

**Enrolled**  
**Senate Bill 353**

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CHAPTER .....

AN ACT

Relating to correction of erroneous material in Oregon law; creating new provisions; amending ORS 12.276, 30.908, 71.1030, 86A.151, 133.375, 146.035, 174.535, 174.580, 180.096, 181.725, 185.530, 187.110, 192.501, 192.502, 198.885, 198.890, 198.920, 198.925, 238.005, 238.148, 238.580, 238.608, 238A.320, 240.205, 243.421, 243.476, 243.482, 254.555, 279B.420, 339.326, 348.910, 377.992, 401.910, 403.450, 410.210, 411.117, 412.079, 413.011, 414.231, 414.355, 419A.305, 426.330, 430.216, 441.710, 468A.610, 471.190, 471.230, 471.542, 476.680, 479.530, 479.620, 480.605, 509.385, 540.440, 551.180, 569.185, 569.990, 570.990, 578.060, 618.031, 624.425, 634.700, 646A.705, 657A.252, 660.126, 688.405, 688.515, 688.525, 696.606, 731.036, 743.405, 743.408, 743.447, 743.483, 743.486, 807.310 and 807.405 and section 2, chapter 971, Oregon Laws 1999, section 4, chapter 455, Oregon Laws 2005, section 11, chapter 828, Oregon Laws 2005, sections 6 and 7, chapter 2, Oregon Laws 2009, section 3, chapter 884, Oregon Laws 2009, sections 14, 15, 16, 17, 18, 19, 21, 22, 23 and 24, chapter 904, Oregon Laws 2009, and section 46, chapter 907, Oregon Laws 2009; and repealing ORS 530.180 and section 1, chapter 549, Oregon Laws 2009, and section 15, chapter 906, Oregon Laws 2009.

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

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

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

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

**SECTION 2.** ORS 12.276 is amended to read:

12.276. (1) Notwithstanding ORS 12.110 (1) or 30.020, an action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component must be commenced not later than two years after the date on which the plaintiff first discovered, or in the exercise of reasonable care should have discovered:

(a) The death or specific injury, disease or damage for which the plaintiff seeks recovery;  
(b) The tortious nature of the act or omission of the defendant that gives rise to a claim for relief against the defendant; and

(c) All other elements required to establish plaintiff's claim for relief.

(2) Except as provided in subsections (3) and (4) of this section, an action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component is not subject to ORS 12.110 (1)[,] or 12.115 or any other statute of limitation or statute of ultimate repose in Oregon Revised Statutes.

(3) An action for death, injury or damage against a physician licensed pursuant to ORS chapter 677, or against a health care facility licensed under ORS chapter [442] 441, resulting from breast implants containing silicone, silica or silicon as a component, remains subject to the limitations imposed by ORS 12.110 (4), 12.115, 30.020 and 30.075.

(4) An action for death, injury or damage against a person that supplied component parts or raw materials to manufacturers of breast implants containing silicone, silica or silicon as a component remains subject to the limitations imposed by ORS 12.110 (1), 12.115, 30.020 and 30.075 if:

(a) The person did not manufacture breast implants containing silicone, silica or silicon as a component at any time; and

(b) The person was not owned by and did not own a business that manufactured breast implants containing silicone, silica or silicon as a component at any time.

(5) For the purposes of subsection (1) of this section, an action for wrongful death must be commenced not later than two years after the earliest date that the discoveries required by subsection (1) of this section are made by any of the following persons:

(a) The decedent;

(b) The personal representative for the decedent; or

(c) Any person for whose benefit the action could be brought.

**NOTE:** Corrects syntax in (2) and ORS chapter reference in (3).

**SECTION 3.** ORS 30.908 is amended to read:

30.908. (1) Notwithstanding ORS 30.020, a product liability civil action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component must be commenced not later than two years after the date on which the plaintiff first discovered, or in the exercise of reasonable care should have discovered:

(a) The death or specific injury, disease or damage for which the plaintiff seeks recovery;

(b) The tortious nature of the act or omission of the defendant that gives rise to a claim for relief against the defendant; and

(c) All other elements required to establish plaintiff's claim for relief.

(2) A product liability civil action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component is not subject to ORS 30.905 or any other statute of limitation or statute of ultimate repose in Oregon Revised Statutes.

(3) For the purposes of subsection (1) of this section, an action for wrongful death must be commenced not later than two years after the earliest date that the discoveries required by subsection (1) of this section are made by any of the following persons:

(a) The decedent;

(b) The personal representative for the decedent; or

(c) Any person for whose benefit the action could be brought.

(4) Subsections (1) to (3) of this section do not apply to a person that supplied component parts or raw materials to manufacturers of breast implants containing silicone, silica or silicon as a component, and the person shall remain subject to the limitations on actions imposed by ORS 30.020 and 30.905, if:

(a) The person did not manufacture breast implants containing silicone, silica or silicon as a component at any time; and

(b) The person was not owned by and did not own a business that manufactured breast implants containing silicone, silica or silicon as a component at any time.

(5) A health care facility licensed under ORS chapter [442] 441 is not a manufacturer, distributor, seller or lessor of a breast implant for the purposes of ORS 30.900 to 30.920 if the implant is provided by the facility to a patient as part of a medical implant procedure.

**NOTE:** Corrects ORS chapter reference in (5).

**SECTION 4.** ORS 71.1030 is amended to read:

71.1030. (1) The Uniform Commercial Code must be liberally construed and applied to promote its underlying purposes and policies, which are:

(a) To [simply] **simplify**, clarify and modernize the law governing commercial transactions;

(b) To permit the continued expansion of commercial practices through custom, usage and agreement of the parties; and

(c) To make uniform the law among the various jurisdictions.

(2) Unless displaced by the particular provisions of the Uniform Commercial Code, the principles of law and equity, including the law merchant and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy and other validating or invalidating cause, supplement its provisions.

**NOTE:** Simply replaces typographical error in (1)(a) with language from Uniform Commercial Code.

**SECTION 5.** ORS 86A.151, as amended by section 23, chapter 863, Oregon Laws 2009, is amended to read:

86A.151. (1) A person that employs a mortgage loan originator or under the provisions of ORS 86A.200 to 86A.239 should employ a mortgage loan originator is liable as provided in subsection (2) of this section for an ascertainable loss of money or property, real or personal, in a residential mortgage transaction if the person engages in a residential mortgage transaction in which the person:

(a) Violates a provision of ORS 86A.200 to 86A.239, except ORS 86A.236 (11), or ORS 86A.095 to 86A.198, except ORS 86A.115 (4); or

(b)(A)(i) Makes an untrue statement of a material fact; or

(ii) Omits from a statement a material fact that would make the statement not misleading in light of the circumstances under which the person makes the statement; and

(B) Fails to prove that the person did not know, or in the exercise of reasonable care could not have known, of the untrue statement or omission.

(2) The person suffering ascertainable loss may recover damages in an amount equal to the ascertainable loss.

(3) A person whose sole function in connection with a residential mortgage transaction is to provide ministerial functions of escrow, custody or deposit services in accordance with applicable law is liable only if the person participates or materially aids in the residential mortgage transaction and the plaintiff sustains the burden of proof that the person knew of the existence of the facts on which liability is based or that the person's failure to know of the existence of the facts was the result of the person's recklessness or gross negligence.

(4) Except as otherwise provided in this subsection, an action or suit may not be commenced under this section more than three years after the residential mortgage transaction. An action under this section for a violation under subsection [(2)(b)] **(1)(b)** of this section or ORS 86A.154 may be commenced within three years after the residential mortgage transaction or two years after the person bringing the action discovered or should have discovered the facts on which the action is based, whichever is later, but not later than five years after the date of the residential mortgage transaction. Failure to commence an action on a timely basis is an affirmative defense.

(5) A person has a right of action under the corporate surety bond or irrevocable letter of credit required under ORS 86A.106 or 86A.227 if the person:

- (a) Initiates a mortgage banking loan or mortgage loan application; and
- (b) Has a right of action against another person under this section.
- (6) Subsection (3) of this section does not limit a person's liability:
  - (a) For conduct other than in the circumstances described in subsection (3) of this section; or
  - (b) Under any other law.
- (7) Except as provided in subsection (8) of this section, the court may award reasonable attorney fees to the prevailing party in an action under this section.
- (8) The court may not award attorney fees to a prevailing defendant under the provisions of subsection (7) of this section if the action under this section is maintained as a class action pursuant to ORCP 32.

**NOTE:** Corrects subsection reference in (4).

**SECTION 6.** ORS 133.375 is amended to read:

133.375. As used in ORS 133.375 to 133.381 [and 156.705]:

(1) "Animal" has the meaning [provided] **given that term** in ORS 167.310.

(2) "Owner" or "person" includes corporations as well as individuals.

**NOTE:** Removes erroneous citation in lead-in; conforms syntax in (1) to legislative style.

**SECTION 7.** ORS 146.035 is amended to read:

146.035. (1) There shall be established within the Department of State Police the State Medical Examiner's office for the purpose of directing and supporting the state death investigation program.

(2) The State Medical Examiner shall manage all aspects of the State Medical Examiner's program.

(3) Subject to the State Personnel Relations Law, the State Medical Examiner may employ or discharge other personnel of the State Medical Examiner's office.

(4) The State Medical Examiner's office shall:

(a) File and maintain appropriate reports on all deaths requiring investigation.

(b) Maintain an accurate list of all active district medical examiners, assistant district medical examiners and designated pathologists.

(c) Transmit monthly to the Department of Transportation a report for the preceding calendar month of all information obtained under ORS 146.113.

(5) Notwithstanding ORS 192.501 [(36)] **(35)**:

(a) Any parent, spouse, sibling, child or personal representative of the deceased, or any person who may be criminally or civilly liable for the death, or their authorized representatives respectively, may examine and obtain copies of any medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

(b) The system described in ORS 192.517 (1) shall have access to reports described in this subsection as provided in ORS 192.517.

**NOTE:** Corrects subsection reference in (5).

**SECTION 8.** Section 4, chapter 455, Oregon Laws 2005, as amended by section 1, chapter 719, Oregon Laws 2009, is amended to read:

**Sec. 4. (1)** The amendments to ORS 192.501 by section 3, chapter 455, Oregon Laws 2005, become operative on January 2, 2012.

**(2) The amendments to ORS 146.035 by section 7 of this 2011 Act become operative on January 2, 2012.**

**NOTE:** Delays amendments by section 7 until date renumbering of 192.501 becomes operative.

**SECTION 9.** ORS 174.580 is amended to read:

174.580. (1) As used in the statute laws of this state, including provisions of law deemed to be rules of court as provided in ORS 1.745, "Oregon Rules of Civil Procedure" means the rules adopted, amended or supplemented as provided in ORS 1.735.

(2) In citing a specific rule of the Oregon Rules of Civil Procedure, the designation "ORCP (number of rule)" may be used. For example, Rule 7, section D, subsection (3), paragraph (a), subparagraph [(i)] **(iv)**, **part (A)**, may be cited as ORCP 7 [D(3)(a)(i)] **D(3)(a)(iv)(A)**.

**NOTE:** Updates example in (2) to parallel example set forth in ORCP 1 G.

**SECTION 10.** ORS 180.096 is amended to read:

180.096. (1) Notwithstanding the purposes set forth in ORS 180.095, and except as provided in subsection (2) of this section, the Department of Justice shall use the proceeds of the State of Oregon's settlement with Countrywide Financial Corporation that are deposited into the [Consumer] **Department of Justice** Protection and Education Revolving Account to make grants, in consultation with the Housing and Community Services Department, to nonprofit entities to provide foreclosure relief services.

(2) The Department of Justice need not use the proceeds identified in subsection (1) of this section if sufficient funding for the purposes identified in subsection (1) of this section is available from another source.

**NOTE:** Amends (1) to reflect name change in account.

**SECTION 11.** ORS 181.725 is amended to read:

181.725. (1) There is established a Criminal Justice Information Standards Advisory Board to advise the Department of State Police or the criminal justice agency designated by the Director of the Oregon Department of Administrative Services under ORS 181.715 (1) about the department's or the agency's duties under ORS 181.715. The board consists of the following members:

- (a) The State Court Administrator or the administrator's designee;
  - (b) The Director of the Department of Corrections or the director's designee;
  - (c) The Superintendent of State Police or the superintendent's designee;
  - (d) The executive director of the Oregon Criminal Justice Commission or the executive director's designee;
  - (e) The Director of Transportation or the director's designee;
  - (f) The chairperson of the State Board of Parole and Post-Prison Supervision or the chairperson's designee;
  - (g) The Director of the Department of Public Safety Standards and Training or the director's designee;
  - (h) A chief of police designated by the Oregon Association Chiefs of Police;
  - (i) A sheriff designated by the Oregon **State** Sheriffs' Association;
  - (j) A jail manager designated by the [Oregon Jail Managers' Association] **Oregon Sheriffs Jail Command Council**;
  - (k) A county juvenile department director designated by the Oregon Juvenile Department Directors' Association;
  - (L) A community corrections agency director designated by the Oregon Association of Community Corrections Directors;
  - (m) A district attorney designated by the Oregon District Attorneys Association;
  - (n) The administrator of the Enterprise Information Strategy and Policy Division of the Oregon Department of Administrative Services or the administrator's designee;
  - (o) The Director of the Oregon Youth Authority or the director's designee;
  - (p) The State Fish and Wildlife Director or the director's designee;
  - (q) The administrator of the Oregon Liquor Control Commission or the administrator's designee;
- and
- (r) The staff director of the State Commission on Children and Families or the staff director's designee.

(2) The board shall meet at such times and places as the board deems necessary.

(3) The members of the board are not entitled to compensation but are entitled to expenses as provided in ORS 292.495.

**NOTE:** Corrects and updates titles in (1)(i) and (j).

**SECTION 12.** ORS 185.530 is amended to read:

185.530. (1) The Commission **for Women** may establish ad hoc committees to study specific areas and make periodic reports to the commission.

(2) The chairpersons of [such] **the** ad hoc committees shall be appointed by the chairperson of the commission, subject to approval by the commission.

(3) Membership on ad hoc committees [*shall not be*] **is not** limited to members of the commission.

(4) The period during which an ad hoc committee may function shall be determined at the time of its creation by the commission according to the nature of the study and project undertaken.

(5) Members of the ad hoc committees shall be designated as consultants to the full commission.

**NOTE:** Sets forth full name of commission in (1); updates syntax in (2) and (3).

**SECTION 13.** ORS 187.110 is amended to read:

187.110. (1) The standard of time for the State of Oregon shall be the United States standard of time as established by the Congress of the United States for any particular area of the state under [*the Act of March 19, 1918, (*15 U.S.C. 261*)*], except that from 2 a.m. on the [*first Sunday in April until 2 a.m. on the last Sunday in October*] **second Sunday in March until 2 a.m. on the first Sunday in November** the standard of time for any area of this state shall be one hour in advance of the standard established for that particular area by the Congress of the United States under [*the Act of March 19, 1918*] **15 U.S.C. 261.**

(2) No department of the state government and no county, city or other political subdivision shall employ any other time or adopt any statute, ordinance or order providing for the use of any other standard of time.

**NOTE:** Aligns dates for beginning and ending daylight saving time with federal law. See Energy Policy Act of 2005, P.L. 109-58 (2005).

**SECTION 14.** ORS 192.501 is amended to read:

192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance:

(1) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(3) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

(a) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(b) The offense with which the arrested person is charged;

(c) The conditions of release pursuant to ORS 135.230 to 135.290;

(d) The identity of and biographical information concerning both complaining party and victim;

(e) The identity of the investigating and arresting agency and the length of the investigation;

(f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

(g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(4) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(5) Information consisting of production records, sale or purchase records or catch records, or similar business records of a private concern or enterprise, required by law to be submitted to or inspected by a governmental body to allow it to determine fees or assessments payable or to establish production quotas, and the amounts of such fees or assessments payable or paid, to the extent that such information is in a form which would permit identification of the individual concern or enterprise. This exemption does not include records submitted by long term care facilities as defined in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for patient care. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(6) Information relating to the appraisal of real estate prior to its acquisition.

(7) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections.

(8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.

(9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.

(10) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services under ORS 697.732.

(11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.

(12) A personnel discipline action, or materials or documents supporting that action.

(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and 564.100, regarding the habitat, location or population of any threatened species or endangered species.

(14) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented.

(15) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:

(a) The original data, including but not limited to numbers, text, voice, graphics and images;

(b) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical and statistical formulas which would be used if the manipulated forms of the original data were to be produced manually.

(16) Data and information provided by participants to mediation under ORS 36.256.

(17) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

(18) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity.

(19)(a) Audits or audit reports required of a telecommunications carrier. As used in this paragraph, "audit or audit report" means any external or internal audit or audit report pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to

make the operations of the entity more efficient, accurate or compliant with applicable rules, procedures or standards, that may include self-criticism and that has been filed by the telecommunications carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an audit of a cost study that would be discoverable in a contested case proceeding and that is not subject to a protective order; and

(b) Financial statements. As used in this paragraph, "financial statement" means a financial statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.

(20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS 247.967.

(21) The following records, communications and information submitted to a housing authority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants for and recipients of loans, grants and tax credits:

- (a) Personal and corporate financial statements and information, including tax returns;
- (b) Credit reports;
- (c) Project appraisals;
- (d) Market studies and analyses;
- (e) Articles of incorporation, partnership agreements and operating agreements;
- (f) Commitment letters;
- (g) Project pro forma statements;
- (h) Project cost certifications and cost data;
- (i) Audits;
- (j) Project tenant correspondence requested to be confidential;
- (k) Tenant files relating to certification; and
- (L) Housing assistance payment requests.

(22) Records or information that, if disclosed, would allow a person to:

- (a) Gain unauthorized access to buildings or other property;
- (b) Identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or
- (c) Disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body.

(23) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

- (a) An individual;
- (b) Buildings or other property;
- (c) Information processing, communication or telecommunication systems, including the information contained in the systems; or
- (d) Those operations of the Oregon State Lottery the security of which are subject to study and evaluation under ORS 461.180 (6).

(24) Personal information held by or under the direction of officials of the Oregon Health and Science University or the Oregon University System about a person who has or who is interested in donating money or property to the university, the system or a state institution of higher education, if the information is related to the family of the person, personal assets of the person or is incidental information not related to the donation.

(25) The home address, professional address and telephone number of a person who has or who is interested in donating money or property to the Oregon University System.

(26) Records of the name and address of a person who files a report with or pays an assessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

(27) Information provided to, obtained by or used by a public body to authorize, originate, receive or authenticate a transfer of funds, including but not limited to a credit card number, payment card expiration date, password, financial institution account number and financial institution routing number.

(28) Social Security numbers as provided in ORS 107.840.

(29) The electronic mail address of a student who attends a state institution of higher education listed in ORS 352.002 or Oregon Health and Science University.

(30) The name, home address, professional address or location of a person that is engaged in, or that provides goods or services for, medical research at Oregon Health and Science University that is conducted using animals other than rodents. This subsection does not apply to Oregon Health and Science University press releases, websites or other publications circulated to the general public.

(31) If requested by a public safety officer, as defined in ORS 181.610:

(a) The home address and home telephone number of the public safety officer contained in the voter registration records for the public safety officer.

(b) The home address and home telephone number of the public safety officer contained in records of the Department of Public Safety Standards and Training.

(c) The name of the public safety officer contained in county real property assessment or taxation records. This exemption:

(A) Applies only to the name of the public safety officer and any other owner of the property in connection with a specific property identified by the officer in a request for exemption from disclosure;

(B) Applies only to records that may be made immediately available to the public upon request in person, by telephone or using the Internet;

(C) Applies until the public safety officer requests termination of the exemption;

(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for governmental purposes; and

(E) May not result in liability for the county if the name of the public safety officer is disclosed after a request for exemption from disclosure is made under this subsection.

(32) Unless the public records request is made by a financial institution, as defined in ORS 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage broker licensed under ORS 86A.095 to 86A.198[, 86A.990 and 86A.992 and ORS chapter 59], or title company for business purposes, records described in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought by an individual described in paragraph (b) of this subsection using the procedure described in paragraph (c) of this subsection:

(a) The home address, home or cellular telephone number or personal electronic mail address contained in the records of any public body that has received the request that is set forth in:

(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction, substitution of trustee, easement, dog license, marriage license or military discharge record that is in the possession of the county clerk; or

(B) Any public record of a public body other than the county clerk.

(b) The individual claiming the exemption from disclosure must be a district attorney, a deputy district attorney, the Attorney General or an assistant attorney general, the United States Attorney for the District of Oregon or an assistant United States attorney for the District of Oregon, a city attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages in the prosecution of criminal matters.

(c) The individual claiming the exemption from disclosure must do so by filing the claim in writing with the public body for which the exemption from disclosure is being claimed on a form prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall list the public records in the possession of the public body to which the exemption applies. The exemption applies until the individual claiming the exemption requests termination of the exemption or ceases to qualify for the exemption.

(33) Land management plans required for voluntary stewardship agreements entered into under ORS 541.423.

(34) Sensitive business records or financial or commercial information of the State Accident Insurance Fund Corporation that is not customarily provided to business competitors. This exemption does not:

(a) Apply to the formulas for determining dividends to be paid to employers insured by the State Accident Insurance Fund Corporation;

(b) Apply to contracts for advertising, public relations or lobbying services or to documents related to the formation of such contracts;

(c) Apply to group insurance contracts or to documents relating to the formation of such contracts, except that employer account records shall remain exempt from disclosure as provided in ORS 192.502 (35); or

(d) Provide the basis for opposing the discovery of documents in litigation pursuant to the applicable rules of civil procedure.

(35) Records of the Department of Public Safety Standards and Training relating to investigations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described in ORS 181.662 or 181.878.

(36) A medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

**NOTE:** Excises extraneous references in (32).

**SECTION 15.** ORS 192.501, as amended by section 3, chapter 455, Oregon Laws 2005, section 7, chapter 608, Oregon Laws 2007, section 2, chapter 687, Oregon Laws 2007, section 2, chapter 48, Oregon Laws 2008, section 3, chapter 57, Oregon Laws 2009, section 2, chapter 135, Oregon Laws 2009, section 4, chapter 222, Oregon Laws 2009, and section 2, chapter 769, Oregon Laws 2009, is amended to read:

192.501. The following public records are exempt from disclosure under ORS 192.410 to 192.505 unless the public interest requires disclosure in the particular instance:

(1) Records of a public body pertaining to litigation to which the public body is a party if the complaint has been filed, or if the complaint has not been filed, if the public body shows that such litigation is reasonably likely to occur. This exemption does not apply to litigation which has been concluded, and nothing in this subsection shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(2) Trade secrets. "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within an organization and which is used in a business it conducts, having actual or potential commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(3) Investigatory information compiled for criminal law purposes. The record of an arrest or the report of a crime shall be disclosed unless and only for so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim. Nothing in this subsection shall limit any right constitutionally guaranteed, or granted by statute, to disclosure or discovery in criminal cases. For purposes of this subsection, the record of an arrest or the report of a crime includes, but is not limited to:

(a) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(b) The offense with which the arrested person is charged;

(c) The conditions of release pursuant to ORS 135.230 to 135.290;

(d) The identity of and biographical information concerning both complaining party and victim;

(e) The identity of the investigating and arresting agency and the length of the investigation;

(f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

(g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

(4) Test questions, scoring keys, and other data used to administer a licensing examination, employment, academic or other examination or testing procedure before the examination is given and if the examination is to be used again. Records establishing procedures for and instructing persons administering, grading or evaluating an examination or testing procedure are included in this exemption, to the extent that disclosure would create a risk that the result might be affected.

