when the judge determines that an in-person hearing would pose a significant risk to health or safety.

See the **2021 Legislative Summary Report** for [Courts](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

Staff

Amie Fender-Sosa, Legislative Analyst
Gillian Fischer, Legislative Analyst
Michael Lantz, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

CRIMINAL JUSTICE



CRIMES

In 2009, the Legislative Assembly amended ORS 163.412, the crime of sex abuse in the second degree, to provide increased penalties for certain sexual abuse committed by a person who was the victim's coach at the time of the abuse. [Senate Bill 649](#) further amends the statute to provide those same increased penalties for the crime of sex abuse in the second degree for certain sexual abuses committed against a minor when the defendant is the victim's teacher.

[Senate Bill 752](#) (SB 752) provides legislative clarification of existing law after a recent Court of Appeals decision. In [State v. Haltom](#), the court held that the "does not consent" element of second-degree sexual abuse under [ORS 163.425\(1\)\(a\)](#) (2019), absent clear legislative intent, is a "conduct element" and requires a knowing mental state, contrary to some local jurisdiction's procedural practice. SB 752 creates an affirmative defense to an allegation of second-degree sexual abuse based on non-consent if a jury finds the defendant reasonably believed the victim did consent to the sexual intercourse. The measure also amends sex offender registration exceptions under sex abuse in the second degree to align with existing exceptions.

CRIMINAL PROCEDURES

In 2017, the Legislative Assembly reconvened the Public Safety Task Force (PSTF) to study security release, including the disparate impact on racial and ethnic populations, and alternative mechanisms of reducing failure to appear at court hearings. In December of 2020, the PSTF submitted its final [report](#) with recommendations for changes to Oregon's pretrial framework. [Senate Bill 48](#) adopts some of the PSTF's recommendations. The measure eliminates certain mandatory minimum security amounts currently in statute and requires courts and pretrial release officers to conduct individualized assessments when making release determinations and setting security.

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- [Criminal Procedures](#)
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See the **2021 Legislative Summary Report** for [Criminal Justice](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

[House Bill 2002](#), [House Bill 2169](#), [Senate Bill 191](#), and [Senate Bill 401](#) (*all not enacted*) proposed to modify several aspects of the criminal justice system by repealing certain mandatory sentences, amending limitations on reductions in prison and probationary sentences, reducing law enforcement arrest authority, and directing Justice Reinvestment funds to be distributed to culturally specific and response service providers.

Among Oregon's statutory exceptions to the inadmissibility of hearsay in certain court proceedings are statements offered against a party who engages in wrongful conduct intended to cause the declarant to be unavailable as a witness, and the witness is in fact made unavailable. A recent Oregon Supreme Court decision, [State v. Iseli](#), held that the unavailability of the witness had not been established because the state had not sought a material witness warrant or a remedial contempt order against the victim, and therefore certain hearsay statements of the witness should not have been admitted. [Senate Bill 177](#) amends the hearsay statute and states that the proponent of a statement is not required to issue a material witness warrant in order to establish the unavailability of a witness.

CRIMINAL JUSTICE

Applying to set aside a conviction, arrest, or citation can be a difficult-to-navigate process. With [Senate Bill 397](#), the Legislative Assembly sought to streamline that process. If a sentence on a qualifying conviction has been served and a defendant does not have any pending criminal charges, and after the passage of a period of time, a person may apply by motion to the appropriate court for an order setting aside an arrest or conviction. The measure modifies the procedure for filing a motion to set aside a conviction, arrest, citation, or charge; eliminates fees, fingerprinting, and background checks; and reduces the waiting period for filing the motion for several categories.

Under Oregon criminal statutes relating to sexual offenses, a person is considered incapable of consenting to a sexual act if the person is “mentally defective” as defined by statute. [Senate Bill 566](#) removes the term mentally defective and instead states that a person is incapable of consent if the person is incapable of appraising the nature of their conduct and provides specific factors for the trier of fact to consider in evaluating a person's ability to appraise the nature of their conduct.

Prior to the passage of [Senate Bill 620](#) (SB 620), a person sentenced to probation was required to pay a monthly fee to offset the costs of supervising the probation, parole, post-prison supervision, or other supervised release ([ORS 423.570](#), 2019). Timely payment of the fee was a condition of such probation, parole, post-prison supervision, or other supervised release. SB 620 repeals the authority to impose or collect a monthly fee to offset the costs of conducting an individual's court-ordered supervision.

[Senate Bill 704](#) amends Oregon's existing extreme emotional disturbance defense and self-defense statutes by prohibiting a person from asserting a claim of self-defense or extreme emotional disturbance based on the discovery of the victim's actual or perceived gender, gender identity, or gender expression.

Oregon law generally prohibits a person from secretly recording the conversations of others, with numerous exceptions, and covers the recording of conversations, radio communication, and telecommunication. [House Bill 2459](#) includes video

conferences within the definition of a “conversation” and extends the exception on recording oral communications that are part of public meetings, classes, or private meetings or conferences that the participants knew were being recorded, to include communication occurring through a video conferencing program.

Oregon statutes provide several categories of protection orders for individuals meeting certain qualifying risk factors and/or circumstances. Once granted, these orders impose restrictions on contact between the petitioner and an identified respondent. [House Bill 2746](#), through the creation of the Hope Card Program, provides that the petitioner of a court-ordered protection order is provided a card containing information relevant to and necessary for confirming the existence of the protection order.

JUVENILES

In Oregon, adult offenders are housed at Department of Corrections (DOC) facilities and youth offenders are housed at Oregon Youth Authority (OYA) facilities, including the small number of juveniles who are prosecuted as adults and sentenced to terms of imprisonment at DOC before they reach age 20 ([ORS 420.011](#); [Senate Bill 1008 \(2019\)](#)). When a juvenile reaches the age of 25 while at OYA with time remaining on their sentence, they are transferred to a DOC facility. Presently, release of DOC records regarding persons in the custody of DOC is covered by [ORS 192.355\(5\)](#) (2019), and the standard for release of records relating to youth in the custody of OYA can be found in [ORS 419A.257](#) (2019). DOC youth in OYA custody are not considered to be under either standard for records release. [Senate Bill 134](#) institutes a public interest test for OYA to release information or records prepared or maintained by the OYA regarding a person who is in the custody of DOC and temporarily assigned to a youth correctional facility, resolving ambiguity about which records disclosure standard should apply to those youth.

Letter bank programs provide incarcerated persons an opportunity to communicate to the victims regarding their criminal behavior, their understanding of the harm caused by their crime, and to acknowledge responsibility for the consequences of

their behavior. Inmates generally may also share the positive things they have done and the steps they have taken to change their lives. OYA does not have a letter bank program, although DOC does have rules allowing such a program ([OAR 291-205-0200](#)). [Senate Bill 133](#) lays the foundation for OYA to create a letter bank program. The measure describes the purpose and scope of an OYA "facilitated dialogue and responsibility letter bank program" and the protections for communications within the program and allows OYA to disclose to a victim certain information about the youth offender.

Oregon law allows for youth offenders and their families to be assessed for costs throughout the juvenile court system process. Youth offenders and their families may be charged for the administrative costs of determining eligibility for legal and other services related to appointed counsel, a blood or buccal sample, mental health assessments or screenings, medical care, education services, supervision, and child support. Although not applied uniformly throughout the state, a youth offender and their family may also be sanctioned for failing to pay court-related costs. Those sanctions may include extended supervision, late fees, collections, and tax liens. [Senate Bill 817](#) retroactively and proactively eliminates fees, fines, and court costs associated with juvenile delinquency matters and provides for court-appointed counsel at state expense for all juvenile delinquency matters. The measure does not affect restitution. [Senate Bill 422](#) (*not enacted*), was an earlier version of the bill and did not include the elimination of fines.

When a youth has contact with law enforcement or the juvenile court, records are created. Some information in those records can be accessed by potential employers, landlords, and others. Approximately four percent of eligible youth successfully apply annually for their records to be expunged. After expunction, a person can legally state the record never existed, and the contact never occurred. The Legislative Assembly addressed the low percentage of qualified persons who were receiving the benefit of juvenile record expunction in [Senate Bill 575](#) (SB 575). The automatic expunction process in SB 575 applies to youth who reach the age of 18 and have been referred but were never adjudicated. The measure also creates an automatic expunction procedure for certain types of

juvenile records and provides for court-appointed counsel for financially eligible applicants in the beginning of the process.

Staff

Amie Fender-Sosa, Legislative Analyst
Gillian Fischer, Legislative Analyst
Michael Lantz, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

EARLY CHILDHOOD CARE AND EDUCATION



EARLY CHILDHOOD CARE AND EDUCATION

The legislature addressed several issues relating to early childhood care and education in 2021. In a major change for state governance, legislators enacted [House Bill 3073](#) (HB 3073), making the Oregon Department of Education's Early Learning Division an independent agency named the Department of Early Learning and Care (DELIC).

The state's early learning system has been governed by the Early Learning Division since 2013. DELIC will bring governance of child care licensing, public preschool programs, and child care subsidies together. HB 3073 also makes several changes to the Employment Related Day Care subsidy [program](#), capping copayments at seven percent of a child's family income, requiring provider payments to be based on enrollment rather than attendance, and modifying eligibility requirements to extend to non-citizens and be continuous for 12 months.

To address equity concerns in Oregon's early childhood system, the legislature took action on four major items: it established a Tribal Early Learning Hub to serve Oregon's tribal communities; it addressed suspension and expulsion issues in early childhood; it modified the requirements of Oregon's child care rating system; and it prohibited local governments from restricting child care homes and centers.

The Tribal Early Learning Hub, established in [House Bill 2055](#), was added to Oregon's current system of 16 regional hubs charged with serving communities in specific geographic regions. The Tribal Early Learning Hub will coordinate the child care and early childhood education needs of tribal communities throughout the state.

To address the issues of suspension and expulsion in early childhood care and education settings, the legislature enacted both [House Bill 2166](#), providing support and training for child care providers facing ongoing behavioral challenges with the children in

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their care, and [Senate Bill 236](#), which includes both a study of the use of suspension and expulsion and a prohibition on suspension or expulsion.

Oregon's SPARK child care rating [system](#), in which providers progress from one-star to five-star ratings, presented equity barriers for child care providers. [House Bill 2059](#) allows the Early Learning Division to modify that system by changing the SPARK from a quality ratings system to a quality recognition system and removes the statutory requirement that each program receive a tiered rating.

The legislature also considered the impact of COVID-19 on the state's child care supply. In order to ensure space for providers, [House Bill 3109](#) prohibits local governments from enacting restrictions and fees on family child care homes and child care centers, and allows the use of multi-family dwellings, such as apartments, as family child care homes.

K-12 EDUCATION

Several bills made substantive changes to K-12 policy during the 2021 legislative session. [House Bill 2631](#) adds a requirement that school districts notify parents or guardians in instances of bullying or harassment,

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while [Senate Bill 297](#) allows private rights of action to compel private schools to comply with statutes on teen dating violence, sexual harassment, and reporting of suspected child abuse or sexual conduct.

Assessments

Statewide standardized assessments were the subject of several bills. [Senate Bill 602](#) removes the statutory sunset that allows parents and adult students to opt out of assessments, while [Senate Bill 744](#) pauses the requirement that high school juniors demonstrate proficiency in nine essential skills, a requirement commonly met by achieving a proficient score on the Smarter Balanced summative assessment.

Charter Schools

Notable changes to state laws relating to charter schools include [House Bill 2954](#) (HB 2954), which allows charter schools to implement a weighted lottery selection process. Historically, charter schools were limited in their ability to weight admissions requirements. HB 2954 will now allow charter schools to ensure a more diverse and representative student body by giving students from historically underserved groups preference in lottery-based admission systems.

The state's current system allows districts to calculate extended average daily membership based on two years of data which allows students to be counted twice in instances where many students enrolled in online charter schools for the 2020-2021 school year and re-enrolled in brick and mortar schools for 2021-2022. [Senate Bill 743](#) modifies the weighted average daily membership calculation for virtual charter schools and the districts that sponsor them in order to moderate enrollment fluctuations that occurred as a result of COVID-19.

Content Standards and Graduation Requirements

The legislature made changes to content standards requirements and graduation requirements. In addition to temporarily suspending the essential skills proficiency requirement as mentioned above, [Senate Bill 744](#) requires the Oregon Department of Education to study the state's graduation requirements and submit a report, including recommendations to the legislature, by September 1, 2022.

Oregon's social studies content standards require instruction in civics and government at a variety of grade levels. [Senate Bill 513](#) adds a half-credit of civics to statutory graduation requirements. The functional result is civics will be offered as a stand-alone course in Oregon high schools, in contrast to embedding civics content in American History courses, for example. In addition, [Senate Bill 702](#) requires a review of the state's Social Studies content standards.

An additional change to the statutory graduation requirements was enacted in [House Bill 2056](#), which removes the requirement that students take four years of English and replaces it with a more general language arts requirement, allowing students to take those classes in any language.

Equity

K-12 equity was a focus during the 2021 session, with several bills enacted to improve equity in Oregon's education system. Modeled on an advisory committee in the Lake Oswego School District, and to increase the pipeline to school board membership for historically underserved communities, [Senate Bill 732](#) (SB 732) requires all 197 of the state's school districts to establish Equity Advisory Committees. These committees are tasked with advising the district's superintendent and school board on issues affecting historically underserved student populations.

SB 732 institutes a tiered implementation requirement, with districts serving more than 10,000 students required to establish these committees first, and smaller districts allowed an extra three years to do so. Other systemwide changes were enacted in [House Bill 2166](#), which resulted from the work of Governor Brown's Racial Justice [Council](#). The bill establishes a statewide social emotional learning framework, enacts provisions to diversify Oregon's educator workforce, and establishes a grant program for charter schools with large populations of historically underserved students.

To further the academic achievement of historically underserved students, [House Bill 2056](#) eliminates the requirement that students take four years of English to graduate high school, replacing it with a requirement that students take language arts, in any language. [Senate Bill 52](#) establishes a statewide

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student success plan for LGBTQ2IA+ youth, similar in structure and function to the existing student success plans for Black, Latinx, and Native American students. These student success plans establish advisory boards made up of community stakeholders and provide grants to school districts to improve outcomes for plan students.

[House Bill 2052](#) requires schools and districts to allow Native American students to wear traditional items at school events such as graduation ceremonies. While prior guidance from the Oregon Department of Education had instructed districts to allow students to wear traditional items, Native American students and their communities reported that restrictions were still placed on them.

To promote welcoming environments to students, [House Bill 2697](#) requires education providers to prohibit the use or display of nooses, symbols of neo-Nazi ideology, or the Confederate flag on school property or in an education program; requires the investigation of bias incidents; and establishes penalties for noncompliance. [House Bill 3294](#) also aims to improve school environments by requiring Oregon's K-12 schools provide free period products.

Education of Special Populations

The legislature considered the issue of education for special populations, including students experiencing a disability and those enrolled in talented and gifted programs. Oregon's regional programs for children experiencing low-incidence disabilities serve children experiencing hearing impairments, vision impairments, autism spectrum disorders, orthopedic impairments, deaf-blindness, and traumatic brain injury. [Senate Bill 53](#) requires the State Board of Education to study low-incidence disabilities and develop new methods for funding related programs. [House Bill 3183](#) establishes a requirement that parents of children who are deaf, deafblind, or hard of hearing be provided with information about specific services and available placements for their children.

To provide increased support for students enrolled in talented and gifted (TAG) programs, [Senate Bill 486](#) requires school districts to develop plans for TAG education and establish requirements for the communication of each district's plan to parents and students.

Workforce

Prior legislative sessions have sought to protect students from sexual predation in schools. [Senate Bill 242](#) amends the definition of sexual conduct and requires certain information sharing, while [Senate Bill 649](#) expands the crime of sex abuse in the second degree to include certain sexual abuses when the defendant is the victim's teacher.

Educator workforce policies were modified in two key ways: modifications to statutes governing reductions in staff and collective bargaining. [House Bill 2001](#) requires districts to continue prioritizing seniority in layoff situations, then retain teachers with less seniority in order to maintain the proportion of teachers that demonstrate culture and linguistic expertise compared to teachers without such expertise. Additionally, class size and caseload limits are now mandatory subjects of collective bargaining for educator unions and school districts under the provisions of [Senate Bill 580](#).

Licensure policies were modified as well in 2021. [Senate Bill 129](#) allows for increased fees for teaching and administrative licenses and establishes the ability of the Teacher Standards and Practices Commission (TSPC) to levy fees on education preparation providers and on school districts. [House Bill 3354](#) now requires the use of multiple measures to evaluate teaching licensure candidates rather than a single qualification exam.

HIGHER EDUCATION

General

The longstanding norm in intercollegiate athletics has been that, in the interest of amateurism, student athletes not receive any compensation for their performances as athletes. That began to change in 2019, when several states considered legislation allowing student athletes to earn compensation for use of their name, image, or likeness (NIL). In 2021, a U.S. Supreme Court case, *NCAA v. Alston*, held that the National Collegiate Athletics Association (NCAA) cannot prohibit student athletes from receiving education-related benefits as compensation. The Oregon Legislative Assembly entered the national debate surrounding compensation for student athletes by passage of [Senate Bill 5](#), which provides student

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athletes the rights to earn compensation for use of their NIL and to retain professional representation; it also prohibits the NCAA and institutions of higher education from restricting or placing eligibility conditions on student athletes' ability to earn such compensation.

The mission of the state's public technical and regional universities (TRUs) continues to expand. [Senate Bill 230](#) authorizes Western Oregon University, Eastern Oregon University, and Southern Oregon University to issue professional doctoral degrees. Previously, these universities could only offer undergraduate or master's degrees. Professional doctoral degrees differ from the traditional, research-oriented Doctor of Philosophy (PhD) degree in that they are focused on providing students with knowledge and skills to enter careers, possibly in conjunction with a professional licensure, at a higher level than a master's degree would.

Part-time faculty who teach at least half-time at one or multiple institutions will be eligible for employer-provided health insurance as a result of [Senate Bill 551](#) (SB 551). Previously, part-time faculty were only eligible for insurance if they were already eligible for the Public Employees Retirement System (PERS) or another insurance plan provided to teachers. SB 551 establishes a process by which part-time faculty select a "home institution" which will be responsible for administering an employee health insurance plan and covering up to 90 percent of premiums, while faculty are responsible for the remaining 10 percent, unless a collective bargaining agreement exists that otherwise provides insurance. The Higher Education Coordinating Commission (HECC) will reimburse institutions for the added cost of expanding health insurance to part-time faculty.

Governance

Since the creation of the HECC in 2011, the formation of the first independent public university governing boards in 2013, and the formal dissolution of the Oregon University System in 2015, the governance of Oregon's public higher education system has been in flux. [Senate Bill 712](#) (SB 712) modifies the structure of the HECC by increasing the total voting membership from nine to fifteen. Currently, the commission consists of nine voting members, sourced from the state's five congressional districts and

members of the public at large, and five nonvoting members, who each are sourced from students, faculty, and staff at public institutions. SB 712 converts the five nonvoting positions into voting positions that are coequal with the existing voting members and adds a fifteenth voting member who is a graduate student.

[Senate Bill 854](#) (*not enacted*), would have modified the membership and duties of public university governing boards and their members, in addition to making the changes outlined in SB 712. The bill would have included student organizations and employee unions in the process of appointing board members and university presidents and in the proceedings of board meetings. Additionally, it would have required board members to have publicly available contact information, prohibited university administrative staff from serving as board secretaries, and enabled the HECC to overturn decisions made by boards upon appeal from students or employees.

Responding to challenges experienced during recent community college district boundary changes, [House Bill 2090](#) modifies the process by which the HECC may consider petitions to amend the boundaries of community college districts. It also alters the process to conduct public hearings on boundary changes, aligns the funding process to conform with the current model for administering state aid to colleges, and revises statutory provisions for dividing assets and liabilities between districts that experience territorial changes.

Equity

Lawmakers considered proposals to improve outcomes for higher education students from underrepresented backgrounds. Many of these students enter higher education from nontraditional pathways, such as the General Educational Development (GED) high school equivalency exam. Students with a GED certification rather than a high school diploma may be required to take additional placement tests or supplemental course work. [House Bill 2589](#) requires each public university and community college to apply the same developmental education requirements and require the same placement tests for students who pass the GED and receive a "GED College Ready" score as for students who enter from traditional high school pathways.

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Many students in higher education are eligible for need-based public benefits such as the Supplemental Nutrition Assistance Program (SNAP), also called food stamps, Medicaid, housing assistance, child care, or textbook cost assistance. However, it may be challenging for students to understand and navigate the complex and overlapping eligibility and application requirements for these programs. A benefits navigator is a professional who is trained to assist students with applying for and receiving need-based aid benefits. Based on a pilot program at Oregon State University, [House Bill 2835](#), now requires all public universities and community colleges to train and employ a benefits navigator to assist students with applying for public assistance benefits.

In the past few decades, institutions of higher education have seen a growing share of non-traditional students. One such group is student parents—students who are raising children of their own while pursuing higher education. The state does not formally collect detailed demographic data on this population. [Senate Bill 564](#) directs the HECC to develop a process to collect this data and submit a regular report to the legislature on the student parent population.

Transfers and Credits

Past legislation has given greater independence to Oregon's public institutions of higher education, creating less coordination in the credit transfer process, often leading to students repeating courses, owing more tuition, and delaying graduation. [Senate Bill 233](#) requires the HECC to establish a common course numbering system for all public institutions of higher education by 2024. The bill also establishes the Transfer Council, a fifteen-member advisory body which will serve as the main advisory body to the HECC and will conduct the majority of the work necessary to develop the system's course list and associated academic outcomes.

Tuition, Fees, Loans and Scholarships

Oregon law provides that members of certain populations, such as undocumented immigrants and active duty military service members, pay resident tuition at public institutions of higher education, if they otherwise are not considered Oregon residents. [Senate Bill 553](#) extends in-state tuition privileges and state-provided financial aid eligibility to Compact of

Free Association (COFA) islanders; refugees who are granted admission to the country by federal authorities; and individuals from Iraq or Afghanistan who were granted special immigration status.

Post-secondary students pay mandatory fees, in addition to tuition, for various purposes, including student government, course materials, and facility use among others. While public universities determine their own tuition and enrollment fees, increases of more than five percent require approval from the HECC or the Legislative Assembly. [House Bill 2542](#) requires each public university and community college to display on their websites detailed descriptions of all mandatory fees charged to students to report their compliance annually to the HECC. [House Bill 2919](#) enacts a similar requirement for public universities and community colleges to prominently display in course catalogs the total costs of all required course materials and fees for at least 75 percent of courses offered.

[House Bill 3012](#) modifies the responsibilities of institutional boards to collaborate with student governments when making changes to mandatory student-initiated or incidental fees. These fees fund student governments at public universities and community colleges and are implemented and regulated separately from other mandatory fees such as enrollment fees. Current law allows institutional boards to refuse fee increases requested by student governments. HB 3012 makes explicit the reasons for which fee increases may be refused, and it prohibits institutional boards from blocking larger fee increases resulting from the effects of the COVID-19 pandemic.

The Oregon Promise program is a universal, non-need-based, "last-dollar" financial aid program that provides grant funding to Oregon high school graduates and GED recipients to cover the cost of attendance at a community college. [House Bill 2093](#) (*not enacted*) would have expanded the aid program to allow recipients to attend four-year institutions and other post-secondary educational institutions. It also would have doubled the minimum award amount, lowered the minimum grade-point average (GPA) eligibility requirement, and provided retroactive eligibility to students denied due to emergency budget reductions in the previous year.

PRISON EDUCATION

The Legislative Assembly considered several bills to expand or increase educational access for adults either currently or formerly in the state's custody.

[Senate Bill 234](#) aims to take advantage of the recent federal expansion of the Second Chance Pell Grant program and the reversal of the ban on Pell Grant eligibility for incarcerated individuals. The bill directs the HECC to convene stakeholders and develop an implementation plan to offer educational programs to Pell-eligible incarcerated students by the end of 2021.

To further expand educational access inside the state's prison system, [Senate Bill 235](#) (*not enacted*) would have established a pilot program to provide the infrastructure needed for online education inside two prisons.

Staff

Lisa Gezelter, Legislative Analyst
Matthew Perrault, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

EMERGENCY PREPAREDNESS



DISASTER PREPAREDNESS

The State Preparedness and Incident Response Equipment (SPIRE) Grant Program funds the purchase and distribution of emergency preparedness equipment to local jurisdictions, including vehicles and other property, to be used during an emergency. The SPIRE equipment list was last updated in 2019. During Oregon's 2021 Regular Session, [House Bill 2426](#) directs the Oregon Homeland Security Council (OHSC) to update a list of equipment for the SPIRE program before January 1, 2022. The measure prioritizes search and rescue equipment and grant requests from urban search and rescue teams.

Legislators considered a number of measures related to OHSC. [House Bill 2235](#) (*not enacted*) would have directed the Office of Emergency Management (OEM) to study and make recommendations on emergency workforce needs in a major emergency. [House Bill 2461 A](#) (*not enacted*) would have directed OHSC to create the Oregon Critical Disaster Preparedness Stockpile to ensure a robust stock of emergency supplies and equipment. Similar to HB 2426, [House Bill 2882](#) (*not enacted*) would have directed OHSC to update an equipment list for the SPIRE Grant Program before January 1, 2022.

The Legislative Assembly also considered several disaster preparedness bills targeting public health and safety. [House Bill 2233](#) (*not enacted*), would have established the Emergency Shelter Task Force to make recommendations regarding provision of shelter for people and animals in the aftermath of an emergency.

[House Bill 2891](#) (*not enacted*) would have required health care facilities and providers, local public health authorities, and public and private safety agencies to maintain a surplus of essential supplies to continue normal operations for 120 days assuming a 25 percent reduction in staff. [House Bill 2883 A](#) (*not enacted*) would have created the Oregon Public Places are Safe Places Investment Fund and a

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corresponding advisory body within the Office of Emergency Management (OEM) to support the ongoing development of disaster response staging areas. Staging areas are temporary sites where personnel, equipment, and supplies are maintained pending assignment and distribution after a disaster.

Currently, Oregon participates in the federal Homeland Security Exercise and Evaluation Program (HSEEP) for statewide emergency response exercises. [House Bill 2896](#) (*not enacted*) would have directed OEM to conduct an annual multidisciplinary, all-hazards emergency response exercise for each state agency. Lastly, [House Bill 2897 A](#) (*not enacted*) would have required elected officials, state agency heads, and management personnel in state government to complete introductory courses on incident command structure.

DISASTER RESPONSE

With the impacts of COVID-19 and the 2020 wildfire season on communities across the state, measures related to disaster response were considered. [House Bill 2304](#) (*not enacted*) would have established the Oregon Disaster Recovery Authority, and [House Bill 2893](#) (*not enacted*) would have established an

Oregon Disaster Response Assistance Matching Fund to provide matching funds to be eligible for federal funds or aid related to disaster response.

Two other measures, [House Bill 2305](#) and [House Bill 2308](#) (*neither enacted*) would have authorized the Governor, if necessitated by emergency, to direct any person in the state to accept and fulfill orders for manufacture, sale, or distribution of goods necessary to protect public safety with certain requirements.

EMERGENCY COORDINATION AND COMMUNICATION

Restructuring the state's emergency coordination and communications system was accomplished through the passage of [House Bill 2927](#) (HB 2927). The measure renames the Oregon Office of Emergency Management (OEM) and the Oregon State Fire Marshal (OSFM) the Oregon Department of Emergency Management and the Oregon Department of the State Fire Marshal, respectively; establishes each as a stand-alone state agency; and centralizes their functions. HB 2927 also creates the Emergency Preparedness Advisory Council and the Local Government Emergency Management Advisory Council; establishes OHSC within the Oregon Department of Emergency Management and creates an implementation task force. Similarly, [Senate Bill 105](#) (*not enacted*) would have transferred responsibility for the Oregon Emergency Response System from the Oregon State Police (OSP) to OEM, which was accomplished through HB 2927.

To continue the state's efforts to address public safety and resiliency in Oregon, [Senate Bill 288 A](#) (*not enacted*) was also deliberated. It would have represented the most recent evolution and refinement of Oregon's emergency preparedness, response, and recovery planning efforts. It included faith-based and community organizations, targeted certain populations for additional outreach, provided for qualified volunteers rendering assistance during statewide declarations of emergency, and directed the Oregon Business Development Department (OBDD) to administer the Unreinforced Masonry Seismic Safety Program to disburse grants to improve the safety and resiliency of qualifying structures during an earthquake.

To provide for updated emergency communication equipment, [Senate Bill 363 A](#) (*not enacted*) would have appropriated \$1.4 million General Fund dollars to the Oregon Military Department for the acquisition of certain emergency response broadcasting equipment and system upgrades.

Through [House Bill 2425 A](#) (*not enacted*), OEM would have been directed to administer a grant program in support of projects to consolidate and modernize or upgrade Public Safety Answering Points (PSAPs, or 9-1-1 call centers). Finally, [House Bill 2894](#) (*not enacted*) would have directed OEM to create and maintain a database for flagging known or suspected hazardous locations during an emergency.

EMERGENCY RESPONDERS

Oregon's Emergency Response System (OERS) is responsible for coordinating state resources in response to all manner of emergencies. This coordination requires multi-jurisdictional cooperation between all levels of government and the private sector. [Senate Bill 104](#) permits OEM to establish or recognize the credentialing of critical service providers by it or other entities if certain criteria are met, to streamline such providers' access and ability to function in emergencies.

Another measure receiving support during the 2021 Legislative Session was [House Bill 2593](#). It permits OEM to agree with an authorized nonprofit organization representing sheriffs to administer a program to produce and sell outdoor recreation search and rescue contribution cards.

[House Bill 2237](#) (*not enacted*) would have directed OEM to create and maintain a roster of students at post-secondary institutions available for temporary emergency-related work. [House Bill 2295](#) (*not enacted*) would have provided that a fire chief, or representative of a fire chief or county, extinguish uncontrolled fires found to be burning in unprotected areas.

The Oregon Health Authority operates the State Emergency Registry of Volunteers in Oregon ([SERV-OR](#)). This database contains a list of licensed health

care professionals who have registered to be volunteers in the event of federal, state, and/or local emergencies. SERV-OR consists of three volunteer groups: the Volunteer Management Unit, the State Managed Volunteer Pool, and the Medical Reserve Corps. Modeled after SERV-OR, [House Bill 2890](#) (*not enacted*) would have directed OEM to create and maintain a registry of people able and willing to provide emergency response services.

RECOVERY EFFORTS

To address recovery issues in the aftermath of a declaration of emergency, legislators looked at several bills. [Senate Bill 531](#) (*not enacted*) would have established the right to reimbursement from the state of Oregon of actual damages incurred by businesses engendered by temporary or permanent cessation of business operations caused by a specified declaration of emergency. [House Bill 2236](#) (*not enacted*) would have established the Task Force on Rural Fire Protection District Community Development to study and develop recommendations on ways to expand the ability of rural fire protection districts to use district assets to facilitate community development efforts following a natural disaster. [House Bill 2850](#) (*not enacted*) would have allowed the Governor to establish economic recovery zones after the termination of a state of emergency.

RESILIENCE

Throughout the 2021 session, legislators resumed discussions regarding the state's infrastructure resiliency. [House Bill 2234](#) (*not enacted*) would have required the Director of the Department of Consumer and Business Services (DCBS) to create appropriate specialty codes standards, safeguards, and guidelines for incorporating fire prevention, fireproofing, or fire resistance measures into the construction, repair, renovation, rehabilitation, retrofitting, or maintenance of buildings and other structures that are located in areas of Oregon that are susceptible to wildfires. The measure would have required the owners to obtain and maintain a fire insurance policy with enough coverage to provide for the rebuilding or replacement of buildings or structures.

A few resiliency measures would have impacted the Oregon Safety Assessment Program, which is responsible for evaluating the condition of buildings after an emergency and determining whether the buildings may be safely occupied ([ORS 401.256, 2019](#)). [House Bill 2851 A](#) (*not enacted*) would have appropriated funds for the Oregon Safety Assessment Program, the Nesika Beach Ophir Water District, and the State Fire Marshal to study and develop recommendations regarding Rural Fire Protection Districts, and for ten additional positions within OEM. [House Bill 2881](#) (*not enacted*) would have directed DCBS to assess a \$15 fee for limited plan reviews for fire and life safety to be deposited into the State Fire Marshal Fund for the Oregon Safety Assessment Program. [House Bill 2892](#) (*not enacted*) would have appropriated additional funds from the state's General Fund to the State Fire Marshal to cover personnel costs related to the Oregon Safety Assessment Program.

Local jurisdictions may not have the resources to obtain needed emergency preparedness equipment. To help address the issue, the legislature created the Resiliency Grant Fund in 2017 to distribute and purchase emergency equipment at the local level. [House Bill 2898](#) (*not enacted*) would have imposed a \$9 surtax on income tax liability and deposited the proceeds into the Resiliency Grant Fund. [House Bill 3160 A](#) (*not enacted*) would have established the Oregon Wildfire Preparedness and Community Protection Fund (OWPACPF) to support activities related to restoration, protection, and recovery from wildfires. It would have provided a \$45 million appropriation to OWPACPF.

Staff

Regina Wilson, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro

ENERGY AND ENVIRONMENT



AIR QUALITY

In 2020, Congress passed the American Innovation in Manufacturing (AIM) Act to phase down the use of hydrofluorocarbons that have proven to have negative environmental impacts when released into the atmosphere. [House Bill 3227](#) prohibits the Department of Consumer and Business Services (DCBS) from outlawing the use of safe alternative refrigerants in the state building code, provided that the safe alternatives meet federal regulations and installation requirements.

The Oregon Department of Environmental Quality (DEQ) uses technical assistance, inspections, complaint investigations, and orders to pay fines and perform corrective actions in order to enforce the law and deter noncompliance of environmental violations. Under [ORS 468.070](#) (2019), DEQ may deny, modify, suspend, or revoke permits or refuse to renew any permit if an applicant: provides misrepresentation or false statements; fails to comply with the conditions of the permit; violates current state law; or violates any applicable rule, standard, or order of the Environmental Quality [Commission](#). [House Bill 3372](#) expands the information DEQ is authorized to require from an individual applying for a permit or license for watershed areas, treatment works, sewage disposal, municipal sewage treatment works, and subsurface sewage disposal. The measure directs applicants to provide the DEQ with information reasonably sufficient for an evaluation of their history of compliance with environmental quality laws during the 10-year period prior to applying for a permit or license.

CLIMATE

One method for reducing greenhouse gas (GHG) emissions to meet state climate goals is to create a low- or zero-emission electricity sector by replacing fossil fuel resources with renewable resources. After previous attempts to regulate statewide GHG emissions in the past two years, [House Bill 2021](#) (HB

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2021) was enacted, establishing that electricity supplied to retail electricity consumers in Oregon must: 1) produce zero GHG emissions; and 2) be generated in a manner that provides additional direct benefits to Oregon communities by creating and sustaining meaningful living wage jobs, promoting workforce equity, and increasing energy security and resiliency.

As a complement to the state's renewable portfolio standard, which promotes increased electricity generation from eligible renewable sources, HB 2021 requires electricity be generated from low- or zero-carbon emitting sources, which promotes GHG emissions reductions. The bill requires retail electricity providers to reduce annual GHG emissions by 80 percent below the baseline emissions level by 2030, by 90 percent below the baseline emissions level by 2035, and 100 percent below the baseline emissions level by 2040.

An alternative clean electricity proposal, [House Bill 3180](#) (*not enacted*), would have modified and added laws related to utilities, including renewable portfolio standards, community-based renewable energy, fossil phase-out provisions, integrated clean energy

implementation planning, storage requirements, utility regulation generally, and cogeneration and small power production facilities.

The legislature also considered but did not pass legislation related to black carbon, a climate pollutant that results from incomplete combustion of fossil fuels and burning of other substances. [House Bill 2479 A](#) (*not enacted*) would have included black carbon and certain aerosol air contaminants in the definition of global warming and would have required DEQ to track estimated human-caused black carbon emissions in Oregon and estimate the net impact of human-caused black carbon sources on climate change.

ELECTRIC VEHICLES

Transportation electrification is the use of electricity from external sources to provide power to all or part of a vehicle and other modes of transportation as well as programs and infrastructure investments to support using electricity to power vehicles. Transportation electrification is driven in part by the purchase of zero-emission vehicles, widely available charging stations and infrastructure, environmental benefits when compared to internal-combustion-engine vehicles, and supportive policies.