(5) Information consisting of production records, sale or purchase records or catch records, or similar business records of a private concern or enterprise, required by law to be submitted to or inspected by a governmental body to allow it to determine fees or assessments payable or to establish production quotas, and the amounts of such fees or assessments payable or paid, to the extent that such information is in a form which would permit identification of the individual concern or enterprise. This exemption does not include records submitted by long term care facilities as defined in ORS 442.015 to the state for purposes of reimbursement of expenses or determining fees for patient care. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceeding.

(6) Information relating to the appraisal of real estate prior to its acquisition.

(7) The names and signatures of employees who sign authorization cards or petitions for the purpose of requesting representation or decertification elections.

(8) Investigatory information relating to any complaint filed under ORS 659A.820 or 659A.825, until such time as the complaint is resolved under ORS 659A.835, or a final order is issued under ORS 659A.850.

(9) Investigatory information relating to any complaint or charge filed under ORS 243.676 and 663.180.

(10) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services under ORS 697.732.

(11) Information concerning the location of archaeological sites or objects as those terms are defined in ORS 358.905, except if the governing body of an Indian tribe requests the information and the need for the information is related to that Indian tribe's cultural or religious activities. This exemption does not include information relating to a site that is all or part of an existing, commonly known and publicized tourist facility or attraction.

(12) A personnel discipline action, or materials or documents supporting that action.

(13) Information developed pursuant to ORS 496.004, 496.172 and 498.026 or ORS 496.192 and 564.100, regarding the habitat, location or population of any threatened species or endangered species.

(14) Writings prepared by or under the direction of faculty of public educational institutions, in connection with research, until publicly released, copyrighted or patented.

(15) Computer programs developed or purchased by or for any public body for its own use. As used in this subsection, "computer program" means a series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program. "Computer program" does not include:

(a) The original data, including but not limited to numbers, text, voice, graphics and images;

(b) Analyses, compilations and other manipulated forms of the original data produced by use of the program; or

(c) The mathematical and statistical formulas which would be used if the manipulated forms of the original data were to be produced manually.

(16) Data and information provided by participants to mediation under ORS 36.256.

(17) Investigatory information relating to any complaint or charge filed under ORS chapter 654, until a final administrative determination is made or, if a citation is issued, until an employer receives notice of any citation.

(18) Specific operational plans in connection with an anticipated threat to individual or public safety for deployment and use of personnel and equipment, prepared or used by a public body, if public disclosure of the plans would endanger an individual's life or physical safety or jeopardize a law enforcement activity.

(19)(a) Audits or audit reports required of a telecommunications carrier. As used in this paragraph, "audit or audit report" means any external or internal audit or audit report pertaining to a telecommunications carrier, as defined in ORS 133.721, or pertaining to a corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier that is intended to make the operations of the entity more efficient, accurate or compliant with applicable rules, procedures or standards, that may include self-criticism and that has been filed by the telecommunications carrier or affiliate under compulsion of state law. "Audit or audit report" does not mean an audit of a cost study that would be discoverable in a contested case proceeding and that is not subject to a protective order; and

(b) Financial statements. As used in this paragraph, "financial statement" means a financial statement of a nonregulated corporation having an affiliated interest, as defined in ORS 759.390, with a telecommunications carrier, as defined in ORS 133.721.

(20) The residence address of an elector if authorized under ORS 247.965 and subject to ORS 247.967.

(21) The following records, communications and information submitted to a housing authority as defined in ORS 456.005, or to an urban renewal agency as defined in ORS 457.010, by applicants for and recipients of loans, grants and tax credits:

- (a) Personal and corporate financial statements and information, including tax returns;
- (b) Credit reports;
- (c) Project appraisals;
- (d) Market studies and analyses;
- (e) Articles of incorporation, partnership agreements and operating agreements;
- (f) Commitment letters;
- (g) Project pro forma statements;
- (h) Project cost certifications and cost data;
- (i) Audits;
- (j) Project tenant correspondence requested to be confidential;
- (k) Tenant files relating to certification; and
- (L) Housing assistance payment requests.

(22) Records or information that, if disclosed, would allow a person to:

- (a) Gain unauthorized access to buildings or other property;
- (b) Identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, services; or
- (c) Disrupt, interfere with or gain unauthorized access to public funds or to information processing, communication or telecommunication systems, including the information contained in the systems, that are used or operated by a public body.

(23) Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:

- (a) An individual;
- (b) Buildings or other property;
- (c) Information processing, communication or telecommunication systems, including the information contained in the systems; or
- (d) Those operations of the Oregon State Lottery the security of which are subject to study and evaluation under ORS 461.180 (6).

(24) Personal information held by or under the direction of officials of the Oregon Health and Science University or the Oregon University System about a person who has or who is interested in donating money or property to the university, the system or a state institution of higher educa-

tion, if the information is related to the family of the person, personal assets of the person or is incidental information not related to the donation.

(25) The home address, professional address and telephone number of a person who has or who is interested in donating money or property to the Oregon University System.

(26) Records of the name and address of a person who files a report with or pays an assessment to a commodity commission established under ORS 576.051 to 576.455, the Oregon Beef Council created under ORS 577.210 or the Oregon Wheat Commission created under ORS 578.030.

(27) Information provided to, obtained by or used by a public body to authorize, originate, receive or authenticate a transfer of funds, including but not limited to a credit card number, payment card expiration date, password, financial institution account number and financial institution routing number.

(28) Social Security numbers as provided in ORS 107.840.

(29) The electronic mail address of a student who attends a state institution of higher education listed in ORS 352.002 or Oregon Health and Science University.

(30) If requested by a public safety officer, as defined in ORS 181.610:

(a) The home address and home telephone number of the public safety officer contained in the voter registration records for the public safety officer.

(b) The home address and home telephone number of the public safety officer contained in records of the Department of Public Safety Standards and Training.

(c) The name of the public safety officer contained in county real property assessment or taxation records. This exemption:

(A) Applies only to the name of the public safety officer and any other owner of the property in connection with a specific property identified by the officer in a request for exemption from disclosure;

(B) Applies only to records that may be made immediately available to the public upon request in person, by telephone or using the Internet;

(C) Applies until the public safety officer requests termination of the exemption;

(D) Does not apply to disclosure of records among public bodies as defined in ORS 174.109 for governmental purposes; and

(E) May not result in liability for the county if the name of the public safety officer is disclosed after a request for exemption from disclosure is made under this subsection.

(31) Unless the public records request is made by a financial institution, as defined in ORS 706.008, consumer finance company licensed under ORS chapter 725, mortgage banker or mortgage broker licensed under ORS 86A.095 to 86A.198[, 86A.990 and 86A.992 and ORS chapter 59], or title company for business purposes, records described in paragraph (a) of this subsection, if the exemption from disclosure of the records is sought by an individual described in paragraph (b) of this subsection using the procedure described in paragraph (c) of this subsection:

(a) The home address, home or cellular telephone number or personal electronic mail address contained in the records of any public body that has received the request that is set forth in:

(A) A warranty deed, deed of trust, mortgage, lien, deed of reconveyance, release, satisfaction, substitution of trustee, easement, dog license, marriage license or military discharge record that is in the possession of the county clerk; or

(B) Any public record of a public body other than the county clerk.

(b) The individual claiming the exemption from disclosure must be a district attorney, a deputy district attorney, the Attorney General or an assistant attorney general, the United States Attorney for the District of Oregon or an assistant United States attorney for the District of Oregon, a city attorney who engages in the prosecution of criminal matters or a deputy city attorney who engages in the prosecution of criminal matters.

(c) The individual claiming the exemption from disclosure must do so by filing the claim in writing with the public body for which the exemption from disclosure is being claimed on a form prescribed by the public body. Unless the claim is filed with the county clerk, the claim form shall list the public records in the possession of the public body to which the exemption applies. The ex-

emption applies until the individual claiming the exemption requests termination of the exemption or ceases to qualify for the exemption.

(32) Land management plans required for voluntary stewardship agreements entered into under ORS 541.423.

(33) Sensitive business records or financial or commercial information of the State Accident Insurance Fund Corporation that is not customarily provided to business competitors. This exemption does not:

(a) Apply to the formulas for determining dividends to be paid to employers insured by the State Accident Insurance Fund Corporation;

(b) Apply to contracts for advertising, public relations or lobbying services or to documents related to the formation of such contracts;

(c) Apply to group insurance contracts or to documents relating to the formation of such contracts, except that employer account records shall remain exempt from disclosure as provided in ORS 192.502 (35); or

(d) Provide the basis for opposing the discovery of documents in litigation pursuant to the applicable rules of civil procedure.

(34) Records of the Department of Public Safety Standards and Training relating to investigations conducted under ORS 181.662 or 181.878 (6), until the department issues the report described in ORS 181.662 or 181.878.

(35) A medical examiner's report, autopsy report or laboratory test report ordered by a medical examiner under ORS 146.117.

**NOTE:** Excises extraneous references in (31).

**SECTION 16.** ORS 192.502, as amended by section 15, chapter 76, Oregon Laws 2010, is amended to read:

192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

(1) Communications within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to any final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communication between officials and employees of public bodies clearly outweighs the public interest in disclosure.

(2) Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy.

(3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and telephone numbers contained in personnel records maintained by the public body that is the employer or the recipient of volunteer services. This exemption:

(a) Does not apply to the addresses, dates of birth and telephone numbers of employees or volunteers who are elected officials, except that a judge or district attorney subject to election may seek to exempt the judge's or district attorney's address or telephone number, or both, under the terms of ORS 192.445;

(b) Does not apply to employees or volunteers to the extent that the party seeking disclosure shows by clear and convincing evidence that the public interest requires disclosure in a particular instance;

(c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a professional education association of which the substitute teacher may be a member; and

(d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

(4) Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure.

(5) Information or records of the Department of Corrections, including the State Board of Parole and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of a person in custody of the department or substantially prejudice or prevent the carrying out of the functions of the department, if the public interest in confidentiality clearly outweighs the public interest in disclosure.

(6) Records, reports and other information received or compiled by the Director of the Department of Consumer and Business Services in the administration of ORS chapters 723 and 725 not otherwise required by law to be made public, to the extent that the interests of lending institutions, their officers, employees and customers in preserving the confidentiality of such information outweighs the public interest in disclosure.

(7) Reports made to or filed with the court under ORS 137.077 or 137.530.

(8) Any public records or information the disclosure of which is prohibited by federal law or regulations.

(9)(a) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

(b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information compiled in a public record when:

(A) The basis for the claim of exemption is ORS 40.225;

(B) The factual information is not prohibited from disclosure under any applicable state or federal law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410 to 192.505;

(C) The factual information was compiled by or at the direction of an attorney as part of an investigation on behalf of the public body in response to information of possible wrongdoing by the public body;

(D) The factual information was not compiled in preparation for litigation, arbitration or an administrative proceeding that was reasonably likely to be initiated or that has been initiated by or against the public body; and

(E) The holder of the privilege under ORS 40.225 has made or authorized a public statement characterizing or partially disclosing the factual information compiled by or at the attorney's direction.

(10) Public records or information described in this section, furnished by the public body originally compiling, preparing or receiving them to any other public officer or public body in connection with performance of the duties of the recipient, if the considerations originally giving rise to the confidential or exempt nature of the public records or information remain applicable.

(11) Records of the Energy Facility Siting Council concerning the review or approval of security programs pursuant to ORS 469.530.

(12) Employee and retiree address, telephone number and other nonfinancial membership records and employee financial records maintained by the Public Employees Retirement System pursuant to ORS chapters 238 and 238A.

(13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the agents of the treasurer or the council relating to active or proposed publicly traded investments under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or liquidation of the investments. For the purposes of this subsection:

(a) The exemption does not apply to:

(A) Information in investment records solely related to the amount paid directly into an investment by, or returned from the investment directly to, the treasurer or council; or

(B) The identity of the entity to which the amount was paid directly or from which the amount was received directly.

(b) An investment in a publicly traded investment is no longer active when acquisition, exchange or liquidation of the investment has been concluded.

(14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual

or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a private asset including but not limited to records regarding the solicitation, acquisition, deployment, exchange or liquidation of the investments including but not limited to:

(A) Due diligence materials that are proprietary to an investment fund, to an asset ownership or to their respective investment vehicles.

(B) Financial statements of an investment fund, an asset ownership or their respective investment vehicles.

(C) Meeting materials of an investment fund, an asset ownership or their respective investment vehicles.

(D) Records containing information regarding the portfolio positions in which an investment fund, an asset ownership or their respective investment vehicles invest.

(E) Capital call and distribution notices of an investment fund, an asset ownership or their respective investment vehicles.

(F) Investment agreements and related documents.

(b) The exemption under this subsection does not apply to:

(A) The name, address and vintage year of each privately placed investment fund.

(B) The dollar amount of the commitment made to each privately placed investment fund since inception of the fund.

(C) The dollar amount of cash contributions made to each privately placed investment fund since inception of the fund.

(D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board from each privately placed investment fund.

(E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

(F) The net internal rate of return of each privately placed investment fund since inception of the fund.

(G) The investment multiple of each privately placed investment fund since inception of the fund.

(H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis to each privately placed investment fund.

(I) The dollar amount of cash profit received from each privately placed investment fund on a fiscal year-end basis.

(15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

(16) Reports of unclaimed property filed by the holders of such property to the extent permitted by ORS 98.352.

(17)(a) The following records, communications and information submitted to the Oregon Business Development Commission, the Oregon Business Development Department, the State Department of Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports, as defined in ORS 777.005, by applicants for investment funds, loans or services including, but not limited to, those described in ORS 285A.224:

(A) Personal financial statements.

(B) Financial statements of applicants.

(C) Customer lists.

(D) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur; this exemption does not apply to litigation which has been concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(E) Production, sales and cost data.

(F) Marketing strategy information that relates to applicant's plan to address specific markets and applicant's strategy regarding specific competitors.

(b) The following records, communications and information submitted to the State Department of Energy by applicants for tax credits:

(A) Personal financial statements.

(B) Financial statements of applicants.

(C) Customer lists.

(D) Information of an applicant pertaining to litigation to which the applicant is a party if the complaint has been filed, or if the complaint has not been filed, if the applicant shows that such litigation is reasonably likely to occur; this exemption does not apply to litigation which has been concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discovery or deposition statutes to a party to litigation or potential litigation.

(E) Production, sales and cost data.

(F) Marketing strategy information that relates to applicant's plan to address specific markets and applicant's strategy regarding specific competitors.

(18) Records, reports or returns submitted by private concerns or enterprises required by law to be submitted to or inspected by a governmental body to allow it to determine the amount of any transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such information is in a form which would permit identification of the individual concern or enterprise. Nothing in this subsection shall limit the use which can be made of such information for regulatory purposes or its admissibility in any enforcement proceedings. The public body shall notify the taxpayer of the delinquency immediately by certified mail. However, in the event that the payment or delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the public body shall disclose, upon the request of any person, the following information:

(a) The identity of the individual concern or enterprise that is delinquent over 60 days in the payment or delivery of the taxes.

(b) The period for which the taxes are delinquent.

(c) The actual, or estimated, amount of the delinquency.

(19) All information supplied by a person under ORS 151.485 for the purpose of requesting appointed counsel, and all information supplied to the court from whatever source for the purpose of verifying the financial eligibility of a person pursuant to ORS 151.485.

(20) Workers' compensation claim records of the Department of Consumer and Business Services, except in accordance with rules adopted by the Director of the Department of Consumer and Business Services, in any of the following circumstances:

(a) When necessary for insurers, self-insured employers and third party claim administrators to process workers' compensation claims.

(b) When necessary for the director, other governmental agencies of this state or the United States to carry out their duties, functions or powers.

(c) When the disclosure is made in such a manner that the disclosed information cannot be used to identify any worker who is the subject of a claim.

(d) When a worker or the worker's representative requests review of the worker's claim record.

(21) Sensitive business records or financial or commercial information of the Oregon Health and Science University that is not customarily provided to business competitors.

(22) Records of Oregon Health and Science University regarding candidates for the position of president of the university.

(23) The records of a library, including:

(a) Circulation records, showing use of specific library material by a named person;

(b) The name of a library patron together with the address or telephone number of the patron; and

(c) The electronic mail address of a patron.

(24) The following records, communications and information obtained by the Housing and Community Services Department in connection with the department's monitoring or administration of financial assistance or of housing or other developments:

- (a) Personal and corporate financial statements and information, including tax returns.
- (b) Credit reports.
- (c) Project appraisals.
- (d) Market studies and analyses.
- (e) Articles of incorporation, partnership agreements and operating agreements.
- (f) Commitment letters.
- (g) Project pro forma statements.
- (h) Project cost certifications and cost data.
- (i) Audits.
- (j) Project tenant correspondence.
- (k) Personal information about a tenant.
- (L) Housing assistance payments.

(25) Raster geographic information system (GIS) digital databases, provided by private forestland owners or their representatives, voluntarily and in confidence to the State Forestry Department, that is not otherwise required by law to be submitted.

(26) Sensitive business, commercial or financial information furnished to or developed by a public body engaged in the business of providing electricity or electricity services, if the information is directly related to a transaction described in ORS 261.348, or if the information is directly related to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and disclosure of the information would cause a competitive disadvantage for the public body or its retail electricity customers. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

(27) Sensitive business, commercial or financial information furnished to or developed by the City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085 and disclosure of the information would cause a competitive disadvantage for the Klamath Cogeneration Project. This subsection does not apply to cost-of-service studies used in the development or review of generally applicable rate schedules.

(28) Personally identifiable information about customers of a municipal electric utility or a people's utility district or the names, dates of birth, driver license numbers, telephone numbers, electronic mail addresses or Social Security numbers of customers who receive water, sewer or storm drain services from a public body as defined in ORS 174.109. The utility or district may release personally identifiable information about a customer, and a public body providing water, sewer or storm drain services may release the name, date of birth, driver license number, telephone number, electronic mail address or Social Security number of a customer, if the customer consents in writing or electronically, if the disclosure is necessary for the utility, district or other public body to render services to the customer, if the disclosure is required pursuant to a court order or if the disclosure is otherwise required by federal or state law. The utility, district or other public body may charge as appropriate for the costs of providing such information. The utility, district or other public body may make customer records available to third party credit agencies on a regular basis in connection with the establishment and management of customer accounts or in the event such accounts are delinquent.

(29) A record of the street and number of an employee's address submitted to a special district to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

(30) Sensitive business records, capital development plans or financial or commercial information of Oregon Corrections Enterprises that is not customarily provided to business competitors.

(31) Documents, materials or other information submitted to the Director of the Department of Consumer and Business Services in confidence by a state, federal, foreign or international regulatory or law enforcement agency or by the National Association of Insurance Commissioners, its af-

filiates or subsidiaries under ORS 86A.095 to 86A.198, [86A.990, 86A.992,] 697.005 to 697.095, 697.602 to 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905, ORS chapter 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

(a) The document, material or other information is received upon notice or with an understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or other information; and

(b) The director has obligated the Department of Consumer and Business Services not to disclose the document, material or other information.

(32) A county elections security plan developed and filed under ORS 254.074.

(33) Information about review or approval of programs relating to the security of:

(a) Generation, storage or conveyance of:

(A) Electricity;

(B) Gas in liquefied or gaseous form;

(C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

(D) Petroleum products;

(E) Sewage; or

(F) Water.

(b) Telecommunication systems, including cellular, wireless or radio systems.

(c) Data transmissions by whatever means provided.

(34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court designates the information as confidential by rule under ORS 1.002.

(35)(a) Employer account records of the State Accident Insurance Fund Corporation.

(b) As used in this subsection, "employer account records" means all records maintained in any form that are specifically related to the account of any employer insured, previously insured or under consideration to be insured by the State Accident Insurance Fund Corporation and any information obtained or developed by the corporation in connection with providing, offering to provide or declining to provide insurance to a specific employer. "Employer account records" includes, but is not limited to, an employer's payroll records, premium payment history, payroll classifications, employee names and identification information, experience modification factors, loss experience and dividend payment history.

(c) The exemption provided by this subsection may not serve as the basis for opposition to the discovery documents in litigation pursuant to applicable rules of civil procedure.

(36)(a) Claimant files of the State Accident Insurance Fund Corporation.

(b) As used in this subsection, "claimant files" includes, but is not limited to, all records held by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all records pertaining to such a claim.

(c) The exemption provided by this subsection may not serve as the basis for opposition to the discovery documents in litigation pursuant to applicable rules of civil procedure.

(37) Except as authorized by ORS 408.425, records that certify or verify an individual's discharge or other separation from military service.

**NOTE:** Excises extraneous references in (31).

**SECTION 17.** Section 3, chapter 884, Oregon Laws 2009, is amended to read:

**Sec. 3. (1) [Section 1 of this 2009 Act is] Sections 1 and 2, chapter 884, Oregon Laws 2009, are repealed on January 2, 2012.**

**(2) The Nearshore Resources Fund established under section 2, chapter 884, Oregon Laws 2009, is abolished January 2, 2012.**

**(3) Any unexpended moneys remaining in the Nearshore Resources Fund on January 2, 2012, shall be transferred to the General Fund.**

**NOTE:** Sunsets fund established for purposes of task force on same date task force sunsets.

**SECTION 18.** ORS 198.885 is amended to read:

198.885. (1) One district or more may merge with another district if the merger is approved by the electors as provided by ORS 198.895 to 198.915 or if it is approved by a local government

boundary commission as provided by ORS 199.480 (1)(c). The districts included in the merger shall be considered annexed by and absorbed into the surviving district.

(2) If the merger is approved, the district boards and officers of the merging districts shall turn over to the board of the surviving district all funds, property, contracts and records of the merging districts. Upon the effective date of the merger[, *the surviving district shall*]:

(a) **The surviving district shall** succeed to all the property, contracts, rights and powers of the merging districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by the principal Act and ORS 198.705 to 198.955;

(b) Uncollected taxes, assessments or charges levied by the merging districts shall become the property of the surviving district and upon collection shall be credited to the account of the surviving district; and

(c) Subject to any debt distribution plan adopted under ORS 198.900, the surviving district shall become liable for all the obligations, legal or contractual, of the merging districts.

(3) Districts providing potable water for domestic consumption, sanitary sewer or surface water quality and quantity purposes under separate principal Acts may merge as provided in this section. The district designated as the surviving district shall have all powers held by the other district under the principal Act of the other district.

(4) A county service district may merge with another district providing different or similar services as provided in subsection (3) of this section. When the county service district is not the surviving district, the merging entities shall enter into an agreement concerning elected representation on the board of the surviving district. The agreement shall provide that no fewer than two members of the board of the surviving district shall be appointed by the board of county commissioners, acting as the governing body of the county service district, to serve until replaced by individuals elected to the office at the next regular district election.