Two measures were enacted in 2021 to encourage transportation electrification. [House Bill 2165](#) allows electric companies to recover costs for infrastructure related to transportation electrification and requires certain large electric companies to increase retail consumer rates by 0.25 percent to fund transportation electrification. [House Bill 2180](#) requires that the state building code require new construction of certain commercial, residential, and mixed-use buildings to include provisions for charging stations for at least 20 percent of parking spaces for electric vehicles. It also allows municipalities to adopt a local percentage of parking space requirements higher than state building code requirements.

ENERGY

In 1999, the Legislative Assembly adopted [Senate Bill 1149](#) which directed Oregon's two largest investor-owned electric utilities, Pacific General Electric and

Pacific Power, to collect three percent of their revenues for a public purpose charge (PPC).

The PPC funds new cost-effective energy conservation, new market transformation efforts, above-market costs of new renewable energy resources, and new low-income weatherization. This requirement sunsets on January 1, 2026. [House Bill 3141](#) extends the sunset on the PPC to January 1, 2036 and reduces the PPC for retail electricity consumers within service areas as well as modifies the allocation of funds collected through the PPC.

Solar

The solar projects incentive program (Program) authorizes any solar project to be exempt from property taxes for up to 20 years contingent on annual payment to the county or city of a fee equal to \$7,000 per megawatt (MW) of the project's nameplate capacity, and provided that the project is or was not subject to any other exemption. As enacted, [Senate Bill 154](#) extends the sunset on the Program from January 2, 2022 to January 2, 2028, and provides that an agreement between a county and owner or person in possession or control of a solar project must indicate property tax treatment of land on which the solar project is located and set the rate of the fee within a range of \$5,500 to \$7,000 per MW of nameplate capacity.

Wind

Wind energy is a rapidly growing source of renewable energy in the United States. Oregon's wind energy industry has developed mainly in the central and eastern end of the Columbia River basin and in northeastern Oregon. Developments have been proposed in other areas with good potential wind resources including the Cascades, along the Oregon coast, and in southeastern Oregon. [House Bill 3375](#) was enacted to establish as Oregon's policy that any federal planning or permitting process for offshore wind energy research and development in federal waters off the Oregon coast adequately consider the prompt decommissioning of any offshore facility after permanent cessation of use of the facility.

Two energy-related measures that would have advanced energy efficiency requirements and renewable hydrogen property tax exemptions were not enacted.

The Oregon Residential Reach Code (ORRC or Reach Code) contains optional additions to the minimum statewide construction code that require builders or owners to meet stricter energy efficiency requirements. [House Bill 2398 A](#) (*not enacted*) would have required the Director of DCBS, with the approval of the appropriate advisory boards, to adopt, amend, and administer the Reach Code as part of the state building code and to follow the same process the Director follows in developing the residential and commercial building codes. The measure would have ensured that standards for energy efficiency in the statewide Reach Code mandate achievement of not more than 90 percent of site energy use that other statewide residential and commercial building codes require and, among other provisions, it would have required updating the Reach Code every three years.

Hydrogen can be used to store and transport energy, but it is not itself a source of energy. It can be produced from electrolysis, a technology that uses electricity to split water into hydrogen and oxygen atoms. When produced by electricity from wind or other renewable resources, hydrogen can store carbon-free energy that can later be used to generate electricity or power vehicles. [House Bill 2535](#) (*not enacted*) would have created a temporary ad valorem property tax exemption for systems used to produce hydrogen by electrolysis or from renewable natural gas.

ENVIRONMENTAL JUSTICE

In 2007, the Legislative Assembly enacted [Senate Bill 420](#) (ORS 182.535 – 182.550, 2019) creating an Environmental Justice Task Force ([EJ Task Force](#)) and tasked the Governor with providing clerical and administrative staff support. [Senate Concurrent Resolution 17](#) establishes the intent of the Legislative Assembly to apply to all state agencies the duties listed in the EJ Task Force statute (ORS 182.545, 2019) to provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions. [Senate Bill 286 A](#) (*not enacted*) would have renamed the EJ Task Force as the Environmental Justice Council within the Department of Environmental Quality.

The Oregon Public Utility Commission (PUC) regulates investor-owned utilities and is responsible for ensuring “utility customers have access to safe, reliable, and high-quality utility services at just and reasonable rates.” [Senate Bill 978](#) (2017) directed the PUC to consider how its role as the regulator of Oregon's investor-owned utilities might evolve, given changes in the energy industry and in energy policy. The PUC gathered input from stakeholders and compiled results into a report that was submitted to the Legislative Assembly in 2018. One recommendation was to authorize the PUC to improve equitable and affordable access to energy services by considering not only the broad interests of customers, but specific needs of low-income customers and environmental justice communities. [House Bill 2475](#) authorizes the PUC to consider differential energy burden and other inequities in its approach to utility regulation and determining rates.

MATERIALS MANAGEMENT

In January 2018, the government of the People's Republic of China banned the import of certain plastic and paper grades and set tighter contamination standards for paper. The loss of China's markets disrupted recycling systems worldwide. In Oregon, communities had to make changes to their recycling collection programs, which included: increased customer rates, suspending recycling, or removing items from programs. In some cases, materials that were collected for recycling were disposed. The legislature considered several bills that contemplated developing product stewardship programs that would have required entities in the product life cycle to share responsibility for reducing the environmental impacts of products. [Senate Bill 582](#) makes significant changes to Oregon's recycling system that includes establishing a producer responsibility program for packaging, printing and writing paper, and food service ware. [Senate Bill 570 A](#) (*not enacted*) would have established a product stewardship program for mattresses. [House Bill 2955 A](#) (*not enacted*) would have established a product stewardship program for household hazardous waste.

On September 11, 2019, the Oregon Department of Energy (ODOE) was informed by a North Dakota citizen that potentially radioactive waste from an

hydraulic fracturing (fracking) operation was possibly being disposed of in Arlington, Oregon. ODOE investigated and concluded that two and a half million pounds of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) had been disposed of in the Chemical Waste Management facility in Arlington over a three-year period. [Senate Bill 246](#) modifies the definition of radioactive waste and requires the Energy Facility Siting Council to adopt standards and rules to prevent future disposal of radioactive waste in Oregon.

In 2019, the Legislative Assembly enacted [House Bill 2509](#), prohibiting retail establishments and restaurants from providing single-use checkout bags to customers, with certain exceptions. The measure also authorizes retailers and restaurants to charge a five-cent fee for recycled paper checkout bags or reusable fabric or plastic bags. [House Bill 2395](#) expands the definition of “recycled paper checkout bag” to include at least 40 percent nonwood renewable fiber (e.g., fiber from hemp) or a combination of post-consumer recycled fiber and nonwood renewable fiber, along with post-consumer recycled fiber.

Staff

Erin Pischke, Legislative Analyst
Beth Reiley, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

GENERAL GOVERNMENT AND ELECTIONS



CAMPAIGN FINANCE

Three measures addressing campaign finance were considered during the 2021 Regular Session, however, none were enacted. [Senate Bill 336](#) (*not enacted*) proposed several changes to campaign finance laws, including establishing contribution limits for state office candidates or principal campaign committees for state office candidates from different sources with an exclusion for a candidate's personal funds or from public bodies. It would have created specific types of political committees to be registered with the Secretary of State and clarified what constitutes separate elections, for determining contribution limits. [House Bill 3343](#) (*not enacted*) would have also established limits on campaign contributions that may be accepted by candidates and political committees. Instead of limits, [House Bill 2680 A](#) (*not enacted*) would have established the Small Donor Election Program to provide public matching funds for candidates for the Oregon Legislative Assembly.

ELECTIONS

Ballots

Oregon was the first state to establish vote-by-mail for local and state elections and has a long history of managing the state's mail-in ballot system. [House Bill 3291](#) (HB 3291) requires a ballot returned by mail to have a postal indicator showing that the ballot was mailed on election day if it is received within seven days by the county clerk. Prior to enactment of HB 3291, the date on the postmark did not count and all ballots had to be received by the county clerk by 8:00 pm on election day. The measure also makes conforming changes to the requirements for return identification envelopes; extends certain election deadlines to allow more time for ballots to be received; and allows county clerks to open the return identification envelopes and begin scanning ballots into the vote tally system upon receipt.

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See the **2021 Legislative Summary Report** for [General Government and Elections](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

Voting Eligibility

Oregon residents who are at least 16 years of age and a U.S. citizen can register to vote at least 21 days before election day. Registered voters under the age of 18 do not receive a ballot until the first election that occurs on or after the voter's 18th birthday. Three measures to lower the voting age were considered during the 2021 Regular Session, though none were enacted. [Senate Bill 776](#) (*not enacted*) would have permitted an individual who is 16 or 17 years old who is registered to vote to cast a ballot in school district elections, while [House Bill 2679](#) (*not enacted*) would have permitted a person who will be 17 years old on the date of the primary election, and 18 years old on the date of the general election, to vote in primary elections. [Senate Joint Resolution 25](#) (*not enacted*) proposed an amendment to the Oregon Constitution to lower the voting age from 18 years old to 16 years old.

Two measures concerning voter registration were enacted. [House Bill 2323](#) prohibits knowingly communicating a materially false statement, including by electronic or telephonic means, with the intent to

GENERAL GOVERNMENT AND ELECTIONS

mislead electors about elections and voter registration. [House Bill 2681](#) prohibits moving a voter to inactive status due to the voter either not voting or failing to update their voter registration for any period of time. A measure that did not pass is [House Joint Resolution 11](#) (*not enacted*), which would have proposed an amendment to the Oregon Constitution providing for same-day voter registration.

Voter registration initiatives for incarcerated individuals also did not pass; [Senate Bill 571](#) and [House Bill 2366](#) (*both not enacted*) would have allowed persons convicted of a felony to register to vote, update their voter registration, and vote while incarcerated.

Elections Administration

The Secretary of State (SOS) and county clerks are responsible for overseeing and managing elections in Oregon. Several changes were made to elections administration law in [Senate Bill 27](#), which made minor changes to the requirements for chief petitioners, district ballot measures, certificates of nomination, and local initiatives. It also eliminated the secrecy envelope requirement if the SOS approves a different procedure that provides the same degree of secrecy and allows the county clerk to begin tallying any ballots upon receipt.

Ranked choice voting is an alternative electoral system that allows voters to rank individual candidates by preference, rather than only indicating their first-choice candidate. Measures concerning alternative voting methods received public hearings but did not pass, including, [Senate Bill 343](#) (*not enacted*), which would have allowed ranked-choice voting to be used for all county elections, and [Senate Bill 791](#) (*not enacted*), which would have established ranked-choice voting for all nonpartisan statewide and local government offices and for federal and state office political party nominations.

ETHICS

Established in 1974, the Oregon Government Ethics Commission (OGE) is a nine-member citizen commission responsible for the state's government ethics law, lobbying regulation, and executive session provisions of public meetings law. Four measures

updated the OGE's authorities. [Senate Bill 60](#) extends the OGE Preliminary Review Phase from 30 calendar days to 60 calendar days. [Senate Bill 61](#) allows the OGE to issue opinions and advice on the executive session provisions of Oregon's public meetings laws. [Senate Bill 62](#) prohibits current or former public officials from soliciting, receiving, or using public moneys from a public body to pay civil penalties imposed by the OGE for violating government ethics laws. Finally, [Senate Bill 63](#) allows OGE members to serve two full four-year terms instead of only one four-year term.

GAMING AND LOTTERY

In 2021, the Legislative Assembly considered prohibitions on gaming or wagering using mobile phones, personal computers, or other personal electronic devices. In addition to proposing that the Oregon State Lottery be prohibited from offering games playable on a mobile phone or personal electronic device, [House Bill 3394](#) (*not enacted*) would have formed a State Gambling Task Force to study the impact of technology, player and addiction trends, Oregon and other state regulatory systems, and the impact on college sports and tribal communities. The last comprehensive look at Oregon's gaming and gambling landscape and its social and economic impacts was in 1996.

Mutuel wagering, regulated by the Oregon Racing Commission, is a common form of animal racing betting in which bettors are wagering against each other. [Senate Bill 165](#) specifies that a mutuel wager on historical animal racing (horse and greyhound races) may only be placed from a licensed physical race course and not on an electronic device unless that device is owned or leased by the race course where the wager is placed. The measure also expressly prohibits a person from either placing or accepting a mutuel wager on historical animal racing by mobile phone, personal computer, or other electronic device.

GENERAL GOVERNMENT

Building Standards and Contract Building Officials

Oregon has a statewide building code. Municipalities can apply to the Department of Consumer and Business Services (DCBS) to assume responsibility for administering and enforcing specific provisions of the state building code. Municipal building inspection programs must establish and maintain minimum standards and policies and must appoint a building official (BO) as the person responsible for the program. [Senate Bill 866](#) explicitly authorizes the use of contract BOs as of January 1, 2022 for the administration and enforcement of municipal building inspection programs and establishes procedural safeguards designed to address concerns raised in a 2019 opinion from Attorney General Ellen Rosenblum. Counties and cities that did not procure a contract BO before January 1, 2018, may only use a contract BO while recruiting a permanent BO.

Oregon construction contractors will have statewide access to electronic building inspection services beginning January 1, 2025. [House Bill 2415](#) requires all municipal building inspection programs to either use the state ePermitting system or an equivalent system by 2025, and requires DCBS to adopt minimum standards for reviewing plans, issuing permits, and performing field inspections electronically.

Certain developments proposed in coastal regions at risk of damage from a tsunami must meet minimum design and engineering standards beginning January 1, 2022. [House Bill 2605](#) requires Risk Category III and IV structures, as defined by the Oregon Structural Specialty Code, sited in the tsunami inundation zone, including schools, residential care facilities, utility facilities, hospitals, and first responder facilities, to meet the minimum design standards published by the American Society of Civil Engineers. Developers submit plans to the State Department of Geology and Mineral Industries (DOGAMI) for consultation. DOGAMI then notifies the developer and local building official of likely impacts and mitigation recommendations, which are included in the structure's permit documents.

Equity and Citizen Engagement

Governor Kate Brown convened the Racial Justice Council (RJC) in 2020 to: (1) direct the collection of data from across sectors of society to support data-driven policy decisions; (2) provide principles and recommendations that center racial justice and inform the Governor's budget; and (3) create a Racial Justice Action Plan for criminal justice reform and police accountability, housing and homelessness, economic opportunity, health equity, environmental equity, and education recovery. [House Bill 2167](#) codifies the RJC and requires each executive agency budget to include a racial impact statement, developed in consultation with the RJC, describing the impact of programs, policies, and budget modifications on Oregonians who are Black, Indigenous, or People of Color (BIPOC).

The Legislative Assembly also enacted racial equity measures related to BIPOC Oregonians. It voted to establish Juneteenth as a state holiday ([House Bill 2168](#)), designate the second Monday of October of each year as Indigenous Peoples' Day ([House Bill 2526](#)), and designate April of each year as Arab-American Heritage Month ([House Bill 2914](#)). [House Concurrent Resolution 11](#) adopted new lyrics to "Oregon, My Oregon" to reflect the state's cultural, historical, economic, and societal evolution.

The Legislative Assembly passed two measures aimed to increase the diversity of Oregonians providing input on state policy and rules. [House Bill 2992](#) increases the compensation paid to members of boards and commissions and establishes an income threshold under which members are eligible for compensation and expenses, even where board and commission statutes do not authorize such payments. Rules advisory committees (RAC) appointed by an executive branch agency to provide public input in administrative rules must now include affected persons and communities under [House Bill 2993](#). The measure also requires agencies to provide a statement with their rulemaking notice identifying how adoption will affect racial equity in the state.

Due to COVID-19, many public bodies began meeting and taking public testimony through virtual means in 2020. The Legislative Assembly passed [House Bill 2560](#) requiring every governing body, where possible, to make all meetings accessible remotely through

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technological means and give the public the opportunity to remotely submit oral and written testimony.

LEGISLATIVE ASSEMBLY

Attendance and Quorum Requirements

Several measures addressing member attendance in the Legislative Assembly were considered, although none were enacted. [Senate Bill 262](#) (*not enacted*) would have established monetary penalties for unexcused absences and prohibited the use of certain contributions to pay related fines, legal fees, and/or expenses. [Senate Bill 261](#) (*not enacted*) would have prohibited members from soliciting or using contributions to pay fines or legal expenses, replace salary, defray expenses, or otherwise compensate members for monetary losses incurred as a result of unexcused absences. Additionally, [Senate Joint Resolution 3](#) (*not enacted*) would have proposed an amendment to the Oregon Constitution classifying 10 or more unexcused absences as disorderly behavior, which would disqualify a member from holding office another term. [Senate Joint Resolution 4](#) (*not enacted*) would have changed the number of members required for a quorum to a simple majority.

Legislator Pay

Current law sets legislator pay at an annual salary equivalent to a specific salary range in the Management Service Compensation Plan for the Oregon executive department, currently \$32,832 per year. [House Bill 3144](#) (*not enacted*) proposed to set the annual salary of members of the Legislative Assembly at the annual mean occupational employment and wage estimate for Oregon. This was estimated to increase annual legislator pay to \$55,027.

PUBLIC CONTRACTING

In 2021, the Legislative Assembly adopted changes to the bidding requirements for public improvement contracts and the prevailing wage rate. The Oregon Public Contracting Code requires competitive bidding for all public improvement contracts, except for those with a value of less than \$5,000. [House Bill 3082](#) raises that threshold to \$10,000.

In addition to competitive bidding, contracting agencies are required to procure and construct public improvements at the least cost. [Senate Bill 420](#) allows contracting agencies and local review boards to designate a public improvement contract as a "community benefit contract." These contracts may include terms and conditions such as a requirement that the contractor qualify as an apprentice training agent, employ apprentices to perform a percentage of work hours in apprenticeable occupations, provide employer-paid family health benefits for each worker, and meet other requirements established by the contracting agency.

On certain public works projects, contractors and subcontractors must pay the prevailing wage rate (PWR), which is the hourly wage, including all fringe benefits, that the Commissioner of the Bureau of Labor and Industries (BOLI) determines is paid in the locality to the majority of workers employed in a specified trade or occupation. [Senate Bill 493](#) makes the PWR for a trade or occupation the wage established in a collective bargaining agreement (CBA) for that locality. If there is more than one CBA, then the highest wage rate among the CBAs prevails. If a CBA does not exist, BOLI will still determine the PWR using an independent wage survey.

PUBLIC EMPLOYEE BENEFITS

Three areas of Public Employees Retirement System (PERS) policy were changed with passage of [House Bill 2875](#). First, the measure allows the State Fire Marshal to identify employees to receive enhanced firefighter benefits. Second, PERS is directed to begin making tax remedy payments to eligible Tier 1 retirees by the second calendar month (instead of the next calendar year) following notification from the retiree that their benefits are subject to Oregon income tax if notification occurs between January 1 and April 15. Third, the measure responds to a COVID-19 impact on employees trying to vest their pension benefit by restoring PERS membership and retirement credit forfeited in 2020 if the worker performs at least 600 hours of service in 2021.

In 2019, [Senate Bill 1049](#) made changes to PERS to reduce the unfunded actuarial liability, including redirecting a portion of an employee's salary from

their Individual Account Program (IAP) contribution to their pension stability account when their monthly salary exceeds \$2,500. [House Bill 2906](#) raises that monthly salary threshold to \$3,333 to account for PERS members who may experience a month or more during the year when they earn more than \$2,500 and would then be subject to having their salary redirected to their pension stability account. Per statute, the monthly salary threshold, will continue to be adjusted annually to reflect inflationary impacts.

PUBLIC RECORDS

The Office of the Public Records Advocate was established in 2017 to provide dispute resolution services, training, guidance, and advice to improve the administration of Oregon's public records laws. The Public Records Advocate (PRA) was appointed by the Governor and confirmed by the Senate from a list of nominees recommended by the Public Records Advisory Council (PRAC). The PRAC makes recommendations related to the PRA's role and on public record practices, procedures, exemptions, and fees. [Senate Bill 500](#) makes the office an independent office within the executive branch, gives the PRAC the authority to appoint the PRA, requires the PRA to appoint a deputy who assumes the duties of the PRA when the position is vacant, and allows the PRAC to support, oppose, and request legislation relating to public records law.

In 2021, the Legislative Assembly heard five bills related to public records fees and exemptions; it only created two additional exemptions. [Senate Bill 315](#) exempts any information that would create a competitive disadvantage for owners or users of an unmanned aircraft systems test range. [Senate Bill 792](#) exempts personally identifiable information about a child under 16 years of age that has been submitted to the State Fish and Wildlife Commission or its agent to obtain a wildlife license, tag, or permit.

Staff

Melissa Leoni, Legislative Analyst
Leslie Porter, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

HEALTH CARE



ACCESS

The Affordable Care Act (ACA) requires private and employer-based health insurance to continue coverage of dependent children up to the age of 26. States have enacted laws that require continued health insurance coverage of disabled dependents beyond the age of 26. [Senate Bill 748](#) promotes access to insurance by requiring regulated health plans, including the Public Employees' Benefit Board (PEBB) and Oregon Educators Benefit Board (OEBB), to provide coverage to adult disabled children of insured individuals. The bill limits coverage to individuals who aged out and whose disability prevents them from engaging in self-sustaining employment.

Oregon's long-term care workforce experiences higher uninsured rates compared to the statewide average. [Senate Bill 800](#) seeks to increase access to coverage for employees of licensed long-term care, residential facilities, and in-home care agencies by establishing the Oregon Essential Workforce Health Care Program. With federal approval, the benefits will be funded by supplemental payments from the Oregon Health Authority (OHA) for Medicaid services provided by the facilities.

Coverage Innovation

Oregon's 88 school-based health centers (SBHCs) provide comprehensive physical, mental, and preventive health services to youth and adolescents within a school or on school property. For SBHCs to meet the needs in their communities, [House Bill 2591](#) directs OHA to provide 10 grants to school districts to evaluate the need for a local SBHC, three grants to create mobile SBHCs, and three grants to expand access to physical and behavioral health services through telehealth.

In 2019, [Senate Bill 770](#) created the Task Force for Universal Health Care to develop a single-payer system and directed OHA to develop an insurance

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See the **2021 Legislative Summary Report** for [Health Care](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

program for Oregon residents who do not have access to affordable health coverage. The COVID-19 pandemic caused the Task Force to delay its start. [Senate Bill 428](#) extends the sunset on the Task Force to allow it to continue its work and pushes out the required report and recommendations by a year to September 30, 2022. Also building on the work of SB 770 (2019), [House Bill 2010](#) requires OHA and the Department of Consumer and Business Services (DCBS), to create an implementation plan by July 2022 for a public health program that is available to all individuals and families who struggle with health care costs.

[Senate Joint Resolution 12](#) refers to the voters an amendment to the Oregon Constitution establishing the obligation of the state to ensure that every resident has access to cost-effective, clinically appropriate, and affordable health care. The bill requires the state to balance the obligation to ensure health care access with the funding of public schools and other essential public services.

HEALTH CARE

Medicaid

In 2017, Oregon expanded Medicaid coverage to all children regardless of their immigration status ([OHP Cover Me!](#)). [House Bill 3352](#) further expands Medicaid eligibility to all adults (19 years of age or older) regardless of immigration status, making approximately 55,000 individuals eligible for coverage (Cover all People).

Palliative care refers to patient-centered and family-centered medical care that optimizes a patient's quality of life by anticipating, preventing, and treating the suffering caused by a serious illness, regardless of prognosis. [House Bill 2981](#) requires OHA to establish and administer a program through Oregon's 16 coordinated care organizations (CCOs) to provide palliative care to Medicaid patients. The bill requires an interdisciplinary team to decide the types of services that can be delivered in a patient's residence.

COST AND AFFORDABILITY

To address the continued growth of health care costs, [House Bill 2081](#) (HB 2081) authorizes OHA to implement the Health Care Cost Growth Target Program created by [Senate Bill 889](#) (2019). The program establishes a target for annual increases in total health care expenditures that applies to a sizable portion of providers and payers in the state. HB 2081 also authorizes OHA to adopt penalties and performance improvement plan requirements for payers and providers that fail to report cost data or meet cost growth targets.

Nationally and in Oregon, the ownership of hospitals, physician organizations, and health insurers have experienced a growing trend towards consolidation. To address consolidation and the competitiveness of the state's health care market, [House Bill 2362](#) requires OHA to review mergers, acquisitions, and affiliations between health care entities that exceed specified financial thresholds. The measure also requires the Oregon Health Policy Board to develop approval criteria that considers the impact of those transactions on health care access and affordability for Oregonians.

In 2019, the Legislative Assembly regulated the charity care policies of Oregon's 60 nonprofit hospitals

by requiring that they offer financial assistance (or charity care) based on a patient's income. [House Bill 2360](#) further prohibits nonprofit hospitals from requiring patients to apply for Medicaid before screening for financial assistance under the hospitals' charity care policies.

COVID-19

When the 81st Legislative Assembly convened, Oregon was ten months removed from the first reported COVID-19 case and first emergency declaration from Governor Kate Brown. The Legislative Assembly established the [Subcommittee on COVID-19](#) to provide insight into the virus' impact on Oregonians, including statewide efforts around testing, tracing, access to vaccines, and the virus' effect on the state's public health system. [House Bill 3057](#) allows OHA to disclose protected health information (PHI) for public health purposes during the pandemic by requiring positive COVID-19 test results be reported to Oregon's communicable disease registry. The measure also allows OHA to grant access to test results by health care professionals to enable evaluation, treatment, and care coordination of individuals. Access to COVID-19 test results permits health care professionals to take necessary safety measures and facilitates the coordination of appropriate care.

Oregon hospitals are required to have hospital nurse staffing committees that are responsible for developing staffing plans to ensure that the hospital can meet the health care needs of patients. [House Bill 3016](#) allows for the suspension of hospital nurse staffing plans during a national or state emergency declaration, while requiring hospitals to seek approval of changes from the nurse staffing committee if an emergency declaration is longer than 90 days. Staffing plan suspensions were previously allowed during emergency declarations; however, those provisions did not envision an emergency declaration that would be in place for several weeks or months.

HEALTH EQUITY

Equity was a focus of health policy in the 2021 legislative session with attention on who provides

HEALTH CARE

care, how care is provided, and the types of data collected to inform service delivery. [Senate Bill 70](#) directs OHA to work with regional health equity coalitions (RHECs) to support community-based efforts to address health inequities. The bill defines the priority populations that RHEC efforts should focus on. [House Bill 2088](#) establishes a new traditional health worker type for tribal traditional health workers and adds tribal representation to the Traditional Health Workers [Commission](#).

Data Collection and Reporting

In 2013, the Legislative Assembly directed OHA and the Department of Human Services (DHS) to collaborate on standardizing and improving how race, ethnicity, spoken and written language, and disability ([REALD](#)) demographic data are collected. These data collection standards provide a consistent method to gather information across multiple state data systems and are used to measure and compare service and health disparities. [House Bill 3159](#) expands the equity data collection and reporting requirement for health care providers, insurers, and CCOs. The measure builds on REALD reporting requirements by mandating annual reporting and adding sexual orientation and gender identity (SOGI) data.

Health Care Interpreters

The Oregon Council of Health Care [Interpreters](#) is responsible for maintaining the qualifications and certification requirements for health care interpreters, who facilitate communication between patients with limited English proficiency (LEP) and their health care provider. [House Bill 2359](#) requires health care professionals and CCOs to work with health care interpreters from a registry maintained by OHA to ensure patients can communicate in languages other than English. The bill also requires companies that offer interpretation services to only use interpreters who have completed the approved training and are listed in the registry.

HEALTH INSURANCE

Coverage Mandates

The Legislative Assembly considered measures that modify existing health coverage mandates for insurers. Bills adopted clarified coverage

requirements for specific services, such as proton beam therapy for the treatment of prostate cancer ([Senate Bill 2](#)), emergency medical services transports ([Senate Bill 3](#)), and applied behavior analysis for the treatment of autism spectrum disorder ([Senate Bill 358](#)). [House Bill 2517](#) focuses on how insurers manage the utilization of covered services by setting standards for prior authorization and utilization management for state-regulated health benefit plans. The bill also requires health plans and CCOs to report on the use of these standards.

The Legislative Assembly did not come to a resolution on additional requirements on benefit coverage or provider reimbursement. [House Bill 2673](#) and [Senate Bill 772](#) (*both not enacted*) would have required health benefit plans to reimburse naturopathic physicians at the same rate as other medical physicians (e.g., MD or DO) when the services are covered by the plan and provided by a physician. To increase access to annual primary care visits, [House Bill 3108 A](#) (*not enacted*) would have required coverage of these visits without patient cost-sharing. The bill also sought to limit insurer policies that restrict patient's from accessing behavioral and physical health services that occur on the same-day or visit. To increase coverage of fertility and endocrinology services, [Senate Bill 168](#) (*not enacted*) would have required health benefit plans to cover these services for women and men. Finally, [House Bill 2390](#) (*not enacted*) would have required insurers to cover treatment for children experiencing pediatric autoimmune neuropsychiatric disorder or acute-onset neuropsychiatric syndrome (commonly referred to as PANDAS/PANS).

HEALTH CARE PROFESSIONALS

Licensure

As the practice of medicine evolves, legislation is often proposed to update the regulation of different types of licensed health care professionals. [House Bill 2528](#) creates a dental therapy licensure within the Oregon Board of Dentistry, a mid-level license that fits between dental hygienists and dentists. This new licensure is based on innovative pilot projects in Oregon that have increased access to oral health services among populations with the poor oral health and limited access to dental care. The measure

requires supervision by a licensed dentist with a collaborative agreement that describes the dental therapist's scope of practice.

Oregon's 60 genetic counselors engage individuals with risk assessment, patient education, and counseling based on genetic testing results. [House Bill 2619](#) establishes the licensure for genetic counselors, recognizing the growing utilization of genetic counseling services and promoting coverage by commercial insurers.

Scope of Practice

The Legislative Assembly also considered measures to modify the scope of practice of existing license types. To reduce the administrative burden with hiring and employing physician assistants, [House Bill 3036](#) replaces supervision requirements with collaboration standards. The measure is intended to increase patient access, particularly in rural and underserved areas. [House Bill 2541](#) (*not enacted*) would have expanded the scope of practice of optometrists to perform certain surgery procedures only ophthalmologists currently are authorized to perform.

PRESCRIPTION DRUGS

Affordability

Measures impacting coverage and the cost of prescription drugs were enacted in the 2021 session. [House Bill 2623](#) caps patient cost-sharing for insulin at \$75 for a 30-day supply and \$225 for a 90-day supply, with annual adjustments allowed to align with cost of living increases. [House Bill 2648](#) allows adults to access pseudoephedrine without a prescription, reversing the state's requirements enacted years ago to combat domestic methamphetamine production. [House Bill 2958](#) allows pharmacists to prescribe, and insurers to cover, pre- and post-exposure prophylactic (PrEP and PEP) antiretroviral therapies, which are effective HIV prevention tools for at-risk individuals. [Senate Bill 711](#) requires DCBS to study and submit a report by September 2022 on disparities in the cost of hormone replacement therapy between men and women, commonly referred to as the "pink tax."

Additional prescription drug affordability measures were considered but did not pass. [Senate Bill 848 A](#) (*not enacted*) would have established the Office of

Pharmaceutical Purchasing in OHA to oversee collaborative purchasing of pharmaceuticals to help lower the cost of drugs experienced by the State. [Senate Bill 764 A](#) (*not enacted*) sought to require courts to presume that drug patent infringement resolution agreements have anticompetitive effects. These agreements are used to resolve patent conflicts that arise when the manufacturers of generic or biosimilar drugs attempt to enter the market while a brand manufacturer still has a patent that protects their market exclusivity, contributing to the high costs of prescription drugs.

Pharmaceutical manufacturers sponsor patient assistance programs, which provide financial assistance to people to access expensive medications. [Senate Bill 560 A](#) (*not enacted*) would have required health insurers to count payments made on behalf of a patient by a third-party, such as patient assistance programs, towards a patient's deductible and out-of-pocket maximums, potentially disincentivizing patients from using lower-cost alternatives.

Transparency

Pharmaceutical companies market prescription drugs to educate health care professionals who dispense medications. [Senate Bill 763](#) establishes licensure requirements for pharmaceutical representatives. These include professional education requirements and require licensees to report pharmaceutical product affiliations and health care provider contacts, including compensation and gifts, to DCBS.

In 2018, the Legislative Assembly passed [House Bill 4005](#), creating a program to increase prescription drug price transparency. To further evaluate high-cost prescription drugs, [Senate Bill 844](#) establishes a Prescription Drug Affordability Board (PDAB) to annually identify and review nine expensive drugs and one insulin product that may create affordability issues for patients. By December 31, 2022, the PDAB must report on options used by other states and countries to lower prescription drug prices in Oregon.

PUBLIC HEALTH

Youth Tobacco Prevention

Tobacco use is a leading cause of preventable death and disease in Oregon. In 2017, Oregon raised the

required minimum age for an individual to purchase tobacco products from 18 to 21 years of age to reduce the number of youth who initiate the use of tobacco. Another policy to prevent youth from accessing tobacco is to require stores to have a license to sell tobacco products. [Senate Bill 587](#) requires retailers of tobacco products and inhalant delivery systems to be licensed by the Department of Revenue. Electronic nicotine delivery systems (ENDS), such as vaporizers (vapes) and electronic cigarettes (e-cigarettes), are also popular as potentially safer forms of tobacco and nicotine use. To further restrict sales of e-cigarettes to youth, [House Bill 2261](#) bans online sales of inhalant delivery systems.

TELEHEALTH

Pre-pandemic, the coverage of, and reimbursement for, types of telemedicine services differed among Medicare, Medicaid, and commercial health plans. To promote access to health care during the COVID-19 pandemic, Oregon along with the federal government eased regulatory constraints to allow providers to use electronic, video, and telephone visits to care for patients while reducing the risk of contracting COVID-19. To ensure access to telehealth services permanently beyond the pandemic, [House Bill 2508](#) (HB 2508) expands coverage of telemedicine services in the state's Medicaid program and by state-regulated insurance plans. HB 2508 also establishes requirements for reimbursement parity of services delivered remotely via telemedicine compared to in-person office visits.

Telepharmacy

Telehealth includes telepharmacy services, which allow a pharmacist to offer patient counseling by telephone or video conferencing, medication therapy management, and the remote supervision of pharmacy technicians who are dispensing medications. [Senate Bill 629](#) allows pharmacists to use telepharmacy to deliver services to a patient remotely, thereby increasing access to pharmacy services in underserved and rural areas.

Staff:

Oliver Droppers, Legislative Analyst
Brian Nieubuurt, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

HOUSING



FINANCING

In the 2021 Regular Session, the Legislative Assembly renewed or created two significant property tax exemptions for affordable housing. [House Bill 2446](#) extends the sunset of an exemption for nonprofit properties offered, occupied, or used as low-income housing until July 1, 2028. [House Bill 3275](#) exempts land owned by an eligible covenant holder who is burdened by an affordable housing covenant requiring permanent affordability, specifying that exempt land must be held or improved for the construction or rehabilitation of owner-occupied housing.

Expansions of tax credits for certain affordable housing projects did not pass. [House Bill 2096 B](#) (*not enacted*) would have increased the available tax credits for agriculture workforce housing projects from \$3.6 million per year to \$16.7 million per biennium. [House Bill 2584 B](#) (*not enacted*) would have increased the total amount of outstanding affordable housing lender tax credits allowed in a given fiscal year from \$25 million to \$35 million while modifying certification requirements for qualified borrowers.

Building on past efforts to modify the mortgage interest deduction, [Senate Bill 852](#) (*not enacted*) and [House Bill 2578](#) (*not enacted*) would have prohibited the deduction of mortgage interest from personal income tax liability for residences other than principal residences, with certain exceptions. Both measures proposed the creation of the Oregon Housing Opportunity Account, funded by revenue attributable to limits on mortgage interest deduction, to support affordable homeownership and homelessness prevention programs.

The Legislative Assembly considered [Senate Bill 330 A](#) (*not enacted*), an income tax credit to fully compensate landlords for rent forgiven under [House Bill 4401](#) (*not enacted*), it directed the Oregon Housing and Community Services (OHCS) to reimburse landlords participating in the Landlord Compensation Fund for the 20 percent of past-due rent that landlords were initially required to forgive, in

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addition to compensating new qualifying applicants for 100 percent of past-due rent that accrued during the COVID-19 emergency period (see [Senate Bill 278](#), under Rental Assistance).

HOMELESSNESS/SHELTERING

To address the needs of the growing unsheltered homeless population throughout the state, [House Bill 2006](#) reduces barriers to local government approval of locating and siting emergency homeless shelters. The Legislative Assembly approved \$36.5 million, in part, through the budget rebalance vehicle [House Bill 5042](#) for the development of low-barrier navigation centers in Bend, The Dalles, Eugene, McMinnville, Medford, Portland, Roseburg, and Salem. [House Bill 3261](#) aims to ease regulatory barriers to converting hotel and motel properties to emergency shelters and later to affordable housing, and [House Bill 2004](#) appropriates \$9.7 million to the acquisition and retrofitting of such properties for shelter use.