(5) Subsections (3) and (4) of this section do not apply to water authorities or sanitary authorities seeking to provide a different water-related service if the entities that seek to merge with the existing water authorities or sanitary authorities are within the urban growth boundary of a city and the city provides water supply, wastewater treatment or surface water management and treatment. When such entities are within the urban growth boundary of a city, the merging entities must:

(a) Obtain consent for the merger from the city prior to calling an election; or

(b) Comply with the formation process set forth in ORS 450.600.

**NOTE:** Corrects read-in woes in (2).

**SECTION 19.** ORS 198.890 is amended to read:

198.890. (1) Two or more districts may consolidate and form a new district if the consolidation is approved by the electors as provided by ORS 198.895 to 198.915 or if it is approved by a local government boundary commission as provided by ORS 199.480 (1)(c). The districts included in the consolidation shall be considered joined into a single new district.

(2) If the consolidation is approved, the district boards and officers of the consolidating districts shall turn over to the board of the successor district all funds, property, contracts and records of the consolidating districts. Upon the effective date of the consolidation[, *the successor district shall*]:

(a) **The successor district shall** succeed to all the property, contracts, rights and powers of the consolidating districts, and shall constitute and be a regularly organized district as if originally organized in the manner provided by the principal Act and ORS 198.705 to 198.955;

(b) Uncollected taxes, assessments or charges levied by the consolidating districts shall become the property of the successor district and upon collection shall be credited to the account of the successor district; and

(c) Subject to any debt distribution plan adopted under ORS 198.900, the successor district shall become liable for all the obligations, legal or contractual, of the consolidating districts.

(3) Districts providing potable water for domestic consumption, sanitary sewer or surface water quality and quantity purposes under separate principal Acts may consolidate as provided in this section. Upon the effective date of the consolidation, the district designated as the successor district

shall have all powers held by the consolidating districts under the principal Acts of all of the districts.

(4) A county service district may consolidate with another district providing different or similar services as provided in subsection (3) of this section. The consolidating entities shall enter into an agreement that shall be binding on the successor district concerning elected representation on the board of the successor district. The agreement shall provide that no fewer than two members of the board of the successor district shall be appointed by the board of county commissioners, acting as the governing body of the county service district, to serve until replaced by individuals elected to the office at the next regular district election.

(5) Subsections (3) and (4) of this section do not apply to water authorities or sanitary authorities seeking to provide a different water-related service if the entities that seek to consolidate with the existing water authorities or sanitary authorities are within the urban growth boundary of a city and the city provides water supply, wastewater treatment or surface water management and treatment. When such entities are within the urban growth boundary of a city, the consolidating entities must:

(a) Obtain consent for the consolidation from the city prior to calling an election; or

(b) Comply with the formation procedures set forth in ORS 450.600.

**NOTE:** Corrects read-in woes in (2).

**SECTION 20.** ORS 198.920 is amended to read:

198.920. (1) Dissolution of a district may be initiated:

[1] (a) By a petition of the electors requesting dissolution of the district, filed with the county board.

[2] (b) By resolution of the district board filed with the county board when the district board determines that it is in the best interest of the inhabitants of the district that the district be dissolved and liquidated.

[3] (c) By resolution of the county board:

[a] (A)(i) If the district at the time of the regular district election has not elected district board members, as required by the principal Act, to fill vacancies on the district board; or

[b] (ii) If the territory within the district is uninhabited; and

[c] (B) If [*in either case*] the county board determines that it is in the best interest of the people of the county that the district be dissolved and liquidated.

[4] (2) Within five days after a petition is filed or a resolution of a county board is adopted under this section, a copy shall be filed with the district secretary, if any, or with any other district officer who can with reasonable diligence be located.

[5] (3) If there are no qualified district board members, the county board shall act as or appoint a board of trustees to act in behalf of the district.

**NOTE:** Restructures section to conform to legislative style.

**SECTION 21.** ORS 198.925 is amended to read:

198.925. (1) When dissolution proceedings have been initiated, the district board shall make findings of fact [*which shall*] **that** include:

(a) The amount of each outstanding bond, coupon and other indebtedness, with a general description of the indebtedness and the name of the holder and owner of each, if known.

(b) A description of each parcel of real property and interest in real property and, if the property was acquired for delinquent taxes or assessments, the amount of such taxes and assessments on each parcel of property.

(c) **The amount of** uncollected taxes, assessments and charges levied by the district and the amount upon each lot or tract of land.

(d) A description of the personal property and of all other assets of the district.

(e) The estimated cost of dissolution.

(2) The district board shall propose a plan of dissolution and liquidation.

(3) Within 30 days after initiation of the dissolution proceeding, the findings of fact and the proposed plan of dissolution and liquidation shall be filed in the office of the county clerk and shall be available for inspection by any interested person.

**NOTE:** Corrects syntax in (1) lead-in and (1)(c).

**SECTION 22.** ORS 238.005, as amended by section 8, chapter 1, Oregon Laws 2010, is amended to read:

238.005. For purposes of this chapter:

(1) **“Active member” means a member who is presently employed by a participating public employer in a qualifying position and who has completed the six-month period of service required by ORS 238.015.**

[(1)] (2) **“Annuity” means payments for life derived from contributions made by a member as provided in this chapter.**

[(2)] (3) **“Board” means the Public Employees Retirement Board.**

[(3)] (4) **“Calendar year” means 12 calendar months commencing on January 1 and ending on December 31 following.**

[(4)] (5) **“Continuous service” means service not interrupted for more than five years, except that such continuous service shall be computed without regard to interruptions in the case of:**

(a) An employee who had returned to the service of the employer as of January 1, 1945, and who remained in that employment until having established membership in the Public Employees Retirement System.

(b) An employee who was in the armed services on January 1, 1945, and returned to the service of the employer within one year of the date of being otherwise than dishonorably discharged and remained in that employment until having established membership in the Public Employees Retirement System.

[(5)] (6) **“Creditable service” means any period of time during which an active member is being paid a salary by a participating public employer and for which benefits under this chapter are funded by employer contributions and earnings on the fund. For purposes of computing years of “creditable service,” full months and major fractions of a month shall be considered to be one-twelfth of a year and shall be added to all full years. “Creditable service” includes all retirement credit received by a member.**

[(6)] (7) **“Earliest service retirement age” means the age attained by a member when the member could first make application for retirement under the provisions of ORS 238.280.**

[(7)] (8) **“Employee” includes, in addition to employees, public officers, but does not include:**

(a) Persons engaged as independent contractors.

(b) Seasonal, emergency or casual workers whose periods of employment with any public employer or public employers do not total 600 hours in any calendar year.

(c) Persons, other than workers in the Oregon Industries for the Blind under ORS 346.190, provided sheltered employment or made-work by a public employer in an employment or industries program maintained for the benefit of such persons.

(d) Persons employed and paid from federal funds received under [*the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567) or any other*] a federal program intended primarily to alleviate unemployment. However, any such person shall be considered an “employee” if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects to have the person so considered by an irrevocable written notice to the board.

(e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such employees, are included in a retirement plan under federal railroad retirement statutes. This paragraph shall be deemed to have been in effect since the inception of the system.

[(8)] (9) **“Final average salary” means whichever of the following is greater:**

(a) The average salary per calendar year paid by one or more participating public employers to an employee who is an active member of the system in three of the calendar years of membership before the effective date of retirement of the employee, in which three years the employee was paid the highest salary. The three calendar years in which the employee was paid the largest total salary

may include calendar years in which the employee was employed for less than a full calendar year. If the number of calendar years of active membership before the effective date of retirement of the employee is three or fewer, the final average salary for the employee is the average salary per calendar year paid by one or more participating public employers to the employee in all of those years, without regard to whether the employee was employed for the full calendar year.

(b) One-third of the total salary paid by a participating public employer to an employee who is an active member of the system in the last 36 calendar months of active membership before the effective date of retirement of the employee.

[(9)] (10) "Firefighter" does not include a volunteer firefighter, but does include:

(a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and

(b) An employee of the State Forestry Department who is certified by the State Forester as a professional wildland firefighter and whose primary duties include the abatement of uncontrolled fires as described in ORS 477.064.

[(10)] (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 following.

[(11)] (12) "Fund" means the Public Employees Retirement Fund.

(13) "Inactive member" means a member who is not employed in a qualifying position, whose membership has not been terminated in the manner described by ORS 238.095 and who is not retired for service or disability.

[(12)(a)] (14) "Member" means a person who has established membership in the system and whose membership has not been terminated as described in ORS 238.095. "Member" includes active, inactive and retired members.

[(b)] "Active member" means a member who is presently employed by a participating public employer in a qualifying position and who has completed the six-month period of service required by ORS 238.015.]

[(c)] "Inactive member" means a member who is not employed in a qualifying position, whose membership has not been terminated in the manner described by ORS 238.095, and who is not retired for service or disability.]

[(d)] "Retired member" means a member who is retired for service or disability.]

[(13)(a)] (15) "Member account" means the regular account and the variable account.

[(b)] "Regular account" means the account established for each active and inactive member under ORS 238.250.]

[(c)] "Variable account" means the account established for a member who participates in the Variable Annuity Account under ORS 238.260.]

[(14)] (16) "Normal retirement age" means:

(a) For a person who establishes membership in the system before January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 58 years of age if the employee retires at that age as other than a police officer or firefighter.

(b) For a person who establishes membership in the system on or after January 1, 1996, as described in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter or 60 years of age if the employee retires at that age as other than a police officer or firefighter.

[(15)] (17) "Pension" means annual payments for life derived from contributions by one or more public employers.

[(16)] (18) "Police officer" includes:

(a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions whose duties, as assigned by the Director of the Department of Corrections, include the custody of persons committed to the custody of or transferred to the Department of Corrections and employees of the Department of Corrections who were classified as police officers on or before July 27, 1989, whether or not such classification was authorized by law.

(b) Employees of the Department of State Police who are classified as police officers by the Superintendent of State Police.

(c) Employees of the Oregon Liquor Control Commission who are classified as enforcement officers by the administrator of the commission.

(d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified by the sheriff, are the regular duties of police officers or corrections officers.

(e) Police chiefs and police personnel of a city who are classified as police officers by the council or other governing body of the city.

(f) Parole and probation officers employed by the Department of Corrections, parole and probation officers who are transferred to county employment under ORS 423.549 and adult parole and probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes of this chapter by the county governing body. If a county classifies adult parole and probation officers as police officers for the purposes of this chapter, and the employees so classified are represented by a labor organization, any proposal by the county to change that classification or to cease to classify adult parole and probation officers as police officers for the purposes of this chapter is a mandatory subject of bargaining.

(g) Police officers appointed under ORS 276.021 or 276.023.

(h) Employees of the Port of Portland who are classified as airport police by the Board of Commissioners of the Port of Portland.

(i) Employees of the State Department of Agriculture who are classified as livestock police officers by the Director of Agriculture.

(j) Employees of the Department of Public Safety Standards and Training who are classified by the department as other than secretarial or clerical personnel.

(k) Investigators of the Criminal Justice Division of the Department of Justice.

(L) Corrections officers as defined in ORS 181.610.

(m) Employees of the Oregon State Lottery Commission who are classified by the Director of the Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

(n) The Director of the Department of Corrections.

(o) An employee who for seven consecutive years has been classified as a police officer as defined by this section, and who is employed or transferred by the Department of Corrections to fill a position designated by the Director of the Department of Corrections as being eligible for police officer status.

(p) An employee of the Department of Corrections classified as a police officer on or prior to July 27, 1989, whether or not that classification was authorized by law, as long as the employee remains in the position held on July 27, 1989. The initial classification of an employee under a system implemented pursuant to ORS 240.190 does not affect police officer status.

(q) Employees of a school district who are appointed and duly sworn members of a law enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as police officers commissioned by the district.

(r) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050, 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who have supervisory, control or teaching responsibilities over juveniles committed to the custody of the Department of Corrections or the Oregon Youth Authority.

(s) Employees at youth correction facilities as defined in ORS 420.005 whose primary job description involves the custody, control, treatment, investigation or supervision of juveniles placed in such facilities.

(t) Employees of the Oregon Youth Authority who are classified as juvenile parole and probation officers.

**(19) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).**

[(17)] **(20) "Public employer" means the state, one of its agencies, any city, county, or municipal or public corporation, any political subdivision of the state or any instrumentality thereof, or an agency created by one or more such governmental organizations to provide governmental services. For purposes of this chapter, such agency created by one or more governmental organizations is a**

governmental instrumentality and a legal entity with power to enter into contracts, hold property and sue and be sued.

[(18)] *“Prior service credit” means credit provided under ORS 238.442 or under ORS 238.225 (2) to (6) (1999 Edition).*

[(19)] **(21) “Qualifying position” means one or more jobs with one or more participating public employers in which an employee performs 600 or more hours of service in a calendar year, excluding any service in a job for which a participating public employer does not provide benefits under this chapter pursuant to an application made under ORS 238.035.**

**(22) “Regular account” means the account established for each active and inactive member under ORS 238.250.**

**(23) “Retired member” means a member who is retired for service or disability.**

[(20)] **(24) “Retirement credit” means a period of time that is treated as creditable service for the purposes of this chapter.**

[(21)(a)] **(25)(a) “Salary” means the remuneration paid an employee in cash out of the funds of a public employer in return for services to the employer, plus the monetary value, as determined by the Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and other advantages the employer furnishes the employee in return for services.**

(b) “Salary” includes but is not limited to:

(A) Payments of employee and employer money into a deferred compensation plan, which are deemed salary paid in each month of deferral;

(B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary paid in each month of participation;

(C) Retroactive payments described in section 7, chapter 1, Oregon Laws 2010; and

(D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS 652.190.

(c) “Salary” or “other advantages” does not include:

(A) Travel or any other expenses incidental to employer’s business which is reimbursed by the employer;

(B) Payments for insurance coverage by an employer on behalf of employee or employee and dependents, for which the employee has no cash option;

(C) Payments made on account of an employee’s death;

(D) Any lump sum payment for accumulated unused sick leave;

(E) Any accelerated payment of an employment contract for a future period or an advance against future wages;

(F) Any retirement incentive, retirement severance pay, retirement bonus or retirement gratuitous payment;

(G) Payments for periods of leave of absence after the date the employer and employee have agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for sick leave and vacation;

(H) Payments for instructional services rendered to institutions of the Oregon University System or the Oregon Health and Science University when such services are in excess of full-time employment subject to this chapter. A person employed under a contract for less than 12 months is subject to this subparagraph only for the months to which the contract pertains; or

(I) Payments made by an employer for insurance coverage provided to a domestic partner of an employee.

[(22)] **(26) “School year” means the period beginning July 1 and ending June 30 next following.**

[(23)] **(27) “System” means the Public Employees Retirement System.**

**(28) “Variable account” means the account established for a member who participates in the Variable Annuity Account under ORS 238.260.**

[(24)] **(29) “Vested” means being an active member of the system in each of five calendar years.**

[(25)] **(30) “Volunteer firefighter” means a firefighter whose position normally requires less than 600 hours of service per year.**

**NOTE:** Alphabetizes definitions; deletes reference to obsolete federal Act in (8)(d).

**SECTION 23.** Section 2, chapter 971, Oregon Laws 1999, is amended to read:

**Sec. 2.** (1) The amendments to ORS 238.005 by section 1, **chapter 971, Oregon Laws 1999**, [of this 1999 Act] apply only to persons specified in ORS 238.005 [(16)(b)] **(10)(b)** who are employed by the State Forestry Department on [the effective date of this 1999 Act] **October 23, 1999**, or who become employed by the State Forestry Department after [the effective date of this 1999 Act] **October 23, 1999**.

(2) Except as provided in subsection (3) of this section, the amendments to ORS 238.005 by section 1, **chapter 971, Oregon Laws 1999**, [of this 1999 Act] apply only to service rendered to a participating public employer on or after [the effective date of this 1999 Act] **October 23, 1999**.

(3) Any employee who is employed by the State Forestry Department in a position described in ORS 238.005 [(16)(b) on the effective date of this 1999 Act] **(10)(b) on October 23, 1999**, may acquire creditable service in the Public Employees Retirement System as a firefighter for service performed by the employee in a position described in ORS 238.005 [(16)(b) before the effective date of this 1999 Act] **(10)(b) before October 23, 1999**, by paying to the Public Employees Retirement Board an amount determined by the board to represent the full cost to the system of providing credit as a firefighter to the member. The member may acquire credit as a firefighter for all or part of the service in a position described in ORS 238.005 [(16)(b) performed before the effective date of this 1999 Act] **(10)(b) performed before October 23, 1999**. All amounts required for acquisition of credit as a firefighter under this subsection must be paid at least 90 days before a member's effective date of retirement. The board may by rule allow members to pay amounts required under this subsection in installments in lieu of requiring a single lump sum payment.

**NOTE:** Corrects subsection references; inserts effective date references.

**SECTION 24.** ORS 238.148 is amended to read:

238.148. (1) A member of the Public Employees Retirement System who is a police officer is entitled to receive retirement credit as provided in subsection (2) of this section if:

(a) The member was employed as a public safety officer by another state, or political subdivision of another state, before being employed in a position that entitled the member to credit in the system; and

(b) The member makes the payment required by subsection (2) of this section within the time specified by that subsection.

(2) Except as provided in subsection (3) of this section, a member of the system employed as a police officer who meets the requirements of subsection (1) of this section is entitled to receive retirement credit for the period of the member's service with another state, or political subdivision of another state, not to exceed a maximum of four years, if the member within 90 days of the member's effective date of retirement:

(a) Applies in writing to the Public Employees Retirement Board for such retirement credit;

(b) Provides written verification to the board from the other state, or political subdivision of the other state, that employed the member, verifying the period of time that the member served as a public safety officer in the other state; and

(c) Pays to the board, in a lump sum, for each year of retirement credit applied for under this section, an amount determined by the board to represent the full cost to the system of providing the retirement credit to the member, including all administrative costs incurred by the system in processing the application for acquisition of the retirement credit.

(3) A member may not receive retirement credit under the provisions of this section for any period of service with another state, or political subdivision of another state, if the member is entitled to a pension or retirement allowance by reason of that service under a public plan or system offered by the other state or by a political subdivision of the other state.

(4) For the purposes of this section, "public safety officer" means a person who serves in a position with another state, or political subdivision of another state, that is the other state's equivalent of a position described in ORS 238.005 [(16)] **(18)**.

**NOTE:** Corrects subsection reference in (4); see amendments to 238.005 by section 22.

**SECTION 25.** ORS 238.580 is amended to read:

238.580. (1) ORS 238.005 [(3) and (21)] **(4) and (25)**, 238.025, 238.078, 238.082, 238.092, 238.115 (1), 238.250, 238.255, 238.260, 238.350, 238.380, 238.410, 238.415, 238.420, 238.445, 238.458, 238.460, 238.465, 238.475, 238.600, 238.605, 238.610, 238.618, 238.630, 238.635, 238.645, 238.650, 238.655, 238.660, 238.665, 238.670 and 238.705 and the increases provided by ORS 238.385 for members of the system who are serving as other than police officers or firefighters apply in respect to service as a judge member.

(2) This chapter applies in respect to persons described in ORS 238.505 (1) and in respect to service as a judge member only as specifically provided in ORS 238.500 to 238.585.

**NOTE:** Corrects subsection references in (1); see amendments to 238.005 by section 22.

**SECTION 26.** ORS 238.608 is amended to read:

238.608. (1) The Public Employees Retirement Board shall conduct a study of the life expectancy of members of the Public Employees Retirement System in the categories described in subsection (2) of this section. If the board determines that members in the categories described in subsection (2) of this section have a life expectancy that is substantially shorter than the life expectancy of members of the system generally, the board shall adopt and use separate actuarial equivalency factor tables under ORS 238.607 for the purpose of computing the payments to be made to members in the categories described in subsection (2) of this section and to the beneficiaries and alternate payees of those members. Any actuarial equivalency factor tables adopted under this section shall first become effective January 1, 2005.

(2) The provisions of this section apply to members of the system who are defined as firefighters under ORS 238.005 [(9)] or as police officers under ORS 238.005 [(16)(a)] **(18)(a)**, (b), (d), (e), (f), (k), (L), (n), (o) or (p).

**NOTE:** Eliminates one unnecessary subsection reference and corrects one subsection reference in (2); see amendments to 238.005 by section 22.

**SECTION 27.** ORS 238A.320 is amended to read:

238A.320. (1) A member of the individual account program becomes vested in the employee account established for the member under ORS 238A.350 (2) on the date the employee account is established.

(2) A member who makes rollover contributions becomes vested in the rollover account established for the member under ORS 238A.350 (4) on the date the rollover account is established.

(3) If an employer makes employer contributions for a member under ORS 238A.340, the member becomes vested in the employer account established under ORS 238A.350 (3) on the earliest of the following dates:

(a) The date on which the member completes at least 600 hours of service in each of five calendar years;

(b) The date on which an active member reaches the normal retirement age for the member under ORS 238A.160;

(c) If the individual account program is terminated, the date on which termination becomes effective, but only to the extent the account is then funded;

(d) The date on which an active member becomes disabled, as described in ORS 238A.155 [(4)] **(5)**; or

(e) The date on which an active member dies.

(4) If a member of the individual account program who is not vested in the employer account performs fewer than 600 hours of service in each of five consecutive calendar years, hours of service performed before the first calendar year of the period of five consecutive calendar years shall be disregarded for purposes of determining whether the member is vested under subsection (3)(a) of this section.

(5) Solely for purposes of determining whether a member is vested under subsection (3)(a) of this section, hours of service include creditable service, as defined in ORS 238.005, performed by the person before the person became an eligible employee, as long as the membership of the person under ORS chapter 238 has not been terminated under the provisions of ORS 238.095 on the date the person becomes an eligible employee.

**NOTE:** Corrects subsection reference in (3)(d).

**SECTION 28.** ORS 240.205 is amended to read:

240.205. The unclassified service shall comprise:

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

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

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

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

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

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

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

(8) Licensed physicians and dentists employed in their professional capacities and student nurses, interns, and patient or inmate help in state institutions.

(9) Lawyers employed in their professional capacities.

(10) All members of the Oregon State Police appointed under ORS 181.250 and 181.265.

(11) Deputy superintendents and associate superintendents in the Department of Education.

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

(13) Any individual employed and paid from federal funds received under [*the Emergency Job and Unemployment Assistance Act of 1974 (United States Public Law 93-567) or any other*] a federal program intended primarily to alleviate unemployment. However, persons employed under this subsection shall be treated as classified employees for purposes of ORS 243.650 to 243.782.

(14) Managers, department heads, directors, producers and announcers of the state radio and television network.

(15) Employees, including managers, of the foreign trade offices of the Oregon Business Development Department located outside the country.

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

**NOTE:** Deletes reference to obsolete federal Act in (13).

**SECTION 29.** ORS 243.421 is amended to read:

243.421. (1) The Oregon Investment Council shall establish a program for investment of moneys in the Deferred Compensation Fund. The program shall include policies and procedures for the investment of moneys in the fund. The program and all investments of moneys under the program are subject to the provisions of ORS 293.701 to 293.820.

(2) The council shall provide to the Public Employees Retirement Board a description of the investment options set forth in the council's policies and procedures for the investment of moneys in the fund, the applicable benchmark for each option and a description of the characteristics of each benchmark.