Oregon Housing and Community Services' administration and distribution of federal antipoverty grants to meet the housing stability needs of culturally

specific communities will be addressed by the Task Force on Homelessness and Racial Disparities, established by [House Bill 2100](#).

[House Bill 3115](#) protects unsheltered Oregonians from certain fines or arrest when sleeping or camping on publicly owned property; [House Bill 2367](#) (*not enacted*) would have established the Oregon Right to Rest Act related to the rights of people experiencing homelessness in public spaces. [House Bill 3124](#) clarifies requirements regarding notification and storage of personal property belonging to homeless individuals who are removed from an established camping site.

HOMEOWNERSHIP

Building on [House Bill 4204](#) in the 2020 First Special Session, [House Bill 2009](#) (HB 2009) renewed foreclosure protections and temporary mortgage payment deferral until June 30, 2021 for borrowers who own no more than five properties that each include four or fewer residential dwelling units. HB 2009 prohibits default for nonpayment if the borrower notifies their lender of lost income due to the impacts of COVID-19. The measure also authorizes the Governor to extend the mortgage foreclosure moratorium period for two successive three-month periods beyond June 30, 2021; on August 16, the Governor made the final moratorium extension to December 31, 2021.

To address homeownership opportunity for low-income individuals and people of color, [Senate Bill 79](#) authorizes OHCS to focus grants and technical assistance efforts, while [House Bill 2007](#) establishes the Joint Task Force on Addressing Racial Disparities in Homeownership, charged with presenting recommendations to the Legislative Assembly by September 15, 2022.

LAND USE AND DEVELOPMENT

The Legislative Assembly enacted changes to affordable housing siting. [Senate Bill 8](#) requires local governments to allow, without requiring a zone change or conditional use permit, the development of affordable housing projects on lands inside an urban

growth boundary not zoned for residential use, subject to certain zoning, property ownership, and land use requirements. [Senate Bill 458](#) establishes conditions under which local governments must approve divisions of real property for new middle housing development on lots and parcels in residential zones. [House Bill 2008](#) restricts conditions that local governments may place on development of affordable housing provided by religious nonprofit corporations and expands zoning where such housing must be allowed.

For rural residential development, the Legislative Assembly expressed its intent to pursue broader reforms to the state land use system. [Senate Bill 391](#) allows counties to authorize owners of a lot or parcel in rural residential zones to construct one accessory dwelling unit (ADU) on the lot or parcel, subject to certain conditions and compliance with local land use regulations. [House Bill 2918](#) requires local governments to compile and submit an inventory of surplus real property owned by the local government, including surplus real property outside of an urban growth boundary zoned for rural residential use. Several bills addressing rural affordable housing development did not pass, including [House Bill 3072 A](#) (*not enacted*), which would have allowed a local government, upon a landowner's petition, to expand its urban growth boundary for the development of workforce housing or combined workforce housing and workforce commercial uses, subject to certain conditions.

LANDLORD/TENANT

The residential eviction moratorium was central to the Legislative Assembly's deliberation throughout the three 2020 Special Sessions and the 2021 Regular Session. During its First Special Session in June 2020, the Legislative Assembly passed [House Bill 4213](#) (HB 4213), which established an eviction moratorium for residential and nonresidential tenants through September 30, 2020, and allowed a six-month grace period for tenants to repay outstanding rent by March 31, 2021.

In the Third Special Session in December 2020, the Legislative Assembly enacted [House Bill 4401](#), which extended the emergency period for the eviction

moratorium as well as the grace period for tenant nonpayment of rent and other charges to June 30, 2021. The grace period established in HB 4213 was extended by [Senate Bill 282](#) (SB 282) to February 28, 2022, for tenant repayment of rent accrued during the emergency period of April 1, 2020 through June 30, 2021. SB 282 also addresses occupancy limits, prohibiting landlords from imposing restrictions against guests based on the maximum duration of a guest's stay in a tenant's dwelling and from enforcing lower maximum occupancies than established by federal, state, or local law for a given dwelling. Along similar lines, [House Bill 2583](#) prohibits local governments from establishing or enforcing maximum occupancy limits in residential dwellings based on familial or nonfamilial relationships among occupants.

[Senate Bill 291](#) (SB 291) modifies how a landlord may evaluate a prospective tenant application for housing on the basis of criminal history. SB 291 prohibits landlords from considering previous arrests if applicants entered into a diversion program or received a deferred judgment, or if the applicant's conviction was for conduct that is no longer illegal under Oregon law.

Tenant rights-focused legislation that did not pass include [House Bill 2372](#) (*not enacted*), which would have prohibited eviction without cause outside of the COVID-19 emergency. [House Bill 2427](#) (*not enacted*) would have established a uniform, online rental application system and limited screening charges, while [House Bill 3306](#) (*not enacted*) would have allowed a landlord and tenant to agree on a recurring charge in lieu of a security deposit.

MANUFACTURED DWELLINGS

Relief packages for communities impacted by the September 2020 wildfires include support for displaced residents, as well as funding to redevelop and repair manufactured dwellings. [House Bill 3218](#) allows OHCS to utilize loan and grant funds from an existing program to support the repair or reconstruction of manufactured homes destroyed by natural disaster. Related to manufactured dwelling tenant rights, [House Bill 2364](#) requires a manufactured dwelling or floating home facility owner to consider tenant or tenant committee's offer to

purchase a facility upon owner notification of intent to sell.

[House Bill 2761 A](#) (*not enacted*) would have required a manufactured dwelling park landlord to provide critical rental documents in any of the state's five most commonly spoken languages other than English, if requested by a prospective tenant or purchaser.

RENTAL ASSISTANCE

[Senate Bill 278](#) prohibits residential landlords from pursuing eviction actions against a tenant for nonpayment for a 60-day period from the time that a tenant has provided a landlord with documentation of application for rental assistance, beginning July 1, 2021. The measure also directs OHCS to reimburse landlords participating in the Landlord Compensation Fund for the 20 percent of past-due rent that was forgiven and compensate new qualifying applicants for 100 percent of past-due rent that accrued during the COVID-19 emergency period.

Two new programs were created with rental assistance components. [House Bill 2163](#) establishes a long-term rental assistance program within OHCS to support individuals younger than 25 years of age who are or have recently been homeless. [House Bill 2842](#) creates the Healthy Homes Program within the Oregon Health Authority, for the purpose of awarding grants to eligible entities which provide financial assistance to low-income households and communities disproportionately affected by environmental pollution or other hazards, and to landlords for the repair and rehabilitation of residential dwelling units.

Staff

Claire Adamsick, Legislative Analyst
Devin Edwards, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

HUMAN SERVICES



ABUSE REPORTING AND INVESTIGATIONS

Oregon law requires certain individuals to report suspected abuse of vulnerable persons to the relevant authorities immediately; these individuals are referred to as "mandatory reporters." Mandatory reporting requirements exist to help prevent and end abuse at the earliest possible opportunity. [House Bill 3071](#) added all elected officials to the list of mandatory reporters.

Several factors guide professionals who interview children concerning best practices, particularly in cases of suspected abuse. [Senate Bill 386](#) directs law enforcement to develop and report to the legislature on parental notification policies when child witnesses are interviewed.

Trafficking victims are often subjected to both physical and psychological coercion, rendering them unable or unwilling to seek help or attempt escape from forced labor or sex trades. The Oregon Liquor Control Commission (OLCC) regulates alcohol and marijuana industries and requires employees who prepare or serve alcohol to obtain an OLCC service permit. [Senate Bill 515](#) adds a requirement for certain service permit holders to report suspected trafficking or unlawful employment of minors to the OLCC and law enforcement.

Unnecessary and improper use of restraint and involuntary seclusion in residential facilities and child caring agencies can traumatize and physically injure the child, as well as the person applying the restraint. [Senate Bill 710](#) clarifies and codifies existing rules prohibiting the use of restraint or involuntary seclusion by unauthorized personnel against children in certain care facilities and homes, creates a training and certification process to qualify personnel in the proper administration of seclusion or restraint, and includes secure transportation service providers among those subject to regulation.

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CHILD WELFARE

In August 2020, at Oregon Foster Youth Connection's virtual 2020 Policy Conference, current and former foster youth identified a need for more diverse membership on oversight entities. [House Bill 2505](#) provides for greater diversity of representation on the Governor's Child Foster Care Advisory Commission by creating a Child Welfare Equity Advisory Committee within it.

Court Appointed Special Advocates (CASAs) are specially trained volunteers appointed to advocate for children in court. [House Bill 2738](#) conditions the distribution of funds from the Department of Administrative Services to entity's responsible for coordinating CASA Volunteer Programs, on the submission of an annual plan for diversity, equity, inclusion, and accountability.

Family treatment courts (FTCs) concentrate similar cases together with appropriate providers, where families with substance use disorders are involved in the child welfare system. [House Bill 3366](#) (*not enacted*) would have established seven additional family treatment courts.

HUMAN SERVICES

FOOD INSECURITY

The Oregon Hunger Task [Force](#) was created by the legislature in 1989 to raise awareness about the extent of hunger in the state, coordinate food and nutrition services, and recommend government action to alleviate hunger. [House Bill 2834](#) adjusts the composition of the Oregon Hunger Task Force to achieve equitable representation from communities most impacted by food insecurity, key advocacy groups, and legislative and executive branches of government.

SUPPORTED CARE SETTINGS

The number of individuals aging in long-term care facilities and residential care facilities is increasing. [House Bill 2397](#) creates the Senior Emergency Medical Services Innovation Program in the Department of Human Services (DHS) and an advisory body to support pilot projects concerned with emergency medical services for these residents and requires a report to the legislature. The measure also prohibits local governing bodies from taking local action affecting long-term or residential care facilities regulated by DHS.

Direct support professionals are privately employed individuals who support adults and children experiencing intellectual and developmental disabilities. [House Bill 2964](#) (*not enacted*) would have directed DHS to reimburse provider agencies for the cost of paying direct support professionals for certain facilities at wages that are at least 150 percent of the minimum wage and to adjust the wages for inflation.

The Oregon Health Authority (OHA) and DHS are responsible for licensing and regulating all manner of care providers and care facilities, which includes express authority to issue, deny, suspend, and revoke licenses. [Senate Bill 86](#) makes agencies' authority to take regulatory action against residential training homes and residential training facilities explicit. To address declines in the number of formal complaints and reports of suspected abuse or neglect across the state in the absence of in-person interactions with individuals in congregate settings due to the COVID-19 pandemic, [Senate Bill 556](#) specifies that certain site inspections must be conducted in person.

The Department of Human Services is required to make available an acuity-based staffing tool that it and residential care facilities may use collaboratively to evaluate whether the facility has enough qualified caregivers to meet residents' needs. [Senate Bill 714](#) establishes a deadline for DHS to pilot the tool; creates minimum requirements for tools adopted by facilities in lieu of using the tool DHS provides; and requires DHS to begin facility staffing assessments and take regulatory actions against noncompliant facilities.

To protect the addresses of persons with intellectual or developmental disabilities who reside in certain homes, [Senate Bill 90](#) exempts their addresses from disclosure pursuant to a public records request unless disclosure is required in the public interest.

The office of the Residential Facilities Ombudsman ([RFO](#)) responds to requests for assistance and advocates on behalf of intellectually and/or developmentally disabled individuals and those with mental health challenges who reside in licensed care facilities or homes, in confidence, at no cost. [Senate Bill 97](#) prohibits testimony or documents from the RFO's office from being compelled in proceedings that arise from complaints made to the office concerning residents.

To register and regulate residential care referral agents much like it already regulates long-term care referral agents, [Senate Bill 749](#) subjects residential care referral agents to regulation by DHS.

OTHER HUMAN SERVICES LEGISLATION

Public Benefits

Delayed suspension of an incarcerated person's publicly funded benefits can lead to overpayments and subsequent recovery efforts. [House Bill 2107](#) requires county supervisory authorities to notify OHA and DHS about persons in custody to allow for timely suspension of publicly funded assistance during periods of incarceration.

Electronic Health Records

Electronic health records (EHRs) are the digital equivalent of paper medical records. EHRs are

intended to be contemporaneous, patient-centered records that make information available instantly and securely to authorized persons. [House Bill 3039](#) (*not enacted*) would have directed OHA to convene stakeholders and experts to explore the application of EHRs to the delivery of social services.

Oregon Energy Assistance Program

The Oregon Energy Assistance Program helps eligible low-income customers of Oregon's two largest electric utilities, Portland General Electric and Pacific Power, with their utility bills. [House Bill 2739](#) temporarily expands eligibility for and increases appropriation to the Oregon Energy Assistance Program.

Consumer Advisory Council

The Oregon Health Authority is advised on substance use disorder and mental health policies by a Consumer Advisory Council. [Senate Bill 721](#) authorizes existing members of the Consumer Advisory Council who select new members to strive for a balance of representation across age, race, ethnicity, and geographic areas of the state.

Staff

C. Ross, Legislative Analyst

Iva Sokolovska, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro

LABOR AND EMPLOYMENT



COLLECTIVE BARGAINING

Oregon's Public Employee Collective Bargaining Act (PECBA) governs employment relations between public employers and employees in the state, counties, cities, school districts, transportation districts, and other local governments, as well as private employers not subject to the jurisdiction of the National Labor Relations Board. In the 2021 session, the Legislative Assembly passed two measures that modify the PECBA.

Class size and caseload limits will be mandatory subjects of collective bargaining for [Title I](#) schools when [Senate Bill 580](#) goes into effect on January 1, 2022. Between 1989 and 1995, class size was a mandatory subject of bargaining; before and after that period, class size was a permissive subject of bargaining. Permissive subjects can be bargained only if both management and labor agree to do so.

Represented legislative branch employees will negotiate with the presiding officers or their chief negotiator when [Senate Bill 759](#) becomes effective on January 1, 2022. Prior to the passage of the measure, the Public Employee Collective Bargaining Act was silent on legislative branch representation in collective bargaining negotiations.

UNEMPLOYMENT INSURANCE

The dramatic impacts of the COVID-19 pandemic on employment spurred the Legislative Assembly to consider several measures related to unemployment insurance. To ease the impact of COVID-19 on unemployment insurance (UI) tax rates paid by employers, [House Bill 3389](#) (HB 3389) extended from 10 years to 20 years the look-back period used to determine the solvency of the Unemployment Compensation Trust Fund. The measure also made four changes regarding the calculation and payment of the UI tax. First, the bill excludes 2020 and 2021 from the high benefit cost period in the 20-year look-

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back to determine insurance fund solvency. Second, employer experience ratings that were used to determine 2020 rates will be used again in 2022, 2023, and 2024. Third, employers will be allowed to defer up to one-third of 2021 owed taxes if their rate increased by at least 0.5 percentage points in 2021. Tax deferrals will not accrue interest or penalties, and a percentage of deferred 2021 taxes will be forgiven for employers in good standing based on the employer's tax rate increase in 2021. Finally, HB 3389 reduces the fund adequacy percentages used to determine the tax rate schedules.

[Senate Bill 172](#) grants the Oregon Employment Department (OED) flexibility when recovering UI overpayments against future weekly UI benefits and allows the agency to waive all or part of a recipient's overpayment liability when recovery would be against equity or good conscience.

Two measures passed in 2021 that seek to clarify the "reasonable assurance" requirement that applies to school employees seeking UI benefits. This standard

assesses whether an employee has received written, verbal, or implied assurance that they will be performing services for a school after a break period when determining UI benefit eligibility for that break period. [Senate Bill 495](#) seeks to encourage more consistent treatment of instructional assistants seeking UI benefits by removing the current threshold for instructional work. Instructional assistants are still only eligible for UI benefits for weeks that begin between two successive academic years or terms if they lack “reasonable assurance” that their work will resume at the end of the vacation period or holiday recess. [Senate Bill 496](#) exempts workers, from the “reasonable assurance” requirement who provide food preparation and service, early intervention services and support, and prekindergarten services and support. Those workers are now eligible for UI benefits for weeks that begin between two academic years or terms, regardless of their employer’s long-term assurances.

WORKERS’ COMPENSATION

The Legislative Assembly considered, but declined to enact, several concepts related to the state’s workers’ compensation (WC) system (e.g., [Senate Bill 489](#), [Senate Bill 801](#), and [Senate Bill 802](#)). Several of the issues raised in the concepts are currently under discussion in the [Workers’ Compensation Management-Labor Advisory Committee \(MLAC\)](#), a standing executive branch committee composed of equal representation from subject workers and employers tasked with studying and making recommendations for improvement of the state’s WC system.

LEAVE LAWS

Oregon law provides protection for employees to take time off work for illness and family care. In 2021, the Legislative Assembly passed several measures updating or clarifying these protections. By narrowing the state’s current sick leave exemption, [Senate Bill 588](#) will make most union workers employed through a hiring hall or similar third party, and who receive benefits from a joint multiemployer-employee trust or benefit plan, subject to the state’s sick leave laws beginning January 1, 2023.

Effective January 1, 2022, [House Bill 2474](#) expands Oregon Family Leave Act protection to all employees of covered employers during a public health emergency unless the employee was employed for fewer than 30 days prior to commencing leave or worked an average of less than 25 hours per week in a 30-day period prior to commencing leave. The measure does not amend the 180-day requirement for protected leave outside of a public health emergency.

[House Bill 2005](#) (2019) established the Paid Family and Medical Leave Insurance (PFMLI) Program to provide employees with a portion of wages while on family, medical, or safety-related leave. [House Bill 3398](#) pushed out implementation timelines for the PFMLI program to account for the impacts of COVID-19. Under the new timelines, contributions will begin January 1, 2023, a year later than initially planned. Benefits and employer assistance grants will become available September 3, 2023, instead of January 1, 2023. The measure also extends the deadline for the Employment Department to repay the General Fund to June 30, 2023.

WAGES, HOURS, BENEFITS, AND EMPLOYMENT AGREEMENTS

A noncompetition agreement is a clause in an employment contract in which one party (usually the employee) agrees not to enter into a similar profession or trade against another party (usually the employer). Oregon law allows noncompetition agreements to be voided if they fail to meet specified criteria, including a minimum employee salary in excess of \$100,000 per year. With the passage of [Senate Bill 169](#), noncompetition agreements entered into on or after January 1, 2022, may only be in effect for up to 12 months from the date of separation and must be executed in writing. Nonconforming agreements are void and unenforceable rather than voidable. [Senate Bill 13](#) (*not enacted*) also proposed limiting the use of noncompetition agreements to the protection of trade secrets, the protection of proprietary information, or a covenant to not compete for former customers or clients or provide similar processes or services.

Legislators considered implementing standards for overtime pay for agricultural workers during the 2021

session. The federal Fair Labor Standards Act exempts agricultural employees from overtime requirements ([29 U.S.C. Section 213\(b\)](#)). Oregon statute provides the Commissioner of the Bureau of Labor and Industries (BOLI) the authority to adopt rules prescribing minimum working conditions of employment, excluding minimum wages, in an occupation as may be necessary for the preservation of the health of employees ([ORS 653.261](#), 2019). [Oregon Administrative Rule 839.020.0135](#) exempts individuals employed in agricultural employment from the overtime provisions. In contrast to agricultural workers, Oregon law requires overtime pay for workers employed in canneries, driers, and packing plants. For such workers, [ORS 653.265](#) (2019) requires overtime pay of one and one-half times the regular rate if the worker works more than 10 hours in a day or 40 hours in a week. Overtime is calculated on both a daily and weekly basis, with the worker paid the higher of the two amounts. [House Bill 2358 A](#) (*not enacted*) would have required employers to pay agricultural workers time and one-half for hours exceeding 55 per week in 2022, 48 per week in 2023, and 40 per week in 2024 and thereafter. It also would have appropriated \$100 million from the General Fund to the Oregon Business Development Department for a program to provide payments to employers who pay overtime wages to agricultural workers. Both Washington and California recently passed laws to phase in overtime pay requirements for agricultural workers.

The Wage Security Fund protects workers when their employer closes the business and lacks the resources to pay wages owed. The Fund receives a diversion of 0.03 percent of the wages subject to unemployment insurance taxes due in the first calendar quarter of the biennium. An employee can file a wage claim with BOLI for wages earned during the 60 days preceding the business' closure or during the last 60 days of employment. The BOLI Commissioner can access the Wage Security Fund to pay the employee up to \$10,000. [House Bill 2818](#) expands access to the Wage Security Fund, directing the Commissioner to pay up to \$10,000 of wages owed to a claimant when the Commissioner has obtained a judgment or issued a final order in an administrative proceeding for wage collection even if the business remains open. As with any wage claim paid from the Wage Security Fund, the Commissioner can take action to recover from the

employer the wages paid in addition to costs, attorney fees, and a penalty.

In response to COVID-19, [House Bill 2818](#) also modifies the pay equity statutes to specify that vaccine incentives and, until March 1, 2022, hiring and retention bonuses are not considered a form of compensation for purposes of pay equity.

WORKING CONDITIONS AND WORKPLACE SAFETY

The Legislative Assembly enacted two measures to address retaliation against workers for reporting workplace safety violations. Oregon law makes it an unlawful employment practice for an employer to retaliate against an employee or prospective employee because that person reported or opposed a workplace health or safety violation, filed a complaint, or testified in a proceeding under the Oregon Safe Employment Act. The elements of retaliation are: (1) the employee engaged in a protected activity; (2) the employee was subjected to an adverse employment action; and (3) there is a causal link between the activity and the adverse employment action. Currently, the burden is on the employee to prove the employer's action was retaliatory. An aggrieved employee or applicant may file a complaint with BOLI within 90 days and may file a civil action in court within one year of the alleged violation.

[Senate Bill 483](#) creates a rebuttable presumption that prohibited retaliation or discrimination has occurred if an employer retaliates against an employee or prospective employee within 60 days of the person engaging in protected activities regarding workplace safety.

[House Bill 2420](#) extends to one year the timeline for an employee to file a complaint with BOLI alleging retaliation or discrimination for reporting an unlawful practice or exercising rights relating to safety and health in the workplace. This change extends the current 90-day timeline to align with the timeline that typically applies to civil rights complaint filings. The 90-day timeline was increased from 30 days in 2007. The timeline to file with the federal Occupational Safety and Health Administration remains at 30 days.

WORKFORCE DEVELOPMENT

The Eastern Oregon Border Development Board was established by [House Bill 2012](#) (2017) to address the unique economic and employment challenges of the region. The region is defined as any territory within 20 miles of the Oregon border with Idaho that includes Ontario, Vale, and Nyssa; an area across the border from Weiser, Idaho; Brogan and Willow Creek; and an area southwest of Vale for a distance of ten miles. Public employers recruiting for jobs performed within the Eastern Oregon Border Economic Development Region must now give a preference to Malheur County residents as established by [House Bill 2026](#). A Malheur County resident appointed to a position must maintain residency for five consecutive years or is subject to termination.

The federal Workforce Innovation and Opportunity Act of 2014 (WIOA) requires the creation of local workforce development boards, overseen by a state workforce development board, as vehicles to promote educational and training programs to dislocated workers and adult learners. Oregon's statewide board, the Workforce and Talent Development Board ([WTDB](#)), implements Oregon's federally mandated State [Plan](#) and coordinates workforce development programs across local boards and state agencies. The COVID-19 pandemic caused massive disruptions to the workforce, forcing thousands of Oregonians out of work and placing severe stress on the unemployment system. [Senate Bill 623](#) responds to the economic disruptions caused by the COVID-19 pandemic by establishing a permanent Committee for Continuous Improvement, jointly appointed by the WTDB and local boards, to comprehensively and regularly review and offer equity-oriented recommendations on how the state's workforce development system could be improved. Additionally, the Committee must select a contractor by September 30, 2021 to conduct an initial evaluation to identify immediate impacts to the system caused by COVID-19 and present its findings to the WTDB and the legislature.

The Oregon Youth Employment Program was originally created within the Higher Education Coordinating Commission (HECC) by [Senate Bill 175](#) (2011) as part of a broad legislative initiative on workforce development in the wake of the Great

Recession. It was intended to reduce youth unemployment by coordinating local workforce development boards to provide apprenticeships and work opportunities for Oregonians aged 16-24. However, it was never funded by the Legislative Assembly and has been dormant since its creation. [House Bill 2092](#) revises the Youth Employment Program by combining it with the Oregon Youth Corps and making the program eligible for federal funds via the WIOA. The bill also makes several equity-oriented changes to the program, including mandating that 20 percent of HECC-issued grants for the Oregon Youth Corps go to organizations that serve communities of color and that 75 percent of Youth Employment Program participants come from communities of color, rural communities, communities facing generational poverty, and other historically underserved communities. Program participants must be paid at least minimum wage and receive English language learner and accessibility services per the federal Americans with Disabilities Act.

Staff

Tyler Larson, Legislative Analyst
Jan Nordland, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

NATURAL RESOURCES



AGRICULTURE

Industrial Hemp

Industrial hemp is an agricultural product, subject to state regulation, that includes cannabis varieties grown for fiber, seed, oil, or as a cover crop. Commodity commissions are established by the legislature to shape research, education, and marketing programs for a variety of agricultural commodities. [House Bill 2284](#) creates the Oregon Hemp Commission overseen by the Oregon Department of Agriculture (ODA). [House Bill 2296](#) (*not enacted*) would have authorized ODA to enter into an agreement with a law enforcement agency to assist in carrying out inspections of industrial hemp crops. [House Bill 3000](#) authorizes the Oregon Liquor Control Commission to regulate the processing, transport, sale, and purchase of artificially derived cannabinoids.

Agricultural Channel Maintenance

Oregon farmers remove waterway silt that has built up on farmlands to ensure drainage of subsurface waters. A program authorized in 2019 established a notice-based program for these activities in dry, traditionally maintained channels. [House Bill 2032](#) authorizes state agencies to implement this program on a regional basis, with statewide implementation required within five years. [House Bill 3185](#) clarifies that the spreading of material in undisturbed wetlands during agricultural channel maintenance is prohibited.

Meat Inspection

Federal law requires states to have meat inspection programs “at least equal to” the federal meat inspection program. In 2020, the Legislative Assembly directed ODA to establish a program for state inspection of the processing and sale of meat products (see [House Bill 4206](#), 2020 First Special Session). [House Bill 2785](#) directs ODA to establish a grant program to fund the construction of and upgrades to establishments that will operate under the State Meat Inspection Program authorized in 2020, as well as the expansion of establishments that operate

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under the federal inspection program, to increase the processing of meat from animals raised in Oregon.

FISH AND WILDLIFE

Columbia River Recreation Endorsement

The 2013 Legislative Assembly authorized the establishment of a Columbia River recreational endorsement fee to fish for salmon, steelhead, and sturgeon in the Columbia Basin; fee revenue is used to fund activities to improve Columbia River fisheries. [Senate Bill 59](#) extends the sunset on the endorsement fee until January 2, 2026 and sets conditions under which the state Fish and Wildlife Commission may no longer require or collect the fee.

Landowner Preference Program

The landowner preference program (LOP) makes deer, elk, or antelope tags available to landowners and their family members to use on their property. [House Bill 2068](#) extends the sunset on the LOP until have authorized the use of an LOP tag to take elk on adjacent property with the consent of the adjacent property owner.

NATURAL RESOURCES

Wildlife Check Stations

The Oregon Department of Fish and Wildlife (ODFW) deploys wildlife check stations to assess the condition of wildlife, obtain harvest rate data, and collect biological samples. [House Bill 3152](#) authorizes the agency to require the operator of a vehicle transporting taken wildlife or parts of wildlife to stop at an inspection station and establishes that failure to stop is a violation.

Wildlife Corridors

Wildlife corridors allow safe passage for animals needing to move between habitat areas. [House Bill 2548](#) (*not enacted*) would have required the Legislative Policy and Research Office to study issues related to funding wildlife corridor road crossings, as a supplement to and in conjunction with the state's Wildlife Corridor Action Plan. A work group plans to meet during the 2021-2022 legislative interim to prepare 2022 legislation.

Coyotes

The hunting of coyotes is not regulated by ODFW. [House Bill 2728](#) (*not enacted*) would have prohibited coyote contests, competitions, tournaments, or derbies for cash or prizes.

industry and provide wise stewardship of natural resources for the benefit of Oregonians. Various iterations of [House Bill 2357](#) (*not enacted*) included full elimination of the institute, significant budget reduction, transfer of authority to set the tax rate, transfer of some education initiatives, expansion of the Board of Directors to include additional perspectives, prohibitions and limits on types of expenditures, and record-keeping requirements.

Board of Forestry Governance

Changes to the composition of the Oregon Board of Forestry were envisioned in [Senate Bill 335](#) (*not enacted*) and [Senate Bill 337](#) (*not enacted*). The measures would have changed the maximum number of board members allowed to receive direct income at newly defined thresholds from the forest products industry. The measures would have also authorized the Governor, rather than the board, to appoint the State Forester, and would have either replaced existing regional forest practice committees with work groups, as needed, or left the committees intact but with changed membership requirements.

See the [Wildfire Policy](#) section below for measures at the intersection of forests and wildfire.

FORESTS

Timber Harvest Taxation

The Legislative Assembly considered several measures related to how timber harvest is taxed in Oregon and how those revenues are used, but none were enacted in 2021. [House Bill 2070 A](#) (*not enacted*) and [House Bill 2430](#) (*not enacted*) would have extended existing privilege taxes. [House Bill 2379](#) (*not enacted*) would have changed the tax structure by replacing the existing volume-based Forest Products Harvest Tax with a value-based severance tax, changing the revenue recipients and distributions, and establishing a new mechanism for emergency wildfire suppression funding.

Oregon Forest Resources Institute

Lawmakers contemplated several changes to the Oregon Forest Resources Institute ([OFRI](#)), a publicly funded organization that was established in 1991 to support and enhance Oregon's forest products

LAND USE

Eastern Oregon Border Economic Development Region

The 2017 Legislative Assembly created the Eastern Oregon Border Economic Development Region to recommend policies and strategies to promote workforce and economic growth. [Senate Bill 16](#) authorizes counties in the border region to partition and rezone up to 200 acres of land from exclusive farm use to residential use to address housing needs and support economic development.

Submarine Fiber Optic Cables

Oregon's territorial sea has been identified as a favorable location for submarine fiber optic telecommunication cables. [House Bill 2603](#) requires owners or operators of undersea cables to obtain financial assurances for the installation and removal of cables and to create a plan for the removal of cables.

NATURAL RESOURCES

Public Engagement in Land Use

Goal 1 of Oregon's Statewide Land Use Planning Program calls for citizen involvement in all phases of the land use planning process. [House Bill 2488 A](#) (*not enacted*) would have required that this goal be revised to address participation and engagement for disadvantaged groups that may experience past or current discrimination, patterns of exclusion or an unfair distribution of resources, access and opportunity, including people of color, individuals with low income or very low income as defined in [ORS 458.610](#) (2019) and persons with disabilities.

Stevens Road Tract in Bend

[House Bill 3318](#) establishes an expedited land use planning process with associated deadlines for the development of the Stevens Road tract of land in Bend. The measure also exempts dog training facilities from the state structural specialty code and authorizes incorporated cities to regulate dog training facilities.

OUTDOOR RECREATION

Boating

A stretch of the Willamette River known as the Newberg pool attracts heavy and varied boating use and has considerable shoreline development. In 2019, the Legislative Assembly required anyone participating in wake surfing or wakeboarding to complete an education course and maintain a towed watersports education endorsement (see [House Bill 2352](#) (2019)). Participants are also required to obtain a towed watersports motorboat certificate.

In 2021, three measures ([Senate Bill 857 A](#), [House Bill 2555](#), and [House Bill 2725](#) (*all not enacted*)) would have established a maximum loading weight of a motorboat to obtain a towed watersports motorboat certificate. [House Bill 2734](#) (*not enacted*) would have directed the Oregon State Marine Board (OSMB) to study and make recommendations for legislation to impose an excise tax on wake boat sales. [House Bill 2695 A](#) (*not enacted*) would have modified OSMB membership to include eight voting members and two nonvoting members who met specified criteria to bring a variety of backgrounds and expertise to the board's deliberations.

State Parks Fees

The Oregon State Parks and Recreation [Commission](#) sets rates for the use of state park facilities. [Senate Bill 794](#) establishes a fee differential for the use of recreational vehicles by nonresidents in areas established and maintained by the Oregon Parks and Recreation Department.

WATER

In 2021, the Oregon legislature considered a variety of topics related to water quality and quantity, infrastructure, and resource planning. Notably, the Legislative Assembly made significant water investments under [House Bill 5006](#), a \$530 million water package to support water needs at the state, regional, and local levels. The bill provides dedicated funding for modernizing surface and ground water data collection equipment, assisting with the development of a place-based integrated water resources strategy, and supporting regional water planning and management.

Water Quality

The 2020 wildfires damaged critical wastewater infrastructure in many regions of the state where households rely on septic systems for wastewater treatment. As part of [House Bill 5006](#), the Legislative Assembly established a new financial assistance program to fund the repair, replacement, upgrade, or evaluation of a residential on-site septic system.

Building on past efforts to address harmful algal blooms (HABs) [House Bill 5042](#) appropriates funds to the Oregon Department of Environmental Quality (DEQ) for staffing and equipment related to testing for cyanotoxins in water bodies. [House Bill 3093 A](#) (*not enacted*) would have directed the Oregon Health Authority and DEQ to develop and implement strategies for responding to HABs in freshwater environments, including through the creation of a new staffing position in DEQ.

The Legislative Assembly also considered the increased use of wipes during COVID-19 and the impact that flushing disposable wipes has on wastewater infrastructure. [House Bill 2344](#) requires manufacturers, wholesalers, or retailers who sell single-use wipes to label such products as "non-

NATURAL RESOURCES

flushable” in a prominent font. See the Energy and Environment Summary of Legislation for additional measures related to materials management.

Water Infrastructure

The Legislative Assembly enacted two measures addressing well construction and maintenance. [House Bill 2145](#) establishes the Water Well Abandonment, Repair, and Replacement Fund to provide financial assistance for continued well construction and/or maintenance. [House Bill 3092](#) establishes a cost-sharing grant program for remediating personal use wells in the Greater Harney Valley Groundwater Area of Concern, an area designated by the Water Resources Commission to ensure regional ground water is appropriated within the limits of available water resources.

Related to beaver populations in Oregon, [House Bill 2298](#) requires ODFW to administer a program for voluntary stream restoration and habitat improvement projects through the construction of environmental restoration weirs, i.e., low barriers built across a channel to change water flow characteristics.

See the 2020 [Wildfire Recovery](#) section below for measures at the intersection of water and wildfires.

Water Law

To address the need for changes to existing water rights, [House Bill 3103](#) allows the holder of a water right certificate authorizing water storage to change the type of use of the water and directs the Water Resources Commission to engage professional facilitation services in finding a path forward for transfers of stored water and related legislation. [House Bill 3091](#) (*not enacted*) would have authorized a water right holder to petition the Oregon Water Resources Department (WRD) for a declaratory ruling on a water right transfer and conferred jurisdiction on the Supreme Court to determine WRD’s authority to approve the transfer.

WILDFIRE POLICY

In response to the dramatically increased size, frequency, intensity, and costs of wildfires in Oregon in recent years, policymakers enacted a major wildfire

package during the 2021 legislative session – [Senate Bill 762](#) (SB 762).

To help communities adapt to living with the risk of wildfire and to reduce risk of damage, SB 762 requires development of a statewide map of wildfire risk, establishment of defensible space standards, changes to building code standards, identification of potential future land use changes, electric utility risk mitigation planning, wildfire updates to the statewide emergency plan, support for community smoke response plans, and establishment of grant programs for community clean air shelters and residential smoke filtration systems.

To reduce hazardous fuels on the landscape, SB 762 requires a large-scale fuel treatment program on public and private forestlands, rangelands, and in communities, establishment of an Oregon Conservation Corps for youth to assist with fuel reduction efforts, establishment of a grant program to assist small forestland owners with fuel reduction, development of a Certified Burn Manager Program, enhancement of opportunities for prescribed burns across landownership boundaries, and continued engagement with federal partners to achieve effective landscape-scale changes on federal forestland.

Lastly, SB 762 enhances suppression and wildfire response by providing additional capacity, equipment, and resources to relevant agencies, and by requiring baseline levels of wildfire protection in each county. Relatedly, [Senate Bill 590](#) expands wildfire protection opportunities on cultivated cropland by allowing those areas to organize resource-supported rangeland protection associations. Under SB 762, all policy changes and accompanying investments will be overseen by a new Wildfire Programs Director and Council.