(3) The provisions of [*ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and*] ORS chapter 59 that require registration of securities do not apply to any share, participation or other interest in the state deferred compensation plan or in the Deferred Compensation Fund. The provisions of [*ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and*] ORS chapter 59 requiring licensing of certain persons

as broker-dealers or as investment advisors do not apply to any of the following persons or entities for the purposes of implementing and administering the deferred compensation investment program established under this section:

- (a) The council.
- (b) The Public Employees Retirement Board.
- (c) The Public Employees Retirement System.
- (d) The State Treasurer.
- (e) Any officer or employee of the persons or entities described in paragraphs (a) to (d) of this subsection.

**NOTE:** Excises extraneous references in (3).

**SECTION 30.** ORS 243.476 is amended to read:

243.476. (1) As a condition of allowing a local government to become a participating local government, and at any time thereafter, the Oregon Investment Council, the Public Employees Retirement Board or the Director of the Public Employees Retirement System may require that the local government provide proof that the local government deferred compensation plan complies with the provisions of section 457 of the Internal Revenue Code, as amended, that apply to governmental plans, including but not limited to any required declaration of trust related to plan assets and appointment of a trustee. The council, board or director may require an opinion of counsel or other assurance satisfactory to the council, board or director that participation of a local government deferred compensation plan in the deferred compensation investment program does not cause the State of Oregon, its agencies or employees to violate any federal or state laws or regulations related to investments and securities.

(2) Participating local governments shall take all actions that the Oregon Investment Council, the Public Employees Retirement Board or the Director of the Public Employees Retirement System, in their discretion, deem necessary for compliance by the deferred compensation investment program with all applicable federal and state laws or for qualification of the program for any exemptions from regulation available under those laws, including but not limited to the federal Securities Act of 1933, as amended, the Investment Company Act of 1940, as amended, and [ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and] ORS chapter 59.

**NOTE:** Excises extraneous references in (2).

**SECTION 31.** ORS 243.482 is amended to read:

243.482. (1) A civil action for damages may not be brought against the state, the State Treasurer, the Oregon Investment Council, the Public Employees Retirement Board, or the officers or employees of the board by reason of:

- (a) A breach of any duty in administering or investing of funds in the Deferred Compensation Fund;
- (b) A breach of any duty in administering or investing of the funds of participating local governments; or
- (c) Any losses suffered by a state plan participant or local plan participant or the beneficiaries of those participants because of the participant's choice of an investment option available through the deferred compensation investment program established under ORS 243.421.

(2) Any claim that the council, the board, the State Treasurer or the system, or any of their officers or employees, violated federal or state securities laws, including antifraud provisions, in the implementation or administration of ORS 243.401 to 243.507 is subject to the provisions of ORS 30.260 to 30.300. With respect to such claims, the state shall defend, save harmless and indemnify the State Treasurer, the system, members of the council, the board, and their officers and employees, as provided for other torts under the provisions of ORS 30.260 to 30.300.

(3) The limitations on liability established by this section do not include an exemption from any liability that may be imposed under the provisions of [ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and] ORS chapter 59. Except to the extent that the state deferred compensation plan and the deferred compensation investment program are exempted from registration and licensing requirements under ORS 243.421, [ORS 86A.095 to 86A.198, 86A.990 and 86A.992 and] ORS chapter 59 [apply]

**applies** to the administration and investment of the Deferred Compensation Fund, the state deferred compensation plan, local government deferred compensation plans and the deferred compensation investment program.

**NOTE:** Excises extraneous references in (3).

**SECTION 32.** ORS 254.555 is amended to read:

254.555. (1) Except as provided in ORS 254.548, not later than the 30th day after any election, the Secretary of State, regarding offices for which the secretary receives filings for nomination, shall:

(a) Canvass the votes for the offices, except the office of Governor after the general election.

(b) Enter in a register of nominations after the primary election the name and, if applicable, major political party of each candidate nominated, the office for which the candidate is nominated[,] and the date of entry.

(c) Prepare and deliver a certificate of nomination or election to each candidate having the most votes for nomination for or election to the office. The Secretary of State shall sign the certificate under the seal of the state.

(d) Issue a proclamation declaring the election of candidates to the offices.

(2) Not later than the 30th day after the election:

(a) The Secretary of State, regarding measures for which the secretary [as] is the filing officer, shall canvass the votes for each measure.

(b) The Governor shall issue a proclamation giving the number of votes cast for or against each such measure, and declaring the approved measures as the law on the effective date of the measure. If two or more approved measures contain conflicting provisions, the Governor shall proclaim which is paramount.

**NOTE:** Eliminates serial comma in (1)(b); corrects word choice in (2)(a).

**SECTION 33.** ORS 279B.420 is amended to read:

279B.420. (1) If a contracting agency allegedly violates a provision of ORS chapter 279A and a judicial remedy is not otherwise available under ORS chapter 279A, 279B or 279C, the alleged violation is subject to judicial review only as provided in this section.

(2) If a contracting agency allegedly violates a provision of this chapter, except a provision of ORS 279B.030, 279B.033, 279B.036, 279B.270, 279B.275, 279B.280 or 279B.400 to 279B.425, and a judicial remedy is not otherwise provided in this chapter or ORS chapter 279A, the alleged violation is subject to judicial review only as provided in this section.

(3) A person may seek judicial review under this section for a violation described in subsection (1) or (2) of this section only if:

(a) A public contract is about to be awarded or has been awarded;

(b) The alleged violation of a provision of this chapter or ORS chapter 279A, except a provision of ORS 279B.030, 279B.033, [or] 279B.036, [or] 279B.270, 279B.275, 279B.280 [and] or 279B.400 to 279B.425, occurred in the procurement process for the public contract and the alleged violation resulted in or will result in an unlawful award of a contract or an unlawful failure to award the contract;

(c) The alleged violation deprived the person of the award of the contract or deprived the person of the opportunity to compete for the award of the contract;

(d) The person was qualified to receive the award of the contract under ORS 279B.110;

(e) The person gave written notice that described the alleged violation to the contracting agency not later than 10 days after the date on which the alleged violation occurred and, regardless of when the alleged violation occurred, not later than 10 days after the date of execution of the contract;

(f) The person has exhausted all administrative remedies the contracting agency provides; and

(g)(A) The alleged violation is a violation of a provision of ORS chapter 279A and no other section of ORS chapter 279A, 279B or 279C provides judicial review; or

(B) The alleged violation is a violation of a provision of this chapter, except a provision of ORS 279B.030, 279B.033, 279B.036, 279B.270, 279B.275, 279B.280 or 279B.400 to 279B.425, and no other section of this chapter or ORS chapter 279A provides judicial review.

(4) If a state contracting agency allegedly commits a violation, the Circuit Court for Marion County or the circuit court for the county in which the principal offices of the state contracting agency are located may review the alleged violation under ORS 183.484.

(5) If a local contracting agency allegedly commits a violation, the circuit court for the county in which the principal offices of the local contracting agency are located may review the alleged violation by means of a writ of review under ORS chapter 34.

(6) If a person gives the notice required under subsection (3)(e) of this section and timely seeks judicial review under this section, the contracting agency may not execute the contract unless the contracting agency determines that a compelling governmental interest exists in proceeding or that the goods and services are urgently needed. A contracting agency that makes such a determination shall set forth in writing the reasons for the determination and immediately provide the reasons to the person who filed the challenge. Thereafter, after joining the prospective contractor as a party to the litigation and upon motion by the person who filed the challenge, the court may nonetheless stay the performance of the contract if the court finds that the contracting agency's determination that a compelling governmental interest exists in proceeding with contract execution, or the contracting agency's determination that the goods or services were urgently needed, was not supported by substantial evidence or constituted a manifest abuse of discretion. In granting a stay, the court may require the person who sought the stay to post a bond in an amount sufficient to protect the contracting agency and the public from costs associated with a delay in contract performance.

(7) In a review, the circuit court shall give due deference to any factual contracting decision the contracting agency made and may not substitute the court's judgment for the contracting agency's judgment. The court shall review all questions of law de novo. Thereafter:

(a) If a contract has not been executed and the court rules in favor of the person that sought judicial review, and if the violation could have affected the award of the contract, the court shall remand the procurement to the contracting agency for a determination whether to continue with the procurement process in light of the court's decision.

(b) In addition to the relief provided for in paragraph (a) of this subsection, if a contract has been executed and the court rules in favor of the person that sought judicial review, the court shall include in the court's order a determination whether the party that signed the contract with the contracting agency is entitled to reimbursement under the conditions of, and calculated in the same manner as provided in, ORS 279C.470. Notwithstanding that ORS 279C.470 otherwise applies only to public improvement contracts, under this paragraph the court shall apply ORS 279C.470 to both public improvement contracts and other public contracts of contracting agencies.

(c) The court may award costs and attorney fees to the prevailing party.

**NOTE:** Standardizes syntax in (3)(b).

**SECTION 34.** Section 11, chapter 828, Oregon Laws 2005, as amended by section 3, chapter 589, Oregon Laws 2007, and section 2, chapter 59, Oregon Laws 2010, is amended to read:

**Sec. 11.** (1) Notwithstanding ORS chapter 334, the board of directors of a pilot education service district shall consist of nine members as follows:

(a) Five directors shall represent zones established under ORS 334.032 and shall be elected by the boards of the component school districts; **and**

(b) Four directors shall be appointed by the directors described in paragraph (a) of this subsection, including one at-large director and a director representing each of the following:

(A) Public post-secondary institutions located within the pilot education service district;

(B) Social service providers; and

(C) The business community.

(2) The board of directors of a pilot education service district shall divide the pilot education service district into five zones as nearly equal in census population as may be practicable, measured along common school district boundary lines.

(3) The board of directors of a pilot education service district may readjust the boundaries of the zones once each year and shall readjust the boundaries of the zones immediately upon any change of the boundaries of the pilot education service district or a component school district.

(4)(a) Prior to the end of the term of office of any elected director of a pilot education service district, the boards of the component school districts within the zone the director represented shall elect a successor whose term begins on July 1 next following. Each component school district board shall have one vote. A director is eligible for reelection.

(b) Prior to the end of the term of office of any appointed director of a pilot education service district, the directors described in subsection (1)(a) of this section shall appoint a successor whose term begins on July 1 next following. A director who was appointed under subsection (1)(b) of this section is eligible for reappointment.

(5) Any vacancy on the board of directors of a pilot education service district that occurs before the end of the term of office of a director of a pilot education service district shall be filled following the process described in this section.

**NOTE:** Supplies missing conjunction between (1)(a) and (b).

**SECTION 35.** ORS 339.326 is amended to read:

339.326. (1) As used in this section:

(a) "School administrator" has the meaning given that term in ORS 419A.305.

(b) "School personnel" means a person who is employed by or under contract with a school district, public charter school or private school to provide services to students, including but not limited to:

- (A) Teachers and school staff.
- (B) Transportation providers.
- (C) Food service workers.
- (D) Daytime building maintenance workers.
- (E) Health center workers or nurses.
- (F) Library personnel.
- (G) Translators.

(2) Within 48 hours after receiving notice under ORS 419A.305, a school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel;
- (b) Arrange appropriate counseling or education for the person who is the subject of the notice;

or

(c) If the notice states that the court has set aside or dismissed the petition, or that the court has determined it does not have jurisdiction over the person who is the subject of the notice, inform school personnel previously notified of the petition under this subsection that the court has set aside or dismissed the petition or determined that the person who is the subject of the notice is not within the jurisdiction of the juvenile court and direct the appropriate school personnel to remove and destroy the notice and any documents or information related to the notice from the person's educational records.

(3) When a student transfers to a school in this state from a school outside the state, the school administrator of the school in this state shall, when requesting the transfer student's education records as provided under ORS 326.575, request any information that the transfer student's former school may have relating to the transfer student's history of engaging in activity that is likely to place at risk the safety of school personnel or students or that requires arrangement of appropriate counseling or education for the transfer student. Upon receipt of information that the transfer student has a history of engaging in activity that is likely to place at risk the safety of school personnel or students, the school administrator shall notify school personnel who the school administrator determines need the information in order to:

- (a) Safeguard the safety and security of the school, students and school personnel; or
- (b) Arrange appropriate counseling or education for the transfer student.

(4) When a school administrator receives notice under ORS 419A.305 and determines that the youth is not enrolled in the school administrator's school but is enrolled in a school or program referred to in this subsection, the school administrator shall, within 48 hours of receiving notice, send a copy of the notice to:

(a) The director of the Oregon School for the Deaf if the youth attends the Oregon School for the Deaf.

*[(b) The director of the Oregon School for the Blind if the youth attends the Oregon School for the Blind.]*

*[(c)]* (b) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.

*[(d)]* (c) The principal of the public charter school if the youth attends a public charter school.

*[(e)]* (d) The principal of the private school if the youth attends a private school.

*[(f)]* (e) The appropriate school administrator if the youth attends a school in another school district.

(5) A school district, public charter school or private school may adopt policies and procedures for providing notification to school personnel under this section.

(6)(a) Except as provided in this section, information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section is confidential.

(b) Persons receiving information contained in a notice required under ORS 419A.305 or obtained from an out-of-state school under subsection (3) of this section may not disclose any information received *[with]* to anyone other than:

(A) The person who is the subject of the notice or the transfer student;

(B) The parent or guardian of the person who is the subject of the notice or the transfer student;

(C) A school administrator;

(D) School personnel notified under subsection (2) or (3) of this section;

(E) Law enforcement personnel;

(F) The probation officer or juvenile counselor of the person who is the subject of the notice or the transfer student; and

(G) The attorney for the person who is the subject of the notice or the transfer student.

(c) School personnel are not subject to discipline for disclosing the existence of a notice under ORS 419A.305 or for disclosing the contents of the notice, unless the disclosure was made in bad faith, with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety or property of another.

(7)(a) Information obtained under this section or under ORS 419A.305 may not be used for admissions or disciplinary decisions concerning the person who is the subject of a notice or the transfer student unless the violation occurred in the school or classroom or at a school activity or event, whether or not the violation took place on school property.

(b) Notwithstanding paragraph (a) of this subsection, information obtained under this section or under ORS 419A.305 may be used for making an educational placement for the person who is the subject of a notice or the transfer student, if necessary for arranging appropriate counseling or education for the person or transfer student. Placement procedures and decisions under this section regarding a person or transfer student who is receiving special education and related services must comply with the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.

(c) The receipt of a notice under ORS 419A.305 does not deprive the school of the authority to institute or continue a disciplinary action against the person who is the subject of the notice or the transfer student based on the same conduct alleged in the notice if the disciplinary proceedings are based on information obtained by the school or school district that is not derived from the notice.

(8) A person is not civilly or criminally liable for giving or failing to give the notice required under this section. Nothing in this section creates a new cause of action or enlarges an existing cause of action for compensation or damages.

**NOTE:** Removes reference in (4)(b) to school that closed in 2009 (see section 1, chapter 562, Oregon Laws 2009); adjusts syntax in (6)(b).

**SECTION 36.** ORS 348.910 is amended to read:

348.910. (1) As used in this section, "applied baccalaureate degree" means a bachelor's degree designed to incorporate applied associate courses and degrees with additional coursework emphasizing higher-order thinking skills and advanced technical knowledge and skills.

(2) The Joint Boards of Education shall develop a plan for offering applied baccalaureate degree programs at community colleges and state institutions of higher education. The boards shall consider the following types of programs for the purpose of offering some of these types and the possibility of combinations of these types:

(a) A career ladder program that requires a substantial number of upper level courses in the same technical area of study as the student's applied associate degree;

(b) An inverse program that reverses the traditional curriculum sequence by adding general education courses in the student's third and fourth years to the associate degree courses taken in the student's first and second years;

(c) A management ladder program that combines associate degree requirements with applied management skills coursework; and

(d) A work experience program that combines general education and technical coursework with direct, supervised work experience in a relevant field.

(3) The Joint Boards of Education plan must include the following elements:

(a) The method by which the applied baccalaureate degree programs will be created, including any necessary accreditation by the relevant accrediting agency;

(b) The criteria for approving the degree and course options offered by state institutions of higher education and community colleges;

(c) The articulation agreements between community colleges and state institutions of higher education necessary to ensure that the applied baccalaureate degree programs are as widely available as possible;

(d) The resources required to implement the applied baccalaureate degree program;

(e) The timeline necessary to implement the applied baccalaureate degree program; and

(f) A recommendation as to whether community colleges should be allowed to offer applied baccalaureate degrees.

*[(4) The Joint Boards of Education shall submit a report, along with proposed legislation, to the interim committee of the Legislative Assembly related to higher education prior to November 1, 2010. The boards shall provide progress reports on the plan to the interim committee.]*

*[(5) The Oregon University System, the Department of Education and the Department of Community Colleges and Workforce Development shall provide staff support to the Joint Boards of Education in the preparation of the reports required by this section.]*

**NOTE:** Removes temporary provisions in (4) and (5).

**SECTION 37.** Section 6, chapter 2, Oregon Laws 2009, is amended to read:

**Sec. 6.** (1) There is established in the General Fund an account to be known as the Western Oregon University Classroom and Office Building Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for classroom and office space at Western Oregon University.

(2) The account shall consist of proceeds from certificates of participation, grant funds, gift funds, proceeds of legal settlements, federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the classroom and office space project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$3,000,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the classroom and office space project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 38.** Section 7, chapter 2, Oregon Laws 2009, is amended to read:

**Sec. 7.** (1) There is established in the General Fund an account to be known as the Oregon Institute of Technology Owens Hall Deferred Maintenance Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of Owens Hall at the Oregon Institute of Technology.

(2) The account shall consist of proceeds from certificates of participation, grant funds, gift funds, proceeds of legal settlements, federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$1,444,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 39.** Section 14, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 14.** (1) There is established in the General Fund an account to be known as the South Waterfront Life Sciences Facility Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project located in the South Waterfront Central District in the North Macadam Urban Renewal Area in the City of Portland.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$50,000,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 40.** Section 15, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 15.** (1) There is established in the General Fund an account to be known as the Oregon State University Biofuels Demonstration Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Oregon State University.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$4,000,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 41.** Section 16, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 16.** (1) There is established in the General Fund an account to be known as the Eastern Oregon University Zabel Hall Deferred Maintenance Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Eastern Oregon University.

(2) The account shall consist of proceeds from lottery bonds made available to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$1,522,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 42.** Section 17, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 17.** (1) There is established in the General Fund an account to be known as the Eastern Oregon University Pierce Library Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Eastern Oregon University.

(2) The account shall consist of proceeds from certificates of participation made available to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$4,000,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 43.** Section 18, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 18.** (1) There is established in the General Fund an account to be known as the Oregon Institute of Technology Geothermal Renewable Energy Demonstration Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at the Oregon Institute of Technology.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$2,000,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 44.** Section 19, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 19.** (1) There is established in the General Fund an account to be known as the Oregon State University Strand Agriculture Hall Deferred Maintenance Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Oregon State University.

(2) The account shall consist of proceeds from lottery bonds made available to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$6,586,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 45.** Section 21, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 21.** (1) There is established in the General Fund an account to be known as the Oregon State University Student Success Center Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Oregon State University.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$2,054,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 46.** Section 22, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 22.** (1) There is established in the General Fund an account to be known as the Portland State University Science Research and Teaching Center/Hazardous Waste Facility Phase 2 Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Oregon State University.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$2,500,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 47.** Section 23, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 23.** (1) There is established in the General Fund an account to be known as the Southern Oregon University Theatre Arts Expansion and Remodel Project Account. Funds in the account

shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at Southern Oregon University.

(2) The account shall consist of proceeds from grant funds, gift funds and federal and local government funds made available to and funds donated to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$5,500,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 48.** Section 24, chapter 904, Oregon Laws 2009, is amended to read:

**Sec. 24.** (1) There is established in the General Fund an account to be known as the University of Oregon Allen Hall Expansion and Remodel Project Account. Funds in the account shall be used for the construction, remodeling, expansion and renovation of facilities for a facility project at the University of Oregon.

(2) The account shall consist of proceeds from grant funds and gift funds made available to and funds donated to the Oregon University System for the purpose of the facility project described in subsection (1) of this section. Interest earned on moneys in the account shall be credited to the account. The account may not be credited with more than \$7,500,000 for purposes of this subsection.

(3) Moneys in the account shall be considered to be General Fund moneys for purposes of section 1 (3), Article XI-G of the Oregon Constitution, are continuously appropriated to the Oregon University System and may be transferred to the [*Department of Higher Education Capital Construction Fund*] **account designated by ORS 351.626** for the facility project described in subsection (1) of this section.

**NOTE:** Swaps in appropriate language in (3) for account redesignated by chapter 762, Oregon Laws 2009.

**SECTION 49.** ORS 377.992 is amended to read:

377.992. (1)(a) A person who violates any provision of ORS 377.510 (1) or 377.700 to 377.840 or any regulation of the Travel Information Council adopted pursuant thereto is subject to a civil penalty of up to \$1,000 per day for each day of violation, or the amount of gross revenues earned for the sign during the period of time the violation continues, whichever is greater.

(b) The Department of **Transportation** shall adopt rules to develop a decision matrix to be used in determining the amount of the civil penalty imposed under this subsection. The matrix must take into account the nature of the violation committed, the number of violations committed and any other factors the department determines necessary.

(2) Violation of the conditions and provisions of a permit procured under ORS 377.050 by any person having procured the permit is punishable, upon conviction, by a civil penalty of not more than \$100.

(3) Violation of ORS 377.030 to 377.050, 377.510 (2), 377.620 (2) or 377.635 is punishable, upon conviction, by a civil penalty of not more than \$100.

(4) Civil penalties under this section shall be imposed in the manner provided by ORS 183.745.

**NOTE:** Sets forth full title of department in (1)(b).

**SECTION 50.** ORS 401.910 is amended to read:

401.910. (1) The Director of the Office of Emergency Management, pursuant to the authority to administer grant programs for seismic rehabilitation provided in ORS 401.092, shall develop a grant program for the disbursement of funds for the seismic rehabilitation of critical public buildings, including hospital buildings with acute inpatient care facilities, fire stations, police stations, sheriffs' offices, other facilities used by state, county, district or municipal law enforcement agencies and

buildings with a capacity of 250 or more persons that are routinely used for student activities by kindergarten through grade 12 public schools, community colleges, education service districts and institutions of higher education. The funds for the seismic rehabilitation of critical public buildings under the grant program are to be provided from the issuance of bonds pursuant to the authority provided in Articles XI-M and XI-N of the Oregon Constitution.

(2) The grant program shall include the appointment of a grant committee. The grant committee may be composed of any number of persons with qualifications that the director determines necessary. However, the director shall include persons with experience in administering state grant programs and representatives of entities with responsibility over critical public buildings. The director shall also include as permanent members representatives of:

- (a) The Department of Human Services;
- (b) The State Department of Geology and Mineral Industries;
- (c) The Seismic Safety Policy Advisory Commission;
- (d) The Oregon Department of Administrative Services;
- (e) The Department of Education;
- (f) The Oregon Health Authority;
- (g) The Oregon Fire [*Chiefs*] **Chiefs** Association;
- (h) The Oregon Association Chiefs of Police; and
- (i) The Oregon Association of Hospitals and Health Systems.

(3) The director shall determine the form and method of applying for grants from the grant program, the eligibility requirements for grant applicants, and general terms and conditions of the grants. The director shall also provide that the grant committee review grant applications and make a determination of funding based on a scoring system that is directly related to the statewide needs assessment performed by the State Department of Geology and Mineral Industries. Additionally, the grant process may:

(a) Require that the grant applicant provide matching funds for completion of any seismic rehabilitation project.

(b) Provide authority to the grant committee to waive requirements of the grant program based on special circumstances such as proximity to fault hazards, community value of the structure, emergency functions provided by the structure and storage of hazardous materials.

(c) Allow an applicant to appeal any determination of grant funding to the director for reevaluation.

(d) Provide that applicants release the state, the director and the grant committee from any claims of liability for providing funding for seismic rehabilitation.

(e) Provide separate rules for funding rehabilitation of structural and nonstructural building elements.

(4) Subject to the grant rules established by the director and subject to reevaluation by the director, the grant committee has the responsibility to review and make determinations on grant applications under the grant program established pursuant to this section.

**NOTE:** Corrects association title in (2)(g).

**SECTION 51.** ORS 403.450, as amended by section 59, chapter 107, Oregon Laws 2010, is amended to read:

403.450. (1) The State Interoperability Executive Council is created within the Department of Transportation. The membership of the council shall consist of:

(a) Two members from the Legislative Assembly, as follows:

(A) The President of the Senate shall appoint one member from the Senate with an interest in public safety communications infrastructure; and

(B) The Speaker of the House of Representatives shall appoint one member from the House of Representatives with an interest in public safety and wireless communications infrastructure.

(b) The following members appointed by the Governor:

(A) One member from the Department of State Police;

(B) One member from the Office of Emergency Management;

- (C) One member from the State Forestry Department;
- (D) One member from the Department of Corrections;
- (E) One member from the Department of Transportation;
- (F) One member from the Oregon Department of Administrative Services;
- (G) One member from the Department of Human Services;
- (H) One member from the Oregon Health Authority;
- (I) One member from the Oregon Military Department;
- (J) One member from the Department of Public Safety Standards and Training;
- (K) One member of an Indian tribe as defined in ORS 97.740 or a designee of an Indian tribe;
- (L) One member from a nonprofit professional organization devoted to the enhancement of public safety communications systems; and
- (M) One member from the public.

(c) The following members appointed by the Governor with the concurrence of the President of the Senate and the Speaker of the House of Representatives:

- (A) One member from the Oregon Fire [*Chiefs*] **Chiefs** Association;
- (B) One member from the Oregon Association Chiefs of Police;
- (C) One member from the Oregon State Sheriffs' Association;
- (D) One member from the Association of Oregon Counties;
- (E) One member from the League of Oregon Cities; and
- (F) One member from the Special Districts Association of Oregon.

(2) Each agency or organization identified in subsection (1)(b)(A) to (J) and (1)(c) of this section shall recommend a person from the agency or organization for membership on the council.

(3) Members of the council are not entitled to compensation, but in the discretion of the Director of Transportation may be reimbursed from funds available to the Department of Transportation for actual and necessary travel and other expenses incurred by them in the performance of their official duties in the manner and amount provided in ORS 292.495.

(4) Members of the Legislative Assembly appointed to the council are nonvoting members and may act in an advisory capacity only.

**NOTE:** Corrects association title in (1)(c)(A).

**SECTION 52.** ORS 410.210 is amended to read:

410.210. (1)(a) Each area agency shall have an area agency advisory council, with members appointed by the area agency board.

[(a)] (b) For a type A area agency, membership of the council shall include consumers of services provided primarily to elderly persons under Department of Human Services programs, including low income and minority persons.

[(b)] (c) A type B area agency that serves elderly persons and persons with disabilities shall have two advisory councils. One shall include persons described in paragraph [(a)] (b) of this subsection. The second shall be a disability services advisory council. That council shall have as a majority of its members persons with disabilities and shall include consumers of services and other interested persons. Any disability services advisory council in existence at the time the area agency assumes responsibility for providing services to persons with disabilities shall become the disability services advisory council for the area agency.

(2) Each area agency advisory council shall:

(a) Recommend basic policy guidelines for the administration of the activities of the area agencies on behalf of elderly persons or persons with disabilities, and advise the area agency on questions of policy.

(b) Advise the area agency with respect to development of the area plan and budget, and review and comment on the completed area plan and budget before its transmittal to the Director of Human Services.

(c) Review and evaluate the effectiveness of the area agency in meeting the needs of elderly persons or persons with disabilities in the planning and service area.

(d) Meet at least quarterly. The meetings are subject to ORS 192.610 to 192.690.

**NOTE:** Restructures (1) to conform to legislative style.

**SECTION 53.** ORS 411.117 is amended to read:

411.117. (1) The Department of Human Services shall:

(a) Identify applicants for and recipients of assistance under the temporary assistance [to] **for** needy families program who are currently victims of domestic violence, have been victims of domestic violence or are at risk of victimization by domestic violence.

(b) Ensure that appropriate individuals on the local level who provide assistance to domestic violence victims participate in individualized case management with the department.

(c) Refer individuals identified under this subsection to appropriate counseling and support services.

(d) Waive or modify any temporary assistance [to] **for** needy families program requirements that may make it more difficult for individuals identified under this subsection to escape domestic violence or place those individuals at risk of further or future domestic violence, including but not limited to:

(A) Time limits on receipt of benefits;

(B) Work requirements;

(C) Paternity establishment and child support cooperation requirements;

(D) Residency requirements;

(E) Family cap provisions; and

(F) Penalties for failure to comply with a program requirement.

(e) Maintain emergency assistance eligibility and payment limits for victims of domestic violence or persons at risk of victimization by domestic violence identified under this section at no less than the levels in effect on January 1, 1997.

(f) Allow eligibility for temporary assistance [to] **for** needy families for persons identified under this section as victims of domestic violence or persons identified as at risk of victimization by domestic violence who would otherwise be eligible except for the fact that they are noncitizens.

(2) All information received by the department in identifying the individuals described in subsection (1) of this section shall remain confidential.

(3) For purposes of this section, “domestic violence” means the occurrence of one or more of the following acts between family members, intimate partners or household members:

(a) Attempting to cause or intentionally, knowingly or recklessly causing physical injury or emotional, mental or verbal abuse;

(b) Intentionally, knowingly or recklessly placing another in fear of imminent serious physical injury;

(c) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427; or

(d) Using coercive or controlling behavior.

**NOTE:** Corrects name of program in (1)(a), (d) and (f).

**SECTION 54.** ORS 412.079 is amended to read:

412.079. (1) Except as provided in subsections (2) and (3) of this section, a needy caretaker relative may not receive aid under ORS 412.006 for more than a total of 60 months.

(2) The Department of Human Services may not count toward the 60-month limit on receipt of aid described in subsection (1) of this section any month in which a needy caretaker relative:

(a) Receives a grant of temporary assistance [to] **for** needy families under ORS 412.001 to 412.069, or assistance funded under Title IV-A of the Social Security Act in this or another state, prior to July 1, 2003;

(b) Resides in an area described in 18 U.S.C. 1151, and 50 percent or more of the adult residents in the area are unemployed;

(c) Is, in that month, a minor child and neither the head of the household nor married to the head of the household;

(d) Receives aid under ORS 412.001 to 412.155 that is not funded with grants under Title IV-A of the Social Security Act;

(e) Is enrolled at an educational institution under ORS 412.016;

(f) Is exempt from time limits pursuant to rules adopted by the department in accordance with section 408(a)(7)(C) of the Social Security Act; or

(g) Is unable to obtain or maintain employment for a sufficient number of hours in a month to satisfy the federally required participation rates because the needy caretaker relative:

(A) Is a victim of domestic violence as defined in ORS 411.117;

(B) Has a certified learning disability;

(C) Has a mental health condition or an alcohol or drug abuse problem;

(D) Has a disability as defined by the department by rule in a manner consistent with the definition of disability in the Americans with Disabilities Act;

(E) Has a child with a disability;

(F) Is deprived of needed medical care; or

(G) Is subjected to battery or extreme cruelty as defined by the department by rule.

(3) A needy caretaker relative may not be denied aid on the basis of the 60-month limitation described in subsection (1) of this section if the individual is experiencing a situation described in subsection (2) of this section.

(4)(a) The Department of Human Services shall monitor the average period of time a person receives aid and shall record such information by family size. The department shall monitor the wages and benefits received by an individual who becomes employed while receiving aid, including medical and child care benefits. The department shall monitor and record the rate at which persons who cease receiving aid for employment subsequently apply for and receive aid.

(b) The department shall report the results of the monitoring required under paragraph (a) of this subsection to the Legislative Assembly not later than the 15th day of each legislative session.

**NOTE:** Corrects name of program in (2)(a).

**SECTION 55.** ORS 413.011 is amended to read:

413.011. (1) The duties of the Oregon Health Policy Board are to:

(a) Be the policy-making and oversight body for the Oregon Health Authority established in ORS 413.032 and all of the authority's departmental divisions, including the Oregon Health Insurance Exchange described in section 17, chapter 595, Oregon Laws 2009.

(b) Develop and submit a plan to the Legislative Assembly by December 31, 2010, to provide and fund access to affordable, quality health care for all Oregonians by 2015.

(c) Develop a program to provide health insurance premium assistance to all low and moderate income individuals who are legal residents of Oregon.

(d) Establish and continuously refine uniform, statewide health care quality standards for use by all purchasers of health care, third-party payers and health care providers as quality performance benchmarks.

(e) Establish evidence-based clinical standards and practice guidelines that may be used by providers.

(f) Approve and monitor community-centered health initiatives described in ORS 413.032 [(1)(g)] **(1)(f)** that are consistent with public health goals, strategies, programs and performance standards adopted by the Oregon Health Policy Board to improve the health of all Oregonians, and shall regularly report to the Legislative Assembly on the accomplishments and needed changes to the initiatives.

(g) Establish cost containment mechanisms to reduce health care costs.

(h) Ensure that Oregon's health care workforce is sufficient in numbers and training to meet the demand that will be created by the expansion in health coverage, health care system transformations, an increasingly diverse population and an aging workforce.

(i) Work with the Oregon congressional delegation to advance the adoption of changes in federal law or policy to promote Oregon's comprehensive health reform plan.

(j) Establish a health benefit package in accordance with ORS 413.064 to be used as the baseline for all health benefit plans offered through the Oregon Health Insurance Exchange.

(k) Develop and submit a plan to the Legislative Assembly by December 31, 2010, with recommended policies and procedures for the Oregon Health Insurance Exchange developed in accordance with section 17, chapter 595, Oregon Laws 2009.

(L) Develop and submit a plan to the Legislative Assembly by December 31, 2010, with recommendations for the development of a publicly owned health benefit plan that operates in the exchange under the same rules and regulations as all health insurance plans offered through the exchange, including fully allocated fixed and variable operating and capital costs.

(m) By December 31, 2010, investigate and report to the Legislative Assembly, and annually thereafter, on the feasibility and advisability of future changes to the health insurance market in Oregon, including but not limited to the following:

(A) A requirement for every resident to have health insurance coverage.

(B) A payroll tax as a means to encourage employers to continue providing health insurance to their employees.

(C) Expansion of the exchange to include a program of premium assistance and to advance reforms of the insurance market.

(D) The implementation of a system of interoperable electronic health records utilized by all health care providers in this state.

(n) Meet cost-containment goals by structuring reimbursement rates to reward comprehensive management of diseases, quality outcomes and the efficient use of resources by promoting cost-effective procedures, services and programs including, without limitation, preventive health, dental and primary care services, web-based office visits, telephone consultations and telemedicine consultations.

(o) Oversee the expenditure of moneys from the Health Care Workforce Strategic Fund to support grants to primary care providers and rural health practitioners, to increase the number of primary care educators and to support efforts to create and develop career ladder opportunities.

(p) Work with the Public Health Benefit Purchasers Committee, administrators of the medical assistance program and the Department of Corrections to identify uniform contracting standards for health benefit plans that achieve maximum quality and cost outcomes and align the contracting standards for all state programs to the greatest extent practicable.

(2) The Oregon Health Policy Board is authorized to:

(a) Subject to the approval of the Governor, organize and reorganize the authority as the board considers necessary to properly conduct the work of the authority.

(b) Submit directly to the Legislative Counsel, no later than October 1 of each even-numbered year, requests for measures necessary to provide statutory authorization to carry out any of the board's duties or to implement any of the board's recommendations. The measures may be filed prior to the beginning of the legislative session in accordance with the rules of the House of Representatives and the Senate.

(3) If the board or the authority is unable to perform, in whole or in part, any of the duties described in ORS 413.006 to 413.064 without federal approval, the board is authorized to request waivers or other approval necessary to perform those duties. The board shall implement any portions of those duties not requiring legislative authority or federal approval, to the extent practicable.

(4) The enumeration of duties, functions and powers in this section is not intended to be exclusive nor to limit the duties, functions and powers imposed on the board by ORS 413.006 to 413.064 and by other statutes.

(5) The board shall consult with the Department of Consumer and Business Services in completing the tasks set forth in subsection (1)(j), (k) and (m)(A) and (C) of this section.

**NOTE:** Rectifies citation in (1)(f).

**SECTION 56.** ORS 414.231 is amended to read:

414.231. (1) As used in this section[:],

[(a)] "child" means a person under 19 years of age.

[(b)] "*Health benefit plan*" has the meaning given that term in ORS 414.841.]

(2) The Health Care for All Oregon Children program is established to make affordable, accessible health care available to all of Oregon's children. The program is composed of:

(a) Medical assistance funded in whole or in part by Title XIX of the Social Security Act, by the State Children's Health Insurance Program under Title XXI of the Social Security Act and by monies appropriated or allocated for that purpose by the Legislative Assembly; and

(b) A private health option administered by the Office of Private Health Partnerships under ORS 414.826.

(3) A child is eligible for the program if the child is lawfully present in this state and the income of the child's family is at or below 300 percent of the federal poverty guidelines. There is no asset limit to qualify for the program.

(4)(a) A child receiving medical assistance under the program is continuously eligible for a minimum period of 12 months.

(b) The Department of Human Services shall reenroll a child for successive 12-month periods of enrollment as long as the child is eligible for medical assistance on the date of reenrollment.

(c) The department may not require a new application as a condition of reenrollment under paragraph (b) of this subsection and must determine the [person's] **child's** eligibility for medical assistance using information and sources available to the department or documentation readily available [to the person].

(5) Except for medical assistance funded by Title XIX of the Social Security Act, the department may prescribe by rule a period of uninsurance prior to enrollment in the program.

**NOTE:** Changes (1) and (4)(c) to reflect text of section as enacted (see sections 27 and 28, chapter 867, Oregon Laws 2009).

**SECTION 57.** ORS 414.355 is amended to read:

414.355. (1) There is created a 12-member Drug Use Review Board responsible for advising the Oregon Health Policy Board on the implementation of the retrospective and prospective drug utilization review programs.

(2) The members of the Drug Use Review Board shall be appointed by the Director of the Oregon Health Authority and shall serve a term of two years. An individual appointed to the board may be reappointed upon completion of the individual's term. The membership of the board shall be composed of the following:

(a) Four persons licensed as physicians and actively engaged in the practice of medicine or osteopathic medicine in Oregon, who may be from among persons recommended by the Oregon Medical Association, the Osteopathic Physicians and Surgeons of Oregon or other organization representing physicians;

(b) One person licensed as a physician in Oregon who is actively engaged in academic medicine;

(c) Three persons licensed and actively practicing pharmacy in Oregon who may be from among persons recommended by the Oregon State [Pharmacists] **Pharmacy** Association, the National Association of Chain Drug Stores, the Oregon Society of Hospital Pharmacists, the Oregon Society of Consultant Pharmacists or other organizations representing pharmacists whether affiliated or unaffiliated with any association;

(d) One person licensed as a pharmacist in Oregon who is actively engaged in academic pharmacy;

(e) Two persons who shall represent persons receiving medical assistance; and

(f) One person licensed and actively practicing dentistry in Oregon who may be from among persons recommended by the Oregon Dental Association or other organizations representing dentists.

(3) Board members must have expertise in one or more of the following:

(a) Clinically appropriate prescribing of outpatient drugs covered by the medical assistance program.

(b) Clinically appropriate dispensing and monitoring of outpatient drugs covered by the medical assistance program.

(c) Drug use review, evaluation and intervention.

(d) Medical quality assurance.

(4) The director shall fill a vacancy on the board by appointing a new member to serve the remainder of the unexpired term based upon qualifications described in subsections (2) and (3) of this section.

(5) A board member may be removed only by a vote of eight members of the board and the removal must be approved by the director. The director may remove a member, without board action, if a member fails to attend two consecutive meetings unless such member is prevented from attending by serious illness of the member or in the member's family.

**NOTE:** Corrects name of organization in (2)(c).

**SECTION 58.** ORS 419A.305 is amended to read:

419A.305. (1) As used in this section:

(a) "Principal" means a person having general administrative control and supervision of a school.

(b) "School administrator" means:

(A) The superintendent of the school district in which a youth attends school, or the designee of the superintendent, if the youth attends a public school that is not a public charter school;

(B) The principal of a public charter school, if the youth attends a public charter school;

(C) The principal of a private school that provides education to one or more instructional levels from kindergarten through grade 12 or equivalent instructional levels, if the youth attends a private school;

(D) The superintendent of the school district in which the youth resides, or the designee of the superintendent, if the school that the youth attends is not known by the person giving notice;

~~[(E) The director of the Oregon School for the Blind;]~~

~~[(F)]~~ (E) The director of the Oregon School for the Deaf; or

~~[(G)]~~ (F) The Superintendent of Public Instruction if the youth is in an educational program under the Youth Corrections Education Program.

(c) "School district" has the meaning given that term in ORS 332.002.

(2) Notice shall be given to a school administrator when:

(a) A youth makes a first appearance before the juvenile court on a petition described in subsection (7) of this section alleging that the youth is within the jurisdiction of the juvenile court under ORS 419C.005.

(b) A youth admits to being within the jurisdiction of the juvenile court as provided in ORS 419C.005 on a petition described in subsection (7) of this section or is adjudicated by a juvenile court to be within its jurisdiction on a petition described in subsection (7) of this section.

(c) A youth is found responsible except for insanity under ORS 419C.411.

(d) Notice had been given as provided by paragraph (a) or (b) of this subsection and the juvenile court:

(A) Sets aside or dismisses the petition as provided in ORS 419C.261; or

(B) Determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition.

(3) A notice required by subsection (2) of this section shall be given by:

(a) The district attorney;

(b) In the case of a petition filed under ORS 419C.250, the person who filed the petition;

(c) In the case of a person prosecuting a case who is not the district attorney, the person who is prosecuting the case; or

(d) In the case of a juvenile department that has agreed to be responsible for providing the notices required under this section, the juvenile department.

(4) A notice required under subsection (2) of this section may be communicated by mail or other means of delivery, including but not limited to electronic transmission. A notice must include:

(a) The name and date of birth of the youth;

(b) The names and addresses of the youth's parents or guardians;

(c) The alleged basis for the juvenile court's jurisdiction over the youth;

(d) The act alleged in the petition that, if committed by an adult, would constitute a crime;  
(e) The name and contact information of the attorney for the youth, if known;  
(f) The name and contact information of the individual to contact for further information about the notice;

(g) If applicable, the portion of the juvenile court order providing for the legal disposition of the youth;

(h) Any conditions of release or terms of probation; and

(i) Any other conditions required by the court.

(5) In addition to the information required by subsection (4) of this section:

(a) A notice required by subsection (2)(a) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school may come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. The student has not yet been determined to be within the jurisdiction of the juvenile court nor to have committed any violations of law. The allegation pending before the juvenile court must not be discussed with the student."

(b) A notice required by subsection (2)(b) of this section shall contain substantially the following statement: "This notice is to inform you that a student who attends your school has come under the jurisdiction of the juvenile court as the result of a petition filed with the juvenile court. There may be pending juvenile court hearings or proceedings, and a disposition order may not yet have been entered by the court. The allegation pending before the juvenile court must not be discussed with the student."

(c) A notice required by subsection (2)(c) of this section shall contain substantially the following statement: "This notice is to inform you that a disposition order has been entered in a case involving a student who attends your school about whom a previous notice was sent. The disposition order finds the student to be responsible except for insanity under ORS 419C.411 for the act alleged in the petition filed with the juvenile court. The case should not be discussed with the student."

(d) A notice required by subsection (2)(d) of this section shall contain substantially the following statement: "This notice is to inform you that a petition involving a student who attends your school about whom a previous notice was sent has been set aside or dismissed or the juvenile court has determined the student is not within its jurisdiction. The notice and any documents or information related to the notice in the student's education records should be removed and destroyed upon receipt of this notice. The case should not be discussed with the student."

(6) A notice required under subsection (2) of this section must be given within 15 days after:

(a) The youth makes a first appearance before the juvenile court on a petition;

(b) The youth admits to being within the jurisdiction of the juvenile court;

(c) The youth is adjudicated by a juvenile court to be within the jurisdiction of the court;

(d) The petition is dismissed or set aside;

(e) The juvenile court determines that the youth is not within the jurisdiction of the juvenile court after a hearing on the merits of the petition; or

(f) The juvenile court enters a disposition order finding the youth responsible except for insanity under ORS 419C.411.

(7) This section applies to petitions filed alleging that the youth engaged in:

(a) Conduct that, if committed by an adult, would constitute a crime that:

(A) Involves serious physical injury or threatened serious physical injury to another person, including criminal homicide, felony assault or any attempt to cause serious physical injury to another person;

(B) Involves the sexual assault of an animal or animal abuse in any degree;

(C) Is a felony sex offense listed in ORS 181.594, except for rape in the third degree under ORS 163.355 or incest under ORS 163.525;

(D) Involves a weapon, as defined in ORS 166.360, or the threatened use of a weapon;

(E) Involves the possession or manufacture of a destructive device, as defined in ORS 166.382, or possession of a hoax destructive device, as defined in ORS 166.385; or

- (F) Involves an offense in which an element of the crime is:
  - (i) Manufacture of a controlled substance;
  - (ii) Delivery of a controlled substance in conjunction with conduct described in subparagraph (A) of this paragraph; or
  - (iii) Delivery of a controlled substance to a person under 18 years of age; or
- (b) Conduct that is of such a nature that the court determines notice is necessary to safeguard the safety and security of the school, students and staff. The person or entity responsible for giving notice under subsection (3) of this section shall request that the court make the determination under this paragraph when the person or entity believes notice is necessary to safeguard the safety and security of the school, students and staff and the conduct involves an offense under ORS 163.160.
- (8) Except as otherwise provided in ORS 192.490, a person who sends or receives notice under this section is not civilly or criminally liable for failing to disclose the information under this section.

**NOTE:** Removes reference in (1)(b)(E) to school that closed in 2009 (see section 1, chapter 562, Oregon Laws 2009).

**SECTION 59.** ORS 426.330 is amended to read:

426.330. (1) The special funds authorized for the use of the superintendents of the Oregon State Hospital, the Blue Mountain Recovery Center and the Eastern Oregon Training Center to better enable them promptly to meet the advances and expenses necessary in the matter of transferring patients to the state hospitals are continued in existence. The superintendents shall present their claims monthly with vouchers that show the expenditures from the special funds during the preceding month to:

- (a) The Oregon Health Authority for the transfer of patients to the Oregon State Hospital or the Blue Mountain Recovery Center; and
- (b) The Department of Human Services for the transfer of patients to the Eastern Oregon Training Center.