The Legislative Assembly did not come to a resolution on [Senate Bill 605 A](#) (*not enacted*) during the 2021 Regular Session. The bill would have provided a process for annexation of properties within seven road miles of a fire station into a rural fire protection district.

NATURAL RESOURCES

WILDFIRE RECOVERY

The Labor Day wildfires of 2020 were the most destructive recorded in state history. They burned over one million acres, cost hundreds of millions of dollars in damage, and destroyed more than 5,000 homes and other structures in the Cascades, coastal, and southern regions of the state.

In addition to the policy provisions outlined below, the Legislative Assembly approved nearly \$500 million through [House Bill 5006](#) to aid Oregonians impacted by the fires and to accelerate meaningful recovery, and made additional budget rebalance and Emergency Board investments.

Shelter and Rebuilding

The Legislative Assembly enacted several measures to support, incentivize, and expedite rebuilding for those who lost homes and other structures. [House Bill 2289](#) provides a streamlined regulatory pathway limited to 2020 wildfire survivors to build back without engaging in the traditional land use process. For a subset of homes, structures, and other uses that are considered nonconforming, [Senate Bill 405](#) extends an existing timeline from one to five years from the date of the wildfire for when replacement efforts have to start, so that survivors have sufficient time to clean up fire debris and arrange for rebuilding. For manufactured homes, [House Bill 3219](#) ensures local approvals, streamlined permitting, zoning flexibility, and modified construction standards for expedited manufactured dwelling park redevelopment. The measure also specifies landlord and tenant responsibilities in the event of a future wildfire or other natural disaster.

The Legislative Assembly sought to expand temporary shelter options as wildfire survivors rebuild or consider their relocation options. In addition to making investments in shelter supply, [House Bill 2809](#) allows homeowners to remain on their damaged property in a recreational vehicle (RV) for up to 24 months, regardless of the availability of water, electric, or sewer connections.

Tax Relief

The Legislative Assembly enacted short-term tax relief for 2020 wildfire survivors as well as tax policy changes that the body determined would be useful in

the event of future damaging wildfire seasons and other emergencies.

Limited to the 2020–2021 property tax year, [Senate Bill 464](#) authorizes wildfire-impacted counties to require tax collectors to cancel 5/6ths of property taxes for properties that suffered a loss of real market value due to the 2020 wildfires, and to refund any overpayment of taxes. Also limited to the 2020–2021 property tax year, [House Bill 2247](#) allows counties to waive interest charges on unpaid or late property tax payments for businesses as long as the delinquency was substantially due to the effects of the 2020 wildfires or the COVID-19 pandemic.

The Legislative Assembly enacted two measures modifying tax responsibilities for Oregonians affected by the 2020 wildfires as well as for anyone who, in the future, resides in a geographic area covered by an emergency declaration or Emergency Conflagration Act invocation. [House Bill 2341](#) authorizes tax collectors to proactively prorate property taxes for properties that have been destroyed or damaged by fire or an act of God, rather than necessitating that property owners file an application requesting proration. [House Bill 2607](#) exempts from construction taxes any residential housing being constructed to replace housing destroyed or damaged by wildfire or another emergency event.

Water Access and Infrastructure

The 2020 wildfires damaged critical drinking and wastewater infrastructure in many regions of the state. To ensure recovery of these systems, the legislature made significant water infrastructure investments and passed two policy measures to ensure optimal community access to special districts to facilitate their recovery.

Unincorporated communities in Oregon typically rely on aging septic systems for wastewater services and are restricted from operating as sanitary districts with centralized sewer systems unless they meet certain criteria outlined in law. In light of the Holiday Farm Fire's destruction of much of Blue River's septic infrastructure and the opportunity for the community to re-envision its wastewater system, lawmakers passed [Senate Bill 745](#), which modifies those criteria. The change will create a pathway for Blue River and

other unincorporated communities to potentially develop centralized wastewater systems. [House Bill 3126](#) addresses drinking water access for a Jackson County mobile home park that lost two of its three wells to the Almeda Fire, and creates an expedited annexation pathway into a water district for communities whose water supply demonstrably becomes inadequate or contaminated by a wildfire and who meet other specified conditions.

Staff

Allison Daniel, Legislative Analyst
Laura Kentnesse, Legislative Analyst
Beth Patrino, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

PUBLIC SAFETY



FIREARMS

Prior to the enactment of [Senate Bill 554](#) (SB 554), Oregon law provided that an individual who intentionally possesses a loaded or unloaded firearm or any other instrument used as a dangerous weapon, while in a public building, shall upon conviction be guilty of a Class C felony unless that person is licensed to carry a concealed handgun under [ORS 166.291 \(2019\)](#) and [166.292 \(2019\)](#). SB 554 removes the existing affirmative defense provided for concealed handgun license holders and prohibits the possession of firearms within the Capitol, on certain school grounds, and within the passenger terminal of a commercial service airport. It also creates new regulations for the storage and transfer of firearms. Similar changes were proposed by [House Bill 2510](#) (*not enacted*).

[House Bill 2543](#) (*not enacted*) also proposed changes to firearm transfers. Currently, if the Oregon State Police (OSP) fails to provide a unique approval number to a gun dealer in response to a criminal background check, or notifies the gun dealer that the purchaser of a firearm is disqualified before the close of the gun dealer's next business day following the request, the gun dealer may deliver the firearm to the purchaser. If enacted, the measure would have prohibited the transfer of a firearm by a gun dealer or private party unless the individual received a unique approval number from OSP.

POLICE REFORM AND ACCOUNTABILITY

The [Joint Committee on Transparent Policing and Use of Force Reform](#) (Committee) was formed in the wake of the death of George Floyd in Minneapolis, Minnesota on May 25, 2020, as a result of use of force by police officers and the nationwide protests that followed. The bipartisan Committee was established through [House Bill 4201](#) in the First Special Session of 2020 when several policing reform concepts drafted for consideration were not enacted. The Committee

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was created, in part, to provide the arena for ongoing discussion and development of those concepts, which were introduced in some form during the 2021 Legislative Session. Those measures are divided below into subtopics as relating to civilian or community oversight; conduct, training, and discipline; and use of force and public interactions with law enforcement.

Civilian or Community Oversight

After the Portland City Council voted unanimously to refer [Ballot Measure 26-217](#) (BM 26-217) to the voters, Portland residents passed the measure in November 2020. BM 26-217 created a civilian community police oversight board with the authority to conduct investigations and discipline City of Portland police officers. The measure amended the city charter to establish the oversight board, with members approved by the City Council (Portland, Or., City Charter ch. 2 art. 10 sect. 2). [Senate Bill 621](#) allows for provisions of a city charter or ordinance (such as Portland's) that establish a local community oversight board to oversee disciplinary matters concerning law enforcement officers to remain valid if the measure was referred to voters on or after July 1, 2020, and the majority of votes were in favor. The measure is not limited to the City of Portland.

Agencies that qualify as a "criminal justice agency," under [ORS 181A.010 \(2019\)](#), are permitted to retrieve criminal justice information from Oregon's Law Enforcement Data System (LEDS). [Senate Bill 204](#) expands the definition of "criminal justice agency" to include civilian or community oversight boards, agencies, or review bodies designated by a municipality or law enforcement agency.

Conduct, Training, and Discipline

There are nine federally recognized tribes located within Oregon's borders. Authorized tribal police officers have the same powers and protections provided to Oregon law enforcement officers under certain conditions. [Senate Bill 731](#) (SB 731) repeals the general law enforcement unit compliance requirements relating to the Department of Public Safety Standards and Training (DPSST) authority over tribal law enforcement agencies. SB 731 requires tribes to follow the DPSST regulations related to the disclosure of information about public safety officers and regulations related to tribal police.

In the 2020 First Special Session, the Legislative Assembly adopted [Senate Bill 1604](#), which requires an arbitrator, who makes a finding of misconduct consistent with the law enforcement agency's finding of misconduct, to impose the same disciplinary action that was imposed by the agency, so long as the discipline was done pursuant to a discipline guide or matrix that was adopted by the agency as a result of collective bargaining. [House Bill 2930](#) removes the discipline matrix or discipline guide as a mandatory subject of collective bargaining for law enforcement, establishes the Commission on Statewide Law Enforcement Standards of Conduct and Discipline, and directs the Employment Relations Board to appoint arbitrators for law enforcement discipline proceedings.

Law enforcement agencies in Oregon are not required to obtain accreditation but do have oversight of officer certification and training through DPSST. [House Bill 2162](#) requires all law enforcement agencies with 35 or more sworn officers to be accredited through a body designated by DPSST no later than July 1, 2026. For agencies with 100 or more sworn officers, accreditation must be done by July 1, 2025.

During the 2020 First Special Session, the Legislative Assembly enacted [House Bill 4208](#), which prohibits the use of tear gas by a law enforcement agency for crowd control except during riots and only after certain notice was provided to assembled persons. [House Bill 2928](#) further regulates the use of chemical incapacitants and other devices for the purposes of crowd control and prohibits the use unless physical force is justified under the statute. The measure requires law enforcement to provide reasonable accommodations for disabled individuals after issuing orders for dispersal and to provide access to medical treatment for injured individuals.

Nationwide, many law enforcement agencies receive grants for personnel, training, and equipment from the federal government. These grants, or internal agency funds, can be used to purchase equipment directly from federal agencies. Other federal programs allow law enforcement agencies to receive surplus equipment for free through federal agencies such as the Defense Logistics Agency. [House Bill 2481](#) prohibits law enforcement agencies in Oregon from receiving certain specified surplus military equipment and requires agencies purchasing any surplus military equipment to receive permission from their relevant governing body or agency director, provide certain notifications, and use only state or local funds.

[House Bill 4205](#) (2020 First Special Session) established a duty to intervene in misconduct, which applies to any officer, regardless of rank or assignment. [House Bill 2929](#) establishes the processes and procedures for reporting police misconduct or violations of minimum standards as required by House Bill 4205.

[House Bill 2936](#) (HB 2936) finds that racism has no place in public safety. The measure requires DPSST to develop a uniform statewide background check form with a consistent checklist, standardized personal history questionnaire for use by law enforcement agencies in hiring, and reference checks. HB 2936 also requires law enforcement agencies to develop policies setting standards for speech and conduct by officers.

Use of Force and Public Interactions with Law Enforcement

Prior to the enactment of [House Bill 2932](#) (HB 2932), reporting requirements on the use of force by law enforcement were limited to cases involving the use of deadly physical force by officers. HB 2932 requires law enforcement agencies to provide information to the Federal Bureau of Investigation's National Use-of-Force Data Collection describing the circumstances and individuals involved when a peace officer or corrections officer uses any type of force or threatens to use physical force against an individual. The Criminal Justice Commission must then analyze the data and report back to the Legislative Assembly.

The disclosure of an individual's personal information for the purpose of harassing or harming the individual, sometimes referred to as "doxing," has become increasingly common as the internet has grown and become more accessible. [House Bill 3047](#) creates a civil cause of action for the intentional disclosure of an individual's personal information with the intent that the individual be stalked, harassed, or injured.

Currently, [ORS 131.675](#) (2019) directs local authorities to go amongst any unlawfully or riotously assembled group and command them to disperse. If the group does not immediately disperse after being commanded to do so, the local authorities must arrest them or cause them to be arrested. [House Bill 3059](#) amends this statute to remove the requirement for local authorities to arrest persons who fail to disperse as ordered.

[House Bill 4207](#) (2020 First Special Session) required DPSST to publish information in an accessible online database about the suspension or revocation of an officer's certification and required law enforcement agencies to request the personnel file of any officer it might hire before extending an offer of employment. [House Bill 3145](#) requires additional information be added to the database when discipline that carries an economic sanction is imposed and becomes final and requires DPSST to publish information to the established database within 10 days of receipt.

[House Bill 3164](#) narrows the scope of conduct currently in statute constituting a refusal to obey an order, for the purpose of establishing the crime of interfering with a peace officer, to circumstances

when an officer is performing duties regarding another person or conducting a criminal investigation and the behavior prevents the performance of said duties. It also prohibits the arrest of a person for interfering with a peace officer for conduct that would constitute any other criminal offense.

When a person is arrested, photos are usually taken of them as they are booked into jail. Subsequently, these photos are often released to the public and published in the media or online. Some websites specialize in publishing booking photos and charge money to have the images removed, even if the photo is of a person who was acquitted or not charged. [House Bill 3273](#) prohibits law enforcement agencies from releasing booking photos except under certain circumstances. It also creates requirements for the destruction of a booking photo image by a publish-for-pay publication upon request when the requester meets specified conditions.

[House Bill 3355](#) specifies the identification that must be on an officer's uniform when engaged in crowd management in cities with populations over 60,000. It also requires officers to identify themselves to members of the public upon request in most circumstances and creates a process by which a member of the public can request the name and identification number of an officer from a law enforcement agency.

POST PRISON AND REENTRY

Prior to the enactment of [Senate Bill 819](#) (SB 819), any petition for review of a sentence for a felony conviction was exclusively within the jurisdiction of the Oregon Court of Appeals. SB 819 establishes a procedure by which a district attorney and an incarcerated person may jointly petition the sentencing court for reconsideration of certain felony convictions and sentences if the original sentence no longer advances the interests of justice, such as convictions based on invalidated or erroneous forensic evidence.

The Legislative Assembly enacted [House Bill 3194](#) (2013) authorizing the Department of Corrections to oversee a statewide Earned Discharge Program specific to probationers and local control clients. Since

the program was established, the Department of Corrections has seen more than 6,300 individuals successfully end their supervision early. [House Bill 2172](#) expands eligibility to individuals serving a period of post-prison supervision and allows them to be discharged early from supervision if they have complied with the terms of their supervision.

TRAFFIC VIOLATIONS

Legislation passed during the 2021 regular session related to traffic violations includes measures concerning driving under the influence of intoxicants.

[Senate Bill 201](#) provides that an individual has committed the crime of Driving Under the Influence of Intoxicants (DUI) if that person is found to have a .08 or higher percent blood alcohol level within two hours of driving so long as the prosecution can prove the person did not drink between driving and the breath or blood test. The measure also clarifies when previous DUI convictions in other states can be used to enhance charges related to DUI and vehicle-related manslaughter and assault in Oregon.

[House Bill 2523](#) requires the Oregon Department of Transportation (ODOT) to temporarily waive its \$75 driving privilege reinstatement fee if driving privileges were suspended for failure to pay a traffic-related court fine, failure to appear in court related to a vehicle offense or minor in possession charge, or failure to maintain proof of liability insurance with ODOT. Courts were prohibited from suspending driving privileges for failing to pay traffic-related fines in 2020, though this was not retroactive.

Oregon law provides that a person has committed the crime of DUI if the person has driven under the influence of a controlled substance. [Ballot Measure 109](#) (2020) specifically excludes psilocybin from the definition of "controlled substance" and therefore a person can no longer be guilty of DUI if they are driving under the influence of psilocybin, so long as they are using psilocybin in compliance with the provisions of Measure 109. [House Bill 3140](#) provides that a person has committed DUI if the person drives a vehicle while under the influence of psilocybin and updates other statutes in the vehicle code referencing DUI or intoxicants to include psilocybin.

Staff

Amie Fender-Sosa, Legislative Analyst
Gillian Fischer, Legislative Analyst
Michael Lantz, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453
(503) 986-1813

www.oregonlegislature.gov/lpro

TRANSPORTATION AND INFRASTRUCTURE



ALL-TERRAIN VEHICLES

The Oregon Department of Parks and Recreation brought legislation to address operational requirements of all-terrain vehicles (ATVs), as well as modification of the definition of some ATVs to address shifts in the consumer marketplace. [Senate Bill 106](#) (*not enacted*) would have created the offense of failure to carry an ATV operator permit and/or present it to police upon request. It also would have required all persons age 16 and up operating a Class IV ATV (typically called a side-by-side) to complete a safety education course and to also carry a valid driver license and ATV operator permit. [Senate Bill 107](#) (*not enacted*) would have modified the definition of Class IV ATVs by removing references to maximum engine size and eliminating the windshield wiper requirement.

AUTONOMOUS AND ELECTRIC VEHICLES

During the 2021 Session, a number of bills were introduced to advance the proliferation of electric vehicles and electric vehicle charging infrastructure throughout Oregon. Two measures enacted allow electric public utilities to recoup the costs of transportation electrification from retail customers: [House Bill 2165](#) and section 21 of [House Bill 3055](#). Another measure, [Senate Bill 542 A](#) (*not enacted*) would have established a Task Force on Vehicle Charging Stations to further efforts to provide additional charging locations on public property throughout the state.

The Legislative Assembly initiated Oregon's electric vehicle rebate program with the passage of [House Bill 2017](#) (2017). [House Bill 2165](#) also expands Oregon's electric vehicle rebate programs by eliminating the sunset on use of moneys from the vehicle privilege tax instituted in 2017 (the funding was to sunset in 2024) and doubling the maximum rebate for the Charge Ahead program from \$2,500 to \$5,000. The measure also increases the maximum retail price for hydrogen fuel cell vehicles to be eligible for rebates from

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See the **2021 Legislative Summary Report** for [Transportation and Infrastructure](#), which highlights policy measures that received a public hearing during Oregon's 2021 Regular Legislative Session.

\$50,000 to \$60,000. Another measure, [House Bill 2182](#) (*not enacted*) would have directed the Oregon Department of Environmental Quality (DEQ) to conduct outreach efforts to expand public awareness of the electric vehicle rebate programs.

The Department of Consumer and Business Services (DCBS) adopted Electric Vehicle (EV) Ready Parking standards in 2017. [House Bill 2180](#) requires the director of DCBS to amend the state's building code to require that new construction of certain buildings, such as privately owned commercial buildings, multifamily residential buildings, and mixed-use structures, include provisions for electrical service capacity for a percentage of electric vehicle charging parking spaces. [House Bill 2290](#) (HB 2290) requires

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the Oregon Parks and Recreation Department (OPRD) to allow for the installation and service of public electric vehicle charging stations at parking areas of state park facilities. HB 2290 also establishes the Parks and Recreation Transportation Electrification Fund, and authorizes OPRD to seek gifts, grants, and donations to provide for electrified parking spaces at state park facilities.

AVIATION

The Legislative Assembly considered several bills with the potential to impact moneys flowing into the Oregon Department of Aviation, as well as how the Department distributes those moneys in terms of grants to airports. [Senate Bill 38](#) grants the Oregon Department of Aviation rulemaking authority to establish a fee to cover the cost of evaluating tall structures to determine whether they will interfere with the flow of air traffic over Oregon airports. Currently, the Department conducts such inspections on buildings, towers, signage, wind turbines, and cranes, and does not collect a fee to cover its costs for the evaluation.