(2) Against the *[fund]* **funds** appropriated to cover the cost of transporting patients, the State Treasurer shall pay:

- (a) The claims of the superintendents of the Oregon State Hospital and the Blue Mountain Recovery Center that have been approved by the Oregon Health Authority; and
- (b) The claims of the superintendent of the Eastern Oregon Training Center that have been approved by the Department of Human Services.

**NOTE:** Corrects word choice in (2).

**SECTION 60.** ORS 430.216 is amended to read:

430.216. (1) The Department of Human Services shall report to each regular session of the Legislative Assembly:

- (a) On the safety of individuals receiving developmental disability services including, but not limited to:
  - (A) The average turnover of direct care workers in service settings.
  - (B) A summary of the training provided by the department or its contractors to direct care workers in service settings.
  - (C) A summary of the core competencies required of direct care workers in service settings by the state for licensing or certification.
  - (D) A summary of the average wages of direct care workers in service settings, presented by type of services provided.
  - (E) The number of complaints of abuse filed as required by ORS 430.765 and received by the department under ORS 430.743, reported by type of allegation.
  - (F) The number of direct care workers in service settings who were subject to criminal or civil action involving an individual with a developmental disability.
  - (G) The number of deaths, serious injuries, sexual assaults and rapes alleged to have occurred in service settings.

(b) A schedule of all license fees and civil penalties established by the department by rule pursuant to ORS 441.995, 443.455 and 443.790.

(2) The department shall provide the report described in subsection (1)(a) of this section to the appropriate legislative committees, the Oregon **Council on** Developmental Disabilities [*Council*] and to the agency designated to administer the state protection and advocacy system under ORS 192.517.

(3) As used in this section, "service settings" means any of the following that provide developmental disability services:

(a) An adult foster home as defined in ORS 443.705;

(b) A residential facility as defined in ORS 443.400;

(c) A location where home health services, as defined in ORS 443.005, are received by a resident;

(d) A location where in-home care services, as defined in ORS 443.305, are received by a resident;

(e) An institution under the control of the department under ORS 179.321; and

(f) A domiciliary care facility as defined in ORS 443.205.

**NOTE:** Updates name of council in (2).

**SECTION 61.** ORS 441.710 is amended to read:

441.710. (1) In addition to any other liability or penalty provided by law, the Director of Human Services may impose a civil penalty on a person for any of the following:

(a) Violation of any of the terms or conditions of a license issued under ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 for a long term care facility, as defined in ORS 442.015.

(b) Violation of any rule or general order of the Department of Human Services that pertains to a long term care facility.

(c) Violation of any final order of the director that pertains specifically to the long term care facility owned or operated by the person incurring the penalty.

(d) Violation of ORS 441.605 or of rules required to be adopted under ORS 441.610.

(e) Violation of ORS 443.880 or 443.881 if the facility is a residential care facility, residential training facility or residential training home.

(2) In addition to any other liability or penalty provided by law, the Director of the Oregon Health Authority may impose a civil penalty on a person for a violation of ORS [~~441.880 or 441.881~~] **443.880 or 443.881** if the facility is a residential treatment facility or a residential treatment home.

(3) The Director of Human Services may not impose a penalty under subsection (1) of this section for violations other than those involving direct patient care or feeding, an adequate staff to patient ratio, sanitation involving direct patient care or a violation of ORS 441.605 or 443.880 or 443.881 or of the rules required to be adopted by ORS 441.610 unless a violation is found on two consecutive surveys of a long term care facility. The Director of Human Services in every case shall prescribe a reasonable time for elimination of a violation:

(a) Not to exceed 30 days after first notice of a violation; or

(b) In cases where the violation requires more than 30 days to correct, such time as is specified in a plan of correction found acceptable by the director.

(4) The Director of the Oregon Health Authority may not impose a penalty under subsection (2) of this section for violations other than those involving direct patient care or feeding, an adequate staff to patient ratio, sanitation involving direct patient care or a violation of ORS 443.880 or 443.881. The Director of the Oregon Health Authority in every case shall prescribe a reasonable time for elimination of a violation:

(a) Not to exceed 30 days after first notice of a violation; or

(b) In cases where the violation requires more than 30 days to correct, such time as is specified in a plan of correction found acceptable by the director.

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

**SECTION 62.** ORS 468A.610, as amended by section 1, chapter 80, Oregon Laws 2010, is amended to read:

468A.610. (1) Except as provided under ORS 468A.620, no person shall open burn or cause to be open burned, propane flamed or stack or pile burned in the counties listed in ORS 468A.560, perennial or annual grass seed crop residue or cereal grain crop residue, unless the acreage has been registered under ORS 468A.615 and the permits required by ORS 468A.575, 476.380 and 478.960 have been obtained.

(2) The maximum total registered acreage allowed to be open burned per year pursuant to subsection (1) of this section shall be:

- (a) For 2009, 20,000 acres.
- (b) For 2010 and thereafter, none.

(3) The maximum total registered acreage allowed to be stack or pile burned per year under subsection (1) of this section shall be:

- (a) For 2009, 1,000 acres.
- (b) For 2010, 1,000 acres.
- (c) For 2011, 1,000 acres.
- (d) For 2012, 1,000 acres.
- (e) For 2013 and thereafter, none.

(4) The maximum total registered acreage allowed to be propane flamed per year under subsection (1) of this section in the counties listed in ORS 468A.560 shall be:

- (a) For 2009, 500 acres.
- (b) For 2010, 500 acres.
- (c) For 2011, 500 acres.
- (d) For 2012, 500 acres.
- (e) For 2013 and thereafter, none.

(5) Fields shall be prepared for propane flaming by removing all loose straw or vacuuming, or prepared using other techniques approved by rule by the **Environmental Quality** Commission, and propane equipment shall satisfy best available technology.

(6)(a) Notwithstanding the limitations set forth in subsection (2) of this section, steep terrain and species identified by the Director of Agriculture by rule shall not be included in the maximum total of permitted acreage set forth in subsection (2) of this section. The additional acreage allowed to be open burned shall be 15,000 acres per year.

(b) Steep terrain and species identified by the Director of Agriculture by rule may not be open burned under the provisions of this subsection in Benton and Lane Counties and in Linn County, except for portions of northeast Linn County that are east of the North Santiam River and north of Jefferson-Scio Drive and Robinson Drive to the west boundary of the City of Scio and north of Highway 226, and portions of northeast Linn County that are east of Richardson Gap Road and north of Fish Hatchery Drive.

(7) Acreage registered to be open burned under this section may be propane flamed at the registrant's discretion without reregistering the acreage.

(8) In the event of the registration of more than the maximum allowable acres for open burning, propane flaming or stack or pile burning in the counties listed in ORS 468A.560, the commission, after consultation with the State Department of Agriculture, by rule or order may assign priority of permits based on soil characteristics, the crop type, terrain or drainage. In no event may permits be issued for more than the maximum acreage listed in subsections (2), (3), (4) and (6) of this section.

(9) Permits shall be issued under ORS 468A.575 and open burning, propane flaming and stack or pile burning shall be allowed for the maximum acreage specified in subsections (2), (3), (4) and (6) of this section unless the daily determination of suitability of meteorological conditions, regional or local air quality conditions or other burning conditions requires that a maximum number of acres not be burned on a given day.

(10) Upon a finding of danger to public health or safety, the commission may order temporary emergency cessation of all open field burning, propane flaming and stack or pile burning in any area of the counties listed in ORS 468A.560.

(11)(a) Notwithstanding subsection (8) of this section, the commission may by order permit emergency open burning, propane flaming or stack or pile burning of up to 2,000 acres each calendar year in addition to the acreage allowed under subsections (2), (3), (4) and (6) of this section, if the commission finds:

(A) Extreme hardship due to disease outbreak or insect infestation, as identified by the commission by rule, outweighs the dangers to public health and safety from emergency open burning, propane flaming or stack or pile burning;

(B) Authorization of additional acreage does not result in open burning, propane flaming or stack or pile burning of more acreage than required to address the emergency;

(C) Authorization of additional acreage is limited to the calendar year in which the commission makes the required findings; and

(D) All emergency open burning, propane flaming or stack or pile burning is otherwise consistent with ORS 468A.550 to 468A.620 and rules adopted under ORS 468A.550 to 468A.620.

(b) The commission by rule may assess fees for the acreage burned pursuant to this subsection. All fees collected under this subsection shall be deposited in the State Treasury to the credit of the Department of Agriculture Service Fund for the purpose specified in ORS 468A.615 (2).

(12) The commission shall act on any application for a permit under ORS 468A.575 within 60 days of registration and receipt of the fee required under ORS 468A.615.

**NOTE:** Spells out name of commission for first reference in (5).

**SECTION 63.** ORS 471.190 is amended to read:

471.190. (1) The holder of a temporary sales license may sell at retail by the drink wine, malt beverages, cider and distilled liquor. Distilled liquor served by the holder of a temporary sales license must be purchased from a retail sales agent of the Oregon Liquor Control Commission. The holder of a temporary sales license must provide food service as required by commission rule.

(2) A temporary sales license may be issued only to:

(a) Nonprofit or charitable organizations that are registered with the state.

(b) A political committee that has filed a statement of organization under ORS 260.039 or 260.042.

(c) State agencies.

(d) Local governments, and agencies and departments of local governments.

(e) Persons not otherwise described in this subsection, as long as the applicant submits a plan that is approved by the commission detailing how minors will be prevented from gaining access to alcoholic beverages and how minors will be prevented from gaining access to any portion of the licensed premises prohibited to minors under ORS 471.430 (3) or any rule adopted by the commission.

(3) The holder of a temporary sales license may sell wine, malt beverages or cider in factory-sealed containers for consumption off the licensed premises.

(4) The commission may by rule establish additional eligibility requirements for temporary sales licenses.

(5) Subject to such qualifications as the commission may establish by rule, persons who hold a full or limited on-premises sales license are eligible for temporary sales licenses.

(6) A person holding a temporary sales license is not required to obtain a temporary restaurant license or mobile unit license under ORS chapter 624 if only wine, malt beverages and cider in single-service containers are served and only nonperishable food items that are exempted from licensure by the Oregon Health Authority are served.

(7) Employees and volunteers serving alcoholic beverages for a nonprofit or charitable organization licensed under this section are not required to have [server] **service** permits [nor] **or** to complete an alcohol server education program and examination under ORS 471.542. The commission by rule may establish education requirements for servers described in this subsection.

(8) Notwithstanding ORS 471.392 to 471.400, a temporary sales license may be issued to a nonprofit trade association that has a membership primarily [comprised] **composed** of persons that hold winery licenses issued under ORS 471.223 or grower sales privilege licenses issued under ORS 471.227.

**NOTE:** Corrects name of permit in (7); improves word choice in (7) and (8).

**SECTION 64.** ORS 471.230 is amended to read:

471.230. (1) A distillery license shall allow the holder thereof to import, manufacture, distill, rectify, blend, denature and store spirits of an alcoholic content greater than 17 percent alcohol by weight, to sell the same to the Oregon Liquor Control Commission and to transport the same out of this state for sale outside this state. Distillery licensees shall be permitted to purchase from and through the commission alcoholic beverages for blending and manufacturing purposes upon such terms and conditions as the commission may provide. No such licensee shall sell any alcoholic beverage within this state except to the commission or as provided in this section. However, any agricultural producer or association of agricultural producers or legal agents thereof who manufacture and convert agricultural surpluses, by-products and wastes into denatured ethyl and industrial alcohol for use in the arts and industry shall not be required to obtain a license from the commission.

(2) A distillery licensee may:

(a) Permit tastings of the distilled liquor manufactured by the distillery licensee. The tastings may be conducted on the licensed premises of the distillery, on one other premises owned or leased by the licensee, or both. The licensee must purchase the distilled liquor from the commission.

(b) Obtain a special events distillery license entitling the holder to permit tastings of the distilled liquor manufactured by the distillery **licensee**. Tastings may be conducted under a special events distillery license at a designated location other than the location set forth in the distillery license for a period not exceeding five days. The licensee must purchase the distilled liquor from the commission.

(c) Apply for appointment by the commission as a distillery retail outlet agent for purposes of retailing only distilled liquor that the licensee manufactured in Oregon at locations where tastings are permitted under paragraph (a) of this subsection.

(3) Notwithstanding ORS 471.392 to 471.400, a distillery licensee may also hold a full on-premises sales license for a location at the licensed premises of the distillery and a full on-premises sales license for one other location. All distilled spirits sold under the full on-premises sales license must be purchased from the commission.

**NOTE:** Makes terminology in (2)(b) consistent with lead-in.

**SECTION 65.** ORS 471.542 is amended to read:

471.542. (1) Except as provided in subsection (2) of this section, the Oregon Liquor Control Commission shall require a person applying for issuance or renewal of a [server] **service** permit or any license that authorizes the sale or service of alcoholic beverages for consumption on the premises to complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the permit or license.

(2) A person applying for issuance or renewal of a license that authorizes the sale or service of alcoholic beverages for consumption on the premises need not complete an approved alcohol server education course and examination as a condition of the issuance or renewal of the license if:

(a) The license has been restricted by the commission to prohibit sale or service of alcoholic beverages for consumption on the premises; or

(b) The person applying for issuance or renewal of the license submits a sworn statement to the commission stating that the person will not engage in sale or service of alcoholic beverages for consumption on the premises, will not directly supervise or manage persons who sell or serve alcoholic beverages on the premises, and will not participate in establishing policies governing the sale or service of alcoholic beverages on the premises.

(3) The commission by rule shall establish requirements that licensees and permittees must comply with as a condition of requalifying for a license or permit. The licensee or permittee must comply with those requirements once every five years after completing the initial alcohol server education course and examination. The requirements established by the commission to requalify for a license may include retaking the alcohol server education course and examination. The require-

ments established by the commission to requalify for a service permit shall include retaking the alcohol server education course and examination.

(4) The commission may extend the time periods established by this section upon a showing of hardship. The commission by rule may exempt a licensee from the requirements of this section if the licensee does not participate in the management of the business.

(5) The standards and curriculum of alcohol server education courses shall include but not be limited to the following:

(a) Alcohol as a drug and its effects on the body and behavior, especially driving ability.

(b) Effects of alcohol in combination with commonly used legal, prescription or nonprescription, drugs and illegal drugs.

(c) Recognizing the problem drinker and community treatment programs and agencies.

(d) State alcohol beverage laws such as prohibition of sale to minors and sale to intoxicated persons, sale for on-premises or off-premises consumption, hours of operation and penalties for violation of the laws.

(e) Drunk driving laws and liquor liability statutes.

(f) Intervention with the problem customer, including ways to cut off service, ways to deal with the belligerent customer and alternative means of transportation to get the customer safely home.

(g) Advertising and marketing for safe and responsible drinking patterns and standard operating procedures for dealing with customers.

(6) The commission shall impose a fee not to exceed \$2.60 a year for each license subject to the alcohol server education requirement, and a fee not to exceed \$13 for each service permit application. These fees shall be used for administrative costs of the Alcohol Education Program established under ORS 471.541 and shall be in addition to any other license or permit fees required by law or rule.

(7) The commission shall adopt rules to impose reasonable fees for administrative costs on alcohol server education course instructors and providers.

(8) The commission shall provide alcohol server education courses and examinations through independent contractors, private persons or private or public schools certified by the commission. The commission shall adopt rules governing the manner in which alcohol server education courses and examinations are made available to persons required to take the course. In adopting rules under this subsection, the commission shall consider alternative means of providing courses, including but not limited to providing courses through audiotapes, videotapes, the Internet and other electronic media.

**NOTE:** Corrects name of permit in (1); rectifies punctuation in (5)(f).

**SECTION 66.** ORS 476.680 is amended to read:

476.680. (1) There is created the Governor's Fire Service Policy Council. The council shall include the following nonvoting ex officio members:

(a) The Superintendent of State Police, or a designee thereof experienced in the oversight of Department of State Police activities relating to the office of the State Fire Marshal; and

(b) The Director of the Department of Public Safety Standards and Training, or a designee thereof.

(2) The State Fire Marshal shall serve as executive director of the council, but is not a member. The council shall meet at least quarterly. The council shall select a chairperson and vice chairperson at the first council meeting of each odd-numbered year. The council may elect additional officers as the council determines to be reasonable and necessary.

(3) In addition to the ex officio members identified in subsection (1) of this section, the Governor may designate a representative of the Governor to serve as a nonvoting member. The Governor may also appoint not more than nine members to serve on the council for three-year terms. Initial terms of the appointed members may be adjusted to promote council stability. An appointed member may not serve more than two consecutive terms. A member appointed by the Governor must be a representative of one of the following:

(a) The Oregon Fire [*Chiefs*] **Chiefs** Association or a successor or other organization representing fire chiefs.

(b) The Oregon Fire District [*Directors*] **Directors** Association or a successor or other organization representing fire district directors.

(c) The Oregon Fire Marshals Association or a successor or other organization representing fire marshals.

(d) Property and casualty insurance providers.

(e) Employees of the office of the State Fire Marshal.

(f) The Oregon State Fire Fighters Council or a successor or other organization representing professional firefighters.

(g) The Oregon Volunteer Firefighters Association or a successor or other organization representing volunteer firefighters.

(h) The League of Oregon Cities or a successor or other organization representing municipalities.

(i) The general public.

(4) Notwithstanding the term of office specified in subsection (3) of this section, the initial term of a member appointed by the Governor may be adjusted to limit the number of member terms expiring in the same year.

(5) To the extent funding is available from moneys appropriated to the office of the State Fire Marshal, a member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(6) The council shall advise the Governor and the Superintendent of State Police on fire policy issues and serve in an advisory capacity to the State Fire Marshal on strategies for the implementation of fire and life safety issues. The council may initiate advice to the State Fire Marshal, the Superintendent of State Police and the Governor on any matter related to the mission of the council. The council may not participate in the discussion of traditional labor relations issues.

(7) The office of the State Fire Marshal shall provide staff services to the council. All agencies, departments and officers of this state are directed to assist the council in the performance of its functions and to furnish information and advice as the council considers necessary.

**NOTE:** Corrects association titles in (3)(a) and (b).

**SECTION 67.** ORS 479.530 is amended to read:

479.530. As used in ORS 479.510 to 479.945 and 479.995, unless the context requires otherwise:

(1) "Approved testing laboratory" means a testing laboratory that meets criteria for electrical product evaluation established by the Director of the Department of Consumer and Business Services with the approval of the Electrical and Elevator Board under ORS 479.730.

(2) "Board" means the Electrical and Elevator Board established under ORS 455.138.

(3) "Certified electrical product" means an electrical product that is certified under ORS 479.760 and that is not decertified.

(4) "Competent inspection service" means an electrical inspection service of a city or county administered under ORS 455.148 or 455.150 that employs electrical inspectors who are certified to meet standards under ORS 479.810.

(5) "Commercial electrical air conditioning equipment" means heating, cooling, refrigeration, dehumidifying, humidifying and filtering equipment used for climatizing or moving of air if used in commerce, industry or government and if installed in a place not accessible to the general public other than the switches regulating the operation of the equipment.

(6) "Demarcation point" means the place of interconnection between the communications cabling, terminal equipment or protective apparatus of the telecommunications service provider and the customer's premises.

(7) "Department" means the Department of Consumer and Business Services.

(8) "Director" means the Director of the Department of Consumer and Business Services.

(9) “Dwelling unit” means one or more rooms for the use of one or more persons as a house-keeping unit with space for eating, living and sleeping and permanent provisions for cooking and sanitation.

(10) “Electrical installations” means the construction or installation of electrical wiring and the permanent attachment or installation of electrical products in or on any structure that is not itself an electrical product. “Electrical installation” also means the maintenance or repair of installed electrical wiring and permanently attached electrical products. “Electrical installation” does not include an oil module.

(11) “Electrical product” means any electrical equipment, material, device or apparatus that, except as provided in ORS 479.540, requires a license or permit to install and either conveys or is operated by electrical current.

(12) “Equipment” means any material, fittings, devices, appliances, fixtures, apparatus or the like that are used as part of or in connection with an electrical installation.

(13) “Field evaluation firm” means an independent organization that provides:

(a) Evaluations or testing, or both; and

(b) Documentation regarding compliance with electrical product safety standards and with the electrical installation safety code.

(14) “Industrial electrical equipment” means electrical products used in industry or government that *[utilizes]* **utilize** electric energy for mechanical, chemical, heating, lighting or similar purposes, that *[is]* **are** designed to service or produce a product and that *[is]* **are** used directly in the production of the service or product.

(15) “Installation label” means an adhesive tag issued by governmental agencies that administer the Electrical Safety Law to licensed electrical contractors for application to those minor electrical installations for which the board by rule determines to be appropriate for random inspections.

(16) “License” means a permit issued by the department under ORS 479.630 authorizing the person whose name appears as licensee thereon to act as an electrical contractor, supervising electrician, journeyman electrician, **electrical** apprentice [*electrician*] or limited elevator journeyman as indicated thereon.

(17) “Minimum safety standards” means safety standards prescribed by concurrence of the board and the director under ORS 479.730.

(18) “Multifamily dwelling” means a building containing more than one dwelling unit.

(19) “Oil module” means a prefabricated structure manufactured to the specifications of the purchaser and used outside this state in the exploration for or processing or extraction of petroleum products.

(20) “Permit” means an official document or card issued by the enforcing agency to authorize performance of a specified electrical installation.

(21) “Single family dwelling” means a building consisting solely of one dwelling unit.

(22) “Telecommunications service provider” means a telecommunications carrier as defined in ORS 133.721 or a telecommunications utility or competitive telecommunications provider, both as defined in ORS 759.005.

(23) “Uncertified product” means any electrical product that is not an electrical product certified under ORS 479.760.

**NOTE:** Corrects subject-verb agreement in (14); standardizes name of apprenticeship in (16).

**SECTION 68.** ORS 479.620 is amended to read:

479.620. Subject to ORS 479.540, a person may not:

(1) Without an electrical contractor’s license, engage in the business of making electrical installations, advertise as or otherwise purport to be licensed to make electrical installations or purport to be acting as a business that makes electrical installations.

(2) Except as provided in ORS 479.630 (10)(c) and (11)(f), direct, supervise or control the making of an electrical installation without a supervising electrician’s license.

(3) Except as provided in subsection (5) of this section, make any electrical installation without a supervising or journeyman electrician’s license.

(4) Perform work on an electrical installation as an **electrical** apprentice [*electrician*] without an electrical apprentice's license.

(5) Make any electrical installation on a single or multifamily dwelling unit not exceeding three floors above grade, as provided in ORS 479.630 (14), without a limited residential electrician's license.

(6) Permit or suffer any electrical installation on property [*which*] **that** the person owns, controls, manages or supervises to be made by a person not licensed to make such an installation.

**NOTE:** Standardizes name of apprenticeship in (4); corrects grammar in (6).

**SECTION 69.** ORS 480.605 is amended to read:

480.605. The Department of Consumer and Business Services may:

(1) Collect fees for shop inspections, or for inspections, testing, consultations, site visits or other services for which no fee is otherwise specified, in the amount of \$75 per hour of travel and inspection time.

(2) Collect a fee for welding and inspectors' examinations and for the renewal of inspectors' certifications. The Board of Boiler Rules shall fix **the** amount of the fee.

**NOTE:** Supplies missing article in (2).

**SECTION 70.** ORS 509.385 is amended to read:

509.385. ORS 509.355 to 509.385 do not apply to:

(1) Those species of salmon in those areas within the international waters of the Pacific Ocean [*which*] **that** are regulated by the [*International*] Pacific Salmon [*Fisheries*] Commission or by United States laws or rules or regulations promulgated pursuant to such laws.

(2) The use of nets for fishing for or taking salmon for purposes of scientific investigation authorized by the laws of this state.

**NOTE:** Corrects grammar and updates name of commission in (1).

**SECTION 71. Section 15, chapter 906, Oregon Laws 2009, is repealed.**

**NOTE:** Repeals duplicative section (see 530.175).

**SECTION 72. ORS 530.180 is repealed.**

**NOTE:** Repeals duplicative section (see section 14, chapter 906, Oregon Laws 2009).

**SECTION 73.** ORS 540.440 is amended to read:

540.440. All persons owning or controlling any water ditches shall keep their right of way along the ditches clean and free from wild oats, mustard, thistles, or any weeds or [*obnoxious*] **noxious** grasses whatsoever.

**NOTE:** Corrects word choice.

**SECTION 74.** Section 46, chapter 907, Oregon Laws 2009, is amended to read:

**Sec. 46.** (1) [*Sections 18 to 27 of this 2009 Act*] **ORS 541.600, 541.616 and 541.641 and sections 20, 25 and 26, chapter 907, Oregon Laws 2009,** and the amendments to ORS 541.700, 541.705, 541.710, 541.720, 541.730, 541.740, 541.765, 541.770, 541.785, 541.830, 541.845 and 541.850 by sections 3 to 14, **chapter 907, Oregon Laws 2009,** [*of this 2009 Act*] apply to loans from the Water Development Fund for which an application is filed on or after April 1, 2010.

(2) The repeal of ORS 541.755 by section 15, **chapter 907, Oregon Laws 2009,** [*of this 2009 Act*] becomes operative April 1, 2010.

(3) The amendments to ORS **541.616, 541.641,** 541.705, 541.710, 541.720, 541.765, 541.785, 541.830 and 541.850 [*and sections 21 and 27 of this 2009 Act*] by sections 35 to 43, **chapter 907, Oregon Laws 2009,** [*of this 2009 Act*] become operative January 2, 2024.

**NOTE:** Eliminates references to sections unrelated to Water Development Fund in (1).

**SECTION 75.** ORS 551.180 is amended to read:

551.180. (1) A diking district may be dissolved in accordance with ORS 198.920 to 198.955 if:

(a) Either an existing drainage district formed under ORS chapter 547 or an existing water control district formed under ORS chapter 553 agrees to continue to provide operation and maintenance of the levees and perform other flood control and related works and improvements to the inhabitants of the diking district; [*and*]

(b) Any other sponsoring governmental agency to which the district owes an obligation under a contract or agreement consents to the dissolution and turnover to the successor district; and

(c) The dissolving district has no outstanding indebtedness.

(2) The dissolution may be initiated by the board of county commissioners of the county in which the district is located notwithstanding the provisions of ORS 198.920 [(3)(a) and (b)] (1)(c)(A). If the proposal meets all the conditions described by subsection (1) of this section, the board of county commissioners shall dispense with the election required by ORS 198.935.

**NOTE:** Removes unnecessary conjunction in (1)(a); corrects citation in (2). See section 20 (amending 198.920).

**SECTION 76.** ORS 569.185 is amended to read:

569.185. The State Department of Agriculture shall administer and enforce ORS 569.175 to 569.195. The department may:

(1) Adopt rules to carry out ORS 569.175 to 569.195. In adopting the rules the department shall consider:

(a) The effect on the immediate environment of the use of chemical, biological or other means for control or eradication; and

(b) The overall benefit to be derived compared to the costs to be incurred.

(2) Implement an integrated weed management approach that focuses on the prevention of noxious weeds through:

(a) A combination of techniques that may include, but need not be limited to, the use of:

(A) Surveillance and monitoring;

(B) Early detection;

(C) Eradication or other rapid response techniques;

(D) Mechanical control;

(E) The selective use of pesticides;

(F) Cultural practices;

(G) Modified land management; and

(H) Biological controls; and

(b) Control practices selected and applied to achieve desired weed management objectives in a manner that minimizes risks to human health, non-target organisms, native fish and wildlife habitat, watersheds and the environment.

(3) Cooperate with Oregon State University or any other person in the administration and enforcement of ORS 569.175 to 569.195.

(4) Collect, publish, disseminate and furnish information, statistics and advice concerning the research, experimentation, control and eradication of noxious weeds and the land management and cultural practices recommended for such control and eradication.

(5) Notwithstanding any provisions of ORS 279.835 to 279.855 and 561.240 and ORS chapters 279A, 279B and 279C to the contrary, enter into contracts with Oregon State University or any other person for the purpose of research, experimentation, control or eradication of noxious weeds, to receive and expend funds pursuant to such contracts and to employ or authorize personnel to act on behalf of the department.

(6) Rear, propagate and release biological control agents approved by the United States Department of Agriculture, including insects or disease organisms, and to construct, purchase, maintain and operate facilities and equipment for such purpose.

(7) Control, or direct control of, predators and diseases of biological control agents, and to limit or prohibit the movement or use of pesticides or other agriculture chemicals that reasonably could damage or injure such biological control agents.

(8) Purchase, use and apply chemical control agents, including pesticides, and purchase, maintain and operate any application equipment for such purpose.

(9) Regulate, restrict or prohibit the movement or sale of hay, straw, seed, other agricultural crops or residues thereof, that are found to contain noxious weeds or seeds or propagules of noxious weeds.

(10) Limit or prohibit the collection or taking of any biological control agents from public or private lands within this state.

(11) Develop appropriate measures for the control or eradication of noxious weeds on any lands in this state.

(12) Have access to all lands within this state to carry out ORS 569.175 to 569.195, including survey, control and eradication activities and the establishment of quarantines.

(13) Request any person owning or controlling land within this state to control, prevent the spread of[,] or, when feasible, eradicate noxious weeds, and to supervise such activities.

(14) If abatement procedures are required of a landowner, recommend that the landowner and the department jointly develop a management strategy or plan that describes a course of action to address the abatement requirement.

(15) To the extent funds are available for such purpose, employ or use personnel of other agencies of this state, including but not limited to persons acting under work-release, rehabilitation or youth programs or persons employed and paid from *[federal funds received under the Emergency Job and Unemployment Assistance Act of 1974 (Public Law 93-567) or any other federal or state program]* **funds received under federal or state programs** intended primarily to alleviate unemployment or to advance research.

(16) Establish advisory committees to assist the department and the State Weed Board in carrying out ORS 569.175 to 569.195.

**NOTE:** Corrects punctuation in (13); deletes reference to obsolete federal Act in (15).

**SECTION 77.** ORS 569.990 is amended to read:

569.990. (1) Violation of a provision of ORS 569.175 to 569.195 or a rule adopted under ORS 569.175 to 569.195 is a Class B violation.

(2) Violation of a provision of ORS 569.360 to 569.495 *[or 570.215]* is a Class A violation.

**NOTE:** Removes citation from improper chapter's penalty provision in (2). See section 78 (amending 570.990).

**SECTION 78.** ORS 570.990 is amended to read:

570.990. Violation of a provision of ORS 570.010 to 570.050, 570.105 to 570.190, **570.215**, 570.320 to 570.360 or 570.410 is a Class A violation.

**NOTE:** Adds citation to proper chapter's penalty provision. See section 77 (amending 569.990).

**SECTION 79.** ORS 578.060 is amended to read:

578.060. (1)(a) A member is removable by the Director of Agriculture as provided in ORS 578.045 or for neglect of duty or misconduct in office.

(b) The director may remove a member only after serving the member with a copy of the charges against the member and conducting a public hearing. The director shall serve the member with the copy of the charges and notice of the time and place of the public hearing at least 10 days before the date of the hearing. At the public hearing, the member may be represented by counsel and may present and respond to evidence regarding the charges.

(c) If the director finds after a public hearing that there is cause to remove a member, the director shall send the member a notice under ORS 183.415 stating the director's intent to remove the member. If the member does not timely file a request for a contested case hearing, or if the director finds after a contested case hearing that there is cause to remove the member, the director may issue an order removing the member. *[Upon the order becoming]* **When the order becomes** final by operation of law, the director shall file with the Secretary of State a copy of the charges, all records and findings for the public hearing and any contested case hearing, and a copy of the order.

(2) Members, officers and employees of the Oregon Wheat Commission shall receive their actual and necessary travel and other expenses incurred in the performance of their official duties. The commission shall adopt uniform and reasonable rules governing the incurring and paying of such expenses.

**NOTE:** Recasts sentence to correct grammar in (1)(c).

**SECTION 80.** ORS 618.031 is amended to read:

618.031. (1) The State Department of Agriculture is authorized to make any rules necessary to carry out ORS 618.010 to 618.246, but in making such rules the department shall consider so far as is practicable and desirable the requirements established by other states and by authority of the United States. Such rules shall govern the use or application of weights and measures and weights and measures transactions in this state.

(2) Such rules may:

(a) Establish standards of net weight, measure or count, and reasonable standards of fill for any commodity in package form;

(b) Establish procedures governing the technical and reporting activities to be followed, and prescribe report and record forms and marks of approval and rejection to be used by inspectors of weights and measures in the discharge of their duties;

(c) Prescribe exemptions for weights and measures from the sealing, labeling or marking requirements of ORS 618.010 to 618.246;

(d) Establish procedures governing the voluntary registration of commercial weighing and measuring device [*servicemen*] **service persons** and service agencies;

(e) Establish schedules of fees for licensing commercial weighing and measuring devices and for testing or certification;

(f) Prescribe specifications relating to the advertising, labeling, dispensing and selling of commodities in bulk form to or by retail outlets reasonably necessary for the protection of purchasers thereof;

(g) Establish guidelines to [*assure*] **ensure** that amounts of commodities or services sold or offered for sale are represented accurately and informatively to all interested parties; and

(h) Prescribe specifications, tolerances and other technical requirements for weights and measures so as to eliminate from use[,] weights and measures:

(A) That are not accurate;

(B) That are of such construction that they are faulty, in that they are not reasonably permanent in their adjustment or will not repeat their indications correctly; or

(C) That facilitate the perpetration of deceit or misrepresentation.

(3) Nothing in subsection (2) of this section is intended to limit the authority of the department to make any other rules necessary to carry out ORS 618.010 to 618.246.

**NOTE:** Eliminates gender-specific term in (2)(d); corrects word choice in (2)(g); corrects punctuation in (2)(h).

**SECTION 81.** ORS 624.425 is amended to read:

624.425. (1) [*No*] **A** person **who is** affected with a communicable disease described in ORS 624.080 (1) or is a carrier of such disease [*shall*] **may not** work in any commissary, mobile unit or in the servicing of vending machines, nor [*shall*] **may** any operator employ any such person or any person suspected of being affected with any communicable disease or of being a carrier of such disease. If the operator suspects that any employee has an infectious disease in a communicable form or may be a carrier of such a disease, the operator shall notify the Director of the Oregon Health Authority immediately. A placard containing this section shall be posted in all toilet rooms.

(2) When, in the opinion of the director, there is a possibility of transmission of infection from any person or employee, the director may require the immediate exclusion of such person or employee from all commissaries, mobile units and vending machines and may require a medical examination of the person or employee and associates of the person or employee, including such laboratory examinations as may be indicated.

**NOTE:** Improves syntax in (1); corrects punctuation in (1) and (2).

**SECTION 82.** ORS 634.700 is amended to read:

634.700. As used in ORS 634.700 to 634.750:

(1) "Campus" means the buildings, other structures, playgrounds, athletic fields and parking lots of a school and any other areas on the school property that are accessed by students on a regular basis.

(2) “Governing body” means a board of directors, agency or other body or person having policymaking and general oversight responsibility for a community college district, education service district, school district, other unit of education governance, private school or other educational entity.

(3) “Integrated pest management plan” means a proactive strategy that:

(a) Focuses on the long-term prevention or suppression of pest problems through economically sound measures that:

(A) Protect the health and safety of students, staff and faculty;

(B) Protect the integrity of campus buildings and grounds;

(C) Maintain a productive learning environment; and

(D) Protect local ecosystem health;

(b) Focuses on the prevention of pest problems by working to reduce or eliminate conditions of property construction, operation and maintenance that promote or allow for the establishment, feeding, breeding and proliferation of pest populations or other conditions that are conducive to pests or that create harborage for pests;

(c) Incorporates the use of sanitation, structural remediation or habitat manipulation or of mechanical, biological and chemical pest control measures that present a reduced risk or have a low impact and, for the purpose of mitigating a declared pest emergency, the application of pesticides that are not low-impact pesticides;

(d) Includes regular monitoring and inspections to detect pests, pest damage and unsanctioned pesticide usage;

(e) Evaluates the need for pest control by identifying acceptable pest population density levels;

(f) Monitors and evaluates the effectiveness of pest control measures;

(g) Excludes the application of pesticides on a routine schedule for purely preventive purposes, other than applications of pesticides designed to attract or be consumed by pests;

(h) Excludes the application of pesticides for purely aesthetic purposes;

(i) Includes school staff education about sanitation, monitoring and inspection and about pest control measures;

(j) Gives preference to the use of nonchemical pest control measures;

(k) Allows the use of low-impact pesticides if nonchemical pest control measures are ineffective; and

(L) Allows the application of a pesticide that is not a low-impact pesticide only to mitigate a declared pest emergency or if the application is by, or at the direction or order of, a public health official.

(4) “Low-impact pesticide” means a product that does not contain a pesticide product or active ingredient described in ORS 634.705 (5).

(5) “Pest” means:

(a) An insect or other arthropod;

(b) A weed, moss, slime or mildew or a plant disease caused by a fungus, bacterium or virus;

(c) A nematode, snail, slug, rodent or predatory animal;

(d) A [*bacteria*] **bacterium**, spore, virus, fungus or other microorganism that is harmful to human health; or

(e) Other forms of plant or animal life that may infest or be detrimental to vegetation, humans, animals, structures, managed landscapes or other human environments.

(6) “Pest emergency” means an urgent need to eliminate or mitigate a pest situation that threatens:

(a) The health or safety of students, staff, faculty members or members of the public using the campus; or

(b) The structural integrity of campus facilities.

(7) “Registration number” means the pesticide registration number assigned by the United States Environmental Protection Agency.

(8) “School” means:

- (a) A facility operating an Oregon prekindergarten or a federal Head Start program;
- (b) A public or private educational institution offering education in all or part of kindergarten through grade 12;
- (c) An education service district as defined in ORS 334.003;
- (d) A community college as defined in ORS 341.005;
- [(e) *The Oregon School for the Blind*;]
- [(f)] (e) The Oregon School for the Deaf; and
- [(g)] (f) A regional residential academy operated by the Oregon Youth Authority.

**NOTE:** Corrects word choice in (5)(d); removes reference in (8)(e) to school that closed in 2009 (see section 1, chapter 562, Oregon Laws 2009).

**SECTION 83.** ORS 646A.705 is amended to read:

646A.705. The following are not foreclosure consultants for purposes of ORS 646A.702 to 646A.720:

- (1) An individual licensed to practice law in this state, if performing services within an attorney-client relationship.
- (2) A person that holds or is owed an obligation that is secured by a lien on a residence in foreclosure or default, if performing services in connection with the obligation or lien.
- (3) A person doing business under authority of an Oregon or federal law regulating banks, trust companies, savings and loan associations, credit unions or insurance companies, or as a licensee under ORS chapter 725, if performing business services within the scope of that authority or license.
- (4) A subsidiary, affiliate or agent of a person described in subsection (3) of this section, if performing business services within the scope of the person's authority or license as the person's subsidiary, affiliate or agent.
- (5) The judgment creditor of a homeowner, if the creditor's claim accrued before a notice of sale was sent to the creditor under ORS 86.740.
- (6) A title insurer authorized to conduct business in Oregon or an insurance producer licensed to conduct business in Oregon, if performing title insurance or settlement services within the scope of that authority or license.
- (7) A mortgage broker or mortgage lender licensed under ORS 86A.095 to 86A.198[, 86A.990 and 86A.992 and ORS chapter 59] to conduct business in Oregon, if acting within the scope of that license.
- (8) A real estate licensee under ORS 696.022 or an escrow agent licensed under ORS 696.511, if acting within the scope of that license.
- (9) A tax-exempt organization that offers counseling or advice to homeowners in foreclosure, if the organization:
  - (a) Is not directly or indirectly related to for-profit lenders or foreclosure purchasers;
  - (b) Does not contract to provide services to or receive services from for-profit lenders or foreclosure purchasers; and
  - (c) Has provided counseling or advice to homeowners for five years or more.
- (10) A creditors' committee, trustee or debtor in possession participating in a proceeding under the jurisdiction of the United States Bankruptcy Court.
- (11) Any person whose employment with regard to a residential real property matter under the jurisdiction of the United States Bankruptcy Court is approved by order of the bankruptcy court.
- (12) A person that is a member of the homeowner's family or is owned or controlled by a member of the homeowner's family.

**NOTE:** Excises extraneous references in (7); makes punctuation consistent in (9).

**SECTION 84.** ORS 657A.252 is amended to read:

657A.252. (1) Notwithstanding ORS 657A.250 (4), care provided to children other than the children of the person providing the care by a person whose enrollment in the [*Criminal History*] **Central Background** Registry established by ORS 657A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person's certification

or registration while under investigation by the Child Care Division, is “child care” for purposes of ORS 657A.030 and 657A.250 to 657A.450.

(2) Notwithstanding ORS 657A.250 (5), a facility providing care for four hours or less per day that is primarily educational to preschool children that is operated by a person whose enrollment in the [*Criminal History*] **Central Background** Registry established by ORS 657A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person’s certification or registration while under investigation by the Child Care Division, is a “child care facility” for purposes of ORS 657A.030 and 657A.250 to 657A.450.

**NOTE:** Updates name of registry and improves punctuation in (1) and (2).

**SECTION 85.** ORS 660.126, as amended by section 1, chapter 15, Oregon Laws 2010, is amended to read:

660.126. (1) Apprenticeship standards shall contain statements of:

(a) The apprenticeable occupation to be taught and a designation of the geographical area or areas in which the standards will apply;

(b) The qualifications required of apprentice applicants and the minimum eligible starting age, which is at least 16 years unless a higher age is required by law;

(c) The outline of work processes in which the apprentice will receive supervised work experience and training on the job, and the allocation of the approximate time to be spent in each major process;

(d) The term required for completion of apprenticeship, which shall be consistent with requirements established by industry practice for the development of requisite skills, but in no event shall be less than 2,000 hours of reasonably continuous work experience;

(e) The approximate number of hours to be spent by the apprentice at work and the approximate number of hours to be spent in related and supplemental instruction;

(f) The minimum numeric ratio of journeymen to apprentices consistent with proper supervision, training, safety and continuity of employment, which shall be specifically and clearly stated as to application in terms of job site, workforce, department or plant;

(g) A probationary period reasonable in relation to the full apprenticeship term, with full credit given for the probationary period toward completion of apprenticeship and with provision that during the probationary period, the apprenticeship agreement may be terminated without cause;

(h) A progressively increasing schedule, showing the percentages of the journeyman hourly wage to be paid the apprentice at each level of apprenticeship achieved;

(i) Such additional provisions as the State Apprenticeship and Training Council may, by rule, deem necessary or advisable to effectuate the policies and duties prescribed and imposed by ORS 660.002 to 660.210; and

(j) The content of related training with training objectives.

(2) Notwithstanding subsection (1) of this section, the council may approve the inclusion of standards of additional provisions, or of provisions that depart from the requirements of subsection (1) of this section, when such standards or provisions have been submitted by joint employer and employee groups, or may be part of legitimate bargaining agreements between an employer and employees. In making its decision, the council shall consider the following factors:

(a) The possibility that the provision might result in curtailment of opportunities for apprentices to receive training or continuity of employment;

(b) The possibility that the provision might result in the diversion of needed qualified applicants for apprenticeship, and particularly of qualified applicants of protected classes, into unskilled or semiskilled jobs for which an adequate supply of labor already exists;

(c) The possibility that the provision might result in disputes among the participants in the programs that might curtail the cooperation necessary to build an adequate, skilled labor force in the State of Oregon;

(d) The need to safeguard the health, safety, continuity of employment and welfare of the apprentices and to ensure the public welfare;

(e) The need to raise the level of skill in each apprenticeable occupation to provide to the public quality goods and services at a fair price and an adequate and skilled workforce for the defense of the nation; and

(f) The need to provide training in the licensed occupations for the protection of the apprentices and of the general public.

(3) The council shall adopt rules to allow a local committee to determine the circumstances under which an **electrical** apprentice [*electrician*], who is working under ORS 479.510 to 479.945 and has completed 6,500 hours of apprenticeship training for licenses requiring 8,000 hours of apprenticeship training or who has completed 5,000 hours of apprenticeship training for licenses requiring 6,000 hours of apprenticeship training, may work without direct supervision during the remainder of the apprenticeship.

**NOTE:** Standardizes name of apprenticeship in (3).

**SECTION 86.** ORS 688.405 is amended to read:

688.405. As used in ORS 688.405 to 688.605:

(1) "Approved school" means a school accredited in one of the medical imaging modalities or subspecialties by a national post-secondary accreditation body and whose graduates are qualified to sit for a credentialing examination recognized by the Board of Medical Imaging in the graduate's medical imaging modality or subspecialty.

(2) "Clinical instructor" means an individual assigned to supervise students in a clinical setting who is:

(a) A licensed physician who routinely supervises the medical imaging modality being studied by a student; or

(b) An individual licensed by the board and credentialed by a credentialing organization in the medical imaging modality being studied by a student.

(3) "Credential" means the recognition awarded to an individual who meets the requirements of a credentialing organization.

(4) "Credentialing organization" means a nationally recognized organization that issues credentials through testing or evaluations that determine that a person meets defined standards for training and competence in a medical imaging modality.

(5) "Diagnostic medical sonography" means the use of nonionizing high frequency sound waves with specialized equipment to direct the sound waves into areas of the human body to generate images for the assessment and diagnosis of various medical conditions.

(6) "Graduate" means an individual who has completed the didactic and clinical education at an approved school, including documented clinical proficiency, but who has not met all requirements for credentialing by a credentialing organization.

(7) "Hybrid imaging or radiation therapy equipment" means equipment that combines more than one medical imaging modality into a single device.

(8) "Ionizing radiation" means alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons or other particles capable of producing ions. "Ionizing radiation" does not include radiation such as radiofrequency or microwaves, visible, infrared or ultraviolet light or ultrasound.

(9) "License" means a license issued by the board to practice one or more of the medical imaging modalities.