The legislature took action to make permanent a temporary aviation fuel tax increase in order to maintain the program that was created with the revenues from the tax. [House Bill 2434](#) eliminates the sunset on the two-cent rate increase in jet fuel taxes and aviation gasoline taxes that was instituted in 2015 and scheduled to sunset in 2022. The measure also revises provisions related to the grant programs administered by the Oregon Aviation Board that are funded by the two fuel taxes.

BICYCLE/PEDESTRIAN

Oregon law requires at least one percent of State Highway Fund revenues be expended on bicycle and pedestrian facilities within the public right of way. Legislation enacted in 2017 provided a dedicated funding stream, in the form of a bicycle excise tax, to pay for bicycle and pedestrian facilities that lie outside of the highway right of way. [House Bill 3055](#), sections 34 and 35, modify the definition of “bicycle” for purposes of the bicycle excise tax that was established by [House Bill 2017 \(2017\)](#). The tax of \$15

on qualified bicycles funds grants for construction of off-road bicycle and pedestrian trails administered by the Oregon Transportation Commission.

[Senate Bill 395](#) (*not enacted*) would have increased the required State Highway Fund expenditure on footpaths and bicycle paths located on highway rights of way from one percent to five percent. The measure, which would also have modified the duties of the Bicycle and Pedestrian Advisory [Committee](#).

DMV

A number of bills brought forward in 2021 had the potential to modify programs administered by the Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation (ODOT). Two addressed industries regulated by DMV, the first being [Senate Bill 300](#) (SB 300), which establishes a State Board of Towing within the Oregon Department of Transportation (ODOT). SB 300 also grants authority to issue, revoke, or suspend towing certificates to the Board; authority that was previously held by ODOT’s Driver and Motor Vehicle Services Division. The measure also establishes the State Board of Towing Account. The second measure, [House Bill 3324](#) (*not enacted*), would have removed DMV oversight of vehicle dealers by establishing an Oregon Vehicle Industry Board to regulate licensed dealers of new and used vehicles.

Two measures not enacted would have created new funding programs. Abandoned recreational vehicles have become a growing burden on property owners and towing companies. [Senate Bill 466](#) (*not enacted*) would have created the Abandoned Vehicles Recreational Vehicle Disposal Revolving Account and increased fees to title and register recreational vehicles to pay for the cost of disposing of abandoned recreational vehicles.

Introduced to increase the number of persons registered as organ donors, [House Bill 2506](#) (*not enacted*) would have created the Organ Donor Registry and Public Awareness Fund, and would have directed ODOT to accept donations of \$3 or more to the Fund as part of DMV operations and transactions. Moneys raised would have been transferred to the

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nonprofit entity Donate Life Northwest to fund a public outreach campaign to inform the public about organ donation.

[House Bill 2137](#) makes numerous changes related to ODOT's Driver and Motor Vehicle Services Division to address the COVID-19 pandemic and to lessen the workload on the Division. These changes include: prohibiting law enforcement from issuing citations for credentials that have been expired for fewer than six months; exempting individuals from knowledge tests if they hold a license from another jurisdiction; eliminating redundant driver knowledge tests; and allowing driver license renewal up to two years following expiration of a similar license, as opposed to the current limit of one year.

[House Bill 2498](#) allows a vehicle owner who is deaf or hard of hearing to request that information be included on the vehicle registration of the owner's hearing impairment. The program is intended to inform law enforcement of the person's status prior to engaging the driver during a traffic stop.

Sections 102 to 124 of [House Bill 3055](#) make general revisions of Oregon's motor carrier statutes to align state law with changes to federal motor carrier laws. These changes are required for Oregon to remain within the interstate compact that governs commercial driving in the United States.

FUELS

The 2021 Session saw several bills to encourage the increased use of alternative fuels that contain lower carbon intensity than gasoline and diesel, in order to continue to move toward meeting the state's clean air and greenhouse gas reduction goals. [House Bill 3051](#) provides for the retail sale of gasoline in Oregon with an ethanol content exceeding 10 percent. Under current law, Oregon gas stations are required to sell gasoline that contains 10 percent ethanol but may not exceed that percentage; this measure changes the requirement to a floor, which will allow the sale of gasoline that contains 15 percent ethanol or higher.

[House Bill 3055](#), section 23, authorizes the Public Utility Commission to allow natural gas utilities to

recover costs from all retail natural gas customers for investments and expenses related to infrastructure measures to support adoption of alternative fuel vehicles powered by renewable natural gas or hydrogen. The program is to support reduction in transportation sector greenhouse gas emissions, per state reduction targets.

PARKING

Two bills were introduced to improve public access to parking when visiting the Capitol and to reduce the cost to citizens of meeting with their elected officials. [Senate Bill 361](#) (*not enacted*) and [Senate Bill 607](#) (*not enacted*) would have authorized the Legislative Administration Committee to assign authority over parking spaces adjacent to the Oregon State Capitol to provide the public with greater access to the building when testifying or petitioning their elected legislators. SB 607 would also have allowed the Committee to provide free parking permits to visitors of the Capitol.

PUBLIC TRANSPORTATION

Legislation was brought forward to improve transit service and to address labor issues related to transit agencies. [Senate Bill 332](#) (*not enacted*) would have imposed minimum service requirements on TriMet, the public transit provider for the Portland metro region and the largest transit provider in the state. The measure specified a minimum level of service between 7:00 a.m. and 11:00 p.m. daily and frequency of at least one stop per hour along arterial roadways. The measure would also have prohibited TriMet from imposing employer payroll taxes on employers whose place of business is more than one mile from a transit route. TriMet currently operates an apprentice program to train new maintenance workers. [Senate Bill 429](#) (*not enacted*) would have required TriMet to continue to operate a state-authorized apprenticeship program. Penalty for failure to do so would have been withholding of funds from the Statewide Transportation Improvement Fund, which was created in 2017 to provide formula and competitive grants to fund enhancements to public transit programs.

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Several transit agencies participated in the now-discontinued transportation energy tax credit program before they were able to utilize the tax credits earned in the program. [House Bill 3056](#) (*not enacted*) would have directed DEQ to convert transportation energy tax credits to clean fuels credits for certain public transportation providers that have unused and expired transportation energy tax credits. The measure was not moved forward, but an alternate solution was provided administratively through the use of American Rescue Plan Act funds.

RAIL AND MULTIMODAL TRANSPORTATION

The term ‘multimodal transportation’ refers generally to non-highway methods of moving goods and persons, including rail and marine. [House Bill 2564](#) establishes the Willamette Falls Locks Authority as a public corporation to work toward reinstatement of the Willamette Falls Locks near Oregon City. The locks were constructed in 1915 and placed on the National Register of Historic Places in 1974, but have been inoperable since 2011. The Authority replaces the Willamette Falls Locks Commission, which is sunset by the measure.

The threat of a catastrophic earthquake toppling bridges and closing navigation on the Columbia River was the impetus for introducing [Senate Bill 826](#) (*not enacted*), which would have appropriated \$1.9 million from the General Fund to repair and upgrade the Salvage Chief (LSM 380), currently a museum but formerly a repair and salvage vessel. The purpose would have been to reinstate the Salvage Chief as a response vessel in the event of a seismic event.

Railroad-highway grade crossings are a potential hazard for both trains and automobiles. [House Bill 3339](#) (*not enacted*) would have authorized the Oregon Department of Transportation to impose a civil penalty for willfully obstructing, blockading, interfering with, or preventing the use of a railroad-highway grade crossing for more than 10 consecutive minutes, with exceptions. The maximum fine for violations would have been \$3,000 for the first violation; the Department would have been granted rulemaking authority to set fines for second and subsequent violations.

Changes to the Connect Oregon multimodal grant program, established in 2005 and modified by [House Bill 2017](#) (2017), have resulted in the program going unfunded for six years. [House Bill 3392](#) (*not enacted*) would have established a Short Line Resiliency Program within the Oregon Business Development Department. The measure also would have appropriated \$5 million in Lottery Bond proceeds to the Program for purposes of issuing grants to support short line railroad infrastructure projects. The program was intended to create a short-line-specific grant program similar to the Connect Oregon Program that was instituted in 2005, but which has not been funded since 2015.

ROADS AND HIGHWAYS

The Legislative Assembly considered moving forward the Interstate 5 Rose Quarter project and Interstate 205 Abernethy Bridge and lane widening projects outlined in [House Bill 2017](#) (2017). [House Bill 3055](#), sections 130 and 131, revise statutes that specify how \$30 million per year in motor fuel taxes currently dedicated to the Interstate 5 Rose Quarter Project are to be expended. The measure also provides that those proceeds can be used to fund improvements on Interstate 205 between Stafford Road and Highway 213, the Interstate 5 Boone Bridge and Seismic Improvements project near Wilsonville, and implementation of tolling programs.

There were also several pieces of legislation that addressed the construction, maintenance, and operation of smaller-scale transportation projects. [House Bill 3304](#) directs the Oregon Department of Transportation to provide a progress report on the implementation of recommendations contained in the report titled “Blueprint for Urban Design.” The measure was originally intended to require examination of the impact that major highways can have on downtown districts of rural towns.

[House Bill 2744](#) (*not enacted*) would have directed the Oregon Department of Transportation to conduct a statewide study of possible jurisdictional transfer of roads. A number of roadways have seen a significant change of usage in the last few decades, resulting in some no longer being under the jurisdiction of the

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most appropriate road authority. The measure would also have created an Oregon Highway Jurisdictional Transfer Fund to pay for the cost of upgrading and transferring jurisdiction of highways.

TAXES AND FEES

Legislation was introduced to find ways to provide sustainable and increased funding for both highway uses, and river uses. [House Bill 2342 A](#) (*not enacted*) would have repealed, in 2029, the voluntary road usage charge program, also known as OReGO, and made the program mandatory to all vehicles of model year 2027 or later with a mileage rating of 30 mpg or greater beginning in 2026. Vehicle owners and lessees would have been given the option to pay a flat fee in lieu of participation until June 2031, at which time the flat fee option would have been repealed. The measure also would have commissioned two studies to be conducted.

Two bills would have increased fees on boat operation to fund programs for invasive species and derelict vessel removal. [Senate Bill 740](#) (*not enacted*) would have increased the registration fee on sailboats of 12 feet in length or greater and for all motorboats. Proceeds from the increased fees would have been used equally for the Aquatic Invasive Species Prevention Fund and the Salvaged Vessel Subaccount. [Senate Bill 840](#) (*not enacted*) would have authorized counties to impose a county boating registration fee to fund the disposal of derelict vessels. Like Senate Bill 740, the fee would have been applicable to sailboats over 12 feet in length and all motorboats.

TOLLING AND CONGESTION PRICING

[House Bill 2017](#) (2017) directed the Oregon Transportation Commission to impose congestion pricing on the state's two major north-south interstate highways in the Portland metropolitan region. [House Bill 3055](#) (HB 3055) generally revises and modernizes state statutes related to tolling and congestion pricing, abolishing the Congestion Relief Fund and State Tollway Account and replacing them with the Toll Program Fund. The measure modifies statutes related to toll infrastructure, collection, use of toll revenues,

and financing of tollway projects, and addresses traffic impacts on nearby highways that result from imposition of tolls. HB 3055 does not authorize tolls on Oregon roads, as that authorization was enacted during previous sessions.

TRAFFIC ENFORCEMENT

Current law specifies cities that wish to modify speed limits on roads under their jurisdiction must seek approval from the Oregon Department of Transportation. [House Bill 3055](#), section 81, allows the Oregon Department of Transportation to delegate, by rule, its authority to establish speed limits on certain roads under the jurisdiction of cities or Clackamas or Multnomah counties. The Department may delegate authority only if it is determined that the local government will exercise its authority according to criteria adopted by the Department.

Two measures were introduced to make photo enforcement of speed limits and traffic control devices easier for local governments. [House Bill 3357](#) (*not enacted*) would have allowed authorized traffic enforcement agents to issue and review citations based on photo red light cameras. [House Bill 2019](#) (*not enacted*) would have authorized the City of Unity to operate photo radar on a portion of U.S. Highway 26.

Vehicle visibility is often a factor in traffic crashes. [Senate Bill 166 A](#) (*not enacted*) would have required use of vehicle headlights, or daytime running lights, at all times when operating a motor vehicle on public highways. Motorcycle advocates sought to improve safety and convenience for riders with the introduction of [Senate Bill 574](#) (*vetoed*), which would have allowed motorcycle operators to travel between lanes of multi-lane highways during conditions where the flow of traffic is stopped or moving at 10 miles per hour or less.

[House Bill 2538](#) (*not enacted*) would have modified the statutory prohibition on excessive vehicle noise amplification devices on motor vehicles. Current law specifies maximum allowable noise levels, measured in decibels at a distance of 25 feet, from motor vehicle exhaust systems. The measure would have replaced this system with generalized language prohibiting

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excessive or unusual noise, and prohibitions against cutout and bypass devices or modifications of exhaust systems that might increase vehicle noise.

UTILITIES

Two bills were brought forward to better coordinate transportation construction projects with utility infrastructure construction and maintenance. [House Bill 2411](#) requires the Oregon Department of Transportation to notify telecommunications providers when road projects within the Statewide Transportation Improvement Program (STIP) may allow for installation of underground broadband infrastructure. The measure is to allow for installation of underground broadband infrastructure while the roadway is already under construction, thereby reducing the cost and disruption of the installation.

[House Bill 3049](#) (*not enacted*) would have authorized counties to charge a fee for a permit to construct utility lines and fixtures in highway rights of way. The measure would also have authorized counties to charge utilities for costs incurred for failure to relocate facilities in the right of way that lead to road closures.

Staff

Patrick Brennan, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro

VETERANS



EMPLOYMENT

During 2021, Oregon's legislature evaluated several measures regarding the employment of veterans. A significant change involved the treatment of veterans' preference scoring and public employment.

Eligible veterans receive preference in public employment at state and federal levels in recognition of the potential economic sacrifices and civilian career delays that may result from their service in the Armed Forces. Potential public employers, within certain guidelines, add "preference" points to veterans and disabled veterans engaged in the public employment hiring process for vacant civil service positions or certain promotions to civil service positions. The preference seeks to restore veterans to competitive positions in public employment. Previously, for the preference to apply, a veteran must have been discharged under honorable conditions, as defined by rules adopted by the Oregon Department of Veterans Affairs (ODVA).

The passage of [Senate Bill 184](#) modifies eligibility requirements to claim veterans' preference in public employment by allowing otherwise eligible veterans to certify they expect to be discharged under honorable conditions within 120 days. For more clarity and parity in application scoring, the measure also addresses potential public employer scoring for veteran applicants by replacing the use of "preference" point in scoring with "percentage" point.

HOUSING

During the 2021 session, legislators employed a unique approach to resolving certain housing issues by reviewing the definition of "veteran" in Oregon statute. Policymakers assessed the necessity of modifying the current state statutory definition of a veteran to broaden veteran access to housing related services. Their discussions resulted in the passage of [House Bill 2094](#) (HB 2094). The measure authorizes

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the Oregon Housing and Community Services (OHCS) Department to define "veteran" by rule of the Oregon Housing Fund programs. Under the newly established provisions of HB 2094, individuals legally identified by the United States Veterans' Administration, who may have been discharged for circumstances such as pregnancy or "Don't Ask Don't Tell" policies, may be permitted to access certain OHCS programs and supports.

HEALTH CARE

A measure related to veteran health care also received attention during the 2021 legislative session. [House Bill 2139](#) (HB 2139), statutorily establishes the Rural Veterans Healthcare Transportation Grant Program (RVHT) within the Oregon Department of Veterans' Affairs (ODVA). The program was initially created in 2019 through a budgetary line item of the ODVA 2019-2021 Legislatively Adopted Budget and implemented collaboratively through a partnership between ODVA and the Oregon Department of Transportation. With a one-time \$500,000 allocation in 2019, RVHT aimed to supplement and broaden services provided through a federal grant program called the United States Department of Veterans

Affairs' Highly Rural Veterans Transportation Program (USDVA H RTP). ODVA has administered the USDVA H RTP grant to ten Oregon counties for about seven years.

Under the program created by HB 2139, ODVA is authorized to provide grants to assist with the transportation of rural veterans to health care services. It allows grants for transportation regardless of whether care being received is covered by any federal benefit plan. HB 2139 also deems federally recognized Indian tribes of Oregon eligible to receive grants.

2011, the Legislative Assembly established a Roadside Memorial Fund to receive and allocate moneys to the Oregon Department of Transportation to erect memorial signs honoring law enforcement officers killed in the line of duty. In 2013, the Legislative Assembly expanded the program to provide for roadside memorials in honor of fallen members of the Armed Forces. Through the passage of HB 2700, statutory provisions concerning veterans killed in action are expanded to include those veterans formerly designated as prisoners of war or unaccounted for by the Defense POW/MIA Accounting Agency.

MEMORIALS

The public park surrounding Oregon's Capitol building houses monuments, statues, and dedications, including memorials honoring servicemembers and their families, such as the Medal of Honor Memorials and the World War II Memorial near the Rosie the Riveter Memorial Garden.

Through [Senate Bill 319](#), the state will designate a portion of the state Capitol grounds for the installment of a Vietnam Veterans Memorial. Before the passage of this measure, no state-designated memorial site existed for the Vietnam War.

Another measure that passed during the 2021 session was [House Bill 2644](#) (HB 2644). This bill recognizes veterans who participated in atomic cleanup and decontamination efforts between 1962 and 1980 of nuclear testing sites in the Marshall Islands. HB 2644 designates a portion of Highway 5, beginning in Albany and ending in Salem, previously called the Atomic Veterans Memorial Highway, to be renamed the Atomic Veterans and Atomic Cleanup Veterans Memorial Highway. The passage of HB 2644 coincided with several federal initiatives filed in 2021 during the 117th Congress recognizing radiation-exposed servicemembers who participated in cleanup efforts at Enewetak Atoll in the Marshall Islands for the presumption of service-connected disabilities.

The 2021 legislative session also produced [House Bill 2700](#) (HB 2700) to expand one of Oregon's commemorative traditions of erecting roadside memorial signs to honor fallen servicemembers. In

Staff

Regina Wilson, Legislative Analyst

Legislative Policy and Research Office

Oregon State Capitol, Rm 453

(503) 986-1813

www.oregonlegislature.gov/lpro