**(10) "Licensed nurse practitioner" means a nurse practitioner licensed in Oregon.**

[10] **(11) "Licensed physician" means a physician or surgeon licensed in Oregon.**

**(12) "Licensed physician assistant" means a physician assistant licensed in Oregon.**

[11] **(13) "Limited X-ray machine operator" means a person other than a licensed physician, licensed nurse practitioner or licensed physician assistant who performs diagnostic X-ray procedures under the supervision of a licensed physician, licensed nurse practitioner or licensed physician assistant using equipment that emits external ionizing radiation resulting in diagnostic radiographic images that are limited to select human anatomical sites.**

[(12)] (14) “Limited X-ray machine operator course of study” means a board-approved set of didactic and clinical experience elements designed to prepare a person for gaining practical experience and for passing the limited X-ray machine operator examination.

[(13)] (15) “Magnetic resonance imaging” means the process by which certain nuclei, when placed in a magnetic field, absorb and release energy in the form of radio waves that are analyzed by a computer thereby producing an image of human anatomy and physiological information.

[(14)] (16) “Medical imaging” means the use of specialized equipment for the production of visual representations of human anatomy, tissues or organs for use in clinical diagnosis and treatment and includes but is not limited to X-ray, single photon emission, positron emission technology, ultrasound, magnetic fields, visible light and radio waves.

[(15)] (17) “Medical imaging licensee” means a person other than a licensed physician or a limited X-ray machine operator who holds a valid license and operates medical imaging equipment for diagnostic or therapeutic purposes under the supervision of a licensed physician.

[(16)] (18) “Medical imaging modality” means:

- (a) Diagnostic medical sonography and all its subspecialties;
- (b) Magnetic resonance imaging and all its subspecialties;
- (c) Nuclear medicine technology and all its subspecialties;
- (d) Radiation therapy and all its subspecialties; or
- (e) Radiography and all its subspecialties.

[(17)] (19) “Nuclear medicine technology” means the specialized equipment that measures radiation emitted by radionuclides, including counters and cameras that form medical images for interpretation by a physician, or assists in therapeutic use of radionuclides.

[(18)] (20) “Radiation therapy” means the use of ionizing radiation on a human being for therapeutic purposes.

[(19)] (21) “Radiographer” means a person other than a licensed physician who performs a comprehensive set of diagnostic radiographic procedures under the supervision of a licensed physician using external ionizing radiation to produce radiographic, fluoroscopic or digital images.

[(20)] (22) “Radiography” means the use of ionizing radiation to produce radiographic, fluoroscopic or digital images of human anatomy for diagnostic purposes.

[(21)] (23) “Radiologist” means a person licensed to practice medicine in the State of Oregon who is certified by or board eligible for certification by the American Board of Radiology, the American Osteopathic Association, the Royal College of Radiologists or the Royal College of Physicians and Surgeons of Canada.

[(22)] (24) “Student” means an individual enrolled in:

- (a) An approved school; or
- (b) A limited X-ray machine operator course of study.

[(23)] (25) “Supervision” means the act of monitoring and reviewing the performance of medical imaging licensees or limited X-ray machine operators through regular inspections of work produced, regardless of whether the supervising individual is continuously physically present during the use of medical imaging equipment or X-ray equipment.

**NOTE:** Provides definitions for new terms in (10) and (12); adds supervisory occupations to reflect ORS 688.515 (1) in (13). See section 87 (amending 688.515).

**SECTION 87.** ORS 688.515 is amended to read:

688.515. (1) The Board of Medical Imaging shall issue a limited X-ray machine operator permit to an applicant to practice under the supervision of a licensed physician, a licensed nurse practitioner or a licensed physician assistant if the applicant meets the requirements as provided in this section. A limited X-ray machine operator permit shall state the category or categories for which the applicant has demonstrated competence and shall be limited to one of the categories listed below or as established by the board by rule:

- (a) Skull and sinuses;
- (b) Spine;
- (c) Chest;

- (d) Extremities;
- (e) Podiatric; or
- (f) Bone densitometry.

(2) Limited X-ray machine operator permits may not be issued for fluoroscopy, bony thorax studies, abdominal studies, contrast studies or special head studies such as tomography, radiation therapy or any of the other medical imaging modalities or subspecialties other than the categories listed in subsection (1) of this section or as established by the board by rule.

(3) Each applicant for a limited X-ray machine operator permit shall:

- (a) Make an application in writing;
- (b) Pay an application fee in an amount set by the board;
- (c) Be at least 18 years of age;
- (d) Have successfully passed a board-approved course of instruction in radiation use and safety consisting of the number of hours of instruction required by the board by rule;
- (e) Have successfully completed a course of instruction approved by the board and taught by a board-approved, licensed radiographer in laboratory practice specific to each category for which the applicant seeks a limited X-ray machine operator permit, with the instructor's certifying to the board that the applicant has completed the course in those categories applied for;
- (f) Have successfully completed a practical experience program approved by the board, specific to each category for which the applicant seeks a limited X-ray machine operator permit. Such program shall include operation of an energized X-ray machine under the supervision of a radiographer;
- (g) Have paid the examination fee set by board rule to reflect the actual cost of the examination;
- (h) Have successfully passed an examination approved by the board in the core module as defined in rules adopted by the board, and in those categories in which the applicant seeks a limited X-ray machine operator permit;
- (i) Have undergone a background check to the satisfaction of the board as established in rules adopted by the board;
- (j) Not have had any type of license or permit revoked by this state or any state, territory of the United States or nation; and
- (k) Meet the standards of ethical conduct established in the professional standards of a credentialing organization or a medical imaging modality's professional society.

(4) Upon meeting the requirements of this section, the board shall issue a limited X-ray machine operator permit to the applicant. The limited X-ray machine operator permit is subject to the renewal procedures described in ORS 688.445.

(5) Every person issued a limited X-ray machine operator permit shall notify the board in writing of the name of each licensed physician, **licensed nurse practitioner or licensed physician assistant** supervising the person's performance of diagnostic radiography and may only perform diagnostic radiography while being supervised by a licensed physician, **licensed nurse practitioner or licensed physician assistant** other than the physician, **nurse practitioner or physician assistant** whose name was initially furnished to the board, the person shall immediately notify the board in writing.

(6) Limited X-ray machine operators must meet the standards of ethical conduct equal to those of a licensed radiographer.

**NOTE:** Adds supervisory occupations listed in (1) to provisions of (5).

**SECTION 88.** ORS 688.525 is amended to read:

688.525. (1) The Board of Medical Imaging, after notice of and hearing as required under the contested case procedures of ORS chapter 183, may refuse to issue a license or permit to any applicant, may refuse to renew the license of any medical imaging licensee or the permit of a limited X-ray machine operator or may suspend or revoke the license or permit of a person who:

- (a) Has been disciplined by a credentialing organization or a licensing board in this state or in another state, territory of the United States or nation for acts by the holder of a license or a permit

that are similar to acts described in this subsection. A certified copy of the order of discipline constitutes conclusive evidence of the discipline.

(b) Has an impairment as defined in ORS 676.303.

(c) In the judgment of the board is guilty of unethical or unprofessional conduct in the practice of a medical imaging modality or as a limited X-ray machine operator.

(d) Has been convicted of any crime that bears a demonstrable relationship to the practice of a medical imaging modality or as a limited X-ray machine operator, or otherwise reflects adversely on fitness to practice.

(e) In the judgment of the board, has acted with gross negligence in the practice of a medical imaging modality or as a limited X-ray machine operator.

(f) Has undertaken to act as a medical imaging licensee [or] **independently of the supervision of a licensed physician, or has undertaken to act as** a limited X-ray machine operator independently of the supervision of a licensed physician, **licensed nurse practitioner or licensed physician assistant.**

(g) Has obtained or attempted to obtain a license or permit under ORS 688.405 to 688.605 by fraud or material misrepresentation.

(2) Upon receipt of a complaint under ORS 688.405 to 688.605, the board shall conduct an investigation as described under ORS 676.165.

(3) Information that the board obtains as part of an investigation into licensee, permittee or applicant conduct or as part of a contested case proceeding, consent order or stipulated agreement involving licensee, permittee or applicant conduct is confidential as provided under ORS 676.175.

**NOTE:** Adds supervisory occupations to reflect ORS 688.515 (1) in (1)(f). See section 87 (amending 688.515).

**SECTION 89.** ORS 696.606 is amended to read:

696.606. (1) In accordance with any applicable provisions of ORS chapter 183, the Real Estate Commissioner shall establish by rule a system to license real estate marketing organizations. Such a system shall include but need not be limited to prescribing:

(a) The form and content of and the times and procedures for submitting an application for the issuance or renewal of a license.

(b) The term of the license and the fee for the original issue and renewal in an amount that does not exceed the cost of administering the licensing system.

(c) The requirements and procedures to register the names of and other information regarding the real estate marketing employees employed by applicants or licensees.

(d) Those actions or circumstances that constitute failure to achieve or maintain licensing or competency or that otherwise constitute a danger to the public interest and for which the commissioner may refuse to issue or renew or may suspend or revoke a license or registration or may impose a penalty.

(e) Those activities of principals of the organization that constitute a danger to the public interest and for which the commissioner may refuse to issue or renew or may suspend or revoke a registration or may impose a penalty. [*For purposes of this section, "principal" means a person who has permitted or directed another to act for the person's benefit with respect to a real estate marketing organization.*]

(2) Licenses for real estate marketing organizations shall be granted only if the principal persons of the organization are trustworthy and competent to conduct real estate marketing activity in such manner as to safeguard the interests of the public and only after satisfactory proof has been presented to the commissioner. As used in this subsection, "satisfactory proof" includes but is not limited to the fingerprints and a criminal records check of the applicant. For the purpose of requesting a state or nationwide criminal records check under ORS 181.534, the commissioner may require the fingerprints of the applicant.

(3) At the time of filing an application for a license as a real estate marketing organization, the applicant shall deposit with the commissioner a corporate surety bond running to the State of

Oregon, executed by a surety company satisfactory to the commissioner, in the amount of \$35,000 in a form and under terms and conditions established by the commissioner.

(4) Any real estate marketing organization may satisfy the requirements of subsection (3) of this section by depositing with the commissioner, in an amount equal to the surety bond required, a deposit consisting of any of the following:

(a) Cash;

(b) Ample secured obligations of the United States, a state or a political subdivision thereof;

(c) Certificates of deposit or other investments described in ORS 733.650 (4) to the extent that such investments are insured by the Federal Deposit Insurance Corporation; or

(d) Any combination of paragraphs (a), (b) and (c) of this subsection.

(5) Any real estate marketing organization making a deposit with the commissioner shall assign in trust, to the Real Estate Commissioner, and the commissioner's successors in office, all cash, certificates or securities deposited in accordance with this section.

(6) The deposit shall be accepted and held by the commissioner for the faithful performance of real estate marketing activity by the real estate marketing organization. No claimant or judgment creditor of the real estate marketing organization shall have the right to attach or levy upon any of the assets or securities held on deposit.

(7) The commissioner, by order, may use such deposit under subsection (3) or (4) of this section, as follows:

(a) To satisfy any final judgment entered against the real estate marketing organization for actual damages suffered by any person by reason of the violation of **this section** or ORS 696.603[, 696.606] or 696.612 or a rule adopted pursuant thereto, or by reason of any fraud, dishonesty, misrepresentation or concealment of material fact growing out of any real estate marketing activity.

(b) To satisfy an order of the commissioner if the commissioner determines that a violation of **this section** or ORS 696.603[, 696.606] or 696.612 or a rule adopted pursuant thereto has occurred and directs the payment of a claim from the deposit provided the following conditions have been met:

(A) The amount of actual damages claimed, excluding attorney fees, by the consumer is \$1,000 or less.

(B) The consumer has first contacted the real estate marketing organization involved and, in writing, has made demand for payment of actual damages.

(C) The real estate marketing organization has had 30 calendar days from the date of the consumer's written demand to deal with the demand.

(D) The claim is only for actual damages sustained by the consumer.

(8) All claims against the deposit under subsection (3) or (4) of this section of a real estate marketing organization, other than those described in subsection (7) of this section, must be paid by the commissioner only upon the receipt of a final court judgment against the real estate marketing organization and only in the amount of actual damages as ordered by the court.

**NOTE:** Deletes redundant definition in (1)(e) (see 696.800); supplies missing comma in (5); conforms reflexive references to legislative style in (7)(a) and (b).

**SECTION 90.** ORS 731.036 is amended to read:

731.036. The Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, [which] **if the** organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

(b) The individual or jointly self-insured health insurance program includes all coverages and benefits required of group health insurance policies under ORS chapters 743 and 743A;

(c) The individual or jointly self-insured program must have program documents that define program benefits and administration;

(d) Enrollees must be provided copies of summary plan descriptions including:

(A) Written general information about services provided, access to services, charges and scheduling applicable to each enrollee's coverage;

(B) The program's grievance and appeal process; and

(C) Other group health plan enrollee rights, disclosure or written procedure requirements established under ORS chapters 743 and 743A;

(e) The financial administration of an individual or jointly self-insured program must include the following requirements:

(A) Program contributions and reserves must be held in separate accounts and used for the exclusive benefit of the program;

(B) The program must maintain adequate reserves. Reserves may be invested in accordance with the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper actuarial calculations including the following:

(i) Known claims, paid and outstanding;

(ii) A history of incurred but not reported claims;

(iii) Claims handling expenses;

(iv) Unearned contributions; and

(v) A claims trend factor; and

(C) The program must maintain adequate reinsurance against the risk of economic loss in accordance with the provisions of ORS 742.065 unless the program has received written approval for an alternative arrangement for protection against economic loss from the Director of the Department of Consumer and Business Services;

(f) The individual or jointly self-insured program must have sufficient personnel to service the employee benefit program or must contract with a third party administrator licensed under ORS chapter 744 as a third party administrator to provide such services;

(g) The individual or jointly self-insured program shall be subject to assessment in accordance with ORS 735.614 [and 743.951] and former enrollees shall be eligible for portability coverage in accordance with ORS 735.616;

(h) The public body, or the program administrator in the case of a joint insurance program of two or more public bodies, files with the Director of the Department of Consumer and Business Services copies of all documents creating and governing the program, all forms used to communicate

the coverage to beneficiaries, the schedule of payments established to support the program and, annually, a financial report showing the total incurred cost of the program for the preceding year. A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing requirement; and

(i) Each public body in a joint insurance program is liable only to its own employees and no others for benefits under the program in the event, and to the extent, that no further funds, including funds from insurance policies obtained by the pool, are available in the joint insurance pool.

(7) All ambulance services.

(8) A person providing any of the services described in this subsection. The exemption under this subsection does not apply to an authorized insurer providing such services under an insurance policy. This subsection applies to the following services:

(a) Towing service.

(b) Emergency road service, which means adjustment, repair or replacement of the equipment, tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated under its own power.

(c) Transportation and arrangements for the transportation of human remains, including all necessary and appropriate preparations for and actual transportation provided to return a decedent's remains from the decedent's place of death to a location designated by a person with valid legal authority under ORS 97.130.

(9)(a) A person described in this subsection who, in an agreement to lease or to finance the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft or other occurrence, as specified in the agreement. The exemption established in this subsection applies to the following persons:

(A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail installment contract.

(B) The lessor of the motor vehicle.

(C) The lender who finances the purchase of the motor vehicle.

(D) The assignee of a person described in this paragraph.

(b) The amount waived pursuant to the agreement shall be the difference, or portion thereof, between the amount received by the seller, lessor, lender or assignee, as applicable, *[which]* **that** represents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the agreement.

(10) A self-insurance program for tort liability or property damage that is established by two or more affordable housing entities and that complies with the same requirements that public bodies must meet under ORS 30.282 (6). As used in this subsection:

(a) "Affordable housing" means housing projects in which some of the dwelling units may be purchased or rented, with or without government assistance, on a basis that is affordable to individuals of low income.

(b) "Affordable housing entity" means any of the following:

(A) A housing authority created under the laws of this state or another jurisdiction and any agency or instrumentality of a housing authority, including but not limited to a legal entity created to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

(B) A nonprofit corporation that is engaged in providing affordable housing.

(C) A partnership or limited liability company that is engaged in providing affordable housing and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or nonprofit corporation:

(i) Has, or has the right to acquire, a financial or ownership interest in the partnership or limited liability company;

(ii) Has the power to direct the management or policies of the partnership or limited liability company;

(iii) Has entered into a contract to lease, manage or operate the affordable housing owned by the partnership or limited liability company; or

(iv) Has any other material relationship with the partnership or limited liability company.

(11) A community-based health care initiative approved by the Administrator of the Office for Oregon Health Policy and Research under ORS 735.723 operating a community-based health care improvement program approved by the administrator.

**NOTE:** Updates word choice in (3) and (9)(b); excises erroneous citation in (6)(g).

**SECTION 91.** ORS 743.405 is amended to read:

743.405. An individual health insurance policy must meet the following requirements:

(1) The entire money and other considerations therefor shall be expressed therein.

(2) The time at which the insurance takes effect and terminates shall be expressed therein.

(3) It shall purport to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age, which shall not exceed 19 years, and any other person dependent upon the policyholder.

(4) The policy may not be issued individually to an individual in a group of persons as described in ORS 743.522 for the purpose of separating the individual from health insurance benefits offered or provided in connection with a group health benefit plan.

(5) Except as provided in ORS 743.498, the style, arrangement and overall appearance of the policy may not give undue prominence to any portion of the text, and every printed portion of the text of the policy and of any indorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than 10 point with a lower case unspaced alphabet length not less than 120 point. Captions shall be printed in not less than 12-point type. As used in this subsection, "text" includes all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions.

(6) The exceptions and reductions of indemnity must be set forth in the policy. Except those required by ORS 743.411 to 743.477 [*and 743A.160*], exceptions and reductions shall be printed at the insurer's option either included with the applicable benefit provision or under an appropriate caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS. However, if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction must be included with the applicable benefit provision.

(7) Each form constituting the policy, including riders and indorsements, must be identified by a form number in the lower left-hand corner of the first page of the policy.

(8) The policy may not contain provisions purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short rate table filed with the Director of the Department of Consumer and Business Services.

**NOTE:** Deletes nonsensical citation in (6).

**SECTION 92.** ORS 743.408 is amended to read:

743.408. Except as provided in ORS 742.021, a health insurance policy shall contain the provisions set forth in ORS 743.411 to 743.444 [*and 743A.160*]. [*Such*] **The** provisions shall be preceded individually by the caption appearing in [*such*] **the** sections or, at the option of the insurer, by [*such*] **the** appropriate individual or group captions or subcaptions as the Director of the Department of Consumer and Business Services may approve.

**NOTE:** Deletes nonsensical citation and updates word choice.

**SECTION 93.** ORS 743.447 is amended to read:

743.447. Except as provided in ORS 742.021, provisions in a health insurance policy respecting the matters set forth in ORS 743.450 to 743.477 [*and 743A.164*] shall be in the words [*which*] **that** appear in such sections. Any such provision contained in the policy shall be preceded individually

by the appropriate caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Director of the Department of Consumer and Business Services may approve.

**NOTE:** Deletes nonsensical citation and corrects grammar.

**SECTION 94.** ORS 743.483 is amended to read:

743.483. The provisions of a health insurance policy that are the subject of ORS 743.408 to 743.477 [and 743A.160], or any corresponding provisions that are used in lieu thereof in accordance with the Insurance Code, shall be printed in the consecutive order of such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse or likely to mislead a person to whom the policy is offered, delivered or issued.

**NOTE:** Deletes nonsensical citation.

**SECTION 95.** ORS 743.486 is amended to read:

743.486. As used in ORS 743.402 to 743.498[, 743A.160 and 743A.164], the word “insured” shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

**NOTE:** Deletes nonsensical citations.

**SECTION 96. Section 1, chapter 549, Oregon Laws 2009, is repealed.**

**NOTE:** Repeals section incorrectly adding 743A.052 to ORS chapter 743. See section 97 (adding statute to proper code).

**SECTION 97. ORS 743A.052 is added to and made a part of the Insurance Code.**

**NOTE:** Adds statute to proper code.

**SECTION 98.** ORS 807.310 is amended to read:

807.310. (1) The Department of Transportation shall provide for the issuance of applicant temporary driver permits in a manner consistent with this section.

(2) The department may issue an applicant temporary driver permit to an applicant for a driver license or for a driver permit while the department is determining all facts relative to application for the driver license or driver permit. The department shall set forth on the applicant temporary driver permit the driving privileges granted under the permit.

(3) The holder of an applicant temporary driver permit must have the temporary driver permit on the holder’s person while operating a motor vehicle. The holder of an applicant temporary driver permit must operate within the driving privileges granted under the temporary driver permit.

(4) An applicant temporary driver permit is valid for a period of 30 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 30 days.

(5) [Notwithstanding section 11, chapter 775, Oregon Laws 2005,] If an applicant has complied with all the requirements for an application for a driver license or driver permit, except that the applicant is unable to produce the documentation required by the department under ORS 807.021 and 807.730, the department, at the time of application, may issue to the applicant an applicant temporary driver permit as provided in this section if the applicant certifies that the applicant is, to the best of the applicant’s knowledge, legally present in the United States.

(6) An applicant temporary driver permit issued to an applicant under subsection (5) of this section is valid for a period of 90 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 60 days.

(7) An applicant temporary driver permit automatically becomes invalid if the applicant’s license or permit is issued or refused for good cause.

(8) The department may not charge a fee for issuance of an applicant temporary driver permit under this section.

**NOTE:** Deletes reference to expired law in (5) (see section 13, chapter 775, Oregon Laws 2005).

**SECTION 99.** ORS 807.405 is amended to read:

807.405. (1) The Department of Transportation shall provide for the issuance of applicant temporary identification cards in a manner consistent with this section.

(2) The department may issue an applicant temporary identification card to an applicant while the department is determining all facts relative to the application for an identification card.

(3) An applicant temporary identification card is valid for a period of 30 days from the date issued. The department may extend the term of the applicant temporary identification card for sufficient cause. An extension of the term of the applicant temporary identification card may not exceed an additional 30 days.

(4) [Notwithstanding section 11, chapter 775, Oregon Laws 2005,] If an applicant has complied with all the requirements for an application for an identification card, except that the applicant is unable to produce the documentation required by the department under ORS 807.021 and 807.730, the department, at the time of application, may issue to the applicant an applicant temporary identification card as provided in this section if the applicant certifies that the applicant is, to the best of the applicant's knowledge, legally present in the United States.

(5) An applicant temporary identification card issued to an applicant under subsection (4) of this section is valid for a period of 90 days from the date issued. The department may extend the term of the permit for sufficient cause. An extension of the term of the permit may not exceed an additional 60 days.

(6) An applicant temporary identification card automatically becomes invalid if the applicant's identification card is issued or refused for good cause.

(7) The department may not charge a fee for issuance of an applicant temporary identification card under this section.

**NOTE:** Deletes reference to expired law in (4) (see section 13, chapter 775, Oregon Laws 2005).

**Passed by Senate February 15, 2011**

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

**Passed by House March 15, 2011**

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Bruce Hanna, Speaker of House

.....  
Arnie Roblan, Speaker of House

**Received by Governor:**

.....M.,....., 2011

**Approved:**

.....M.,....., 2011

.....  
John Kitzhaber, Governor

**Filed in Office of Secretary of State:**

.....M.,....., 2011

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Kate Brown, Secretary of State